



## EXTRAHOP NETWORKS, INC.

### MASTER CUSTOMER AGREEMENT

IN ORDER TO USE THE EXTRAHOP OFFERINGS, YOU MUST FIRST AGREE TO THE TERMS SET FORTH IN THIS AGREEMENT. YOU MAY NOT USE THE EXTRAHOP OFFERINGS IF YOU DO NOT ACCEPT THIS AGREEMENT. BY CLICKING ON THE "I AGREE" BUTTON OR OTHER BUTTON OR MECHANISM DESIGNED TO ACKNOWLEDGE AGREEMENT, BY INSTALLING, ACCESSING OR USING ANY OF THE EXTRAHOP OFFERINGS, OR BY AUTHORIZING/ALLOWING A THIRD PARTY TO DO ANY OF THE FOREGOING ON YOUR BEHALF, YOU ACKNOWLEDGE AND AGREE:

- (1) THAT YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS OF THIS AGREEMENT;
- (2) TO BE LEGALLY RESPONSIBLE FOR COMPLIANCE WITH ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF CUSTOMER AND ANY AFFILIATE RECEIVING AN EXTRAHOP OFFERING;
- (3) THAT YOU ARE DULY AUTHORIZED TO LEGALLY BIND BOTH CUSTOMER AND ANY AFFILIATE RECEIVING AN EXTRAHOP OFFERING TO THIS AGREEMENT; AND
- (4) THAT THIS AGREEMENT, TOGETHER WITH ANY ADDITIONAL TERMS INCORPORATED BY REFERENCE INTO THIS AGREEMENT, IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER DESCRIBED IN THIS AGREEMENT, AND SUPERSEDES ALL PROPOSALS OR PRIOR OR CONTEMPORANEOUS AGREEMENTS, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, ANY TERMS CONTAINED IN CUSTOMER'S PURCHASE ORDER.

This Master Customer Agreement (the "**Agreement**") is a master agreement between ExtraHop Networks, Inc. ("**ExtraHop**") and you, the party purchasing, licensing or receiving an ExtraHop Offering ("**you**" or "**Customer**") and governs your purchase, access to and use of all ExtraHop Offerings. Provisions in this Agreement and schedules to this Agreement regarding a specific Offering only apply if Customer has purchased, accessed or used such Offering.

#### 1. Definitions.

"**Affiliate**" means any entity that Controls, is Controlled by, or is under common Control with Customer or ExtraHop, as applicable, where "Control" means having the power, directly or indirectly, to direct or cause the direction of the management and policies of the entity, whether through ownership of a majority of voting securities, by contract or otherwise.

"**Customer Data**" means all data or information that is provided by Customer to ExtraHop or collected from Customer's network and imported into the Offerings.

"**De-Identified Data**" means any Customer Data, including derivatives thereof, that have been aggregated, scrubbed, hashed, obscured or otherwise processed so that such data or information is not capable of being re-associated with or identifying Customer or any individual, account, device or organization.

"**Documentation**" means the standard user manuals for the Products and Subscriptions made generally available to ExtraHop's customers.

"**Evaluation Offerings**" means Offerings provided by ExtraHop to Customer for a limited period on a free or discounted trial basis.

"**ExtraHop Partner**" means an authorized reseller or distributor of ExtraHop Offerings.

"**ExtraHop Tools**" means any and all proprietary tools, computer programs, algorithms, know-how, concepts, methodologies, templates, routines, sequences, software, firmware, designs, scripts, interfaces, programming code, applets, executables, objects, files, utilities, databases, methods, techniques, processes and other materials and ideas related to the Offerings, whether pre-existing or developed by ExtraHop or others to perform the Services for Customer.

"**Hardware**" means the hardware products listed on an Order.

"**Licensed Use**" means the maximum usage of the Products or Subscriptions with respect to one or more of the following, as specified in an Order and described in the Documentation: time period, the number, size, scope or analysis level of endpoints, devices, servers, instances, virtual machines, modules and other measures of licensed functionality.

"**Order**" means a written purchase order, quote, SOW or similar ordering document, signed or submitted to ExtraHop by Customer or an ExtraHop Partner and accepted by ExtraHop, under which Customer agrees to purchase or subscribe for Offerings.

"**Offerings**" means, collectively, Products, Subscriptions and/or Services.

"**Products**" means the ExtraHop Software and Hardware appliances, which may include embedded Software and/or firmware components.

"**Professional Services**" means deployment, configuration or other professional or consulting services relating to Offerings as described in [Exhibit B](#) (Professional Services) and as set forth on an Order and/or SOW.

"**Report Services**" means the remote analysis and reporting services whereby ExtraHop personnel remotely access Customer's Product(s) to prepare and deliver written reports as described in [Exhibit C](#) (Report Services).



“**Service Provider**” means any third-party service provider(s) performing information technology functions for Customer or its Affiliates, such as an outsourcer, hosting or collocation service provider.

“**Services**” means the services provided by ExtraHop to Customer, including Professional Services, Report Services, training and Support Services.

“**Software**” means the software listed on an Order, and modifications, error corrections and updates thereto, whether on a stand-alone basis or embedded on Hardware.

“**Subscriptions**” means cloud hosted services provided by ExtraHop for a fixed term under which ExtraHop provides access to certain features, functionality or information as described in the applicable Exhibit to this Agreement. Subscriptions include Cloud Features as defined in Exhibit D (Cloud Features) and ExtraHop SaaS as further defined in Exhibit E (ExtraHop SaaS).

“**Support Services**” means the maintenance and support services provided by ExtraHop, set forth in Exhibit A (Support and Maintenance).

“**Statement of Work**” or “**SOW**” is defined in Exhibit B (Professional Services).

## **2. Ordering; Title and Risk of Loss.**

**2.1 Ordering.** Customer may purchase Offerings by submitting an Order. All Orders are governed by this Agreement and any terms of a purchase order or other Customer submitted documentation that conflict with, or in any way purport to amend, any of the terms of this Agreement are hereby specifically objected to and will be of no effect.

**2.2 Title and Risk of Loss.** All Hardware will be shipped to Customer's address listed in the Order unless otherwise agreed by the parties. All Hardware is shipped FCA Origin from ExtraHop's designated manufacturing facility. Upon delivery to the carrier agent, title and risk of loss will pass to Customer. Unless otherwise agreed by the parties, ExtraHop will select the carrier. Customer (or, if an Order was placed by an ExtraHop Partner, such ExtraHop Partner) will pay all freight, insurance, and other packing or shipping expenses.

## **3. Payments.**

**3.1 Fees and Taxes.** Customer agrees to purchase the Offerings for the prices set forth in each Order. If Customer purchases directly from ExtraHop, all fees exclude sales, use, value added or other taxes or import duties due as a result of any amounts paid to ExtraHop, which shall be paid by Customer (other than corporate income taxes payable by ExtraHop). ExtraHop may be required to collect and remit taxes from Customer, unless Customer provides to ExtraHop a valid tax exemption certificate. ExtraHop reserves the right to increase fees at any time for new or renewal Orders, effective at the time of the renewal Order. If Customer purchases through an ExtraHop Partner, the fees, taxes, and other procurement, invoicing and delivery terms will be set forth in a separate agreement between the Customer and the ExtraHop Partner.

**3.2 Invoicing and Payment.** If Customer purchases directly from ExtraHop, Customer will make full payment in US dollars within thirty (30) days of the date of the applicable invoice, without set-off rights. ExtraHop may accept payment in any amount without prejudice to its right to recover the balance of the amount due or to pursue any other right or remedy. All payment obligations are non-cancelable and all amounts paid are non-refundable. Customer must pay a finance charge on any overdue payment equal to the lower of one and one-half percent (1-1/2%) for each month or portion of a month that the payment is overdue, or the highest interest rate permitted by applicable law.

**3.3 True-Up Invoice.** ExtraHop reserves the right through itself or its designated agent to audit Customer's use of the Products and Subscriptions to ensure compliance with the Licensed Use in this Agreement. If at any point during the applicable term, Customer's actual use exceeded the purchased Licensed Use, ExtraHop may issue a true-up invoice for the pro-rated difference for the fees paid for the Product(s) and Subscription(s) and the list price for such excess use for the remainder of the term of Licensed Use.

## **4. Access and Use Rights; Restrictions.**

**4.1 Use of Software; Access to Subscriptions.** Subject to Customer's compliance with the terms of this Agreement and the payment of all applicable fees to ExtraHop, ExtraHop grants to Customer a non-exclusive, non-transferable (subject to Section 12.1), non-sublicensable license to, during the term of an applicable Order: (a) install, access and use the Software (in object code form only) for Customer's internal business purposes and within the scope of the Licensed Use, (b) connect to, access and use the Subscriptions for Customer's internal business purposes and within the scope of the Licensed Use, and (c) access, use and reasonably reproduce the Documentation.

**4.2 Third-Party Software.** ExtraHop uses certain third-party and open source software in its Offerings. A list of third-party and open source software including applicable license terms is made available by ExtraHop. The third-party and open source software will not (a) diminish the license rights provided herein or limit Customer's ability to use the Offerings in accordance with the applicable Documentation or (b) create any obligation on the part of Customer to license Customer's software or products under any open source or similar license.

**4.3 Restrictions.** Customer may not (and will not permit any third party to), directly or indirectly: (a) sell, sublicense, resell, rent, time-share, lease or otherwise attempt to transfer rights to the Software or Subscriptions, (b) use any of the Products or Subscriptions in an application service provider or managed service provider environment, (c) use Software that is licensed for a specific Product, whether physical or virtual, on another device, unless expressly authorized by ExtraHop in writing, (d) reverse engineer, decompile or disassemble any Products, Subscriptions or data provided by ExtraHop in connection therewith or otherwise attempt to discover any source code or other operational mechanisms of the Products, Subscriptions or any part of either, unless expressly permitted by applicable law in the



jurisdiction of use despite this prohibition, (e) modify or create any derivative works based on any Products, Subscriptions or any aspect of either, (f) access or use any Products or Subscriptions for the purposes of monitoring their availability, performance, or functionality for competitive purposes, (g) disclose, publish or otherwise make publicly available any benchmark, performance or comparison tests that Customer runs on the Products or Subscriptions, in whole or in part, or (h) use the Products or Subscriptions in any manner or for any purpose that violates any applicable law, rule, or regulation, or any right of any person, including but not limited to intellectual property rights or rights of privacy.

**4.4 API Extensions.** Subject to Customer's compliance with the terms of this Agreement, ExtraHop grants to Customer a non-exclusive, non-transferable (subject to Section 12.1), non-sublicensable license to copy, modify and use the ExtraHop application programming interface ("API") solely to develop small software utilities that can modify and enhance the functionality of the Software and/or Subscriptions that ExtraHop makes available to Customer ("Extensions"). Customer agrees to assume full responsibility for the performance of its Extensions. Customer retains title to and copyright of its Extensions, subject to Section 4.

**4.5 Use by Affiliates and Service Providers.** Customer may permit any of its Affiliates or Service Providers to exercise all or any portion of the rights granted in this Section 4 solely on Customer's or its Affiliates' behalf, provided that (a) Customer furnishes a copy of this Agreement to such Service Provider or Affiliate, (b) the Service Provider or Affiliate may only exercise such rights for the benefit of the Customer or its Affiliates subject to terms and conditions that are no less protective of ExtraHop, in all material respects, than are set forth in this Agreement, (c) Customer shall remain solely liable to ExtraHop for the acts and omissions of the Service Provider or Affiliate and will indemnify ExtraHop for any breach of this Agreement resulting from such acts or omissions, and (d) usage of Products or Subscriptions by Affiliates and Service Providers will count towards Customer's usage for the purpose of calculating Licensed Use limits.

## 5. Evaluations.

**5.1 Evaluation Offerings.** Customer's use of Evaluation Offerings will be governed by this Agreement, as modified by this subsection. Customer may access and use the Evaluation Offerings for the sole purpose of determining whether to purchase Offerings and subject to any time period and usage limits set forth on the applicable Order. If no Order or evaluation time period is agreed upon prior to the commencement of any Evaluation Offerings, Customer's use of the Evaluation Offerings will be subject to a time limit of thirty (30) days and any other use and/or other limitations as may be imposed by ExtraHop.

**5.2 Evaluation Disclaimer.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EXTRAHOP DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, FOR EVALUATION OFFERINGS. ALL EVALUATION OFFERINGS ARE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS AT CUSTOMER'S OWN RISK AND EXTRAHOP WILL HAVE NO LIABILITY ASSOCIATED WITH THE EVALUATION OFFERINGS.

**5.3 Care of Evaluation Hardware.** Reasonable wear and tear excepted, Customer assumes all risk of theft, loss, damage or destruction of the Hardware component of any Evaluation Offering from the time such Hardware comes into Customer's possession or control, until such Hardware is received by ExtraHop at the end of the evaluation period. Customer will use reasonable care to maintain and protect such Hardware and will reimburse ExtraHop for any costs of repair or replacement. Within ten (10) business days of the end of Customer's use of the Evaluation Offering, Customer will, at its expense, securely package (in the original Hardware packaging) and ship the Hardware component(s) of any Evaluation Offering (s) and all components and related materials to ExtraHop.

## 6. Term and Termination.

**6.1 Term.** This Agreement will begin on the earlier of the date you accept this Agreement and the date an Order is accepted, and will remain in effect for so long as any Order remains in effect, unless terminated earlier in accordance with the terms of this Agreement. If an initial term is specified in the Order, this Agreement shall renew for successive terms of the same length as that initial term unless one party gives the other party written notice of non-renewal at least thirty (30) days prior to the next renewal term. The term of each Software or Subscription license granted by ExtraHop hereunder will begin upon the date of shipment/fulfillment by ExtraHop of the Offering specified in the Order and will remain in effect for the term specified in the Order, unless terminated earlier by either party in accordance with the terms of this Agreement.

**6.2 Termination.** Either party may terminate this Agreement if the other party materially breaches any term of this Agreement and such breach is not cured within thirty (30) days of written notice. Any breach by Customer of Section 3 or 4 of this Agreement shall be considered a material breach.

**6.3 Survival.** The following terms shall survive termination of this Agreement: Sections 3 (Payments), 5.2 (Evaluation Disclaimer), 6.3 (Survival), 6.4 (Effect of Termination), 7 (Intellectual Property Ownership), 8.6 (Warranty Disclaimer), 9 (Limitation of Liability), 10 (Confidentiality; Data Usage), 11 (Indemnification), and 12 (Miscellaneous).

**6.4 Effect of Termination.** If ExtraHop terminates this Agreement because of non-payment by Customer, all unpaid fees owed for the remainder of the Term immediately fall due for payment.

## 7. Intellectual Property Ownership.

**7.1 ExtraHop Property.** Except for the rights expressly granted herein, ExtraHop and its suppliers and/or licensors retain all worldwide right, title and interest in and to the Offerings (excluding title to any specific serial-numbered Hardware appliance purchased by Customer from ExtraHop or an ExtraHop Partner), ExtraHop Tools, Documentation, and all technology, materials and the inventions and pre-existing content incorporated therein, and all derivative works, modifications and enhancements thereto and all intellectual property rights in any of the foregoing. To the extent that Customer provides any feedback related to the Offerings, Customer grants to ExtraHop a perpetual, irrevocable, worldwide, nonexclusive, transferable, sublicensable, royalty-free, fully paid-up right and license to use and commercially exploit the feedback. The parties agree that feedback shall in no way be subject to any obligation of confidentiality.



**7.2 Customer Data.** Except for the rights expressly granted herein, Customer retains all worldwide right, title and interest to Customer Data.

## **8. Warranties and Disclaimer.**

**8.1 Product Warranty.** ExtraHop warrants to Customer that (a) the Hardware will be free from defects in material and workmanship for one (1) year from the date of shipment, and (b) the Software will substantially conform to the applicable Documentation for ninety (90) days from the earlier of delivery or activation of Customer's license key.

**8.2 Subscription Warranty.** ExtraHop warrants to Customer that the Subscriptions will perform materially in accordance with the applicable Documentation.

**8.3 Services Warranty.** ExtraHop warrants to Customer that the Services will be performed in a professional and workmanlike manner in accordance with the applicable industry standards. If Customer believes the warranty stated in this Section has been breached, Customer must notify ExtraHop of the breach no later than thirty (30) days following the date the applicable Services were performed, and ExtraHop will promptly, at ExtraHop's expense, correct or re-perform any Services breaching the warranty.

**8.4 Exclusions.** The warranties set forth in Sections 8.1 and 8.2 will not apply to the extent the Product or Subscription failure or non-conformity results from or is attributable to: (a) modification or service by persons other than ExtraHop or an ExtraHop-authorized party, (b) negligence, accident, physical or electrical stress beyond reasonable wear and tear, or any testing, installation, storage handling or use contrary to this Agreement, applicable Documentation or ExtraHop's specific instructions, (c) use of or combination with third-party software or hardware not approved in writing in advance by ExtraHop, (d) an Evaluation Offering or other services provided on a free and/or trial basis, or (e) any use of a Product or Subscription in breach of this Agreement.

**8.5 Remedy.** As Customer's sole and exclusive remedy, and ExtraHop's and its suppliers' sole and exclusive liability for a breach of the warranties set forth in Section 8, ExtraHop shall, at its option and expense: (a) repair or replace the Hardware, (b) correct the Software or Subscription non-conformity, (c) provide a commercially reasonable workaround solution to a Software or Subscriptions non-conformity, (d) re-perform any non-conforming Professional Services or (e) if repair, replacement or correction is deemed impractical by ExtraHop in its sole discretion, refund a pro-rated amount (corresponding to the unused portion) of the fees received by ExtraHop for returned non-conforming units of a Product or Subscription (in the case of a Hardware Product with perpetual Software license, less a charge for use by Customer based on straight line depreciation assuming a useful life of three (3) years). In exercising its remedies under this Section 8, Customer agrees to return any Hardware in accordance with ExtraHop's then-applicable standard return material authorization process, available at <https://www.extrahop.com/go/rmapolicy>.

**8.6 Warranty Disclaimer.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, ALL OFFERINGS ARE PROVIDED ON AN "AS-IS" AND "AS-AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND, AND, TO THE FULLEST EXTENT PERMITTED BY LAW, EXTRAHOP AND ITS SUPPLIERS, SERVICE PROVIDERS AND LICENSORS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS INCLUDING ANY WARRANTIES OF TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY, MERCHANTABILITY, OR NON-INFRINGEMENT, WHETHER EXPRESS OR IMPLIED. EXTRAHOP MAKES NO WARRANTY THAT THE OFFERINGS WILL OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, MEET CUSTOMER'S REQUIREMENTS, OR BE SECURE OR ERROR FREE. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE STATUTORILY REQUIRED WARRANTY PERIOD. CUSTOMER UNDERSTANDS AND AGREES THAT IT SECURITY AND PERFORMANCE ARE INHERENTLY COMPLEX AND THAT EXTRAHOP DOES NOT GUARANTEE OR WARRANT THAT ITS OFFERINGS WILL COMPLETELY OR ACCURATELY ALERT CUSTOMER TO ALL ANOMALIES, INTRUSIONS, ATTACKS, OR OTHER SECURITY VULNERABILITIES WHICH MAY BE PRESENT, OCCURRING OR POSSIBLE IN THE CUSTOMER'S NETWORK. THE OFFERINGS ARE NOT DESIGNED OR INTENDED FOR USE IN APPLICATIONS WHERE FAILURE COULD RESULT IN DEATH, SEVERE INJURY OR PROPERTY DAMAGE, SUCH AS AIRCRAFT NAVIGATION, AIR TRAFFIC CONTROL, NUCLEAR FACILITIES, OR LIFE SUPPORT.

**9. Limitation of Liability.** IN NO EVENT WILL EITHER CUSTOMER OR EXTRAHOP (INCLUDING EXTRAHOP'S SUPPLIERS, SERVICE PROVIDERS AND LICENSORS) BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY (INCLUDING END USERS) FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES ARISING FROM LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OR INACCURACY OF DATA, OR INTERRUPTION OF BUSINESS, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND FRAUD), PRODUCT LIABILITY, OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES. IN NO EVENT WILL CUSTOMER'S OR EXTRAHOP'S (INCLUDING EXTRAHOP'S SUPPLIERS, SERVICE PROVIDERS AND LICENSORS) LIABILITY FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT OR ANY ORDER (WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND FRAUD), PRODUCT LIABILITY, OR OTHERWISE) EXCEED THE ACTUAL AMOUNTS PAID OR PAYABLE TO EXTRAHOP FOR THE RELEVANT ORDER UNDER THIS AGREEMENT WITHIN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. THIS LIMITATION ON LIABILITY WAS AND IS AN EXPRESS PART OF THE BARGAIN BETWEEN EXTRAHOP AND CUSTOMER AND WAS A CONTROLLING FACTOR IN THE SETTING OF THE FEES PAYABLE TO EXTRAHOP. EXTRAHOP IS NOT RESPONSIBLE FOR DAMAGE TO OR LOSS OF, OR SECURITY OF ANY PROGRAMS, DATA, CONFIGURATION, OR PHYSICAL MEDIA.

## 10. Confidentiality; Data Usage.

**10.1 Definition.** “**Confidential Information**” means: (a) the Products and Subscriptions, and (b) any non-public business or technical information of ExtraHop or Customer that a party knows or should reasonably know is regarded as confidential by the other party.

**10.2 Exclusions.** Confidential Information does not include information that: (a) is or becomes generally known to the public through no fault of or breach of this Agreement by the receiving party, (b) is rightfully known by the receiving party at the time of disclosure without an obligation of confidentiality, (c) is independently developed by the receiving party without use of the disclosing party’s Confidential Information, or (d) the receiving party rightfully obtains from a third party without restriction on use or disclosure.

**10.3 Use and Disclosure Restrictions.** Neither party will use the other party’s Confidential Information except as necessary for the performance of this Agreement and will not disclose such Confidential Information to any third party except to those of its Affiliates, employees and subcontractors that need to know such Confidential Information for the purpose of performing by or on behalf of the receiving party in connection with this Agreement, provided that each such employee or subcontractor is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective as those set forth herein. Each party will use at least the same degree of care to prevent unauthorized use and disclosure of such Confidential Information as that party uses with respect to its own Confidential Information of similar sensitivity (but in no event less than a reasonable degree of care). The foregoing obligations will not restrict either party from disclosing Confidential Information of the other party: (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to contest such order or requirement or seek protective measures against such disclosure, and (b) on a confidential basis to its legal or financial advisors. In addition, each party may disclose the terms and conditions of this Agreement: (i) as required under applicable securities regulations, and (ii) on a confidential basis to present or future providers of venture capital and/or potential private investors in or acquirers of such party.

**10.4 Customer Data.** ExtraHop may use and process Customer Data during the term of an Order to provide the Offerings, including: (a) to prevent or resolve technical problems, (b) to observe Customer’s usage of any Offering(s), (c) to improve the Offerings, and/or (d) otherwise at Customer’s request. ExtraHop shall not disclose the Customer Data except as compelled by law or legal proceedings, or as expressly permitted in writing by Customer.

**10.5 De-Identified Data.** ExtraHop may collect, use and process De-Identified Data in connection with the operation of its business, which includes: (a) benchmarking and creation of similar operational aggregate statistics regarding the Offerings, (b) creation and inclusion in financial reporting regarding the Offerings, and/or (c) offering, developing, and improving current and future products and services; provided, however, that any such De-Identified Data is not capable of being used by ExtraHop to identify Customer or any individual, account, device, or organization. De-Identified Data will not be deemed “Confidential Information” hereunder.

**10.6 Remote Access.** Customer hereby grants permission to ExtraHop to connect to its system via remote access during the Term for the following purposes: (a) as necessary to provide Subscriptions and Services, (b) to observe and report back to Customer on Customer’s use of the Software, and/or Subscriptions, and make recommendations for improved use of the Software and/or Subscriptions as part of the Report Services, and/or (c) for other purposes at Customer’s sole option. Remote access is initiated and terminated by Customer, not ExtraHop, and remains within Customer’s control.

**10.7 Data Exports.** Customer acknowledges and agrees to the following: (a) at Customer’s election, Customer Data may be exported from the ExtraHop system via syslog export, SNMP traps, Application Inspection Triggers, third-party interfaces, and other methods as set forth in the Documentation, (b) Customer is solely responsible for choosing to export data from the ExtraHop platform and accepts any consequences arising therefrom, including but not limited to any improper use of such data by a third party, and (c) the security and integrity of Customer’s exported data is solely the responsibility of Customer once the data leaves the ExtraHop platform.

**10.8 Additional Privacy Terms.** To the extent applicable, ExtraHop agrees to comply with its obligations under Regulation (EU) 2016/679 and the California Consumer Privacy Act of 2018. The most recent version of ExtraHop’s Data Processing Agreement shall govern the treatment of Personal Data (as that term is defined in Regulation (EU) 2016/679) of individuals residing in the European Economic Area under this Agreement. The DPA can be found here: <https://www.extrahop.com/go/dpa>.

## 11. Indemnification.

**11.1 Indemnification Obligation.** ExtraHop will, at its cost and expense, (a) defend or settle any claim brought against Customer by an unaffiliated third party alleging that the authorized use of the Offerings or Documentation by Customer infringes such third party’s copyright, trademark or patent rights (“**Claim**”), and (b) pay any settlement agreed to by ExtraHop of such Claim or any damages finally awarded to such third party by a court of competent jurisdiction as a result of such Claim.

**11.2 Remedies.** If the normal operation, possession or use of the Offering by Customer is found to infringe any third party intellectual property right or ExtraHop believes that this is likely, ExtraHop will, at its option, either (a) obtain a license from such third party for the benefit of Customer, (b) modify the Offering so that it no longer infringes, or (c) if neither of these options is commercially feasible, refund to Customer: (i) in the case of a subscription license, all fees pre-paid, if any, to ExtraHop under the relevant Order for any unused time remaining on the Term, or (ii) in the case of a Hardware purchase, the purchase price of the infringing Hardware or component thereof less a charge for use by Customer based on straight line depreciation assuming a useful life of three (3) years.

**11.3 Exclusions.** ExtraHop shall have no indemnification obligations for any Claim arising out of: (a) a combination of the Offering with any products not supplied, or approved in writing, by ExtraHop, (b) any repair, adjustment, modification or alteration to the Offering by Customer or any third party, unless approved in writing by ExtraHop, (c) any refusal by Customer to install and use a non-infringing version of the Offering, or (d) any use of the Offerings in breach of this Agreement. This Section 11 states the entire liability of ExtraHop with respect to any Claims.

**11.4 Indemnification Procedure.** Customer must (a) give written notice to ExtraHop of any Claim no later than thirty (30) days after first receiving notice of a Claim, (b) provide copies to ExtraHop of all communications, notices and/or other actions relating to the Claim, (c) give sole control of the defense of any Claim to ExtraHop, (d) act in accordance with the reasonable instructions of ExtraHop, and (d) provide any reasonably requested assistance to ExtraHop in connection with its defense of the Claim. ExtraHop will conduct its defense at all times in a manner that is not adverse to Customer's interests. Customer may employ its own counsel at its own expense to assist it with respect to any such Claim. Customer may not settle or compromise any Claim without ExtraHop's express written consent. ExtraHop shall be relieved of its indemnification obligation under Section 11 if Customer materially fails to comply with this Section 11.4.

## **12. Miscellaneous.**

**12.1 Assignment.** Customer may not transfer or assign this Agreement, in whole or in part, without ExtraHop's written consent, which consent will not be unreasonably withheld. Any attempt by Customer to transfer or assign this Agreement without consent will be null and void. ExtraHop may transfer or assign this Agreement upon notice, but without Customer's consent, to an affiliate or a successor of all or substantially all of its business pertaining to this Agreement, whether by merger, consolidation, transfer or sale of all or substantially all of its business, assets, or equity. In addition, ExtraHop may subcontract its Services provided that any arrangement does not relieve ExtraHop of its obligations hereunder.

**12.2 Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Washington without regard or giving effect to its principles of conflicts of laws or to the United Nations Convention on Contracts for the International Sale of Goods. ExtraHop and Customer each submit to and hereby irrevocably waive any objection to the exclusive personal jurisdiction of, and that venue is proper in, any federal or state court in King County, Washington.

**12.3 Export Control and Economic Sanctions Law Compliance.** ExtraHop's Offerings incorporate cryptographic software. Each party agrees to comply with the Export Control Reform Act, the Export Administration Regulations and the economic sanctions regulations administered by the Treasury Department's Office of Foreign Assets Control as well as any and all other U.S. government and foreign government regulations relating to the export of technical data and equipment and products produced therefrom which are applicable to Customer. Customer further agrees not to disclose or transmit to ExtraHop any information that requires that access to such information be limited to U.S. nationals or personnel based in a certain country or region. In countries other than the US, Customer agrees to comply with the local regulations regarding importing, exporting or using cryptographic software. Customer agrees it will not export or re-export the Offerings to any country, person, or entity or for any activity that is subject to U.S. export restrictions. Specifically, Customer agrees not to export or re-export the Offerings: (a) to any country to which the U.S. has embargoed or restricted the export of goods or services, or to any national of any such country, wherever located, who intends to transmit or transport the Offerings back to such country, (b) to any person or entity who Customer knows or has reason to know will utilize the Offerings or portion thereof in the design, development or production of nuclear, chemical or biological weapons, or missiles, or (c) to any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government, including but not limited to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders. By installing or using the Offerings, Customer represents and warrants that it is not located in, under control of, or a national or resident of any such country or on any such list.

**12.4 Publicity.** ExtraHop may publish a brief description highlighting Customer's deployment of the Offerings, list Customer as a customer and use Customer's logo on ExtraHop's marketing materials and website, on publicly available customer lists, and in media releases. ExtraHop and Customer may, upon the parties' mutual agreement, issue a joint press release to announce the relationship of the parties hereunder.

**12.5 Notices.** Any notice, request, demand, or other communication required or permitted in this Agreement will be in writing, will reference this Agreement, and will be effective: (a) when delivered personally, (b) when sent by facsimile, with written confirmation of receipt by the sending facsimile machine, (c) four (4) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid, (d) two (2) business days after deposit with an express courier, with written confirmation of receipt, or (e) when sent by electronic mail. All notices will be sent to the address set forth below or other address for a party as specified in writing by that party. If to ExtraHop: Attn: Legal Department, 520 Pike Street, Suite 1600, Seattle, WA 98101, United States of America; fax number: 206-274-6393; email: [contractnotices@extrahop.com](mailto:contractnotices@extrahop.com).

**12.6 Severability.** If for any reason a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

**12.7 Waiver.** No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of these rights.

**12.8 Relationship between the Parties.** ExtraHop will perform any Services as an independent contractor, and nothing herein will be construed to create an employment, partnership, joint venture or principal-agent relationship between the parties.

**12.9 Force Majeure.** No party will be liable hereunder (and their performance shall be excused under this Agreement) by reason of any failure or delay in the performance of its obligations (except for Customer's obligations under Section 3) on account of strikes, shortages, riots, insurrection, terrorism, advanced persistent threats, fires, flood, storm, explosions, earthquakes, Internet outages, acts of God, war, governmental action, or any other cause that is beyond the reasonable control of such party. ExtraHop will take all reasonable steps to resume provision of any affected obligations as soon as practicable following such events.

**12.10 Entire Agreement.** This Agreement and any other terms incorporated by reference are the complete and exclusive agreement between the parties with respect to the subject matter of this Agreement, superseding and replacing any and all prior or contemporaneous agreements, communications, and understandings (both written and oral) regarding this subject matter. This Agreement will also supersede the terms of any purchase order or any other Customer document. ExtraHop hereby expressly rejects terms and conditions

preprinted on any Customer document. Any terms in any other order, release, contract, or other communication that are additional to, different from, or inconsistent with the provisions of this Agreement will be deemed to be void and of no effect. This Agreement may only be modified, or any rights under it waived, by a written document executed by both parties.

**12.11 No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to, or will, confer upon any person other than the parties and the respective successors or permitted assigns of the parties, any rights, remedies, obligations or liabilities.

**12.12 Notice to U.S. Government End Users.** The Software and Documentation are “commercial items,” as that term is defined at U.S. Federal Acquisition Regulation (“FAR”) (48 C.F.R.) 2.101, consisting of “commercial computer software” and “commercial computer software documentation,” respectively, as such terms are used in FAR 12.212. In accordance with FAR 12.212 and the Defense FAR Supplement (“DFARS”) 227.7202 as applicable, and notwithstanding any other FAR, DFARS, or other contractual clause or order of precedence provision to the contrary in any agreement or order into which this Agreement may be incorporated, any the Software and Documentation provided pursuant to this Agreement for use by or on behalf of the U.S. Government is provided with only those rights granted in this Agreement. Use of either the Software or Documentation by or on behalf of the U.S. Government constitutes agreement that the Software and Documentation are “commercial computer software” and “commercial computer software documentation,” respectively, and acceptance of the rights and restrictions herein. Customers under this Agreement that provide the Software and Documentation to end users for use by or on behalf of the U.S. Government shall ensure that the substance of this clause is included in Customer’s agreement (or any of its customer agreements) with such end users and any failure to so incorporate the substance of this clause shall constitute a material breach of this Agreement.

## Exhibit A

### Support and Maintenance

**1. Support Plans.** ExtraHop provides the following support plans:

Support		Platinum	Gold
<b>Coverage Support Hours</b>		24 x 7 x 365	Monday – Friday standard business days 6AM – 6PM local time
<b>Initial Response Times</b> (coverage hours) Initial Response Time is the time between ExtraHop creating a support case and first contacting the Customer.			
Severity 1	Phone or Web	1	3
	Email	4	12
Severity 2	Phone or Web	2	4
	Email	4	12
Severity 3 / 4	Phone or Web	4	8
	Email	12	Next coverage day
<b>Communication Cadence</b> (coverage hours) Communication cadence and priority levels are mutually established by Customer and ExtraHop on a case-by-case basis.			
Priority 1	Critical	4	12
Priority 2	High	24	Next coverage day
Priority 3	Medium	72	3 coverage days
Priority 4	Low	120	5 coverage days
<b>Hardware replacement</b>		Subject to ExtraHop authorization and ExtraHop's End-of-Life Policy, replacements will be shipped same day if authorized by 12PM PST, otherwise next business day PST.	Subject to ExtraHop authorization and ExtraHop's End-of-Life Policy, replacements will be shipped within 3 coverage days

**2. Support Services.**

**2.1 Support.** ExtraHop will provide the Support Services for the time period set forth on an Order and for which ExtraHop has received payment, commencing upon shipment/fulfillment of the Products and Subscriptions. ExtraHop will use commercially reasonable efforts to provide such Support Services through the Support Portal or any other reasonable means as specified by ExtraHop.

**2.2 Error Notification and Correction.** Customer will report Errors (as defined in Section 4) to ExtraHop through the Support Portal, follow ExtraHop's procedures for reporting Errors, and provide a complete description of the Error and other reasonable information or access as requested by ExtraHop. ExtraHop will use commercially reasonable efforts to correct or minimize the adverse effects of any demonstrable Error, provided that the Error is attributable to and reproducible by ExtraHop. Customer acknowledges that ExtraHop does not guarantee the ability to process all network traffic or to accommodate every possible network configuration, and these limitations shall not be considered Errors. ExtraHop makes no commitment or guarantee regarding the resolution time for an Error. Customer acknowledges that failure to provide any or all information or access as requested by ExtraHop may result in delays in, and may hinder ExtraHop's ability to provide, Support Services, and ExtraHop shall not be responsible for any such resulting delays or inability to perform.

**2.3 Software Updates and Upgrades.** ExtraHop will inform Customer of the availability of, and will make available to Customer, any Software updates, bug fixes, security patches, and upgrades containing new features or functionalities that ExtraHop makes generally available to customers who have purchased Support Services.

**2.4 Hardware Replacement.** ExtraHop will, at its option, provide repair or replacement components (consisting of new or reconditioned parts) to any Hardware or Hardware component that fails during the term of Customer's Support Services at no additional cost to Customer, subject to then-applicable standard return material authorization process, which is available at <https://www.extrahop.com/go/rmapolicy>. All replacements are subject to ExtraHop's End-of-Life Policy and ExtraHop has no obligation to provide Hardware replacements to ensure compatibility with new Software versions or to ensure new Software versions are compatible with outdated Hardware. Before returning the Hardware for any reason, Customer should remove any confidential, proprietary or personal information.

**2.5 Limitations.** Customer acknowledges ExtraHop will have no obligation to provide Support Services with respect to any Product or Subscription that (a) is altered or modified, (b) is not installed, operated, repaired, used or maintained in accordance with ExtraHop's specifications, Documentation, recommendations, and/or instructions (including usage over the published capacity limits), (c) has its tamper label removed or altered, (d) is damaged, mishandled, or treated with abuse, neglect, or other improper treatment (including use outside the recommended environment), (e) is used in violation of the Agreement, any applicable license restrictions, or any applicable laws, rules, or regulations, (f) is not operating on a Supported Version, (g) is used on or in combination with any unsupported hardware





or software platforms, including third-party platforms, tools, and applications, or (h) is experiencing issues beyond the reasonable control of ExtraHop.

**2.6 Non-Supported Applications.** ExtraHop specifically disclaims any and all Support Services or repair obligations with respect to Non-Supported Applications. If Customer has an issue with a Non-Supported Application, Customer's options are to work with ExtraHop to (a) remove the Non-Supported Application, or (b) develop a "for-fee" arrangement to resolve the issue.

### **3. Customer Responsibilities.**

**3.1 General Responsibilities.** Customer will (a) maintain the installation site, Products and Subscriptions, and operating environment in accordance with the applicable specifications, Documentation, recommendations, and/or instructions provided by ExtraHop, (b) execute the replacement of any Hardware or Hardware component provided by ExtraHop under Section 2.4 as instructed by ExtraHop Support, (c) use the Products and Subscriptions in accordance with the specifications, Documentation, recommendations, and/or instructions provided by ExtraHop, (d) update the Products and Subscriptions to the most current Supported Version in a timely manner, and (e) maintain its login credentials to the Support Portal and remove any unused accounts.

**3.2 Remote Access.** If remote access is required to diagnose or resolve an Error, Customer agrees to provide such requested access to ExtraHop, in accordance with Section 10.6 of the Agreement, for the purposes of providing Support Services.

**3.3 Contacts.** Customer will designate primary and alternate contacts, and Customer's contacts shall be adequately trained on the Products and Subscriptions and have sufficient technical expertise, training, and experience.

**3.4 Catch-Up Fee for Lapsed Support Services.** If Customer purchases an annual Support Services contract covering a Product for which Support was never originally purchased or for which Support has lapsed, Customer will be charged a twenty percent (20%) catch-up fee in addition to the then-current standard annual Support Services fees pro-rated for the time period during which no Support Services were in effect, calculated based on the Support Services plan that Customer requests to purchase for such Product on a go-forward basis.

### **4. Definitions.**

**"Error"** means the failure of a Product or Subscription to substantially conform to the Documentation or other published specifications.

**"Non-Supported Application"** means any application that has not undergone feature-set approval and/or ExtraHop quality assurance, including, but not limited to, bundles, customizations, and integrations created for Customer.

**"Severity"** means the designation set by ExtraHop based on its technical assessment of the Error. Severity levels are defined as the following:

1. A critical problem that requires immediate resolution and may cause loss of data and/or restrict data availability.
2. A serious problem that affects major functionality and has no available workaround.
3. A problem that does not have a major effect on Customer's operations and an acceptable workaround exists.
4. A minor condition or request that has no significant effect on Customer's operations.

**"Support Portal"** means ExtraHop's online support portal that enables the Customer to access Support Services.

**"Supported Version"** means the current version of ExtraHop Software and the immediately prior two (2) update releases, as indicated by the number to the right of the first decimal point.

## Exhibit B

### Professional Services

The terms of this Exhibit B govern in addition to the terms of the Agreement and the terms of a SOW if Customer receives any deployment, configuration or other professional or consulting services relating to Offerings.

- 1. Ordering.** Customer may order Professional Services from ExtraHop by signing a SOW or otherwise submitting an Order. Professional Services will be delivered as set forth in the applicable SOW. “**Statement of Work**” or “**SOW**” means a mutually agreed-upon document between ExtraHop and Customer describing the Professional Services and applicable rates and timelines for those Professional Services. Various basic, prepackaged, or non-customized Professional Services may be purchased under an ExtraHop SKU and standard documentation outlining the offerings, which together constitute an SOW. Unless otherwise stated in an SOW, fees for Professional Services will be invoiced fully in advance. To the extent that a SOW includes a maximum cap on hours of Professional Services for a given project, ExtraHop will not be obligated to provide Professional Services beyond such a cap unless and until an authorized representative of Customer provides approval for the additional work in writing. Any such additional Professional Services will be available on a time and materials basis at ExtraHop’s then-effective standard Professional Services rates unless otherwise agreed upon by the parties in writing.
- 2. Cooperation.** The parties agree to work together in good faith to achieve completion of the Professional Services in a timely and professional manner. Customer acknowledges and agrees that ExtraHop’s ability to complete the Professional Services ordered may depend on completion of certain Customer tasks or adherence to schedules within Customer’s control; consequently, the schedule for completion of the project or any portion thereof may require adjustments or changes if such Customer tasks are not completed as anticipated or Customer’s schedules change. ExtraHop shall bear no liability or otherwise be responsible for delays caused by Customer’s failure to timely complete a Customer task or adhere to a Customer schedule. Customer agrees to provide ExtraHop with any technical assistance, network access, materials, and an environment suitable for ExtraHop to be able to perform the Professional Services as reasonably required by ExtraHop. To the extent the Professional Services require the use of materials provided by Customer or a third party, ExtraHop will make its best estimate of the amount of effort required to utilize such assets based on its prior experience. ExtraHop may not have reviewed these assets at the time of SOW creation, and Customer acknowledges that the initial scope and/or cost of the Professional Services included in a SOW may need to be adjusted to accommodate the actual materials made available by Customer.
- 3. Acceptance.** Unless otherwise set forth in a SOW, ExtraHop will notify the Customer when the Professional Services are completed, provided that if Customer does not schedule all Professional Services for a given project by the end of the applicable SOW term, Customer will forfeit the right to receive such unscheduled Professional Services, the project will be deemed complete upon expiration of the applicable SOW, and Customer will not be entitled to any refunds. Customer must provide written notice to ExtraHop of any good faith dispute of completion and/or an invoice and the basis therefor no later than fifteen (15) days from the date of ExtraHop’s notification of completion or the date of the relevant invoice for Professional Services rendered, whichever is earlier, or else ExtraHop will be deemed to have satisfied all of its obligations to Customer under the relevant SOW. Should Customer dispute a portion of an invoice, it shall pay any undisputed amounts and the parties shall work together in good faith to resolve the dispute within ten (10) business days. If the parties are unable to resolve the dispute within such timeframe, each party reserves all rights and claims otherwise provided herein.
- 4. Deliverables.** ExtraHop hereby grants Customer a worldwide, non-exclusive, non-transferable (subject to Section 12.1), non-sublicensable, royalty-free license to use for its internal business purposes anything developed by ExtraHop for Customer in performance of the Professional Services solely in connection with validly licensed Offerings, including any derivative works thereof as set forth in a Statement of Work (“**Deliverables**”). ExtraHop shall retain all ownership rights to the Deliverables. ExtraHop reserves all rights to the Deliverables not explicitly granted herein.
- 5. Travel.** If travel is requested and/or is required for completion of any Professional Services, Customer agrees to pay ExtraHop a fee covering all out-of-pocket expenses and costs, which will be invoiced separately.
- 6. Change Orders.** If either party desires to make changes to the scope, Deliverables, or other details of a project during the SOW term, it will notify the other party as soon as practicable. Any such change(s) will be negotiated and mutually agreed upon in writing and detailed in a change order that references the applicable SOW.
- 7. SOW Term.** Each SOW will be effective as set forth therein or on the date that ExtraHop commences providing Professional Services, whichever is earlier, and, unless terminated in accordance with the terms hereof, will continue for the period specified therein.
- 8. Termination for Cause.** If either party breaches a material provision of a SOW, the other party may terminate the SOW upon thirty (30) days’ written notice, unless the breach is cured within the notice period. In addition, in the event that Customer does not authorize ExtraHop to begin the Professional Services within one hundred eighty (180) days from the effective date of the relevant SOW or unreasonably delays a Customer task required hereunder, ExtraHop may terminate such SOW upon written notice with no liability or further obligation.
- 9. Termination for Convenience.** Either party may also terminate a SOW for convenience upon sixty (60) days’ written notice, provided that if ExtraHop terminates any SOW for convenience, Customer may request in writing a reasonable wind-down period of continued Services for a mutually agreed-upon fee. In the event of any termination of a SOW or this Agreement, ExtraHop shall invoice Customer for the Professional Services actually performed through the effective date of termination or such later date as requested by Customer to wind down or terminate the Professional Services and for any expenses actually and reasonably incurred through the effective date of termination and those to which it has irrevocably committed, with Customer’s consent, under the SOW, and Customer shall pay the invoice within thirty (30) days after receipt.

## Exhibit C

### Report Services

The terms of this Exhibit C govern in addition to the terms of the Agreement if Customer receives Report Services.

- 1. Report Services.** ExtraHop will use commercially reasonable efforts to deliver purchased Remote Reports to Customer in accordance with a mutually agreed upon delivery schedule. **"Remote Report"** is a summary report addressing the health, maintenance, security and/or performance integrity of Customer's IT technologies through analysis of metrics collected by Customer's Products. Customer hereby grants permission to ExtraHop to connect to Customer's Product(s) via remote access for the purpose of providing the Report Services.
- 2. Enabling Report Services.** To receive Report Services, Customer must:
  - (a) establish and maintain a reliable remote connection for ExtraHop to connect to Customer's Product(s) reasonably prior to the scheduled delivery date;
  - (b) follow any access instructions, specifications, and/or Documentation provided by ExtraHop;
  - (c) operate and maintain the Product(s) in accordance with specifications set forth in the Documentation (including published capacity limits); and
  - (d) operate Product(s) with compatible Product firmware as set forth in the Documentation. ExtraHop commits to firmware compatibility for the most recent version of ExtraHop Software and the immediately prior two (2) update releases, as indicated by the number to the right of the first decimal point.
- 3. Undeliverable Remote Reports.** After commercially reasonable notice to Customer, Customer will forfeit the entitlements to undelivered Remote Reports described below upon the following, as applicable:
  - (a) One Remote Report – ExtraHop is unable to perform the Report Services because of Customer's failure to meet the requirements set forth in Section 2 above, upon (a) one hundred and twenty (120) days from the Report Services start date set forth on an Order; or (b) ninety (90) days from any disconnection that occurs after an initial connection;
  - (b) Additional Remote Report – Following forfeiture of the first Remote Report described above, Customer will forfeit one (1) additional purchased Remote Report for every subsequent calendar month ExtraHop is unable to perform the Report Services because of Customer's failure to meet the requirements set forth in Section 2 above; and
  - (c) All remaining Remote Reports – Lapse of entitlement to Support Services.
- 4. Disclaimer.** Customer will be solely responsible for all judgments, decisions, conclusions, analyses made, and actions taken or not taken based on any recommendations or other content of any report, alert, analysis or other information provided in connection with the Report Services hereunder. ExtraHop will have no liability for any failure that may arise to the extent due to Customer's refusal or failure to perform its responsibilities set forth herein.
- 5. Security.** ExtraHop will follow all commercially reasonable security policies for accessing Customer's Products that are agreed to by ExtraHop in a signed writing referencing this Agreement in advance of such access.

## Exhibit D

### Cloud Features

The terms of this Exhibit D govern in addition to the terms of the Agreement if Customer receives Cloud Features.

- 1. Cloud Features.** During the Subscription period set forth on an Order, ExtraHop will use commercially reasonable efforts to provide the Cloud Features substantially in accordance with the functionality described in the Documentation. Customer acknowledges that ExtraHop may need to perform scheduled and, in the case of emergency (as determined in ExtraHop's sole and reasonable discretion), unscheduled maintenance, which may affect the availability of the Cloud Features.
- 2. Enabling Cloud Features.** To use and connect to Cloud Features, Customer must:
  - (a) initiate an encrypted connection from the user interface of Customer's Product to a cloud instance or servers maintained by ExtraHop (as applicable); and
  - (b) operate Product(s) with compatible Product firmware, as described in the Documentation. ExtraHop (i) commits to basic firmware compatibility for the most recent version of ExtraHop Software and the immediately prior two (2) update releases, as indicated by the number to the right of the first decimal point, and (ii) will use commercially reasonable efforts to provide basic firmware compatibility for any version of the ExtraHop firmware released within the past two (2) calendar years. Customer acknowledges that some features may only be available with the most recent version of the Product firmware.
- 3. Customer Responsibilities.** Customer is solely responsible for:
  - (a) following any access instructions, specifications and applicable Documentation provided by ExtraHop; and
  - (b) obtaining and maintaining the Product and all other computer equipment and any ancillary products needed to access and use the Cloud Features.
- 4. Disclaimer.** Customer will be solely responsible for all judgments, decisions, conclusions, analyses made, and actions taken or not taken based on any recommendations or other content of any report, alert, analysis or other information provided in connection with the Cloud Features hereunder. ExtraHop will have no liability for any failure that may arise to the extent due to Customer's refusal or failure to perform its responsibilities set forth herein.
- 5. Security.** ExtraHop will follow all commercially reasonable security policies in providing the Cloud Features that are agreed to by ExtraHop in a signed writing referencing these terms in advance of providing the Cloud Features.
- 6. Suspension or Termination.** In addition to its other rights under this Agreement, ExtraHop may suspend or limit access to or use of the Cloud Features by Customer: (a) in order to prevent damage to or degradation of the Cloud Features; or (b) for non-payment of fees when due (to the extent not subject to a good-faith dispute). Where practicable, ExtraHop will use commercially reasonable efforts to provide notice of and opportunity to remedy prior to such suspension or limitation, as applicable. If suspended or limited, ExtraHop will promptly restore use of the Cloud Features to Customer as soon as the event giving rise to the suspension or limitation has been resolved to the reasonable satisfaction of ExtraHop. Where the event giving rise to the suspension or limitation has not been resolved to the reasonable satisfaction of ExtraHop within thirty (30) days of the effective date of such suspension or limitation, ExtraHop may terminate this Agreement upon prior written notice.
- 7. Definitions.**

**"Anomaly"** is a potentially anomalous event that deviates from the expected behavior of a Customer's IT environment.

**"Cloud Features"** means the suite of hosted services operated and maintained by ExtraHop for additional functionality and analysis, including the Machine Learning Service, Threat Intelligence, and other services as may be offered by ExtraHop as specified in an Order.

**"Machine Learning Service"** is a service that performs machine learning to automatically detect Anomalies and sends any detected Anomalies through to the Customer's Product.

**"Threat Intelligence"** is a service that provides updated content, such as detection information, detectors and security content, to a Customer's Product.

## Exhibit E

### ExtraHop SaaS

The terms of this Exhibit E govern in addition to the terms of the Agreement if Customer receives ExtraHop SaaS.

- 1. ExtraHop SaaS.** During the Subscription period set forth on an Order, ExtraHop will use commercially reasonable efforts to provide ExtraHop SaaS substantially in accordance with the functionality described in the Documentation. Customer acknowledges that ExtraHop may need to perform scheduled and, in the case of emergency (as determined in ExtraHop's sole and reasonable discretion), unscheduled maintenance, which may affect the availability of ExtraHop SaaS.
- 2. Enabling ExtraHop SaaS.** To use and connect to ExtraHop SaaS, Customer must:
  - (a) for Customer Managed Products, initiate an encrypted connection from the user interface of the Product to ExtraHop SaaS;
  - (b) for Customer Managed Products, operate the Product(s) with compatible Product firmware, as described in the Documentation. ExtraHop (i) commits to basic firmware compatibility for the most recent version of ExtraHop Software and the immediately prior two (2) update releases, as indicated by the number to the right of the first decimal point, and (ii) will use commercially reasonable efforts to provide basic firmware compatibility for any version of the ExtraHop firmware released within the past two (2) calendar years. Customer acknowledges that some features may only be available with the most recent version of the Product firmware;
  - (c) direct and send to ExtraHop all Customer Data for which Customer wants to receive ExtraHop SaaS as described in the access instructions, specifications and/or applicable Documentation provided by ExtraHop and/or the applicable cloud provider;
  - (d) follow all instructions and requirements of any ancillary third-party products, software and/or equipment; and
  - (e) provide all information as requested by ExtraHop for the purpose of deploying and configuring ExtraHop SaaS.
- 3. Accessing the ExtraHop SaaS UI.** In order for Users to access ExtraHop SaaS, Customer will need to:
  - (a) identify and maintain a list of all authorized Users and their roles; and
  - (b) authenticate and approve access for such Users to ExtraHop SaaS in accordance with any Documentation provided by ExtraHop.
- 4. Customer Responsibilities.** Customer is solely responsible for:
  - (a) following any access instructions, specifications and applicable Documentation provided by ExtraHop;
  - (b) establishing strong authentication and authorization policies, such as password requirements, and maintaining the confidentiality of all credentials, such as User usernames, passwords, and account information;
  - (c) the security, accuracy, quality, and lawful use of Customer Data and the means by which Customer acquired such data;
  - (d) the routine archiving and/or maintaining a backup of Customer Data, as desired by Customer; and
  - (e) any and all access and use of ExtraHop SaaS and API via Users' accounts and all related activity, including compliance with this Agreement and the applicable Order(s), regardless of whether the activity was undertaken by Customer, its Users, or a third party. Customer will promptly notify ExtraHop of any unauthorized access of which Customer is aware or reasonably suspects. ExtraHop may, in its reasonable discretion, prohibit or suspend access to certain Users.
- 5. Data Limitations.** Unless specifically agreed to in writing by a duly authorized officer of ExtraHop, Customer agrees not to transmit or store within ExtraHop SaaS any health information, financial or payment card information, information that is protected by the Internal Traffic in Arms Regulation, or matter, data, or information that is export-controlled.
- 6. Disclaimer.** Customer will be solely responsible for (a) all judgments, decisions, conclusions, analyses made, and actions taken or not taken based on any recommendations or other content of any report, alert, analysis or other information provided in connection with ExtraHop SaaS hereunder, and (b) the procurement, use, and/or reliance upon any ancillary third-party product, software, or equipment. ExtraHop will have no liability for any failure that may arise to the extent due to Customer's refusal or failure to perform its responsibilities set forth herein.
- 7. Security.** ExtraHop has implemented practices and policies to maintain appropriate organizational, physical and technical measures to safeguard the confidentiality and security of Customer Data to comply with applicable laws.
- 8. Suspension or Termination.** In addition to its other rights under this Agreement, ExtraHop may suspend or limit access to or use of ExtraHop SaaS by Customer: (a) in order to prevent damage to or degradation of ExtraHop SaaS; or (b) for non-payment fees when due (to the extent not subject to a good-faith dispute). Where practicable, ExtraHop will use commercially reasonable efforts to provide notice of and an opportunity to remedy prior to such suspension or limitation, as applicable. If suspended or limited, ExtraHop will promptly restore use of ExtraHop SaaS to Customer as soon as the event giving rise to the suspension or limitation has been resolved to the reasonable satisfaction of ExtraHop. Where the event giving rise to the suspension or limitation has been not been resolved to the reasonable satisfaction of ExtraHop within thirty (30) days of the effective date of such suspension or limitation, ExtraHop may terminate this Agreement upon prior written notice.

9. **Definitions.**

“**Cloud Control Plane**” is a service that provides management capabilities across ExtraHop SaaS.

“**Cloud Record Store**” is a service that provides indexing and search functionalities for transaction records.

“**Customer Managed Products**” are Products that are managed by a Customer and maintained on a Customer’s premises.

“**ExtraHop Managed Products**” is a service that provides Products on a Software version reasonably determined by ExtraHop that are managed by ExtraHop on a Customer’s behalf and maintained in a cloud instance operated and maintained by ExtraHop.

“**ExtraHop SaaS**” means the suite of hosted software services operated and maintained by ExtraHop, including ExtraHop Managed Products, Customer Managed Products, Cloud Control Plane, Cloud Record Store, Cloud Features as defined in [Exhibit D](#) (Cloud Features), and other hosted software services as may be offered by ExtraHop as specified in an Order.

“**User(s)**” are all Customer employees, contractors, agents and other representatives designated by Customer to access and use ExtraHop SaaS.