



XEBIA LABS

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 ORDERING ACTIVITY UNDER THE GSA SCHEDULE CONTRACTS 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 BOTH PARTIES EXECUTING THIS AGREEMENT IN WRITING, YOU ACKNOWLEDGE THAT YOU ("ORDERING ACTIVITY") 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, THE UNDERLYING GSA SCHEDULE CONTRACT, SCHEDULE PRICE LIST, AND PURCHASE ORDER(S) 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 EXECUTE THIS AGREEMENT IN WRITING OR INSTALL OR USE THE SOFTWARE.

PART (A) DEFINITIONS

1. Definitions

"Affiliate" means any entity that Ordering Activity controls or is controlled by or is under common control with (as used in this definition, the term "control" means owns (directly or 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. 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 Ordering Activity 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.

"Host" means a distinct end point as counted and limited by the Software. Ordering Activity will identify the Host(s) in the Software. During the term of this Agreement, Ordering Activity may remove a Host from the Software and identify another Host in its place, provided the total number of purchased Hosts is never exceeded. Hosts may only be purchased in Host packs as specified in the Order.

"Initial Term" means, unless otherwise specified in the applicable Order, a term of one (1) 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 Ordering Activity. The Order and any subsequent Orders by Ordering Activity shall be governed by the terms and conditions of these T&Cs.

"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.

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

“**Satellite**” means a satellite object as counted and limited by Supplier’s XL Deploy Software. Ordering Activity will identify the Satellites in XL Deploy. During the term of this Order Ordering Activity may remove a Satellite and identify another Satellite in its place, provided that the total number of purchased Satellites is never exceeded.

“**Professional Services**” means Supplier or its designated subcontractors shall make available to Ordering Activity certain services, such as installation, integration, configuration, consulting and/or training services, if and as specified on an Order or separate Statement of Work. training using Xebia Labs DevOps Platform.

“**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 the specific individual(s) as indicated by Ordering Activity who are therewith authorized to use the Software on behalf of Ordering Activity within the scope of this License. The number of the initial Users are indicated on the Order.

2. License

- 2.1 Supplier grants Ordering Activity 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 Ordering Activity’s Production Use and/or Development Use, subject to these T&Cs (the “**License**”). The License is limited to the total number of Hosts, Satellites, 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 Ordering Activity may only allow its third-party consultants to access and use the Software for Ordering Activity’s Production Use or other operations provided they have signed an agreement with Ordering Activity protecting Supplier’s intellectual property with terms no less stringent than these terms and conditions and that Ordering Activity ensures that such consultant’s use of the Software complies with the terms of these T&Cs.
- 2.3 Ordering Activity’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) Ordering Activity 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) Ordering Activity agrees not to reverse engineer, decompile, disassemble, or otherwise attempt to determine source code or protocols from the Software;
- (iii) Ordering Activity may not copy the Software, except after prior written approval from Supplier and if so, limited to archival or disaster recovery purposes. If Ordering Activity does copy for such purposes, Ordering Activity will preserve any proprietary rights notices on the Software and place such notices on any and all copies Ordering Activity makes;
- (iv) Ordering Activity 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 Ordering Activity in these T&Cs.

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 Ordering Activity.

3. Warranty

- 3.1 Supplier warrants that it is entitled to license the Software to Ordering Activity.
- 3.2 Supplier warrants that the Software does not contain Foreign Elements at delivery of the Software to the Ordering Activity.
- 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 Ordering Activity 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, Ordering Activity 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 Ordering Activity for the Software.

4. Fees and Audit

- 4.1 Reserved.
- 4.2 Reserved.
- 4.3 Subscription fees shall be paid by Client annually within thirty (30) days of invoice 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) in accordance with the GSA Schedule Pricelist.
- 4.5 Reserved.
- 4.6 Ordering Activity agrees that within thirty (30) days of the end of any Subscription 12-month period, Ordering Activity shall provide Supplier in writing with a summary of its usage of the Software, including an average and maximum number of users, hosts or other metrics as described in any Order. Ordering Activity 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 Reserved.

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 Ordering Activity 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 Ordering Activity against any third-party claim Ordering Activity that Ordering Activity's use of the Software in accordance with the terms herein infringes or misappropriates any patent subsisting, copyright, trademark or trade secret provided that Ordering Activity 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 against or agreed to by Supplier in settlement for such claim. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516

- 6.3 If an injunction is sought or obtained against Ordering Activity'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 Ordering Activity 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 Ordering Activity for the affected Software less a pro-rated amount for the remainder of the unused Subscription .
- 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 Ordering Activity'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 limited 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 Ordering Activity 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 Ordering Activity's internal business purposes, provided all agreed fees have been paid by Ordering Activity. 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 Reserved.
- 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.
- 7.5 Notwithstanding the foregoing, the Disclosing Party recognizes that Federal Agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "Confidential."

8. Limitation of Liability

- 8.1 Except for Supplier's willful 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 price paid by Ordering Activity for the Professional Services of the Order or the affected Software.

- 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. The foregoing limitation of liability shall not apply to, (1) personal injury or death resulting from Licensor's negligence; and (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

- 8.3 THIS CLAUSE SHALL NOT IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. §§ 3729-3733.

9. Term and Termination

- 9.1 The Term of this Agreement shall commence upon Ordering Activity'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, Ordering Activity 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 Ordering Activity 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 Reserved.
- 9.4 If Ordering Activity terminates this Agreement, Ordering Activity 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.

9.6 When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Xebialabs shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer

10. Miscellaneous

10.1 *Force Majeure.* Excusable delays shall be governed by FAR 52.212-4(f).

10.2 *Assignment.* The Anti-Assignment Act, 41 USA 6305, prohibits the assignment of Government contracts without the Government's prior approval. Procedures for securing such approval are set forth in FAR 41.1204.

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 Ordering Activity 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 relevant local export laws and regulations apply to the Software. Ordering Activity agrees that such export control laws govern Ordering Activity's use of the Software and agrees to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). Ordering Activity 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. Ordering Activity represents and warrants that: (i) Ordering Activity 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) Ordering Activity 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 Ordering Activity 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.

10.9 *Reserved.*

10.10 *Data Protection.* Ordering Activity 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 Ordering Activity are not unlawful and do not infringe any right of a third party. Ordering Activity shall notify Supplier in writing if it intends to provide any PII to Supplier. Ordering Activity 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 Ordering Activity 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 Ordering Activity 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 Ordering Activity to accept additional terms if Supplier agrees to the processing of PII on behalf of Ordering Activity.

10.11 *Governing Law.* This Agreement is governed by, and shall be construed and enforced in accordance with, the Federal laws of the United State of America. Because the Ordering Activity is an instrumentality of the U.S. recourse against the United

States for any alleged breach of this Agreement must be brought under the Contract Disputes Act 41 U.S.C. § 7101.

During any dispute under the Contract Disputes Act, 3DR shall proceed diligently with performance of this Agreement, pending resolution of any request for relief, claim, appeal, or action arising under the Agreement and comply with any decision of the Contracting Officer.

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 Ordering Activity.

“**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 Ordering Activity 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 Supplier’s obligation to provide Support is conditioned upon the following: (i) Ordering Activity provides Supplier with sufficient information and resources to correct the Failure which may include remote access to Ordering Activity’s site, as well as access to the personnel, hardware, and any additional software involved in discovering the Failure; (ii) Ordering Activity promptly installs all Maintenance Releases; and (iii) Ordering Activity 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, Ordering Activity 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 Ordering Activity 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 Ordering Activity.
- (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 Ordering Activity.
- (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 Ordering Activity 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. Ordering Activity may sign up to this escrow agreement as a third-party beneficiary. Ordering Activity agrees to pay Supplier the annual fee required by Supplier to pay for the addition of Ordering Activity 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 Ordering Activity'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) Ordering Activity has not installed and implemented Maintenance Release(s) so that the Software is a version supported by Supplier; or

(v) Ordering Activity 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 Ordering Activity 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 Ordering Activity shall timely provide XebiaLabs with all accesses and clearances and all further assistance XebiaLabs reasonably needs to properly perform the Professional Services. If Ordering Activity requires any actions and/or information from Supplier in this respect, Ordering Activity shall timely notify Supplier thereof. Ordering Activity 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 and subject to the Federal Travel Regulation or Joint Travel Regulations, applicable, Ordering Activity shall reimburse XebiaLabs' reasonable cost for travel connected to the performance of the Professional Services insofar as (i) such cost are in compliance with Ordering Activity's travel policy, and (ii) XebiaLabs substantiates such cost with receipts. All cost for expenses in compliance with Ordering Activity's travel policy which have already been incurred by XebiaLabs prior to an early termination of this Order by Ordering Activity, shall be borne by Ordering Activity.