MASTER SUBSCRIPTION AGREEMENT
LICENSE AND SERVICES

PLEASE SCROLL DOWN AND READ ALL OF THE FOLLOWING TERMS AND CONDITIONS OF THIS MASTER SUBSCRIPTION AGREEMENT ("MSA" OR "AGREEMENT") CAREFULLY BEFORE INSTALLING OR USING THE SOFTWARE. THIS AGREEMENT IS A LEGALLY BINDING CONTRACT BETWEEN YOU AS A CLIENT AND THE XEBIALABS ENTITY SPECIFIED IN THE APPLICABLE ORDER ("XEBIALABS" or "SUPPLIER"). THAT SETS FORTH THE TERMS AND CONDITIONS THAT GOVERN YOUR USE OF THE SOFTWARE. BY INSTALLING AND/OR USING THE SOFTWARE, YOU ACKNOWLEDGE THAT YOU ("CLIENT") HAVE READ AND UNDERSTOOD THIS MSA AND AGREE TO ABIDE BY ALL OF THE TERMS AND CONDITIONS STATED OR REFERENCED HEREIN. YOU AGREE THAT THIS MSA IS THE FULL AND EXCLUSIVE EXPRESSION OF THE AGREEMENT BETWEEN YOU AND XEBIALABS AND THAT IT TAKES PRECEDENCE OVER ALL PREVIOUS PROPOSALS OR VERBAL OR WRITTEN AGREEMENTS AND OTHER COMMUNICATIONS REGARDING THE SUBJECT OF THIS MSA. IF YOU DO NOT AGREE TO ABIDE BY THESE TERMS AND CONDITIONS, DO NOT INSTALL OR USE THE SOFTWARE. YOU MUST ACCEPT AND ABIDE BY THESE TERMS AND CONDITIONS AS PRESENTED TO YOU – ANY CHANGES, ADDITIONS OR DELETIONS BY YOU TO THESE TERMS AND CONDITIONS WILL NOT BE ACCEPTED BY XEBIALABS AND WILL NOT BE PART OF THIS AGREEMENT.

PART (A) DEFINITIONS

1. **Definitions**

   "Affiliate" means any entity that Client controls or is controlled by or is under common control with (as used in this definition, the term "control" means owns (directly of indirectly) greater than fifty percent of the equity therein).

   "**Confidential Information**" means any information, including information, technical data or know-how relating to discoveries, ideas, inventions, concepts, software, equipment, designs, drawings, specifications, techniques, processes, systems, models, data, source code, object code, documentation, diagrams, flow charts, research, development, business plans or opportunities, products, product features, projects or products under consideration, procedures, and information related to finances, costs, prices, suppliers, vendors, customers and employees, which is disclosed by either party in connection with this Agreement, directly or indirectly, in writing, orally or by drawings or inspection of equipment or software, to the receiving party or any of its employees or agents, including the terms of this Agreement. For the avoidance of doubt, the definition of Confidential Information shall also include any other information, in whatever form, that, due to the nature of the information or the circumstances surrounding its disclosure, a disclosing party would reasonably expect to be kept confidential by a party receiving such information. Confidential Information does not include any of the following: (a) information that is or becomes part of the public domain or otherwise available on an unrestricted basis to one or more third parties without violation of this Agreement by the receiving party; (b) information that was known to or in the possession of the receiving party on a non-confidential basis prior to the disclosure thereof to the receiving party by the disclosing party, as evidenced by

written records; (c) information that was developed independently by or on behalf of the receiving party, without use of or reference to Confidential Information of the disclosing party; or (d) information that is disclosed to the receiving party by a third party without violation of this Agreement by the receiving party. Software contains valuable trade secrets and Confidential Information of Supplier.

"**Development Use**" means use of the Software by Client to design, develop and/or test new applications for Production Use.

"**Documentation**" means the operating instructions and user manuals provided with the Software and/or available on Supplier's website.

"**Foreign Elements**" means viruses, worms, Trojan Horses, time bombs or other alike foreign elements.

"**Node**" means a distinct end point as counted and limited by the Software. Client will identify the Node(s) in the Software. During the term of this Agreement, Client may remove a Node from the Software and identify another Node in its place, provided the total number of purchased Nodes is never exceeded.

"**Initial Term**" means, unless otherwise specified in the applicable Order, a term of 3 years from the Effective Date.

"**License**" means the License defined in clause 2.1 hereafter.

"**Order**" means the document by which the Software and Support and, if applicable Professional Services are ordered by Client. The Order and any subsequent Orders by Client shall be governed by the terms and conditions of this Agreement.

"Open Source Software (OSS)" means the independent software distributed with the Software that is licensed under the Free Software Foundation's General Public License

('GPL"), Lesser General Public License ("LGPL") and other open source licenses, as applicable.

"**Production Use**" means use of the Software by Client for its own internal business purposes only.

"**Professional Services**" means those services made available to Client by Supplier or its designated subcontractors, including, but not limited to: installation, integration, configuration, consulting and/or training services, if and as specified on an Order or separate Statement of Work.

"**Software**" means the object code versions of the software as described on an Order and in the related Documentation.

"**Subscription**" means the License and Support together.

"**Support**" means the technical support for the Software as specified on Attachment I hereto.

"**User**" means (i) any individual authorized by Client to log into and use the Software directly, (ii) any individual benefitting from the Software's functionality invoked by a service account, (iii) any individual contributing code to the Client's software application, and/or (iv) any individual engaging in reporting or reviewing results through the Software. For the avoidance of doubt, anyone involved in the software development and/or delivery process is considered a User and will be accounted for. The number of Users associated with each Software subscription licensed by Client is indicated in the Order(s).

2. License

2.1 Supplier grants Client a non-exclusive and non-transferable (except as permitted herein) license for the term of the applicable Order to use the Software and the Documentation, solely for Client's Production Use and/or Development Use, subject to this Agreement (the "**License**"). The License is limited to the total number of Nodes, and/or Users indicated on the Order, unless otherwise agreed between the parties. For the avoidance of doubt, Production Use and/or Development Use do not include the right to reproduce the Software for sublicensing, resale, or distribution to any other third party.

2.2 Client may only allow its third-party consultants to access and use the Software for Client's Production Use or other operations provided they have signed an agreement with Client protecting Supplier's intellectual property with terms no less stringent than these terms and conditions and that Client ensures that such consultant's use of the Software complies with the terms of this Agreement.

2.3 Client's Affiliates may only use the Software and the Documentation for Production Use and/or Development Use after prior written approval from Supplier.

2.4 The following limitations apply:

(i) Client agrees not to lease, rent or sublicense the Software to any third party, or otherwise use it except as permitted in this Agreement and the applicable Order;

(ii) Client agrees not to reverse engineer, decompile, disassemble, or otherwise attempt to determine source code or protocols from the Software;

(iii) Client may not copy the Software, except after prior written approval from Supplier and if so, limited to archival or disaster recovery purposes. If Client does copy for such purposes, Client will preserve any proprietary rights notices on the Software and place such notices on any and all copies Client makes;

(iv) Client shall not create or attempt to create any derivative works from the Software except and only to the extent permitted by law.

2.5 Supplier retains all rights not expressly granted to Client in this Agreement.

2.6 This License is granted under the condition that the Subscription fee(s) is/are paid to Supplier.

2.7 Supplier shall deliver the Software electronically unless otherwise agreed between the parties.
Installation of the Software shall be performed by Client.

3. Warranty

3.1 Supplier warrants that it is entitled to license the Software to Client.

3.2 Supplier warrants that the Software does not contain Foreign Elements at delivery of the Software to the Client.

3.3 For a period of ninety (90) days after first delivery of the Software following the initial date of the applicable Order, Supplier warrants that the Software shall conform in all material respects to the Documentation. Supplier does not warrant that operation of the Software will be uninterrupted or "bug" free.

3.4 If Supplier breaches the foregoing warranty and Client promptly notifies Supplier in writing of the nature of the breach, Supplier shall make commercially reasonable efforts to promptly repair or replace the non-conforming Software without charge. If, after a reasonable opportunity to cure, Supplier does not repair or replace the non-conforming Software, Client must return the Software and Documentation to Supplier, or certify in writing that all copies have been destroyed, and Supplier will refund the Subscription fee it received from Client for the Software. This is Client's sole and exclusive remedy for breach of the warranty in clause 3.4.

3.5 THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED,

INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, AND MERCHANTABILITY.

4. Fees and Audit

4.1 All amounts specified in the applicable Order are exclusive applicable sales, use, VAT and other consumption taxes and other taxes.

4.2 The total non-refundable, non-cancellable Subscription fees and the fees for Professional Services, if any, for each Order will be due and payable within thirty (30) days from the date of Supplier's invoice. Supplier may assess finance fees of 1.5% per month for any late payments.

4.3 Subscription fees shall be paid by Client annually in advance as specified in the applicable Order.

4.4 Upon expiration of the Initial Term, Supplier may apply an overall market increase and/or usage increase to the Subscription fee(s).

4.5 Client will pay all applicable sales, use, VAT, and other consumption taxes and other taxes.

4.6 Client agrees that either (i) upon Supplier's written request, or (ii) within thirty (30) days of the end of any Subscription 12-month period, Client shall promptly provide Supplier in writing with a summary of its usage of the Software, including an average and maximum number of Users, Nodes, or other metrics as described in any Order. Client shall remedy any underpayments revealed during the audit both retroactively as well as prospectively for the remainder of the Subscription term.

4.7 The Subscription is ordered annually in advance of Supplier's provision of the Subscription.

4.8 Except as otherwise explicitly provided herein, Subscription fees paid and the fees for Professional Services, if any, are non-refundable.

5. Support and Professional Services

5.1 Support is provided pursuant to the Support terms specified on Attachment I hereto.

5.2 Supplier will provide Support during the term of the applicable Order under the condition that the applicable Subscription fee(s) is/are paid to Supplier.

5.3 Support will only be provided as part of the Subscription.

5.4 Supplier or its designated subcontractors shall make available to Client certain Professional Services if and as specified on an Order. Such Professional Services shall be subject to the terms and conditions of this Agreement, including the additional terms set forth on Attachment II hereto.

6. Intellectual Property; Indemnification

6.1 Except for the limited license rights granted hereunder, title, ownership rights and all intellectual property rights in and to the Software shall remain the sole and exclusive property of Supplier and its licensors.

6.2 Supplier will defend Client against any third-party claim brought against Client that Client's use of the Software in accordance with the terms herein infringes or misappropriates any patent subsisting, copyright, trademark or trade secret, provided that Client reasonably cooperates with Supplier in connection with such claim and allows Supplier to control the defense and all related settlement negotiations. Supplier will pay such damages or costs as are finally awarded by a court of competent jurisdiction against or agreed to by Supplier in settlement for such claim.

6.3 If an injunction is sought or obtained against Client's use of the Software as a result of a third party infringement claim, Supplier may, at its sole option and expense, (i) procure for Client the right to continue using the affected Software, (ii) replace or modify the affected Software with functionally equivalent software so that it does not infringe, or, if either (i) or (ii) is not commercially feasible, (iii) terminate the Subscription and refund the Subscription fee received from Client for the affected Software less a usage charge based on a 12 month amortization schedule.

6.4 Supplier shall have no liability for any third party claim of infringement based upon (i) use of other than the then current, unaltered version of the applicable Software, unless the infringing portion is also in the then current, unaltered release; (ii) use, operation or combination of the applicable Software with non-Supplier programs, data, equipment or documentation if such infringement would have been avoided but for such use, operation or combination; or (iii) any third party software. The foregoing constitutes the entire liability of Supplier, and Client's sole and exclusive remedy with respect to any third-party claims of infringement of such intellectual property rights.

6.5 All rights, titles and interest, including moral rights in intellectual property to or arising from any Professional Services such as but not limted to analyses, designs, documentation, reports, offers, software, and any preparatory material belonging thereto or other materials developed or provided under this Order shall solely be owned by XebiaLabs or its licensors. XebiaLabs grants to Client a non-exclusive, non-(sub)licensable, non-transferable right to use the Professional Services, or other materials developed or provided under this Order during the applicable Subscription term and solely in connection with the Software, subject to the restrictions as specified in the Order, to be

used only for Client's internal business purposes, provided all agreed fees have been paid by Client. Any other use of the Professional Services is strictly prohibited. Nothing contained in this Order shall be construed as conferring, by implication, estoppel or otherwise, any license or other right except when licenses and rights are expressly granted in this Order. Any other use, including but not limited to by way of resale, renting, outsourcing, leasing or otherwise is prohibited.

7. Confidentiality

7.1 Each party that receives Confidential Information of the other party agrees that, unless the disclosing party gives its prior written authorization, it shall not: (a) use such Confidential Information other than for the purposes of this Agreement; or (b) disclose any such Confidential Information to any third party except those directors, officers, employees, subcontractors, consultants and agents of the receiving party who are required to have such Confidential Information in order to carry out the purposes of this Agreement and who have signed a non-disclosure agreement or are otherwise bound by confidentiality obligations in substance similar to the provisions hereof. The receiving party shall prevent the unauthorized use, disclosure, dissemination or publication of such Confidential Information using at least the same degree of care that the receiving party uses to protect its own confidential information of a similar nature, but in no event less than a reasonable degree of care.

7.2 The obligations of the parties under this Section shall not apply to the extent of any disclosure required pursuant to a duly authorized subpoena, court order, or government authority, provided that the receiving party has provided prompt notice and assistance to the disclosing party prior to such disclosure, so that such party may seek a protective order or other appropriate remedy to protect against disclosure.

7.3 Any breach of the confidentiality obligations set forth in this Section would constitute a material breach of this MSA, which the breaching party acknowledges may cause irreparable harm to the non-breaching party, leaving it without an adequate remedy at law. As such, any such breach shall entitle the non-breaching party to seek injunctive relief in addition to all other remedies, without necessity of posting of a bond or other security in connection therewith. The preceding sentence is not intended, nor shall it be construed, to limit a party's right to dispute the factual basis underlying any contention that it has committed any breach.

7.4 This Section will remain in effect during the term and following termination or expiration of this Agreement or the applicable Order for any reason.

8. Limitation of Liability

8.1 Except for Supplier's willful misconduct or gross negligence, Supplier's indemnification obligation under Section 6 or Supplier's breach of its confidentiality obligations under Section 7, Supplier's aggregate liability for direct damages concerning performance or non-performance by Supplier or in any way related to this Agreement, and regardless of whether the claim for such damages is based in contract, tort, strict liability, or otherwise, shall not exceed the portion of the fees received by Supplier from Client for the Professional Services of the Order or the affected Software attributable to the 12 month Subscription period preceding the occurrence of such liability.

8.2 Except for a party's breach of its confidentiality obligations under Section 7 for which the aggregate liability for indirect, incidental, special, punitive or consequential damages, lost data or lost profits may amount to a maximum of one-time the amount of fees related to the annual subscription fees, in no other event shall a party be liable for any indirect, incidental, special, punitive or consequential damages, lost data or lost profits, even if such party has been advised as to the possibility of such damages.

9. Term and Termination

9.1 The Term of this Agreement shall commence upon Client's acceptance thereof (the "Effective Date") and shall continue until terminated or the termination of the last Order. The Subscription ends after its Initial Term. An automatic renewal does not apply, unless parties agree otherwise.

9.2 At the end of the Initial Term and each agreed consecutive term, Client may, if agreed to by Supplier, continue to receive a Subscription in one-year increments under Supplier's then-current fees, terms and conditions or such other terms as both parties may agree to in an Order. Supplier shall provide Client reasonable notice to renew its Subscription and the then applicable Subscription fees due. Any renewal fees shall be due thirty (30) days prior to the end of the current subscription term.

9.3 Either party will be in default if it declares bankruptcy or otherwise fails to perform any of its duties or obligations and does not undertake an effort to substantially cure such default within 30 days after written notice is given to the defaulting party, except that any breach of Section 7 (*Confidentiality*) shall be grounds for immediate termination. In the event of default, the non-defaulting party may terminate any existing Order and this Agreement by providing written notice of termination to the defaulting party.

9.4 If this Agreement is terminated, for any reason whatsoever, Client must promptly, at Supplier's direction, destroy or return all affected Software and Documentation.

9.5 Termination of this Agreement explicitly does not release parties from those obligations which, by their nature, are intended to remain in effect, including the provisions with respect to confidentiality, engaging of third parties and liability for taxes and premiums, intellectual property and limitation of liability.

10. Miscellaneous

10.1 *Force Majeure*. Neither party shall be liable for any delay or failure in performance due to Force Majeure. "**Force Majeure**" means any event beyond a party's reasonable control such as, but not limited to, strikes or other labour trouble, fire or other natural casualty, and governmental pre-emption of priorities or other controls in connection with a national or other public emergency.

10.2 *Assignment*. Client may not assign this Agreement or any Order or Statement of Work without Supplier's prior written consent.

10.3 *Severability*. If any part of this Agreement is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other parts of the Agreement.

10.4 *Waiver*. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

10.5 *Notices*. All notices permitted or required under this Agreement shall be in writing and shall be delivered by registered mail to the address of the party specified above or such other address as either party may specify in writing. Such notice shall be deemed to have been given upon receipt.

10.6 *Open Source Software.* The Software may contain open source software or similar third-party software ("OSS") licensed under such OSS's own applicable license terms. Any such OSS listed under this Agreement is listed only for your convenience and solely for information purposes, and, if licensed, is licensed to you only under the terms set forth in the corresponding Open Source License, which you may find on the Internet at the designated URL, or in the header files of such software. Notwithstanding the foregoing, this Agreement shall not prevent or restrict Client from exercising additional or different rights referring to any free, open source code, documentation or materials contained in or provided with the Software in accordance with the applicable free, OSS license for such code, documentation and materials which can be found in the corresponding technical documentation. Supplier is not obligated to provide any maintenance or support for the OSS or any Software that has been modified pursuant to an OSS license.

10.7 *Export restrictions*. Export laws and regulations of the United States and any other applicable local export laws and regulations apply to the Software. Client agrees that such applicable export control laws govern Client's use of the Software and agrees to comply with all such applicable export laws and regulations (including "deemed export" and "deemed re-export" regulations). Client agrees that no data, information and/or Software will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology. Client represents and warrants that: (i) Client is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) Client is not listed on any U.S. Government list of prohibited or restricted parties.

10.8 *Software Plugins*. The Software indicated in the Order is provided with all commercial plugins Supplier has available on the Effective Date. Supplier will make additional commercially available plugins available to Client at no additional cost but only if, as, and when Supplier makes such plugins generally available to its general customer base. However, if such plugin is subject to a reseller fee or other third-party fee, it will be provided by Supplier at the pass-through rate. XebiaLabs may, in its sole discretion, charge a subscription fee to Client for other requested plugins.

10.9 *Change of Control*. If Client has purchased an unlimited subscription license and becomes subject to a Change of Control, the parties shall determine in good faith the actual number of Users, Nodes, or other applicable licensing metrics at Client. Effective upon such Change of Control, such agreed upon metric & number will be considered the maximum number of Users, Nodes, and/or other applicable licensing metrics that may be used pursuant to the License. "**Change of Control**" means the situation where either: 1) another entity acquires, directly or indirectly, all or substantially all of the assets of the Client or the majority of the outstanding capital stock of the Client through a merger, reorganization, or otherwise, or 2) where the Client acquires additional companies, business units, or other entities that increases the licensing metrics of the Software.

10.10 *Data Protection.* Client represents and warrants that the content, use and processing of personally identifiable information ("PII") required to facilitate the subject matter of this MSA by Supplier on behalf of Client are not unlawful

and do not infringe any right of a third party. Client shall notify Supplier in writing if it intends to provide any PII to Supplier. Client shall have sole responsibility for the accuracy, quality, and legality of all data and PII provided to and processed by Supplier and the means by which Client acquired the PII. As Supplier cannot be obligated to process any PII, Supplier is entitled to postpone its services if it considers the request of Client to process PII to be in violation of or not in accordance with applicable laws and Supplier's policies. To ensure compliance with applicable laws, Supplier may prior to any processing require Client to accept additional terms if Supplier agrees to the processing of PII on behalf of Client.

10.11 *Governing Law.* This Agreement shall be governed by the laws of the state or country set forth below, based on XebiaLabs' entity location, in all cases without giving effect to its conflict of law principles and excluding the U.N. Convention on Contracts for the International Sale of Goods, even where adopted as a part of the domestic law of the country whose law governs the Agreement. Any suit or proceeding relating to this Agreement shall be brought exclusively before the court of competent jurisdiction in the applicable jurisdiction set forth below.

1. For XebiaLabs, Inc., governed by the laws of the Commonwealth of Massachusetts, excluding its choice-of-law principles and any actions arising out of or in connection with this Agreement shall be brought solely in the court of the Commonwealth of Massachusetts.

2. For XebiaLabs Ltd., governed by the laws of England and Wales by the courts of London.

3. For XebiaLabs B.V., governed by the laws of the Netherlands by the courts of Amsterdam.

4. For XebiaLabs Sarl, governed by the laws of France by the courts of Paris.

Any disputes arising in countries not recognizing or not executing court verdicts from the above jurisdictions shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC). Such disputes or claims shall be settled by simplified arbitration arranged by ICC in accordance with the rules of arbitration procedure adopted by ICC and in force at the time when such proceedings are commenced. Arbitration shall be conducted in Amsterdam, before one arbitrator appointed in accordance with the ICC Rules. All arbitration shall be conducted in English. The award rendered thereon by the arbitrator shall be final and binding on the parties thereto, and judgement thereon shall be confidential and may be entered in any court of competent jurisdiction. Nothing in this section shall prevent either Party from applying to a court of competent jurisdiction for equitable or injunctive relief.

ATTACHMENT I
SUPPORT TERMS

1. **Definitions**

   "**Failure**" means either (i) a failure of the Software to conform to the specifications set forth in the Documentation, resulting in the inability to use, or restriction in the use of, the Software, and/or (ii) a problem requiring new procedures, clarifications, additional information and/or requests for product enhancements.

   "**Maintenance Release**" means Upgrades and Updates to the Software which are made available to licensees as specified herein.

   "**Service Hours**" means the hours between 8.30 a.m. to 5.00 p.m. Eastern Standard Time during Work Days.

   "**Update**" means either a software modification or addition that, when made or added to the Software, corrects the Failure, or a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect of the Failure on Client.

   "**Upgrade**" means a revision of the Software released by Supplier to its end user customers generally, during the term of this Agreement, to add new and different functions or to increase the capacity of the Software. Upgrade does not include the release of a new product or added features for which there may be a separate charge.

   "**Work Days**" means Monday through Friday with the exception of generally recognized Federal and State holidays in the Commonwealth of Massachusetts.

2. **Support**

   2.1 Client shall specify its requested form and/or type of Support on the Order.

   2.2 Support includes Maintenance Releases and advice regarding the use and functioning of the Software by telephone, email and/or Supplier's Support website. Unless agreed otherwise in an Order, Support is provided during Support Hours.

   2.3 Client can order 24*7 Support (e.g. Support 24 hours per day, 7 days per week, 365 days per year), for which Supplier charges an additional annual fee on top of the fee for standard Support (e.g. Support during Service Hours).

   2.4 Supplier's obligation to provide Support is conditioned upon the following: (i) Client provides Supplier with sufficient information and resources to correct the Failure which may include remote access to Client's site, as well as access to the personnel, hardware, and any additional software involved in discovering the Failure; (ii) Client promptly installs all Maintenance Releases; and (iii) Client procures,

installs and maintains all equipment, telephone lines, communication interfaces and other hardware necessary to operate the Software.

3. **Updates**

   3.1 Supplier will make commercially reasonable efforts to provide an Update designed to solve or by-pass a reported Failure. If such Failure has been corrected in a Maintenance Release, Client must install and implement the applicable Maintenance Release; otherwise, the Update may be provided in the form of a temporary fix, procedure or routine, to be used until a Maintenance Release containing the permanent Update is available.

   3.2 Client shall reasonably determine the priority level of a Failure pursuant to the following:

   (i) Priority 1: A Failure that makes it impossible for any user of the Software to use the primary function of Software.

   (ii) Priority 2: A Failure for which a workaround exists.

   (iii) Priority 3: A cosmetic Failure.

   3.3 The following Support response times will apply:

   (i) On a Failure with priority 1, Supplier shall assign a specialist(s) to correct the Failure, begins to provide a temporary workaround or fix and provides ongoing communication on the status of an Update within 4 hours on a Work Day upon notification by Client.

   (ii) On a Failure with priority 2, Supplier shall assign a specialist(s) to correct the Failure, begins to provide a temporary workaround or fix and provides ongoing communication on the status of an Update within 2 Work Days upon notification by Client.

   (iii) On a Failure with priority 3, Supplier may include an Update in the next Maintenance Release.

4. **Upgrades**

   4.1 During the term of this Agreement, Supplier shall make Maintenance Releases available to Client if, as and when Supplier makes any such Maintenance Release generally available to its licensees. If a question arises as to whether a product offering is an Upgrade or a new product or feature, Supplier's opinion will prevail, provided that Supplier treats the product offering as a new product or feature for its end user customers generally.

5. Escrow

5.1 Supplier has entered into an escrow agreement with an escrow agent. Client may sign up to this escrow agreement as a third-party beneficiary. Client agrees to pay Supplier the annual fee required by Supplier to pay for the addition of Client as a third-party beneficiary to such escrow agreement.

6. Limitations

Supplier is not obligated to provide Support in the following situations:

(i) the Software has been changed, modified or damaged (except if under the direct supervision of Supplier);

(ii) the Failure is caused by Client's negligence, hardware malfunction or other causes beyond the reasonable control of Supplier;

(iii) the Failure is caused by third party software not licensed through Supplier;

(iv) Client has not installed and implemented Maintenance Release(s) so that the Software is a version supported by Supplier; or

(v) Client has not paid the Subscription fee when due.

7. Termination of Support

7.1 During the term of this Agreement, Supplier will support and maintain (i) the then-current version of the Software; and (ii) any preceding version of the Software for period of 1 year after such preceding version is first superseded. Supplier shall have no obligation to support or maintain any other version of the Software. The version of the Software is indicated by the number x.y; Upgrades are indicated by the "y" and are consecutive numbered.

7.2 Supplier provides information on its website regarding the expected new version, current version and end-of- life of the immediately preceding version of then-current Software.

7.3 Supplier reserves the right to suspend performance of Support if Client fails to pay the applicable Subscription fee(s).

ATTACHMENT II
PROFESSIONAL SERVICES TERMS

1 XebiaLabs shall perform the Professional Services with reasonable care and skill and pursuant to Order. Unless specified otherwise in the applicable Order, all Professional Services are performed on a time and materials basis; nothing in this Order may be construed as an obligation of XebiaLabs to deliver a certain result.

2 Client shall timely provide XebiaLabs with all accesses and clearances and all further assistance XebiaLabs reasonably needs to properly perform the Professional Services. If Client requires any actions and/or information from Supplier in this respect, Client shall timely notify Supplier thereof. Client shall timely provide its security policy, screening policy and travel policy (if any) and XebiaLabs shall perform the Professional Services in compliance with such policies (if any).

3 Unless specified otherwise in the applicable Order, Client shall reimburse XebiaLabs' reasonable cost for travel and expenses connected to the performance of the Professional Services insofar as (i) such cost are in compliance with Client's travel policy, and (ii) XebiaLabs substantiates such cost with receipts. All cost for living and expenses in compliance with Client's travel policy which have already been incurred by XebiaLabs prior to an early termination of this Order by Client, shall be borne by Client.