MASTER SOFTWARE LICENSE AND SERVICES AGREEMENT (MLSA)

1. **Scope**. This MLSA set forth the terms on which a natural or legal person ("**Customer**") may purchase a perpetual license or for a limited time, subscribe to certain proprietary software as further detailed in Section 3 ("**Software**"), purchase certain hardware with pre-installed Software ("**Appliances**"), and order certain maintenance, support and professional services relating to the Software or the Appliances, as further detailed in Section 6 ("**Services**") from Exasol, Inc., a Delaware corporation with an address at 268 Bush Street #3841, San Francisco, CA 94104-3503 ("**Exasol**"). The Software, Services and Appliances are collectively referred to as "**Products**" and Exasol and Customer individually as "**Party**" and collectively as the "**Parties**".

2. **Order Process**. A "**Quote**" is a written offer by Exasol, describing the type, quantities, licensed capacity, any specific delivery locations, and other parameters of the relevant Products provided by Exasol, the fees or price payable to Exasol, payment period(s), any specific obligations of Customer, the duration of the contract ("**Term**"), and other relevant details, and referencing this MLSA. By accepting a Quote before the "valid until" date specified in it or by otherwise ordering or using any Products, Customer and Exasol agree to this MLSA and the Quote ("**Agreement**") beginning as of the date of Customer's signature on the Quote or the earlier date when Customer ordered or started using the products (the "**Effective Date**"). Only this MLSA and the Quote and any documents referenced therein will govern the relationship of Customer and Exasol. Any different or additional terms proposed by Customer are hereby rejected, regardless of when and how communicated by Customer to Exasol, and whether or not Exasol expressly objects to them in any individual case.

3. **Software**. The Software includes: (a) a software stack consisting of Exasol's proprietary database software and in some deployment variants a tuned operating system (collectively, "**Exasuite"™**"); (b) and proprietary software clients and drivers provided by Exasol from time to time (such as Exaplus™, ODBC, JDBC, and ADO.NET), and if the Software is made available on the basis of a Software Subscription or if Customer has separately purchased maintenance or support Services from Exasol: (c) any updates, upgrades, releases, fixes, enhancements or modifications to the Software generally released by Exasol during the Term of the relevant Software Subscription or maintenance or support Services ("**Enhancements**"). The Software is further described in certain documentation created and maintained by Exasol accessible at https://www.exasol.com/portal/display/DOC/ (the "**Documentation**").

4. **License**.

4.1. **Perpetual License**. If the Quote provides for a perpetual license to the Software ("**Perpetual License**"), then subject to Customer's compliance with the Agreement and timely payment of all license fees, Exasol grants to Customer a worldwide, perpetual, non-exclusive, non-transferable, non-sublicensable, license to install and use the Software, subject to the common license provisions in Section 4.4. The Perpetual License is limited to the release of the Software as of the date of the Quote, unless the Quote provides for support or maintenance Services and Customer has timely paid the applicable fees, in which case Exasol will provide the agreed support or maintenance Services.

4.2. **Software Subscription.** If the Quote provides for a license during a specific Term ("**Software Subscription**"), then subject to Customer's compliance with the Agreement and timely payment of all license fees, Exasol grants to Customer a worldwide, time-limited, non-exclusive, non-transferable, non-sublicensable, limited license to install and use the Software only during the Term, subject to the common license provisions in Section 4.4. A Software Subscription includes release of Software as of the date of delivery and any subsequent Enhancements released by Exasol during the Term.

4.3. **Test and Development License.** If the Software is made available for testing and development only ("**Test and Development License**"), then subject to Customer's compliance with this Agreement and timely payment of all license fees, Exasol grants to Customer a worldwide, royalty-free, revocable at will, non-exclusive, non-transferable, non-sublicensable, limited license to install and use such Software only during the Term, subject to the common license provisions in Section 4.4, provided that the Software shall be installed and used in a system used solely for software product migration testing, software product pre-production staging, testing new data sources, types or use cases, and shall be used only for such non-production use.

4.4. **Common License Provisions.** Customer shall install Exasuite only on the agreed upon dedicated server(s) owned or controlled by Customer ("**Cluster**") and use the Software only within the licensed usage parameters, only for

Customer's internal business purposes, and in a manner consistent with the applicable Documentation. If the parameters of an existing license are extended, the use of this extension is limited to the existing Cluster. Splitting the license into more than one Cluster or setting up a new Cluster as part of a license extension requires Exasol's prior consent. The Documentation is available for download by Customer on the homepage of Exasol in English language. If and as provided in the Quote, Customer may permit specified third parties, and companies controlling, controlled by or under common control ("**Affiliates**") by Customer to use the Software only for Customer's or the Affiliates' internal business purposes in accordance the Agreement. Customer must enforce the conditions of the Agreement against permitted third party users, including its Affiliates and will be fully liable for the use by any third party of the Software licensed to Customer.

4.5.   **Software Delivery.** Unless otherwise stated in the Quote, the Software will be delivered by emailing of the license key which authorizes the use of the downloadable Software to the Customer or by installation by Exasol on Customer's system in case installation service (Cluster Set-up) was agreed upon in the Quote. Except as provided in Section 4.6, Software will be made available in executable object code form only.

4.6.   **Third Party Components.** Software, code or related materials from third parties, including, without limitation, "open source" or "freeware" software that is distributed, provided with, or otherwise made use of by the Software ("**Third Party Components**") may be licensed under additional or other license terms that accompany such Third Party Components, and you acknowledge and agree that these accompanying license terms govern their use. The Third Party Components and respective license terms are available in the installation package of the Software. Nothing in this Agreement limits your rights under, or grants you rights that supersede, the license terms that accompany any Third Party Components. If required by any license for a particular Third Party Component, Exasol makes the source code of such Third Party Component, and any of Exasol's modifications to such Third Party Component, as required, available by written request to Exasol at the address provided above.

4.7.   **Software Verification and Audit**. At Exasol's request, Customer will furnish Exasol with a certification signed by Customer's authorized representative verifying that the Software is being used in accordance with this Agreement and the applicable Quote. Upon at least ten (10) days' prior written notice, Exasol may audit Customer's and/or its Affiliates' use of the Software to ensure compliance with this Agreement and the applicable Quote. Any such audits will be conducted during regular business hours at Customer's (or its Affiliates' or service providers') facilities (as the case may be), will not unreasonably interfere with Customer's (or its Affiliates' or service providers') business and will comply with Customer's (or its Affiliates' or service providers') reasonable security procedures. Customer will (and will ensure that its Affiliates and service providers will) provide Exasol with reasonable access to all relevant records and facilities reasonably necessary to conduct the audit. If an audit reveals that Customer (or any Affiliate of Customer) has exceeded the licensed capacity or the scope of Customer's license grant during the period audited, then Exasol will invoice Customer, and Customer will promptly pay Exasol any underpaid fees based on Exasol's price list in effect at the time the audit is completed. If the license fees payable for the excess usage exceed 10% of the license fees already paid by the Customer for the corresponding period, then Customer will also pay Exasol's reasonable costs of conducting the audit.

5.   **Appliance**. If and as stated in a Quote, Exasol sells Customer a computer appliance with pre-installed Software and Third Party Components ("**Appliance**"). The Software installed on the Appliance will be subject to the Perpetual License. Any delivery time for an Appliance is an estimate only. The Appliance will be shipped by a carrier selected in Exasol's reasonable discretion at Customer's expense. Delivery and transfer of the risk of loss of an Appliance to Customer will take place when the Appliance is handed over to the carrier.

6.   **Services**. Exasol may provide to Customer certain support, maintenance, hosting, training and other Services, as described in the Service Description, available at https://www.exasol.com/terms-and-conditions/. The Service Description that is current at the time of entering into the Agreement is incorporated into this MLSA and the Agreement by reference. The provision of Services may include the delivery of reports or other materials in any form ("**Deliverables**"), provided that Enhancements are never Deliverables. The specific type of Services, their Term, any Deliverables, and other conditions for their provision will be stated in the Quote. Exasol grants Customer a perpetual, worldwide, non-exclusive, non-transferable, non-sublicensable license to use the Deliverables for Customer's internal business purpose in connection with the applicable Services.

7. Payment.

7.1. **Fees, Purchase Price.** The license fee for any Software, the purchase price for any Appliance, and the fee for any Services will be set forth in the Quote. Fees and prices quoted by Exasol are exclusive of, and Customer is responsible for, cost of shipping, taxes or duties. Customer is responsible for all sales, use and excise taxes, and any other similar taxes, other than any taxes on Exasol's income. If Customer claims an exemption from sales, use or similar taxes, Customer shall deliver to Exasol a valid certificate of such exemption issued by the relevant taxing authority.

7.2. **Expenses.** If Exasol agrees to provide Services (not remote) at a location designated by Customer, Customer shall reimburse Exasol's actual and reasonable travel expenses.

7.3. **Payment.** Unless otherwise stated in the Quote, payment of all amounts due to Exasol is due in full immediately after Customer's receipt of invoice and payable within 14 days of the invoice date. If Customer delays acceptance without cause, fees and purchase price are due and payable even if Exasol withholds or cancels performance. Unless otherwise stated in the Quote, fees for Services are payable in advance before Services are provided or before a new Term for Services begins. Exasol reserves the right to render partial invoices for ongoing professional Services. Customer is not permitted to offset any amounts claimed by or due to Customer against payment of amounts due to Exasol.

7.4. **Overdue Amounts.** If Customer fails to pay any amounts payable under the Agreement when due and remains in default for 14 days or more Exasol may charge interest on the past due amount at the rate of 1.5% per month, calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law, and Exasol may suspend the license until all amounts due have been paid, and if Customer fails to pay such amounts for more than 7 days after notice of overdue amounts terminate the Agreement, any licenses, and the Services by notice to Customer, effective immediately.

8. **Ownership.** Except for the licenses expressly granted to Customer in the Agreement, Exasol, its suppliers and licensors own all worldwide right, title and interest in and to the Software, the Documentation, and Deliverables, including all related intellectual property rights (collectively, "**Exasol Materials**"); provided however, that no Third Party Component is considered part of Exasol Materials and the authors for such Third Party Components retain all worldwide right, title and interest to such Third Party Components. Customer has no right, title or interest in or to any Exasol Materials or related intellectual property rights. Notwithstanding any use of words such as "purchase" or similar in any document issued by Exasol or Customer, the Exasol Materials are licensed, not sold, to Customer and Customer only has the licensed rights in accordance with the terms of the Agreement. If Customer or its representatives provide suggestions for improvements or enhancements, recommendations, comments, opinions, code, input, ideas, reports with respect to the Software ("**Feedback**") Customer grants to Exasol a perpetual, irrevocable, worldwide, nonexclusive, transferable, sublicensable, royalty-free, fully paid-up right and license to use and commercially exploit the Feedback in any manner Exasol deems fit.

9. **Prohibited Conduct**. Customer will not and will not knowingly permit any third party to: (a) copy the Exasol Materials; (b) modify, adapt, or create derivative works of the Exasol Materials; (c) rent, lease, loan, resell, transfer, sublicense, distribute, disclose or otherwise provide the Exasol Materials to any third party except as explicitly authorized herein; (d) decompile, disassemble or reverse-engineer the Exasol Materials, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Exasol Materials; (e) access or use any Exasol Materials that were disabled by Exasol; (f) use any Exasol Materials for any benchmarking purposes or to create competitive product offering; (g) provide to any third party the results of any benchmark tests or other evaluation of the Exasol Materials; (h) disable or circumvent any license key or other technological measures intended to prevent, limit or control access, use or copying of the Exasol Materials; (i) remove or obscure any copyright, trademark, patent, or other proprietary notices, legends or symbols from any Exasol Materials; (j) exceed the licensed usage parameters; (k) use or attempt to use any Exasol Materials after the expiration of the Term for its use; (l) otherwise access or use any Exasol Materials except as expressly authorized in the Agreement; (m) use any Exasol Materials, any Product or any Third Party Component in any manner that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person or entity or that does not comply with applicable laws and regulations; (n) install any other software in the Cluster other than the Software unless approved by Exasol; (o) use, or allow use of, Software licensed under a Test and Development License for any revenue generation, commercial activity or other

productive business or purpose; or (p) attempt any of the foregoing. The Software may be configured to display warnings, reduce available functionality, and/or cease functioning if unauthorized or improper use is detected, including if the Term of the Software Subscription expires or the licensed usage parameters are reached or exceeded.

10. **Warranties**.

10.1. **Software Warranty**. Exasol warrants that for a period of thirty (30) days from delivery of the Software license keys, the Software will substantially perform the material functions described in the Documentation, if used in accordance with the Documentation and provided that Customer as of the date of warranty claim is in compliance with all terms of this MLSA and the Quote ("**Limited Warranty**"). The Limited Warranty does not apply to problems arising out of or relating to (a) Software or transporting media that is modified or damaged by Customer; (b) use of the Software other than as specified in the Documentation, including in or with, any technology or service not approved in the Documentation or by Exasol in writing; (c) Customer's negligence or misuse of the Software, including but not limited to breach of Section 9 (Prohibited Conduct); (d) Customer's failure to promptly install all of Exasol's maintenance releases; (e) operation of Customer's or a third party's system or network; (f) any Third Party Components, beta software, software that Exasol makes available for testing or demonstration purposes, temporary software modules or software for which Exasol does not receive a license fee; (g) Customer's breach of the Agreement; or (h) any other circumstances or causes outside of the reasonable control of Exasol, such as abnormal physical or electrical stress. Customer's sole remedy for any failure of the Software to conform to the Limited Warranty, and Exasol's sole liability in Exasol's sole discretion is: to (a) modify, or provide an Enhancement for, the Software so that it conforms to the foregoing warranty, (b) replace Customer's copy of the Software with a copy that conforms to the foregoing warranty, or (c) terminate the license with respect to the non-conforming Software and refund the license fees paid by Customer for such non-conforming Software.

10.2. **No Appliance Warranty**. Exasol does not provide any warranty with respect to the hardware of an Appliance and such Appliance is provided by Exasol "as is". If and as permitted by the terms of any warranty made by the hardware manufacturer ("**Manufacturer's Warranty**"), Exasol assigns to Customer any and all of its claims and rights based on any Manufacturer's Warranty.

10.3. **Services and Training Warranty**. Exasol warrants that all Services, including trainings, will be performed with qualified personnel, in a professional manner, using reasonable commercial efforts ("**Services Warranty**"). Customer must notify Exasol of any breach of this Services Warranty within 30 days of the performance of the relevant Services. Exasol's entire liability and Customer's exclusive remedy will be for Exasol to re-perform the Services so that the Services Warranty is met. If Exasol is unable to perform the Services so that the Services Warranty is met within 30 days from Customer's notice of the breach, Exasol's sole liability, and Customer's sole remedy, will be to refund the fees for the relevant Services.

10.4. **Warranty Claims**. All warranty claims hereunder must be made within the applicable warranty period.

10.5. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 10, THE PRODUCTS ARE PROVIDED "AS IS". EXASOL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXASOL MAKES NO WARRANTY OF ANY KIND THAT THE PRODUCTS OR EXASOL MATERIALS, OR ANY RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR OTHER PERSONS' REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL THIRD PARTY COMPONENTS AND ANY SOFTWARE PROVIDED UNDER A TEST AND DEVELOPMENT LICENSE ARE PROVIDED "AS IS".

10.6. **Customer Responsibility for Data.** Customer alone is responsible for the accuracy, quality, integrity and security of Customer's data, computers, networks and systems.

10.7. **Compliance with Law.** Each Party warrants that its performance under the Agreement will comply with all applicable laws, including laws regarding the processing of personal information.

11. Indemnification.

11.1. **By Exasol.** Exasol will indemnify, hold harmless and defend Customer from and against all losses, including reasonable attorney's fees, incurred by Customer resulting from a claim by a third party alleging that the Exasol Materials, used in accordance with the Agreement, infringe a third party's US intellectual property right. Exasol will not indemnify if the claim is attributable to:

(a)   use of the Exasol Materials outside the purpose, scope, or manner of use permitted by this MLSA or inconsistent with the Documentation or contrary to Exasol's reasonable instructions;

(b)   modifications to the Exasol Materials or other than (i) by Exasol in connection with the Agreement or (ii) with Exasol's express written authorization and in strict accordance with Exasol's written directions and specifications;

(c)   use of the Exasol Materials with any technology not provided or approved by Exasol, or with third-party services or technology where the infringement would not have occurred but for such combination;

(d)   Customer's continued use of the Exasol Materials, or other allegedly infringing activity, after receiving notice of an alleged infringement or other violation of third party's rights;

(e)   any Third Party Components;

(f)   use of a version of the Software other than the most current version or failure to timely implement any maintenance release, modification, updated, or replacement of the Software made available by Exasol;

(g)   provision or use of Software under a Test and Development License;

(h)   negligence or misuse of the Exasol Materials by Customer;

(i)   events or circumstances outside of Exasol's commercially reasonable control (including any third-party hardware, software, or system bugs, defects, or malfunctions); or

(j)   claims or losses for which Customer is obligated to indemnify Exasol hereunder.

11.2. **By Customer.** Customer will indemnify, defend, and hold harmless Exasol and its Affiliates, and each of its and their respective officers, directors, employees, agents, subcontractors, successors and permitted assigns (each, an "**Exasol Indemnitee**") from and against any and all losses, including reasonable attorneys' fees, incurred by the Exasol Indemnitee resulting from any claim by a third party:

(a)   that any intellectual property right or other right of any third party, or any applicable law, is or will be infringed or violated as a result of: (i) Customer's use or combination of the Exasol Materials with any hardware, software, system, network, service, or other matter not approved by Exasol; or (ii) any information, materials, or technology provided by Customer or directed by Customer to be used with the Exasol Materials;

(b)   relating to facts that, if true, would constitute a breach by Customer of any representation, warranty, covenant, or obligation under the Agreement;

(c)   relating to Customer's abuse, use other than in accordance with the Documentation and this Agreement, gross negligence or more culpable act or omission (including recklessness or willful misconduct) with respect to the Exasol Materials or in connection with the Agreement; or

(d)   relating to Customer's use of the Exasol Materials outside the purpose, scope or manner of use authorized by the Agreement or the Documentation, or contrary to Exasol's reasonable instructions.

11.3. **Indemnification Procedure.** Each Party shall promptly notify the other Party in writing of any claim for which such Party believes it is entitled to be indemnified under this MLSA. The Party seeking indemnification (the "**Indemnitee**") shall cooperate with the other Party (the "**Indemnitor**"), at the Indemnitor's sole cost and expense. The Indemnitor shall promptly assume control of the defense and investigation of such claim and shall employ counsel of its choice to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The Indemnitor shall not settle any claim on any terms or in any manner that adversely affects the rights of any Indemnitee without the Indemnitee's prior written consent. If the Indemnitor fails or refuses to assume control of the defense of such claim, the Indemnitee shall have the right, but no obligation, to defend against such claim, including settling such claim after giving notice to the Indemnitor, in each case in such manner and on such terms as the Indemnitee may deem appropriate. The Indemnitee's failure to perform any obligations under this section will not relieve the Indemnitor of its obligations under this section, except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure.

11.4. **Mitigation.** If any claim is made, or in Exasol's reasonable opinion is likely to be made, against the Customer in respect of which the Customer could claim under the indemnification set out in Section 11.1, Exasol may at its sole option and expense:

(a) modify the affected Exasol Materials so that it ceases to be infringing;

(b) replace the affected Exasol Materials with software or a document or item that performs in a substantially similar manner without being infringing;

(c) procure for the Customer the right to continue to use the Exasol Materials in accordance with the terms of the Agreement; or

(d) if Exasol determines in its sole discretion that none of (a), (b) or (c) above is reasonably feasible, Exasol may terminate the Agreement by notice in writing and refund the Customer a pro rata refund of the Fees or price previously paid by Customer, which will be calculated using the remainder of the license Term (beginning with the date of Exasol's receipt of notice of the applicable claim), or if Software is provided under a Perpetual Software License, a refund of fees previously paid by Customer, less straight-line depreciation on a three-year basis from the time the Software was delivered to Customer.

11.5. **Exclusive Remedy.** Exasol's obligations set forth in this Section 11 constitute Customer's sole and exclusive remedy, and Exasol's entire liability, with respect to any claims that a Product, Deliverable or Third Party Component infringes any third party's intellectual property rights.

12. **Limitations of Liability.**

12.1. **Exclusion of Damages**. EXCEPT AS SET FORTH IN SECTION 12.3, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS MLSA OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. SPECIFICALLY, IN NO EVENT WILL EXASOL, OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE FOR (A) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (B) LOSS OF GOODWILL OR REPUTATION, (C) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY SOFTWARE OR THIRD PARTY COMPONENTS, (D) DATA LOSS, OR BREACH OF DATA OR SYSTEM SECURITY, (E) COST OF REPLACEMENT OF GOODS OR SERVICES.

12.2. **Cap on Monetary Liability**. EXCEPT AS SET FORTH IN SECTION 12.3, THE COLLECTIVE AGGREGATE LIABILITY OF EITHER PARTY AND IN THE CASE OF EXASOL, ITS LICENSORS, SUPPLIERS AND SERVICE PROVIDERS, ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL IN NO EVENT EXCEED A SUM EQUAL TO (A) ALL THE AMOUNTS PAID, AND AMOUNTS ACCRUED AND NOT YET PAID, BY CUSTOMER UNDER ANY ACCEPTED QUOTE DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM, OR (B) $100,000 (one hundred thousand dollars], WHICHEVER IS LESS.

12.3. **Exceptions.** The exclusions and limitations in this Section 12 shall apply to the fullest extent permissible by law, provided that the liability of Customer shall not be excluded or limited by this Section 12 in respect of its payment obligations hereunder nor in respect of its infringement of Exasol's intellectual property rights or those of its licensors, and provided that liability of either Party shall not be excluded or limited by this Section 12 for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation;

(c) indemnification as provided in Section 11; or

(d) payment of fees hereunder;

(e) prohibited conduct as provided in Section 9;

(f) breach of confidentiality obligations as provided in Section 13;

(g) any other liability which may not be excluded by applicable law.

12.4. **Basis of Bargain**. With respect to Exasol, the exclusions and limitations in Sections 12.1 and 12.2 apply without regard to whether the remedies under this MLSA have proven ineffective, or have failed of their essential purpose,

and are fundamental and specific requirements of the basis of the bargain between Exasol and Customer. Exasol would not be able to provide the Products, Services or Deliverables, or Third Party Components without these exclusions and limitations.

13. Confidential Information.

13.1. **Confidential Information.** "Confidential Information" means information consisting of or relating to technology, ideas, materials, know-how, trade secrets, business operations, plans, strategies, customers, pricing and other financial information or projections, that is disclosed by one Party or its Affiliate (the "**Discloser**") to the other Party or its Affiliate (the "**Recipient**") that: (a) if disclosed in writing, is marked "confidential" or "proprietary" at the time of such disclosure; (b) if disclosed orally, is identified as "confidential" or "proprietary" at the time of such disclosure, and is summarized in a writing sent by the Discloser to the Recipient within thirty (30) days after any such disclosure; or (c) under the circumstances, a person exercising reasonable business judgment would understand to be confidential or proprietary. Confidential Information of Exasol includes without limitation the information regarding the Software (including any license keys) and any benchmarking or results of a proof of concept, and all Derived Information. "**Derived Information**" means all information (such as notes, analyses, compilations, studies, interpretations, summaries other documents, drawings, prototypes, mock-ups, specimens or samples, irrespective of the medium in which they are embodied) that contains, reflects, or is based upon, in whole or in part, the Confidential Information.

13.2. **Restrictions.** The Recipient agrees: (a) to maintain the Confidential Information of the Discloser in strict confidence; (b) not to disclose such Confidential Information to any third parties, except its Representatives (as defined below) in accordance with this Section 13.2 and (c) not to use any such Confidential Information for any purpose other than to exercise its rights or perform its obligations under the Agreement. The Recipient will treat Confidential Information of the Discloser with the same degree of care as it accords to its own Confidential Information, but in no event with less than reasonable care. The Recipient may disclose the Confidential Information of the Discloser to the Recipient's directors, officers, employees and those of its Affiliates (collectively, "**Representatives**"), who have a bona fide need to know such Confidential Information, provided that each such Representative is bound by a legal obligation as protective of the Discloser's Confidential Information as those set forth herein. The Recipient's obligations under this Section 13 will continue to be in effect during the Term of the Agreement and for a period of three (3) years after its termination or expiration, or for such longer period during which the Confidential Information is considered to be a trade secret under applicable law. Customer's obligations under this Section 13 will continue in effect with respect to information relating to the Software for so long as such information is maintained in confidence by Exasol.

13.3. **Exclusions.** The obligations of the Recipient under this Section 13 will not apply to any Confidential Information that: (a) is now or thereafter becomes generally known or available to the public, through no act or omission on the part of Recipient (or any of its Representatives, Affiliates, or agents) or any third party subject to any use or disclosure restrictions with respect to such Confidential Information; (b) was known by or lawfully in the possession of the Recipient, prior to receiving such information from the Discloser, without restriction as to use or disclosure; (c) is rightfully acquired by the Recipient from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or (d) is independently developed by the Recipient without access, use or reference to any Confidential Information of the Discloser.

13.4. **Required Disclosure.** The provisions of Section 13.2 will not restrict the Recipient from disclosing the Discloser's Confidential Information to the extent required by any law or regulation or compelled by a court or administrative agency of competent jurisdiction; provided that, to the extent permissible under law, the Recipient shall make commercially reasonable efforts to give the Discloser advance notice of such required disclosure, and cooperate with Discloser (at Discloser's cost) in order to enable the Discloser to prevent or limit disclosure.

13.5. **Return or Destruction.** Upon termination of this MLSA and the licenses granted by it, the Recipient will promptly return to the Discloser or at Discloser's option destroy all tangible items and embodiments containing or consisting of Discloser's Confidential Information and all copies thereof, delete such Confidential Information from computer systems owned or controlled by the Recipient and provide written certification of such destruction, return or deletion by an authorized person. The Recipient is not required to delete any Confidential Information of the Discloser stored in the Recipient's data backup systems; provided that the Recipient shall not access such

information for any purposes except in the case of a data recovery and then shall delete such information from the recovered data.

14. **Term.** Unless otherwise agreed, the Term for any Software Subscription and any Service (except Cluster Setup, Individual Consulting and training) begins with delivery of the Software license keys to Customer. Non-activation of license keys will not toll or extend the Term. Unless otherwise agreed, any Software Subscription and any Agreement for Services automatically renews at the end of the Term for a Term of equal length unless terminated not later than 3 months before the end of the Term. Contracts with 1-month Term may be terminated with 1 month notice effective as of end of the then current Term. If the Quote provides for a minimum Term the contract may not be terminated before the expiration of that Term except for cause. Unless otherwise agreed, an Appliance Custom/Hardware Support Service contract has a Term of 36 months beginning when the Appliance is deployed. A Hardware Support Service contract for switches has a Term of 33 months from the time of deployment.

15. **Termination.**

15.1. **By either Party.** Either Party may terminate the Agreement by written notice to the other Party upon occurrence of any of the following events:

(a) The other Party materially breaches the Agreement and has not cured the breach 30 days after receiving notice of the breach, unless the breach is incapable of being cured (any material breach of Section 9 and 13 shall be deemed to be incapable of being cured unless the non-breaching Party notifies the breaching Party otherwise);

(b) The other Party commences a voluntary bankruptcy case, or other judicial or administrative proceeding under any foreign law relating to insolvency, or anyone else commences an involuntary bankruptcy case (or other insolvency case under applicable law) against the other Party, and either (i) the case is not dismissed after 60 days have lapsed from commencement or (ii) the court before which the case is pending issues an order for relief or similar order approving the case;

(c) A custodian, trustee, receiver, administrator or liquidator is appointed or authorized by law or under a contract to take charge of the property of the other Party for the benefit of its creditors; or the other Party makes a general assignment for the benefit of its creditors; or

(d) The other Party fails generally to pay its debts as they become due (unless the debts in question are subject to a good-faith dispute as to liability or amount) or acknowledges in writing that it is unable to do so.

15.2. **By Exasol.** Exasol may terminate the Agreement and any license granted hereunder (in whole or in part, including with respect to any Term) by written notice to Customer, effective immediately, upon occurrence of any of the following events:

(a) Customer breaches Section 9 (Prohibited Acts);

(b) Customer defaults on payment of any amount when due hereunder and such default continues for 30 days after Exasol has provided notice to Customer of the default; and

(c) as provided elsewhere in the Agreement.

15.3. **Effect of Termination.** Upon any expiration of the Term or termination of the Agreement, the rights and licenses granted to Customer will automatically terminate, and Customer shall (a) immediately cease using the Software, and (b) return or destroy all copies of the Exasol Materials and other Exasol Confidential Information in Customer's possession or control and certify in writing the completion of such return or destruction. Except as specifically provided herein, Exasol has no obligation to refund any fees or other amounts received from Customer during the Term and Customer must pay all fees and the purchase price payable under the Agreement. Provisions of the Agreement and the rights and obligations of the Parties hereunder which by their nature are reasonably inferred to continue after termination of the Agreement will survive any expiration or termination of the Agreement.

16. **Export.** Customer will not, and will not knowingly permit, export, re-export, or release the Exasol Materials to, or make the Exasol Materials or any Appliance accessible from, any country, jurisdiction or person to which export, re-export, or release is prohibited by applicable law, including without limitation the U.S. Export Administration Regulations and International Traffic in Arms Regulations. Customer will comply with all applicable laws and obtain required permits prior to exporting, re-exporting, releasing, or otherwise making the Exasol Materials or any Appliance available outside the country where the Exasol Materials or Appliance have been licensed or sold.

17. **Anti-Bribery Laws.** Each Party agrees to comply with all applicable anti-bribery laws, which may include, without limitation, the U.S. Foreign Corrupt Practices Act or the U.K. Bribery Act.

18. **Reference Customer.** Unless otherwise agreed, Customer grants Exasol and its Affiliates the right to refer to Customer, and display its logo, in the course of Exasol's marketing activities. Exasol agrees to inform Customer of such activities and to coordinate the representation with Customer before publication.

19. **User Portal; Third-Party Content Disclaimer.** If Customer is given access to the Exasol user portal, Customer shall at all times use such portal in accordance with applicable instructions and terms of use. Certain materials available for download on Exasol's user portal are developed or provided by third parties ("**Third-Party Content**"). Exasol makes Third-Party Content available as a convenience, "as is" and without any warranty, including regarding accuracy, integrity, quality, legality, usefulness or safety of Third-Party Content. Exasol has no obligation to monitor and may block or disable access to any Third-Party Content at any time. Availability of Third-Party Content through Exasol´s user portal does not imply Exasol's endorsement of, or affiliation with, any provider of Third-Party Content, or create any legal relationship between Customer and any such provider. Customer's use of Third-Party Content is at Customer's own risk and may be subject to any additional terms, conditions and policies established by the provider.

20. **License through Reseller.** If Customer licensed the Software through an authorized reseller, partner or OEM of Exasol ("**Authorized Partner**") then, notwithstanding anything to the contrary in the Agreement: (a) Customer's use of the Software is subject to any additional terms in its agreement with the Authorized Partner; provided that such additional terms shall not negate or otherwise modify the terms of the Agreement; (b) Customer agrees to pay the Authorized Partner the license fees and other applicable fees, and Customer will have no direct fee payment obligations to Exasol for such Software; (c) any agreement between Customer and the Authorized Partner is not binding on Exasol; provided that Customer agrees that Exasol have the right to enforce the terms of that agreement including without limitation such terms that protect Exasol's interests and with respect to which Customer agrees Exasol is a third party beneficiary; and (d) Exasol may terminate the Agreement (including Customer's right to use the Software) if Exasol does not receive payment for Customer's use of the Software from the Authorized Partner or if Customer breaches any term of the Agreement. If Customer's warranty and support terms stated in its agreement with the Authorized Partner are different from those set forth in the Agreement, then such different terms are solely between Customer and the Authorized Partner and Exasol will have no obligations to Customer under the Agreement with respect to such different terms. Except as set forth in the preceding sentence, if there is any conflict or inconsistency between the Agreement and Customer's agreement with Authorized Partner, then the Agreement will control (and will resolve such inconsistency) as between Exasol and Customer.

21. **Security Interest**. Customer hereby grants Exasol a purchase money security interest pursuant to Section 9-103 of the Uniform Commercial Code on any Appliance and other goods sold by Exasol to Customer, to secure, and until receipt of, full payment by Customer of the agreed purchase price or license fees for the applicable license. If Customer is a non-US entity and/or if any Appliance or other goods are delivered to, or if Software is licensed to, or installed on hardware in, a jurisdiction that is not subject to the Uniform Commercial Code, then to the fullest extent permitted by applicable law, until the purchase price for the Appliance and/or other goods and the license fee is paid in full, either (a) Exasol retains all rights and title to the Appliance and other goods and the right to revoke any license at any time, or (b) if a retention of title and revocation of the license is not available or impracticable under applicable law, Customer grants Exasol a security interest pursuant to applicable law with the highest possible rank and priority. Customer hereby explicitly and irrevocably authorizes, but does not require, Exasol to file a financing statement or similar filing as may be required under applicable law in the relevant jurisdiction(s), as determined by Exasol. Customer hereby irrevocably grants Exasol a power of attorney, coupled with an interest, and appoints Exasol as its attorney-in-fact for the purpose of executing any documents required by applicable law to establish or perfect the purchase money security interest or similar lien.

22. **Miscellaneous.**

22.1. **Independent Contractors.** The Parties are independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties and no Party is permitted to act as the other Party's agent or otherwise empowered to enter into any obligation on behalf of the other Party.

22.2. **Third Parties.** Except as set forth in Section 11.2, there are no third-party beneficiaries to the Agreement.

22.3. **Subcontractors.** Exasol may, in its sole discretion, use subcontractors to fulfill its obligations under the Agreement, provided that Exasol will remain responsible for compliance of its subcontractors with the terms of the Agreement.

22.4. **Applicable Law.** All matters arising out of or relating to the Agreement shall be governed by and construed in accordance with the internal laws of the State of Georgia without giving effect to any choice or conflict of law provision or rule of any jurisdiction.

22.5. **Jurisdiction.** Any legal suit, action or proceeding arising out of or relating to the Agreement and the licenses granted hereunder shall be instituted in the federal courts of the United States of America or the courts of the State of Georgia, in each case located in the City of Atlanta, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. The Parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or proceeding in such courts and irrevocably waive any claim that such court is an inconvenient forum.

22.6. **Waiver of Jury Trial.** Each Party acknowledges and agrees that any controversy which may arise under the Agreement is likely to involve complicated and difficult issues and, therefore, each such Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the Agreement and transactions contemplated hereby.

22.7. **Injunctive Relief.** Each Party acknowledges and agrees that a breach or threatened breach by the other Party of any of its obligations under Sections 9 or 13 would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive but in addition to all other remedies that may be available to such Party.

22.8. **Force Majeure.** Neither Party shall be liable to the other for failure to perform any of its obligations (except payment obligations) under the Agreement during any period in which performance is delayed or made impossible or commercially impracticable by circumstances beyond the Party's reasonable control, such as fire, flood, war, embargo, epidemic, strike, riot, acts of a governmental authority, or cyber warfare (e.g., Internet-based attacks on information systems intended to or resulting in the disabling of websites and networks) (each, a "Force Majeure Event"). In such event, however, the delayed Party must promptly provide the other Party with written notice of the Force Majeure Event.

22.9. **Notices.** The Parties may exchange routine communications under the Agreement via email or other means. All other notices required or permitted under the Agreement shall be in writing and delivered in person, by email, by nationally recognized overnight courier service, or by registered or certified mail, postage prepaid with return receipt requested. Notices will be deemed given upon receipt or, if receipt occurs after 5pm, or on a day that is not a business day at the location of the addressee, then the notice shall be deemed given on the next following business day. Evidence of receipt may be given by signature of a person acting on behalf of the addressee, certification of delivery by messenger, electronic delivery or read confirmation, return receipt of the USPS or foreign postal service, or delivery confirmation of the courier service. All communications shall be sent to the addresses set forth in the applicable Quote or to such other address as may be specified by either Party to the other Party in accordance with this Section. Notice by email shall not be permitted in respect of any notice to terminate the Agreement or for the service of any document in any proceedings.

22.10. **Assignment.** Customer shall not assign, delegate or transfer the Agreement, in whole or in part, by agreement, operation of law or otherwise. Exasol may assign the Agreement in whole or in part to an Affiliate or in connection with an internal reorganization or a merger, acquisition, or sale of all or substantially all of Exasol's assets to which the Agreement relates. Any attempt to assign the Agreement other than as permitted herein will be null and void. Subject to the foregoing, the Agreement will bind and inure to the benefit of the Parties' permitted successors and assigns.

22.11. **Data Collection; Privacy.** From time to time, Exasol may collect and process technical and related information regarding Customer's use of the Software, which may include Internet protocol addresses, hardware identification, operating system, application software and other usage information, and use this information to support and troubleshoot issues, provide updates, invoice and improve Exasol's products or services. To the extent that such information may constitute personal data it will be subject to the Exasol Privacy Policy, available at https://www.exasol.com/terms-and-conditions/.

22.12. **Integration.** The Agreement, along with any additional terms incorporated herein by reference, including the Quote and any exhibits hereto or thereto, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any and all prior or contemporaneous agreements, communications and understandings, written or oral. If there is any inconsistency between the terms of the Agreement and the terms of a Quote, the terms of a Quote shall take precedence. Each Party acknowledges that, in entering into the Agreement and the documents referred to in it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to the Agreement or not) other than as expressly set out in the Agreement.

22.13. **Waiver.** The waiver by either Party of a breach of or a default under the Agreement will not be effective unless in writing. The failure by either Party to enforce any provisions of the Agreement will not constitute a waiver of any other right hereunder or of any subsequent enforcement of that or any other provisions.

22.14. **Amendment.** Any amendment of any provision of the Agreement will be effective only if in writing and executed by duly authorized representatives of both Parties.

22.15. **Severability.** If a court of competent jurisdiction holds any provision of the Agreement invalid or unenforceable, the remaining provisions of the Agreement will remain in full force and effect, and the provision affected will be construed so as to be enforceable to the maximum extent permissible by law.

22.16. **Execution.** This MLSA may be made applicable to the Parties' relationship by reference in the Quote or other agreement between the Parties.

(a)   The Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but which together shall constitute one agreement. Each Party agrees to be bound by its facsimile or electronic signature, whether transmitted by fax, email or other electronic means, and each Party agrees that it shall accept the signature of the other Party transmitted in such a manner.

(b)   The Agreement may be accepted by Customer in other ways, including by click-wrap (accepting electronically upon first or subsequent use), or otherwise by electronic transaction, or by commencing use with notice of the terms of the MLSA.