ELASTIC

SELF-MANAGED SUBSCRIPTION AGREEMENT

NOT FOR EDITING OR NEGOTIATION.
Effective Date: 18 NOVEMBER 2019

This **Elastic Self-Managed Subscription Agreement**, including all attachments, addenda, schedules and exhibits, and documents at referenced URLs (this "**Agreement**") is entered into by and between the Elastic entity ("**Elastic**"), and the entity identified as the "Customer" ("**Customer**") each as set forth on the signature block of the Elastic order form executed by Elastic and Customer or a Reseller, as applicable ("**Order Form**"), as of the date specified in such Order Form ("**Effective Date**").

1   DEFINITIONS

Capitalized terms used herein have the meaning ascribed below, or where such terms are first used, as applicable.

1.1   "**Addendum**" means, an addendum to this Agreement which sets forth additional terms and conditions that are specific to Subscriptions.

1.2   "**Affiliate**" means, with respect to a party, any entity that controls, is controlled by, or which is under common control with, such party, where "control" means ownership of at least fifty percent (50%) of the outstanding voting shares of the entity, or the contractual right to establish policy for, and manage the operations of, the entity.

1.3   "**Documentation**" means the end user documentation published at https://www.elastic.co/guide/index.html by Elastic.

1.4   "**Order Form**" means an ordering document provided by Elastic pursuant to which Customer, or a Reseller acting on Customer's behalf, purchases Subscriptions under this Agreement.

1.5   "**Product**" means Self-Managed Software.

1.6   "**Reseller**" means a third party authorized by Elastic to promote and resell Subscriptions.

1.7   "**Self-Managed Software**" means Elastic software that is licensed for use on Customer's premises or in Customer's public cloud account under a Subscription.

1.8   "**Subscription**" means Customer's right, for a fixed period of time, to possess, use and/or access, an applicable Product, and if applicable, to receive associated Support Services.

1.9   "**Subscription Level**" means Customer's right, for a fixed period of time, to possess, use and/or access, an applicable Product, and if applicable, to receive associated Support Services.

1.10   "**Subscription Term**" means the period of time for which a Subscription is valid, as further described in Section 8.1 of this Agreement.

1.11   "**Support Services**" means maintenance and support services for applicable Product, as more fully described in the applicable Support Services Policy.

1.12   "**Support Services Policy**" means Elastic's support services policy for a Product, as further described at a URL referenced in an applicable Addendum.

2   AGREEMENT SCOPE

2.1   Product Terms and Conditions. The additional terms and conditions for the applicable Product can be found in the attached Addendum.

2.2   Subscription Orders.

(a)   **Initial Orders**. Orders for Subscriptions may be placed by Customer through the execution of Order Forms with Elastic, setting forth the (i) Subscription Level, (ii) quantitative and other limitations applied to a Subscription, (iii) Subscription Term, and (iv) total price for such Subscription. Each executed Order Form is incorporated by reference into, and shall be governed by the terms and conditions of, this Agreement.

(b)   **Additions and Upgrades to Subscriptions**. Customer may add to Subscriptions, and/or upgrade the Subscription Level for an existing Subscription, by executing one or more additional Order Forms setting forth the details of such addition and/or upgrade, and referencing the Order Form under which the Subscription was initially purchased. Upon execution of such an Order Form by the parties, a new Subscription and Subscription Term may be initiated, that includes the addition and/or upgrade, and Customer will be provided with a credit for the unused portion of the existing Subscription.

2.3   Subscriptions Purchased Through Resellers. The parties agree that Customer may purchase through Resellers Subscriptions that are governed by this Agreement. Orders for Subscriptions purchased through a Reseller, including multi-year Subscriptions, are not subject to cancellation by Customer. Where Customer purchases a Subscription through a Reseller, the Reseller will enter into an Order Form with Elastic for the purchase of a Subscription that shows Customer as the "ship to" party and Reseller as the "bill to" party, and Reseller and Customer will enter into a separate agreement setting forth the fees to be paid by Customer to Reseller for such Subscription, as well as any other terms or conditions that apply between them. Elastic hereby agrees that, subject to receiving payment from the Reseller, it shall be responsible to Customer, pursuant to the terms and conditions of this Agreement, for providing the Subscriptions under any such Order Form. Customer hereby acknowledges that Elastic will not be responsible for the obligations of any Reseller to Customer under such separate agreement, for the acts or omissions of Reseller, or for any third party products or services furnished to Customer by any Reseller. For the avoidance of doubt, Sections 3.1 and 3.2 below will be of no effect where Customer purchases a Subscription through a Reseller, as payment and taxes will be addressed in the agreement between Reseller and Customer.

3   PAYMENT AND TAXES

3.1   Payment. Customer agrees to pay Elastic the fees stated on each Order Form within thirty (30) days after receipt of an applicable invoice. All invoices will be paid in the currency set forth on the applicable Order Form. Payments will be made without right of set-off or chargeback. If Customer does not pay the invoices when due, Elastic may charge interest at the lesser of one percent (1%) per month on the unpaid balance or the highest percentage allowed under applicable law. Except as otherwise expressly provided in this Agreement, any and all payments made by Customer pursuant to this Agreement or any Order Form are non-refundable, and all commitments to make any payments hereunder or under any Order Form are non-cancellable.

3.2   Taxes. All fees stated on an Order Form are exclusive of any applicable sales, use, value added and excise taxes levied upon the delivery or use of the taxable components, if any, of the Subscription purchased by Customer under this Agreement (collectively, "**Taxes**"). Taxes do not include any taxes on the net income of Elastic or any of its Affiliates.   Unless Customer provides Elastic a valid state sales/use/excise tax exemption certificate or Direct Pay Permit, and provided that Elastic separately states any such taxes in the applicable invoice, Customer will pay and be solely responsible for all Taxes. If Customer is required by any foreign governmental authority to deduct or

withhold any portion of the amount invoiced for the delivery or use of Support Services or the Commercial Software under this Agreement, Customer shall increase the sum paid to Elastic by an amount necessary for the total payment to Elastic equal to the amount originally invoiced.

4 CONFIDENTIAL INFORMATION

4.1 Confidential Information. Both parties acknowledge that, in the course of performing this Agreement, they may obtain information relating to products (such as goods, services, and software) of the other party, or relating to the parties themselves, which is of a confidential and proprietary nature (**"Confidential Information"**). Confidential Information includes materials and all communications concerning Elastic's or Customer's business and marketing strategies, including but not limited to employee and customer lists, customer profiles, project plans, design documents, product strategies and pricing data, research, advertising plans, leads and sources of supply, development activities, design and coding, interfaces with the Software, anything provided by either party to the other in connection with the Commercial Software or Support Services provided under this Agreement, including, without limitation, computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical plans and other information of the parties which by its nature can be reasonably expected to be proprietary and confidential, whether it is presented in oral, printed, written, graphic or photographic or other tangible form (including information received, stored or transmitted electronically) even though specific designation as Confidential Information has not been made. Confidential Information also includes any notes, summaries, analyses of the foregoing that are prepared by the receiving party.

4.2 Non-use and Non-disclosure. The parties shall at all times, both during the Term and thereafter keep in trust and confidence all Confidential Information of the other party using commercially reasonable care (but in no event less than the same degree of care that the receiving party uses to protect its own Confidential Information) and shall not use such Confidential Information other than as necessary to carry out its duties under this Agreement, nor shall either party disclose any such Confidential Information to third parties other than to Affiliates or as necessary to carry out its duties under this Agreement without the other party's prior written consent, provided that each party shall be allowed to disclose Confidential Information of the other party to the extent that such disclosure is approved in writing by such other party, or necessary to enforce its rights under this Agreement.

4.3 Non-Applicability. The obligations of confidentiality shall not apply to information which (i) has entered the public domain or is otherwise publicly available, except where such entry or availability is the result of a party's breach of this Agreement; (ii) prior to disclosure hereunder was already in the receiving party's possession without restriction as evidenced by appropriate documentation; (iii) subsequent to disclosure hereunder is obtained by the receiving party on a non-confidential basis from a third party who has the right to disclose such information; or (iv) was developed by the receiving party without any use of any of the Confidential Information as evidenced by appropriate documentation.

4.4 Terms of this Agreement. Except as required by law or governmental regulation, neither party shall disclose, advertise, or publish the terms and conditions of this Agreement without the prior written consent of the other party, except that either party may disclose the terms of this Agreement to potential acquirers, referral partners involved in an applicable transaction, accountants, attorneys and parent organizations pursuant to the terms of a non-disclosure or confidentiality agreement. If Customer is using a third party provider to host a Product, then such provider may also receive, subject to a confidentiality obligation, information related to the terms of this Agreement or Customer's usage of the applicable Product.

4.5 Disclosure Required by Law. Notwithstanding anything to the contrary herein, each party may disclose the other party's Confidential Information in order to comply with applicable law and/or an order from a court or other governmental body of competent jurisdiction, and, in connection with compliance with such an order only, if such party: (i) unless prohibited by law, gives the other party prior written notice to such disclosure if the time between that order and such disclosure reasonably

permits or, if time does not permit, gives the other party written notice of such disclosure promptly after complying with that order and (ii) fully cooperates with the other party, at the other party's cost and expense, in seeking a protective order, or confidential treatment, or taking other measures to oppose or limit such disclosure. Each party must not release any more of the other party's Confidential Information than is, in the opinion of its counsel, reasonably necessary to comply with an applicable order.

5 WARRANTIES AND DISCLAIMER OF WARRANTIES

5.1 Limited Support Services Performance Warranty. Elastic warrants that it will perform the Support Services, as applicable, in a professional, workmanlike manner, consistent with generally accepted industry practice, and in accordance with any applicable Support Services Policy. In the event of a breach of the foregoing warranty, Elastic's sole obligation, and Customer's exclusive remedy, shall be for Elastic to re-perform the applicable Support Services.

5.2 Limited Product Performance Warranty. Elastic warrants that during the applicable Subscription Term, the Products will perform in all material respects in accordance with the Documentation. In the event of a breach of the foregoing warranty, Elastic's sole obligation, and Customer's exclusive remedy shall be for Elastic to (i) correct any failure(s) of the Products to perform in all material respects in accordance with the Documentation or (ii) if Elastic is unable to provide such a correction within thirty (30) days of receipt of notice of the applicable non-conformity, Customer may elect to terminate the associated Subscription, and Elastic will promptly refund to Customer any pre-paid, unused fees paid by Customer to Elastic for such Subscription. The warranty set forth in this Section 5.2 does not apply to any trial use of a Product or any Beta version of a Product, or if the Product or any portion thereof: (a) has been altered, except by or on behalf of Elastic; (b) has not been used, installed, operated, repaired, or maintained in accordance with this Agreement and/or the Documentation; or (c) is used on equipment, products, or systems not meeting specifications identified by Elastic in the Documentation. Additionally, the warranties set forth herein only apply when notice of a warranty claim is provided to Elastic during the applicable Subscription Term, and do not apply to any bug, defect or error caused by or attributable to software or hardware not supplied by Elastic.

5.3 Warranty Disclaimer. EXCEPT AS SET FORTH IN SECTIONS 5.1 AND 5.2 ABOVE OR IN AN ADDENDUM, THE PRODUCTS AND SUPPORT SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND AND ELASTIC MAKES NO ADDITIONAL WARRANTIES, WHETHER EXPRESSED, IMPLIED OR STATUTORY, REGARDING OR RELATING TO THE PRODUCTS AND SUPPORT SERVICES OR ANY MATERIALS FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, ELASTIC SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE PRODUCTS AND SUPPORT SERVICES AND ANY MATERIALS FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT. CUSTOMER AGREES THAT IT IS SOLELY RESPONSIBLE FOR THE RESULTS OBTAINED IN CONNECTION WITH ITS USE OF THE PRODUCTS AND SUPPORT SERVICES. IN ADDITION, CUSTOMER UNDERSTANDS AND AGREES THAT THE PRODUCTS AND SUPPORT SERVICES AND ANY MATERIALS FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT ARE NOT DESIGNED OR INTENDED FOR USE IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT, WEAPONS SYSTEMS, OR LIFE SUPPORT SYSTEMS.

6 INFRINGEMENT CLAIMS

6.1 Obligation. Elastic will, at its expense: (i) defend, or at its option settle, any claim brought against Customer by an unaffiliated third party alleging that Customer's use in accordance with this Agreement and Addendum, during the Subscription Term, of the Product infringed such party's patent registered as of the Effective Date, or any copyright or trademark of such party enforceable in the jurisdiction of Customer's use of the Product, or made unlawful use of such party's trade secret (each, an "**Infringement Claim**") and (ii) indemnify Customer against

and pay (1) any settlement of such Infringement Claim consented to by Elastic or (2) any damages finally awarded by a court of competent jurisdiction to such third party as relief or remedy in such Infringement Claim.

6.2   Exclusions. Elastic will have no obligation to Customer to the extent any Infringement Claim or resulting award is based upon or results from: (i) Customer's use of the Product in a country that is not a contracting state to the Patent Cooperation Treaty; (ii) the failure of Customer to use, within thirty (30) days of Customer's receipt of notice from Elastic regarding the availability of such update and that such update addresses an infringement issue, an update of the Commercial Software that would have avoided the Infringement Claim; (iii) a modification of the Product that is not performed by or on behalf of Elastic; (iv) the combination, operation, or use of the Product with any other products, services or equipment not provided by Elastic or branded as Elastic products or services, where there would be no Infringement Claim but for such combination; (v) use of the Product other than in accordance with the terms and conditions of this Agreement; (vi) where Products are incorporated into, or constitute a component of, a larger system or solution, including but not limited to a software-as-a-service, damages attributable to the value of the use of any non-Elastic product or service or (vii) any open source software included in a Product.

6.3   Certain Remedies. If a Product are, or in Elastic's reasonable opinion are likely to become, the subject of an Infringement Claim and/or an injunction as the result of an Infringement Claim, Elastic may, at its expense and option: (i) obtain the right for Customer to continue to use the Product; (ii) modify the Product to make it/them non-infringing, but substantially functionally equivalent; or (iii) in the event that neither (i) or (ii) are, in Elastic's reasonable judgement, commercially reasonable options, terminate Customer's right to use the Product, and, at Customer's written request, terminate all affected Order Forms and promptly refund to Customer any unused pre-paid fees paid by Customer to Elastic under such terminated Order Forms.

6.4   Conditions. The obligations of Elastic in this Section 6 are conditioned upon Customer (i) notifying Elastic promptly in writing of any threatened or pending Infringement Claim, provided that failure to provide such notice will only relieve Elastic of its obligations under this Section 5 to the extent its ability to defend or settle an applicable Infringement Claim is materially prejudiced by such failure to provide notice, (ii) giving Elastic, at Elastic's expense, reasonable assistance and information requested by Elastic in connection with the defense and/or settlement of the Infringement Claim and (iii) tendering to Elastic sole control over the defense and settlement of the Infringement Claim. Customer's counsel will have the right to participate in the defense of the Infringement Claim, at Customer's own expense. Customer will not, without the prior written consent of Elastic, make any admission or prejudicial statement, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened Infringement Claim.

6.5   Exclusive Remedy. THE FOREGOING PROVISIONS OF THIS SECTION 6 STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF ELASTIC, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, OR TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT, OR MISAPPROPRIATION OF ANY TRADE SECRET, BY ANY PRODUCT AND/OR SUPPORT SERVICES].

7   **LIMITATION OF LIABILITY**

7.1   Excluded Damages. IN NO EVENT SHALL ELASTIC, OR THEIR RESPECTIVE AFFILIATES, BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OF OR FAILURE TO PERFORM THIS AGREEMENT, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.2   Damages Cap. EXCEPT WITH RESPECT TO A BREACH OF ITS OBLIGATIONS UNDER SECTION 4, AND WITH RESPECT TO

ITS OBLIGATIONS UNDER SECTION 6.1(i), IN NO EVENT SHALL ELASTIC'S TOTAL, CUMULATIVE LIABILITY UNDER ANY ORDER FORM EXCEED THE AMOUNT PAID BY CUSTOMER TO ELASTIC UNDER THIS AGREEMENT IN CONNECTION WITH SUCH ORDER FORM IN THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE FIRST EVENT GIVING RISE TO LIABILITY.

7.3   Basis of the Bargain. THE ALLOCATIONS OF LIABILITY IN THIS SECTION 7 REPRESENT THE AGREED AND BARGAINED FOR UNDERSTANDING OF THE PARTIES, AND THE COMPENSATION OF ELASTIC FOR THE SERVICES AND/OR GOODS PROVIDED HEREUNDER REFLECTS SUCH ALLOCATIONS. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS IN ITS ESSENTIAL PURPOSE.

8   **TERM AND TERMINATION**

8.1   Subscription Term. The initial Subscription Term will commence and expire in accordance with the start date and end date set forth on the Order Form, unless earlier terminated in in accordance with Section 8.2 below. Thereafter, the Subscription shall automatically renew for additional one (1) year periods (or for such longer period as may be set forth on a renewal Order Form executed by the parties) unless either party gives written notice to the other of its intention not to renew the Subscription at least thirty (30) days prior to the expiration of the then-current Subscription Term. The initial Subscription Term, plus any subsequent renewal Subscription Term shall be the "**Subscription Term**". For the avoidance of doubt, the term of this Agreement shall be coterminous with the Subscription Term.

8.2   Termination. Each party may terminate this Agreement and the Subscription, and all associated Order Forms, upon giving notice in writing to the other party if the non-terminating party commits a material breach of this Agreement, and has failed to cure such breach within thirty (30) days following a request in writing from the notifying party to do so. Upon the termination or expiration of this Agreement, the rights and obligations of the parties will, subject to Section 8.3 below, cease.

8.3   Survival. Upon the expiration or termination of an Order Form or this Agreement, (i) Customer shall have no further rights under any affected Subscription(s); and (ii) any payment obligations accrued under Section 6, as well as the provisions of Sections 1, 4, 5, 6, 7, 8.3 and 9 of this Agreement will survive such expiration or termination.

9   **GENERAL**

9.1   Anti-Corruption. Each party acknowledges that it is aware of, understands and has complied and will comply with, all applicable U.S. and foreign anti-corruption laws, including without limitation, the U.S. Foreign Corrupt Practices Act of 1977 and the U.K. Bribery Act of 2010, and similarly applicable anti-corruption and anti-bribery laws ("**Anti-Corruption Laws**"). Each party agrees that no one acting on its behalf will give, offer, agree or promise to give, or authorize the giving directly or indirectly, of any money or other thing of value, including travel, entertainment, or gifts, to anyone as an unlawful inducement or reward for favorable action or forbearance from action or the exercise of unlawful influence (a) to any governmental official or employee (including employees of government-owned and government-controlled corporations or agencies or public international organizations), (b) to any political party, official of a political party, or candidate, (c) to an intermediary for payment to any of the foregoing, or (d) to any other person or entity in a corrupt or improper effort to obtain or retain business or any commercial advantage, such as receiving a permit or license, or directing business to any person. Improper payments, provisions, bribes, kickbacks, influence payments, or other unlawful provisions to any person are prohibited under this Agreement.

9.2   Assignment. Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, provided that no such consent will be required to assign this Agreement in its entirety to (i) an Affiliate that is able to satisfy the obligations of the assigning party under this Agreement or (ii) a successor in interest in connection with a merger, acquisition or sale of all or substantially all of the assigning party's assets. Any assignment in violation of this Section 9.2 shall be void, *ab initio*, and of no effect. Subject to the foregoing,

this Agreement is binding upon, inures to the benefit of and is enforceable by, the parties and their respective permitted successors and assigns.

9.3   Attorneys' Fees. If any action or proceeding, whether regulatory, administrative, at law or in equity is commenced or instituted to enforce or interpret any of the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees, expert witness fees, costs of suit and expenses, in addition to any other relief to which such prevailing party may be entitled. As used herein, "prevailing party" includes without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action.

9.4   Customer Identification. Unless Elastic has first obtained Customer's prior written consent, Elastic shall not identify Customer as a user of the Products, on its website, through a press release issued by Elastic and in other promotional materials.

9.5   Export Control. Customer acknowledges that the Software, Support Services, and technologies related thereto are subject to the Export Administration Regulations ("**EAR**") (15 C.F.R. Parts 730-774 (2010)) and the economic sanctions regulations and guidelines of the U.S. Department of the Treasury, Office of Foreign Assets Control. Customer is now and will remain in the future compliant with all such export control laws and regulations, and will not export, re-export, otherwise transfer any Elastic goods, software or technology or disclose any Elastic software or technology to any person contrary to such laws or regulations. Customer acknowledges that remote access to the Software may in certain circumstances be considered a re-export of such Products, and accordingly, may not be granted in contravention of U.S. export control laws and regulations.

9.6   Force Majeure. Except with respect to payment obligations, neither party will be liable for, or be considered to be in breach of, or in default under, this Agreement, as a result of any cause or condition beyond such party's reasonable control.

9.7   Future Features and Functions. Customer understands and agrees that any features or functions of services or products referenced on any Elastic website, or in any presentations, press releases or public statements, which are not currently available or not currently available as a GA release, may not be delivered on time or at all. The development, release, and timing of any features or functionality described for Elastic's products remains at Elastic's sole discretion. Accordingly, Customer agrees that it is purchasing products and services based solely upon features and functions that are currently available as of the time an Order Form is executed, and not in expectation of any future feature or function.

9.8   Governing Law, Jurisdiction and Venue. Applicable governing law and jurisdiction will be as set forth in Attachment 1 to this Agreement.

9.9   Notices. Any notice or other communication under this Agreement given by either party to the other will be deemed to be properly given if given in writing and delivered in person or by e-mail, if acknowledged received by return e-mail or followed within one day by a delivered or mailed copy of such notice, or if mailed, properly addressed and stamped with the required postage, to the intended recipient at its address specified on the Order Form. Notices to Elastic may also be sent to legal@elastic.co. Either party may from time to time change its address for notices under this Section by giving the other party notice of the change in accordance with this Section 9.9.

9.10   Non-waiver. Any failure of either party to insist upon or enforce performance by the other party of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement will not be interpreted or construed as a waiver or relinquishment of such party's right to assert or rely upon such provision, right or remedy in that or any other instance.

9.11   Product Usage Data**.** Elastic may collect and use Product Usage Data (defined below) for security, support, product and operations management, and research and development. "**Product

Usage Data**" is information other than Customer content that may be automatically collected and reported by the Product. Detailed information on Product Usage Data is provided in Elastic's Privacy Statement at https://www.elastic.co/legal/privacy-statement.

9.12   Relationship of the Parties. The relationship of the parties hereunder shall be that of independent contractors, and nothing herein shall be deemed or construed to create any employment, agency or fiduciary relationship between the parties. Each party shall be solely responsible for the supervision, direction, control and payment of its personnel, including, without limitation, for taxes, deductions and withholdings, compensation and benefits, and nothing herein will be deemed to result in either party having an employer-employee relationship with the personnel of the other party.

9.13   Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions will remain in full force and effect and such provision will be enforced to the maximum extent possible so as to give effect the intent of the parties and will be reformed to the extent necessary to make such provision valid and enforceable.

9.14   Suggestions, Ideas and Feedback. Subject to its obligations under Section 4 of this Agreement (Confidential Information), Elastic will be free to use, irrevocably, in perpetuity and for any purpose, all suggestions, ideas and/or feedback (collectively, "**Feedback**") provided to Elastic by Customer, or its Affiliates and their respective employees, contractors or other agents, with respect to the Product and/or Support Services. The foregoing grant of rights is made without any duty to account to any of the foregoing persons or entities for the use of such Feedback.

9.15   Threat Data. If a Customer has purchased a Subscription that includes endpoint security, Elastic may collect and use Threat Data (defined below) for threat analysis and mitigation, customer support, product management and improvement, and research and development. "**Threat Data**" is data derived from, or communicated to, the Product that is related to malicious or potentially malicious code, attacks or activity. Threat Data will not be shared with third parties in a manner attributable to an individual or end user.

9.16   Entire Agreement; Amendment. This Agreement, together with any Order Forms executed by the parties, and the Support Services Policy, each of which is hereby incorporated herein by this reference, constitutes the entire agreement between the parties concerning the subject matter hereof, and it supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. In the event of any conflict between the terms and conditions of any of the foregoing documents, the conflict shall be resolved based on the following order of precedence: (i) an applicable Order Form (but only for the transaction thereunder), (ii) Attachment 1 (Country-Specific Provisions), (iii) this Agreement, and (iv) the Support Services Policy. For the avoidance of doubt, the parties hereby expressly acknowledge and agree that if Customer issues any purchase orders or similar documents in connection with its purchase of the Subscription, it shall do so only for its own internal, administrative purposes and not with the intent to provide any contractual terms. By entering into this Agreement, whether prior to or following receipt of Customer's purchase order or any similar document, the parties are hereby expressly showing their intention not to be contractually bound by the contents of any such purchase order or similar document, which are hereby deemed rejected and extraneous to this Agreement, and Elastic's performance of this Agreement shall not amount to: (i) an acceptance by conduct of any terms set out or referred to in the purchase order or similar document; (ii) an amendment of this Agreement, nor (iii) an agreement to amend this Agreement. This Agreement shall not be modified except by a subsequently dated, written amendment that expressly amends this Agreement and which is signed on behalf of Elastic and Customer by their duly authorized representatives. The parties agree that the terms and conditions of this Agreement are a result of mutual negotiations. Therefore, the rule of construction that any ambiguity shall apply against the drafter is not applicable and will not apply to this Agreement. Any ambiguity shall be reasonably construed as to its fair meaning and not strictly for or against one party regardless of who authored the ambiguous language.

1   AUSTRALIA

1.1   The fourth sentence of Section 3.1 of the Agreement is hereby deleted in its entirety and replaced with the following: If Customer does not pay the invoices when due, Elastic may charge interest on the unpaid balance at 2% per annum above the then-current overnight bank bill swap rate published by the Reserve Bank of Australia.

1.2   Section 3.2 of the Agreement is hereby deleted in its entirety and replaced with the following: Taxes. All fees stated on an Order Form are exclusive of any applicable sales, use, value added and excise taxes levied upon the delivery or use of the taxable components, if any, of any Subscription purchased by Customer under this Agreement (collectively, "**Taxes**").   Taxes do not include any taxes on the net income of Elastic or any of its Affiliates. Customer will pay and be solely responsible for all Taxes.   If Customer is required by any foreign governmental authority to deduct or withhold any portion of the amount invoiced for the delivery or use of Products and Support Services under this Agreement, Customer shall increase the sum paid to Elastic by an amount necessary for the total payment to Elastic equal to the amount originally invoiced. If for any reason a supply made by Elastic under or in connection with this agreement is a Taxable Supply for GST purposes, then at or before the time the consideration for the supply is payable, Customer must pay Elastic an amount equal to the GST for the supply (in addition to the consideration otherwise payable under this agreement for that supply), and Elastic must give Customer a Tax Invoice for the supply. For the purpose of this Section 6.2, GST means the goods and service tax under the Good and Services Tax Act 1999 (Cth) and capitalised terms have the meaning given in that Act.

1.3   Section 5.3 of the Agreement is deleted in its entirety and replaced with the following: Despite anything in this Agreement, Elastic's goods come with guarantees that cannot be excluded under the Australian Consumer Law (as set out in the Competition and Consumer Act 2010 (Cth) ("**ACCA**")) if Customer is deemed a 'Consumer' under ACCA. Then Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. Furthermore, Customer will also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

1.4   A new sentence is added at the beginning of Section 5.4 to the Agreement as follows: NOTHING IN THIS AGREEMENT IS INTENDED TO LIMIT CUSTOMER'S NON-EXCLUDABLE RIGHTS UNDER THE COMPETITION AND CONSUMER ACT 2010 (CTH).

1.5   A new Section 7.4 is added to the Agreement as follows: NOTHING IN THIS AGREEMENT SHALL OPERATE OR HAVE EFFECT SO AS TO LIMIT OR EXCLUDE THE LIABILITY OF A PARTY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE OR FOR FRAUD INCLUDING FRAUDULENT MISREPRESENTATION OR FOR ANY LIABILITY THAT MAY NOT BE LAWFULLY EXCLUDED UNDER APPLICABLE LAW.

1.6   A new Section 7.5 is added to the Agreement as follows: Australian Consumer Law. IF THE COMPETITION AND CONSUMER ACT 2010 (CTH) OR ANY OTHER LEGISLATION STATES THAT THERE IS A GUARANTEE IN RELATION TO ANY GOOD OR SERVICE SUPPLIED BY ELASTIC IN CONNECTION WITH THIS AGREEMENT, AND ELASTIC'S LIABILITY FOR FAILING TO COMPLY WITH THAT GUARANTEE CANNOT BE EXCLUDED BUT MAY BE LIMITED, SECTIONS 7.1, 7.2 AND 7.3 DO NOT APPLY TO THAT LIABILITY. INSTEAD, ELASTIC'S LIABILITY FOR THAT FAILURE IS LIMITED TO (AT THE ELECTION OF ELASTIC), IN THE CASE OF A SUPPLY OF GOODS, ELASTIC REPLACING THE GOODS OR SUPPLYING EQUIVALENT GOODS OR REPAIRING THE GOODS, OR IN THE CASE OF A SUPPLY OF SERVICES, ELASTIC SUPPLYING THE SERVICES AGAIN OR PAYING THE COST OF HAVING THE SERVICES SUPPLIED AGAIN.

1.7   Section 9.3 (Attorneys' Fees) of the Agreement is hereby deleted in its entirety.

1.8   Governing Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the New South Wales.   Each party irrevocably submits to the exclusive jurisdiction of the courts of New South Wales and courts competent to hear appeals from those courts. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. A breach or threatened breach, by either party of Section 4 may cause irreparable harm for which damages at law may not provide adequate relief, and therefore the non-breaching party shall be entitled to seek injunctive relief without being required to post a bond.

2   CANADA

2.1   Section 3.2 of the Agreement is hereby deleted in its entirety and replaced with the following: Taxes. Customer will pay Elastic all applicable goods and services tax and/or other sales, use, and excise taxes levied upon the delivery or use of the taxable [Products and Support Services described in this Agreement. Customer will pay all import or export, value added or other tax or duty, and all government permit, withholding or license fees, and customs or similar fees, levied upon the delivery or use of the Products and Support Services described in this Agreement. If Customer is required by any foreign governmental authority to deduct or withhold any portion of the amount invoiced for the delivery or use of Products and Support Services under this Agreement, Customer shall increase the sum paid to Elastic by an amount necessary for the total payment to Elastic equal to the amount originally invoiced.

2.2   Governing Law and Jurisdiction. This Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflict of laws principles, and the parties agree to the exclusive jurisdiction of the courts of the Province of Ontario. The parties acknowledge that this Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any action or proceeding in any of the applicable court set forth above, based upon any alleged lack of personal jurisdiction, improper venue, *forum non conveniens*, or any similar claim or defense.   The parties further acknowledge that a breach, or threatened breach, by either party of Section 7 may cause irreparable harm for which the non-breaching party shall be entitled to seek injunctive relief without being required to post a bond.

3   FRANCE

3.1   A new Section 2.5 is hereby added to the Agreement as follows: General Obligations.

        (a)   Customer has had the opportunity to assess whether Elastic's off-the-shelf Products and Support Services meet its business needs including, by review, of the Documentation and Support Services Policy that have been made available by Elastic.

        (b)   Elastic acknowledges that, in pre-contract discussions, if any, it was obliged to inform the Customer about the capabilities of its off-the-shelf Products and Support Services relative to the Customer's expressed needs.

        (c)   Subject to Customer communicating to Elastic accurate and up to date information about its needs, Elastic shall (i) inform, advise and warn the Customer in relation to Customer's use of the Products and Support Services relative to those needs; and (ii) suggest Elastic solutions that may be better suited to those needs where it is reasonably appropriate to do so, (for example, volumes, IT architecture configurations and time constraints).

        (d)   Each party shall comply with all laws applicable to its performance of the Agreement and cooperate with the other in good faith in such performance.

3.2   The third sentence of Section 3.1 (Payment) of the Agreement is hereby deleted in its entirety.

3.3   The fourth sentence of Section 3.1 of the Agreement is hereby deleted in its entirety and replaced with the following: All invoices not

paid when due shall bear interest from the date due to the date paid at three (3) times the French legal interest rate as at the date of the invoice, in addition to a fixed allowance of forty (40) euros for recovery costs.

3.4   The first sentence of Section 3.2 of the Agreement is hereby deleted in its entirety and replaced with the following: All fees stated on an Order Form are exclusive of any applicable value added taxes levied upon the delivery or use of the taxable components, if any, of any Subscription purchased by Customer under this Agreement (collectively, **"Taxes"**).

3.5   The second sentence of Section 5.1 of the Agreement is hereby deleted in its entirety and replaced with the following: In the event of a breach of the foregoing warranty, (i) Elastic shall have the right to re-perform the applicable Support Services or (ii) if Elastic is unable to re-perform the non-compliant Support Services in accordance with the foregoing warranty, within thirty (30) days of receipt of notice of the applicable non-conformity, Customer may elect to terminate the associated Subscription, and Elastic will promptly refund to Customer any pre-paid, unused fees paid by Customer to Elastic for such Subscription, without prejudice to Customer's other rights and remedies under French law subject to the provisions of this Agreement.

3.6   The second sentence of Section 5.2 of the Agreement is hereby deleted in its entirety and replaced with the following: In the event of a breach of the foregoing warranty, Elastic's sole obligation, and Customer's exclusive remedy shall be for Elastic to (i) correct any failure(s) of the Products to perform in all material respects in accordance with the Documentation or (ii) if Elastic is unable to provide such a correction within thirty (30) days of receipt of notice of the applicable non-conformity, Customer may elect to terminate the associated Subscription, and Elastic will promptly refund to Customer any pre-paid, unused fees paid by Customer to Elastic for such Subscription, without prejudice to Customer's other rights and remedies under French law subject to the provisions of this Agreement.

3.7   Section 5.3 of the Agreement is hereby deleted in its entirety and replaced with the following: Warranty Disclaimer. Except as set forth in Section 5.1 and 5.2 above, the Products and Support Services are provided "As Is" without warranty of any kind and Elastic makes no additional warranties, regarding or relating to the Products and Support Services or any materials furnished or provided to Customer under this Agreement. To the maximum extent permitted under applicable law and except as expressly stated otherwise in Section 6 below, Elastic specifically disclaims all other warranties including fitness for a particular purpose and non-infringement with respect to the Products and Support Services and any materials furnished or provided to Customer under this Agreement. Customer agrees that it is solely responsible for the results obtained in connection with its use of the Products and Support Services. In addition, Customer understands and agrees that the [Products and Support Services and any materials furnished or provided to Customer under this Agreement are not designed or intended for use in the operation of nuclear facilities, aircraft, weapons systems or life support systems.

3.8   Section 6.2(vii) of the Agreement is hereby deleted in its entirety and replaced with the following: "(vii) any open source software included in a Product except to the extent that any Infringement Claim results from Elastic's failure to comply with the license agreement(s) applicable to such open source software."

3.9   Section 7.1 of the Agreement is hereby deleted in its entirety and replaced with the following: Excluded Liability. Subject to Section 7.3 below and pursuant to Sections 1188 and 1231-3 of the French Civil Code, the parties agree that, except for a party's gross negligence ("faute lorde") or willfulful misconduct ("dol"), in no event shall Customer or Elastic, or their respective Affiliates, be liable for any loss of profits, loss of use, business interruption, loss of data, cost of substitute goods or services, or for any indirect damages of any kind in connection with or arising out of the performance of or failure re-perform this Agreement.

3.10   Section 7.2 of the Agreement is hereby deleted in its entirety and replaced with the following: Except with respect to (i) a breach of its obligations under Section 4, (ii) its gross negligence ("faute lorde") or willful misconduct ("dol"), and (iii) its obligations under Section 6.1, in no event shall Elastic's total and cumulative liability under any Order Form exceed the amount paid by Customer to Elastic under this Agreement in connection with such Order Form in the twelve (12) months immediately prior to the first event giving rise to liability.

3.11   Section 7.3 of the Agreement is hereby deleted in its entirety and replaced with the following: Basis of the Bargain. The allocations of liability in this Section represent the agreed and bargained for understanding of the Parties, and the compensation of Elastic for the Products and Support Services provided hereunder reflects such allocations.

3.12   Section 9.3 (Attorneys' Fees) of the Agreement is hereby deleted in its entirety.

3.13   Section 9.6 of the Agreement is hereby deleted in its entirety and replaced with the following: Force Majeure. Neither party will be liable for, or be considered to be in breach of, or in default under, this Agreement, as a result of any event of Force Majeure as defined under Article 1218 of the French Civil Code. Customer expressly agrees that it shall not be relieved from its payment obligations by any act of Force Majeure.

3.14   Governing Law and Jurisdiction. This Agreement will be governed by the laws of France, without regard to its conflict of laws principles. The parties expressly agree that all suits hereunder will be brought solely before the competent courts located in Paris. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any action or proceeding in any of the applicable courts set forth above, based upon any alleged lack of personal jurisdiction, improper venue, *forum non conveniens*, or any similar claim or defense.

3.15   Section 9.14 of the Agreement is hereby deleted in its entirety and replaced with the following: Suggestions, Ideas and Feedback. Subject to its obligations under Section 4 of this Agreement (Confidential Information), Elastic will be irrevocably free to use without restriction of any kind for any purpose, all suggestions, ideas and/or feedback (collectively, "**Feedback**") provided to Elastic by Customer, or its Affiliates and their respective employees, contractors or other agents, with respect to the Products and/or Services. The foregoing grant of rights is made without any duty to account to any of the foregoing persons or entities for the use of such Feedback.

4   GERMANY

4.1   The fourth sentence of Section 3.1 of the Agreement is hereby deleted in its entirety and replaced with the following: If Customer does not pay the invoices when due, Elastic may charge interest on the unpaid balance at a rate of nine (9) percentage points per year above the basic rate of interest of the Deutsche Bundesbank. In addition Elastic is entitled to claim a lump sum of 40 Euros in accordance with § 288 para 5 BGB (German Civil Code).

4.2   A new Section 5.4 is hereby added to the Agreement as follows: Customer's rights in case of defects are limited to a period of twelve (12) months and the period shall begin on the date the services are provided. Any claims for damages are subject to the limitations set forth under Section 7 of this Agreement.

4.3   Section 7 of the Agreement is hereby deleted in its entirety and replaced with the following:

7.1   Elastic shall be unrestricted liable for losses caused intentionally or with gross negligence and for death, personal injury or damage to health and for losses in accordance with the German Product Liability Act in the event of product liability as well as in all other cases where unlimited liability is mandatory pursuant to the applicable German Law.

7.2   Elastic shall be liable for losses caused by the breach of their primary obligations. Primary obligations are such basic duties which form the essence of the Agreement, which were decisive for the conclusion of the Agreement and on the performance of which the parties may rely. If Elastic breaches its primary obligations through simple negligence, then its liability shall be limited to the amount which

was foreseeable by Elastic at the time the respective service was performed and typical for the Agreement.

7.3 Save for the stipulation in Sections 7.1 and 7.2, the following restrictions shall apply:

(a) Elastic's total liability with respect to one order for direct damages (e.g. material damages including a resulting technical or reduced market value, repair cost, etc.) shall, as far as slight negligence is concerned, be limited for any and all damages to the total fees Customer was required to pay Elastic under any Order Form in the twelve (12) months immediately prior to the event giving rise to liability. For the avoidance of doubt, this limitation of liability applies regardless of its legal cause (e.g. because of non-performance, impossibility of performance, warranty, delay, fault at conclusion of contract, breach of accessory obligation, rescission, tort). The parties agree that this limitation is fair in light of the potential damages of Customer and the potential damages that can happen under the Agreement.

(b) The liability for indirect damages (e.g. loss of use, loss of profit) is excluded.

4.4 Section 9.3 (Attorneys' Fees) of the Agreement is hereby deleted in its entirety.'

4.5 Governing Law and Jurisdiction. This Agreement will be governed and construed in accordance with the laws of the Federal Republic of Germany, without regard to its conflict of laws principles and the United Nations Convention on Contracts for the International Sale of Goods (UNCISG). All disputes arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of a court of competent jurisdiction in Munich, Germany and each party irrevocably consents to such personal jurisdiction and waives all objections to this venue. A breach by either party of Section 4 may cause irreparable harm for which the non-breaching party shall be entitled to seek injunctive relief.

5 HONG KONG, CHINA

5.1 Governing Law and Jurisdiction. This Agreement and any non-contractual obligation arising out of or in connection with it, is governed exclusively by the laws of Hong Kong. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. All disputes arising out of or in connection with this Agreement, including its existence and validity, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which SIAC Rules are deemed to be incorporated by reference in this Clause. The tribunal shall consist of three arbitrators. The language of the arbitration shall be English.

6 JAPAN

6.1 The second sentence of Section 5.3 of the Agreement is hereby deleted in its entirety and replaced with the following: TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, ELASTIC SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES WITH RESPECT TO THE PRODUCTS AND SUPPORT SERVICES. CUSTOMER AGREES THAT IT IS SOLELY RESPONSIBLE FOR THE RESULTS OBTAINED IN CONNECTION ITS USE OF THE PRODUCTS AND SUPPORT SERVICES.

6.2 The words "OR CUSTOMER" are added after "ELASTIC" in Section 7.1 of the Agreement.

6.3 Governing Law and Jurisdiction. This Agreement shall be governed by the laws of Japan without reference to its conflict of laws principles. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any action or proceeding in any applicable courts, based upon any alleged lack of personal jurisdiction, improper venue, *forum non conveniens*, or any similar claim or defense.

7 KOREA

7.1 Governing Law and Jurisdiction. This Agreement will be governed by the laws of the Republic of Korea, without regard to its conflicts of laws principles, and all suits hereunder will be brought in Seoul Central District Court. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any action or proceeding in any of the applicable courts set forth above, based upon any alleged lack of personal jurisdiction, improper venue, *forum non conveniens*, or any similar claim or defense. A breach or threatened breach, by either party of Section 4 may cause irreparable harm for which damages at law may not provide adequate relief, and therefore the non-breaching party shall be entitled to seek injunctive relief without being required to post a bond.

8 NORWAY

8.1 Section 7.2 of the Agreement is deleted in its entirety and replaced with the following: Damages Cap. EXCEPT WITH RESPECT TO A BREACH OF ITS OBLIGATIONS UNDER SECTION 4, AND WITH RESPECT TO ITS OBLIGATIONS UNDER SECTION 6.1(i), AND EXCEPT IN THE CASE OF WILLFUL MISCONDUCT (NO: FORSETT, SE: UPPSÅT) OR GROSS NEGLIGENCE (NO: GROV UAKTSOMHET, SE: GROV OAKTSAMHET), IN NO EVENT SHALL ELASTIC'S TOTAL, CUMULATIVE LIABILITY UNDER ANY ORDER FORM EXCEED THE AMOUNT PAID BY CUSTOMER TO ELASTIC UNDER THIS AGREEMENT IN CONNECTION WITH SUCH ORDER FORM IN THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE FIRST EVENT GIVING RISE TO LIABILITY. DIRECT DAMAGE IS EXCLUSIVELY UNDERSTOOD AS REASONABLE EXPENSES WHICH THE CUSTOMER WOULD HAVE TO INCUR TO MAKE ELASTIC'S PERFORMANCE CONFORM TO THE AGREEMENT; REASONABLE EXPENSES INCURRED TO DETERMINE THE CAUSE AND SCOPE OF THE DAMAGE, INSOFAR AS THE DETERMINATION RELATES TO DIRECT DAMAGE AS HEREIN DEFINED AND REASONABLE EXPENSES INCURRED TO PREVENT OR MITIGATE DAMAGE, INSOFAR AS CUSTOMER DEMONSTRATES THAT THESE EXPENSES RESULTED IN MITIGATION OF DIRECT DAMAGE AS HEREIN DEFINED.

8.2 Governing Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of Norway. All disputes arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of Oslo District Court (Norwegian; Oslo tingrett). This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods.

9 SINGAPORE

9.1 Governing Law and Jurisdiction. This Agreement and any non-contractual obligation arising out of or in connection with it, is governed exclusively by the law of Singapore. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. All disputes arising out of or in connection with this Agreement, including its existence and validity, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which SIAC Rules are deemed to be incorporated by reference in this Clause. The tribunal shall consist of three arbitrators. The language of the arbitration shall be English. A breach or threatened breach, by either party of Section 4 may cause irreparable harm for which damages at law may not provide adequate relief, and therefore the non-breaching party shall be entitled to seek injunctive relief without being required to post a bond.

10 SPAIN

10.1 The fourth sentence of Section 3.1 is hereby deleted in its entirety and replaced with the following: If Customer does not pay the invoices when due, Elastic may charge interest at the then applicable statutory interest rate (such as published in the Official Gazette of the Spanish State, "BOE"), in addition to a fixed allowance of a minimum of forty (40) euros for recovery costs.

10.2 Section 6.1 of the Agreement is hereby deleted in its entirety and replaced with the following: Obligation. To the extent permitted by

applicable law, and taking into account the circumstances of the case, Elastic will, at its expense: (i) defend, or at its option settle, any claim brought against Customer by an unaffiliated third party alleging that Customer's use, during the applicable Subscription Term, of Products and Support Services infringed such party's patent registered as of the Effective Date, or any copyright or trademark of such party, enforceable in the jurisdiction of Customer's use of the Products and/or Support Services, or made unlawful use of such party's trade secret (each, an "**Infringement Claim**") and (ii) indemnify Customer against and pay (1) any settlement of such Infringement Claim consented to by Elastic or (2) any damages finally awarded by a court of competent jurisdiction to such third party as relief or remedy in such Infringement Claim. If Elastic is not legally entitled to defend, or at its opinion settle, any Infringement Claim, Customer will (i) defend the Infringement Claim as instructed by Elastic, (ii) maintain Elastic promptly informed of the proceedings and (iii) refrain from taking any action without Elastic's prior consent.

10.3   A new Section 7.4 is added as follows: Exclusion of Limitation of Liability. NOTHING IN THIS AGREEMENT SHALL OPERATE OR HAVE EFFECT SO AS TO LIMIT OR EXCLUDE THE LIABILITY OF A PARTY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE, OR FOR WILFUL MISCONDUCT ("dolo") OR FOR INTENT AND GROSS NEGLIGENCE ("culpa lata") OR FOR ANY LIABILITY THAT MAY NOT BE LAWFULLY EXCLUDED UNDER APPLICABLE LAW

10.4   Governing Law and Jurisdiction. This Agreement and any non-contractual obligation arising out of or in connection with it, is governed exclusively by the laws of Spain. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. All disputes arising out of or in connection with this Agreement, including its existence and validity, shall be referred to and finally resolved by the courts of the city of Madrid.

11   SWEDEN

11.1   Section 7.2 of the Agreement is deleted in its entirety and replaced with the following: Damages Cap. EXCEPT WITH RESPECT TO A BREACH OF ITS OBLIGATIONS UNDER SECTION 4, AND WITH RESPECT TO ITS OBLIGATIONS UNDER SECTION 6.1(i), AND EXCEPT IN THE CASE OF WILLFUL MISCONDUCT (NO: FORSETT, SE: UPPSÅT) OR GROSS NEGLIGENCE (NO: GROV UAKTSOMHET, SE: GROV OAKTSAMHET), IN NO EVENT SHALL ELASTIC'S TOTAL, CUMULATIVE LIABILITY UNDER ANY ORDER FORM EXCEED THE AMOUNT PAID BY CUSTOMER TO ELASTIC UNDER THIS AGREEMENT IN CONNECTION WITH SUCH ORDER FORM IN THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE FIRST EVENT GIVING RISE TO LIABILITY. DIRECT DAMAGE IS EXCLUSIVELY UNDERSTOOD AS REASONABLE EXPENSES WHICH THE CUSTOMER WOULD HAVE TO INCUR TO MAKE ELASTICSEARCH'S PERFORMANCE CONFORM TO THE AGREEMENT; REASONABLE EXPENSES INCURRED TO DETERMINE THE CAUSE AND SCOPE OF THE DAMAGE, INSOFAR AS THE DETERMINATION RELATES TO DIRECT DAMAGE AS HEREIN DEFINED AND REASONABLE EXPENSES INCURRED TO PREVENT OR MITIGATE DAMAGE, INSOFAR AS CUSTOMER DEMONSTRATES THAT THESE EXPENSES RESULTED IN MITIGATION OF DIRECT DAMAGE AS HEREIN DEFINED.

11.2   Governing Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of Sweden. All disputes arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of Stockholm District Court (Swedish; Stockholms tingsrätt). This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods.

12   SWITZERLAND

12.1   The words "OR CUSTOMER" are added after "ELASTIC" in Section 7.1 of the Agreement.

12.2   The words "TO THE EXTENT PERMITTED BY LAW," are added after "SECTION 6.1(i)," in Section 7.2 of the Agreement.

12.3   Governing Law and Jurisdiction. This Agreement, and any non-contractual obligation arising out of or in connection with it, is governed exclusively by the laws of Switzerland without reference to the

conflicts of laws principles thereof. All disputes arising out of or in connection with this Agreement, including its existence and validity, shall be submitted to the exclusive jurisdiction of the courts in Zurich, Switzerland. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any such action or proceeding in any of such courts based upon any alleged lack of personal jurisdiction, improper venue, *forum non conveniens* or any similar claim or defense. A breach or threatened breach, by either party of Section 7 may cause irreparable harm for which damages at law may not provide adequate relief, and therefore the non-breaching party shall be entitled to seek injunctive relief without being required to post a bond

13   UNITED KINGDOM

13.1   The fourth sentence of Section 3.1 is hereby deleted in its entirety and replaced with the following: If Customer does not pay the invoices when due, Elastic may charge interest on the unpaid balance at a rate of four percent (4%) above the Bank of England Base lending rate prevailing from time to time.

13.2   The words "SATISFACTORY QUALITY," are added after "MERCHANTABILITY," in Section 5.3 of the Agreement.

13.3   The words "OR CUSTOMER" are added after "ELASTIC" in Section 7.1 of the Agreement.

13.4   The words "TO THE EXTENT PERMITTED BY LAW," are added after "SECTION 6.1(i)," in Section 7.2 of the Agreement.

13.5   A new Section 7.4 is added to the Agreement as follows: NOTHING IN THIS AGREEMENT SHALL OPERATE OR HAVE EFFECT SO AS TO LIMIT OR EXCLUDE THE LIABILITY OF A PARTY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE OR FOR FRAUD INCLUDING FRAUDULENT MISREPRESENTATION OR FOR ANY LIABILITY THAT MAY NOT BE LAWFULLY EXCLUDED UNDER APPLICABLE LAW.

13.6   Section 9.3 (Attorneys' Fees) of the Agreement is hereby deleted in its entirety.

13.7   Governing Law and Jurisdiction. The parties intend that no term of the contract made by this Agreement may be enforced by any person who is not a party to it. The parties reserve the right to agree to rescind or vary this Agreement without the consent of any other person. The provisions of the Contracts (Rights of Third Parties) Act 1999 shall be and hereby are excluded. This Agreement shall be governed by and construed in accordance with the laws of England and Wales whose courts shall have exclusive jurisdiction over any and all disputes arising out of or in connection with it and each party irrevocably consents to such personal jurisdiction and waives all objections to this venue. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. A breach or threatened breach, by either party of Section 4 may cause irreparable harm for which damages at law may not provide adequate relief, and therefore the non-breaching party shall be entitled to seek injunctive relief without being required to post a bond.

14   ANY COUNTRY NOT LISTED IN THIS AGREEMENT (EXCEPT THE UNITED STATES)

14.1   The following is added after the word "DAMAGES" at the end of Section 7.1 of the Agreement: HOWEVER, WITH THE EXCEPTION OF DAMAGES CAUSED BY GROSS NEGLIGENCE (BEWUSTE ROEKELOOSHEID) OR WILFUL MISCONDUCT (OPZET) OF CUSTOMER OR ELASTIC.

14.2   Governing Law and Jurisdiction. This Agreement and any non-contractual obligation arising out of or in connection with it, is governed exclusively by Dutch law. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. All disputes arising out of or in connection with this Agreement, including its existence and validity, shall be resolved by the courts with jurisdiction in Amsterdam, The Netherlands, except where mandatory law provides for the courts at another location in The Netherlands to have jurisdiction. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any such

action or proceeding in any of such courts based upon any alleged lack of personal jurisdiction, improper venue, *forum non conveniens*, or any similar claim or defense. A breach or threatened breach, by either party of Section 4 may cause irreparable harm for which damages at law may not provide adequate relief, and therefore the non-breaching party shall be entitled to seek injunctive relief without being required to post a bond.

ELASTIC SELF-MANAGED SUBSCRIPTION ADDENDUM

This **ELASTIC SELF-MANAGED SUBSCRIPTION ADDENDUM** (this "**Addendum"**) sets forth additional terms and conditions related to Customer's purchase of one or more Self-managed Subscriptions from Elastic.

1 COMMERCIAL SOFTWARE LICENSES AND RESTRICTIONS

1.1 <u>License Grants</u>. A list of the Eligible Features and Functions that correspond to each version of the Commercial Software and Subscription Levels may be found at https://www.elastic.co/subscriptions. Subject to the terms and conditions of the Agreement and this Addendum, including complete payment of any and all applicable Subscription fees, Elastic grants to Customer during the applicable Subscription Term, and for the restricted scope of this Addendum:

(a) in the case of a Gold or Platinum Subscription, a License to the Eligible Features and Functions of the Commercial Software that are applicable to the Subscription Level that Customer has purchased, for the number of Billable Nodes and for the specific Project for which Customer has purchased such Subscription. The Subscription Level, the number of Billable Nodes and specific Project for which Customer has purchased such Subscription, are set forth on the applicable Order Form.

(b) in the case of an Enterprise Subscription, a License to the Eligible Features and Functions of the Commercial Software that are applicable to an Enterprise Subscription, for the number of Resource Units for which Customer has purchased such Enterprise Subscription. The number of Resource Units for which Customer has purchased an Enterprise Subscription is set forth on the applicable Order Form.

1.2 <u>License Key, Delivery and Acceptance</u>. Promptly following execution of an applicable Order Form, Elastic will deliver to Customer a License Key or ISO file that is required in order for Customer to use the Commercial Software in accordance with the rights granted in Section 1.1 of this Addendum. For purposes of the applicable Order Form, the Commercial Software will be deemed to have been delivered to Customer upon provision of such License Key or ISO file, and the Commercial Software is deemed to be accepted by Customer upon delivery.

1.3 <u>Reservation of Rights; Restrictions</u>. As between Elastic and Customer, Elastic owns all right title and interest in and to the Commercial Software and any derivative works thereof, and except as expressly set forth in Section 1.1 of this Addendum, no other license to the Commercial Software is granted to Customer by implication, estoppel or otherwise. Customer agrees not to: (i) reverse engineer or decompile, decrypt, disassemble or otherwise reduce any Commercial Software or any portion thereof to human-readable form, except and only to the minimum extent permitted by applicable law, (ii) deploy more Billable Nodes or Resource Units than are permitted under an applicable Subscription, (iii) prepare derivative works from, modify, copy or use the Commercial Software in any manner except as expressly permitted herein; (iv) except as expressly permitted in Section 1.1 of this Addendum, transfer, sell, rent, lease, distribute, sublicense, loan or otherwise transfer the Commercial Software in whole or in part to any third party; (v) except for Customer's internal business purposes, or as otherwise may be expressly permitted on an applicable Order Form or in another written agreement signed by the parties, use the Commercial Software for providing any time-sharing services, software-as-a-service or "SaaS" offering, service bureau services or as part of an application services provider or other service offering; (vii) circumvent the limitations on use of the Commercial Software that are imposed or preserved by any License Key, (viii) alter or remove any marks and notices in the Commercial Software; (ix) deploy the Commercial Software on or in connection with any third party infrastructure as a service that includes any Community Software as a service, or (x) make available to any third party any analysis of the results of operation of the Commercial Software, including benchmarking results, without the prior written consent of Elastic. Customer also agrees not to: (a) access or use any Elastic-hosted infrastructure or related data, systems, or networks (collectively, "**Elastic-Hosted infrastructure**") that interface with components of the Commercial Software for purposes of monitoring the availability, performance or functionality of such Elastic-Hosted infrastructure or for any other benchmarking or competitive purposes, including, without limitation, for the purpose of designing and/or developing any competitive services; (b) interfere with or disrupt the integrity or performance of any Elastic-Hosted infrastructure; or (c) attempt to gain unauthorized access to any Elastic-Hosted infrastructure. The Commercial Software may contain or be provided with third party open source libraries, components, utilities and other open source software (collectively, "**Third Party Open Source Software**"), which Third Party Open Source Software may have applicable license terms as identified on a website designated by Elastic or otherwise provided with the Commercial Software or Documentation. Notwithstanding anything to the contrary herein, use of the Third Party Open Source Software shall be subject to the license terms and conditions applicable to such Third Party Open Source Software, to the extent required by the applicable licensor (which terms shall not restrict the license rights granted to Customer hereunder, but may contain additional rights).

1.4 <u>Reporting use of Excess Billable Nodes and/or Excess Resource Units</u>. Customer agrees to promptly notify Elastic in writing if it uses a Gold or Platinum level Subscription in connection with more Billable Nodes than the number of Billable Nodes for which Customer has purchased such Subscription ("**Excess Billable Nodes**") and/or if it uses an Enterprise Subscription in connection with more Resource Units than the number of Resource Units for which Customer has purchased such Subscription ("**Excess Resource Units**"). Customer shall include in such notice the number of Excess Billable Nodes and/or Excess Resource Units and the date on which it first used any such Excess Billable Nodes and/or Excess Resource Units. Elastic will invoice Customer, or, if applicable, a Reseller, for such Excess Billable Nodes and/or Excess Resource Units, adjusted on a pro rata basis from the date of first use and for the remainder of the applicable Subscription Term.

1.5 <u>Audit Rights</u>. Customer agrees that, unless such right is waived in writing by Elastic, Elastic shall have the right, upon fifteen (15) days' notice to Customer, to audit Customer's use of the Commercial Software for compliance with any limitations on Customer's use of the Commercial Software that are set forth herein. Customer agrees to provide Elastic with the necessary access to the Commercial Software to conduct such an audit either (i) remotely, or (ii) if remote performance is not possible, at Customer's facilities, during normal business hours and no more than one (1) time in any twelve (12) month period. In the event any such audit reveals that Customer has used the Commercial Software in excess of the limitations set forth herein, Customer agrees to promptly pay to Elastic an amount equal to the difference between the fees actually paid and the fees that Customer should have paid to remain in compliance with such limitations. This Section 1.4 shall survive for a period of one (1) year from the termination or expiration of the Agreement.

1.6 <u>Reserved.</u>

1.7 <u>Post Termination or Expiration.</u> Upon termination or expiration of the Agreement or any applicable Subscription or Order Form, for any reason, Customer shall promptly cease the use of the Commercial Software and Documentation and destroy (and certify to Elastic in writing the fact of such destruction), or return to Elastic, all copies of the Commercial Software and Documentation then in Customer's possession or under Customer's control.

1.8 <u>Malicious Code</u>. Elastic warrants that at the time the Commercial Software is made available for download; it will be free of Malicious Code. In the event of a breach of the foregoing warranty, Elastic's sole obligation, and Customer's exclusive remedy shall be for Elastic to replace the Commercial Software with Commercial Software that does not contain any Malicious Code.

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2   SUPPORT SERVICES

2.1   <u>Provision of Support Services</u>. During an applicable Subscription Term, Elastic will provide Customer with Support Services in accordance with the Support Services Policy: (a) in the case of Gold and Platinum Subscriptions, for the covered Project(s), up to the applicable number of Billable Nodes included in the Subscription; and (b) in the case of an Enterprise Subscription, up to the number of Resource Units included in the Subscription. Support Services will be delivered to Customer remotely, electronically, through the Internet, and when applicable, depending on the Subscription Level purchased, via telephone. For the avoidance of doubt, Support Services are not delivered in person at Customer's facilities.

2.2   <u>Third Party Contractors</u>. At Customer's written request to the Elastic support desk (e-mail sufficient if receipt confirmed or acknowledged), Elastic will provide the Support Services to one or more Contractors, solely in connection with such Contractors' provision of services to Customer, and provided that (i) such Contractors do not offer Elastic Community Software as part of any software-as-a-service, (ii) Customer shall remain responsible to Elastic for the compliance of such Contractors with the terms and conditions of the Agreement and this Addendum, and (iii) such Contractors are contractually bound to obligations that reasonably protect Elastic's intellectual property and Confidential Information.

2.3   <u>Restrictions</u>. Support Services are provided to Customer solely for Customer's internal use (which includes use by Customer Affiliates, and, subject to Section 2.2 above), and are subject to applicable quantitative limitations on (i) the number of Billable Nodes and/or Resource Units set forth on the applicable Order Form(s), and (ii) the number of support contacts in the Support Services Policy. For the avoidance of doubt, the foregoing internal use restriction is not intended to prohibit Customer from using the Support Services for a Project in which Self-Managed Software is used in connection with or as part of a Customer website or Customer's own software-as-a-service ("**SaaS**") offering, provided that any such SaaS offering must include substantial, additional value-added software application features and functions, in addition to the features and functions of the Self-Managed Software. In addition, Customer agrees to not: (a) use the Support Services to supply any consulting, support or training services regarding the Software to any third party other than Customer Affiliates; (b) use the Support Services to obtain support for Customer's use of any Community Software that is being hosted by a third party providing such Community Software as a service (provided, that this prohibition shall not prohibit Customer from running the Software on physical or virtual systems hosted by a third party, where the third party provides compute, storage or other infrastructure services to Customer, but does not provide the Community Software or its features and functions to Customer as part of such services); or (c) use Support Services to obtain support (i) for its use of Community Software in a Project for which no Subscription has been purchased or (ii) under a higher Subscription Level for its use of Software in a Project for which Customer has purchased a lower Subscription Level. Customer agrees that any knowing failure to comply with the terms of this Section 2.3 will be deemed a material breach of this Agreement. In the event of any failure to comply this Section 2.3, Elastic may, without prejudice to any other remedies available hereunder, at law or in equity, suspend the provision of Support Services to Customer if Customer fails to cure such breach within fifteen (15) days after receipt of written notice thereof.

3   ADDITIONAL DEFINITIONS

3.1   "**Addressable**" with respect to RAM means the quantity of RAM that benefits the execution of the applicable software.

3.2   "**Billable Enterprise Software**" means all Community Software and Commercial Software (collectively, "**Software**"), except for Software branded under the names Beats, Logstash, Endgame Agent, and Elastic Endpoint agent (or any successor or alternative names for such Software).

3.3   "**Billable Nodes**" means, with respect to a Subscription, a number that is the greater of (i) the number of Nodes running across all Projects covered by the Subscription or (ii) the total GB of RAM

Addressable by all Nodes across all Projects covered by the Subscription divided by 64, with any fractional remainder being rounded up to the next whole number. Nodes deployed in a Non-production Environment are not counted as Billable Nodes.

3.4   "**Commercial Software**" means Elastic-branded software that is subject to proprietary license terms, including all updates thereto and new releases thereof, that are made generally available by Elastic to its customers during an applicable Subscription Term.

3.5   "**Community Software**" means Elastic-branded software that is licensed and distributed under the Apache License Version 2.0, including all updates thereto and new releases thereof.

3.6   "**Contractor**" means any third-party contractor performing services on Customer's behalf.

3.7   "**License**" means a limited, non-exclusive, non-transferable, fully paid up, right and license (without the right to grant or authorize sublicenses) solely for Customer's internal business operations to (i) install and use, in object code format, the Commercial Software, (ii) use, and distribute internally a reasonable number of copies of the Documentation, provided that Customer must include on such copies all marks and notices; (iii) permit Contractors and Customer's Affiliates to use the Commercial Software and Documentation as set forth in (i) and (ii) above, provided that such use by Contractors must be solely for Customer's benefit, and Customer shall be responsible for all acts and omissions of such Contractors and Affiliates in connection with their use of the Commercial Software that are contrary to the terms and conditions of this Agreement.

3.8   "**License Key**" means an alphanumeric code that enables use of software.

3.9   "**Malicious Code**" means any code that is designed to harm, or otherwise disrupt in any unauthorized manner, the operation of Customer's computer programs or computer systems or destroy or damage data. For clarity, Malicious Code shall not include any software bugs or errors handled through Support Services, or any standard features of functions of the Commercial Software and/or any License Key that are intended to enforce the temporal and/or other limitations on the scope of the use of the Commercial Software to the scope of the License granted to Customer.

3.10   "**Node**" means an instance of the Community Software product known as "Elasticsearch," running on a server, which is not configured as a dedicated client node, dedicated coordinating node, or dedicated ingest node, as described in the Documentation.

3.11   "**Non-production Environment**" means an environment such as development, staging, or quality assurance, where software is not used for production purposes.

3.12   "**Project**" means a specific Customer use case for the Community Software, with Nodes being deployed for use in a logical grouping of functionality to support such use case.

3.13   "**Resource Units**" means, with respect to an Enterprise Subscription, a number that is equal to the total GB of RAM Addressable by all Billable Enterprise Software deployed by Customer in connection with the Enterprise Subscription, divided by 64, with any fractional remainder being rounded up to the next whole number.

3.14   "**Support Services Policy**" means Elastic's support services policy for Self-managed Subscriptions set forth at https://www.elastic.co/support_policy/english, which provides the details of Elastic's Support Services obligations. Elastic reserves the right to reasonably modify the Support Services Policy during a Subscription Term. However, Elastic agrees not to diminish the level of Support Services in any material respect during the Subscription Term. The effective date of each version of the Support Services Policy will be stated therein, and Elastic will retain an archived copy of each version that will be made available to Customer upon request. The Support Services Policy is hereby incorporated into these terms and conditions by this reference.