

Pivotal's End User License Agreement

Pivotal Software, Inc. with a principal place of business at 875 Howard Street-Fifth Floor, San Francisco, CA 94103 and the _____, an executive agency United States Government or Other Eligible Users (herein referred to as "CUSTOMER") with a principal place of business at _____ hereby enter into this Pivotal Software License Agreement ("SLA") as of the date of the last signature below (the "Effective Date").

This SLA is a legally binding document between CUSTOMER (an agency of the United States Government ("CUSTOMER")) as and Pivotal. CUSTOMER's use of the Software is subject to and expressly conditioned upon acceptance of this SLA. This SLA governs CUSTOMER's use of the Software and the provision of Support Services and Subscription Services. This SLA shall apply to all those products and services sold to the U.S. Government under a General Services Administration ("GSA") Schedule contract. Capitalized terms have the meaning stated in the SLA.

1. DEFINITIONS

1.1. "Affiliate" means a legal entity that is controlled by, controls, or is under common "control" of Pivotal or CUSTOMER. "Control" means more than 50% of the voting power or ownership interests.

1.2. "Beta Component" means a component of the Software provided herein which is not yet generally available but is included in the Software.

1.3. "Confidential Information" means the, Software, and all confidential and proprietary information of Pivotal or CUSTOMER, including without limitation, all business plans, product plans, financial information, software, designs, and technical, business and financial data of any nature whatsoever, provided that such information is marked or designated in writing as "confidential," "proprietary," or with any other similar term or designation. Confidential Information does not include information that: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; or (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession and prepared contemporaneously with such independent development; or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure. All Confidential Information shall be so marked.

1.4. "Distributor" means a reseller, distributor, system integrator, service provider, independent software vendor, value-added reseller, OEM, or other partner that is authorized by Pivotal to license Software to end users. The term shall also refer to any third party duly authorized by a Distributor to license Software to end users.

1.5. "Documentation" means, collectively, the operating instructions, release notes, media, printed materials, user manuals and/or help files for the Software in electronic or written form.

1.6. "Evaluation Software" means Software made available by Pivotal directly to CUSTOMER for a limited period of time at no charge to enable CUSTOMER to evaluate such Software prior to making a final decision on licensing or purchasing such from Pivotal.

1.7. "License Key" or "Compliance Key" means a serial number that enables CUSTOMER to activate and use the Software, as applicable.

1.8. "Major Release," means a generally available release of the Software that (a) contains functional enhancements and extensions, (b) fixes for high severity and high priority bugs, and (c) is designated by Pivotal by means of a change in the digit to the left of the first decimal point (e.g., Software 5.0 >> Software 6.0).

1.9. "Minor Release" means a generally available release of the Software that (a) introduces a limited amount of new features, functionality and minor enhancements; (b) fixes for high severity and high priority bugs identified in the current release, and (c) is designated by Pivotal by means of a change in the digit to the right of the decimal point (e.g., Software 5.0 >>> Software 5.1).

1.10. "Open Source Software" or "OSS" means software components that are licensed under a license approved by the Open Source Initiative or similar open source or freeware license and which are included in, embedded, utilized by, provided or distributed with the Software.

1.11. "Pivotal Product Guide" means the notice by which Pivotal informs CUSTOMER of product-specific usage rights and restrictions. The Pivotal Product Guide may be delivered in writing attached to the applicable Distributor quote, or otherwise in writing. Each Pivotal Product Guide is dated and is archived when it is superseded by a newer version. Pivotal shall not change any Pivotal Product Guide retroactively with regard to any products listed on an

applicable quote issued prior to the date of the applicable Pivotal Product Guide. At CUSTOMER's request, Pivotal shall without undue delay provide CUSTOMER with a copy of the applicable Pivotal Product Guide.

1.12. "Software" means the Pivotal computer programs (listed on Pivotal's commercial price list) for which CUSTOMER obtains a license under an order or quote (which specifies a perpetual, Software Subscription time-bound or license Term), together with any Software Release that is provided to CUSTOMER during the Term.

1.13. "Software Release" means any Major Release and Minor Release provided by Pivotal after initial delivery of the Software, but does not include new Software products or services (as determined by Pivotal).

1.14. "Software Subscription" consists of: (a) access to the Software and Documentation; and (b) Support Services, which include any new Software and upgrades introduced with respect to the Software Subscription set forth in the quote on a "when and if available" basis during the Subscription Period.

1.15. "Subscription Period" means the period of time commencing on the date that Pivotal either (i) ships the physical media to CUSTOMER; or (ii) sends a notification that the Software is available for electronic download, and continues for the period specified as such on the quote.

1.16. "Support Services" means the services available from Pivotal or its designee which provides Software Releases and support services for Software, as such schedule may be updated by Pivotal from time to time.

1.17. "Term" shall mean the period of time during which CUSTOMER is licensed to use the Software (and/or the Software Subscription), as set forth in the quote, or order, and the Software will be available for CUSTOMER's use and/or access only for the duration of such Term.

2. EVALUATION SOFTWARE AND BETA COMPONENTS

2.1 This SLA shall also apply to Evaluation Software (including any copies made by or on behalf of CUSTOMER) and Documentation licensed to CUSTOMER for a limited duration for the specific purpose of evaluation prior to making a final decision on procurement. CUSTOMER can only use Evaluation Software in a non-commercial, non-production environment and only for a sixty (60) day period beginning on the day the Evaluation Software is made available to CUSTOMER, unless otherwise agreed to in writing by Pivotal or as set forth in the Pivotal Product Guide ("Evaluation Term"). The Evaluation Software, installation site and other transaction-specific conditions shall be as mutually agreed in writing between Pivotal and CUSTOMER.

2.2 Notwithstanding any deviating terms in this SLA, all licenses for Evaluation Software expire at the end of the Evaluation Term. The right to evaluate the Evaluation Software expires at the end of the Evaluation Term or upon return of the Evaluation Software to Pivotal, whichever is earlier.

2.3 Without prejudice to any other limitations on Pivotal's liability set forth in this SLA (which shall also apply to Evaluation Software), Evaluation Software and Beta Components are provided "AS IS" and any warranty or damage claims against Pivotal in connection with Evaluation Software and Beta Components are hereby excluded, except in the event of fraud or wilful misconduct of Pivotal.

2.4 Unless otherwise specifically agreed in writing by Pivotal, Pivotal does not provide maintenance or support for any Evaluation Software and/or any Beta Components of the Software. CUSTOMER RECOGNIZES THAT EVALUATION SOFTWARE OR ANY BETA COMPONENTS OF THE SOFTWARE MAY HAVE DEFECTS OR DEFICIENCIES WHICH CANNOT OR MAY NOT BE CORRECTED BY PIVOTAL. Pivotal shall have no liability to CUSTOMER for any claim, suit, action or proceeding ("Claim(s)") brought by or against CUSTOMER alleging that any or all of the Evaluation Software or any Beta Components of the Software or its operation or use infringes any patent, copyright, trade secret or other intellectual property or proprietary right. In event of such a Claim, Pivotal retains the right to terminate this SLA and take possession of the Evaluation Software and/or any Beta Components of the Software. THIS SECTION STATES PIVOTAL'S ENTIRE LIABILITY WITH RESPECT TO ALLEGED INFRINGEMENT OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS BY ANY OR ALL OF THE EVALUATION SOFTWARE, BETA COMPONENTS OF THE SOFTWARE, OR THEIR OPERATION OR USE.

3. GRANT AND USE RIGHTS FOR SOFTWARE

3.1 License Grant. The Software is licensed, not sold. Pivotal grants CUSTOMER a non-exclusive, non-transferable

license, without rights to sublicense, to use the Software in the country where CUSTOMER is invoiced in accordance with the Documentation and the Pivotal license model set forth in the applicable Pivotal Product Guide, for which CUSTOMER has paid the applicable license fees. Software must be installed on equipment located in the country where CUSTOMER is invoiced. CUSTOMER may allow third party consultants or contractors to access and use the Software on CUSTOMER's behalf solely for CUSTOMER's internal business operations, provided that they are bound by an agreement with CUSTOMER protecting Pivotal's intellectual property with terms no less stringent than this SLA and CUSTOMER ensures that such third party use of the Software complies with the terms of this SLA. CUSTOMER may make one backup, unmodified copy of the Software solely for archival purposes. If CUSTOMER upgrades or exchanges the Software from a previous validly licensed version, CUSTOMER must cease use of the prior version of that Software. CUSTOMER agrees to provide written certification of destruction of the previous version of the Software upon Pivotal's request.

3.2 Subscription Provisions. Pivotal grants CUSTOMER-the GSA and its ordering activities a non-exclusive, non-transferable license to use the Software up to the maximum licensed capacity during the Subscription Period as set forth in the quote. Should CUSTOMER exceed the licensed capacity during the Subscription Period, CUSTOMER will promptly procure license rights for additional capacity at a mutually-agreed price. Following the expiration of the Subscription Period, the Subscription shall upon mutual agreement, renew for one (1) additional year at the same annual rate as set forth herein. CUSTOMER must notify Pivotal at least thirty (30) days prior to the expiration of the Subscription Period of CUSTOMER's intent to renew the Software Subscription for one (1) additional year. If CUSTOMER chooses not to renew, CUSTOMER agrees to cease using the Pivotal Software at the end of the Subscription Period and will certify same to Pivotal.

3.3 Open Source Software. Notwithstanding anything herein to the contrary, Open Source Software is licensed under such OSS's own applicable license terms, which can be found in the `open_source/licenses.txt` file included in the Software, or as applicable, the corresponding source files for the Software available at <http://www.pivotal.io/open-source>. CUSTOMER is responsible for complying with any third party terms and conditions applicable to such Open Source Software. These OSS license terms may contain additional rights benefiting CUSTOMER. The OSS license terms shall take precedence over this SLA to the extent that this SLA imposes greater restrictions on CUSTOMER than the applicable OSS license terms, solely with respect to such OSS.

3.4 Licensing Models. Software is licensed for use only in accordance with the commercial terms and restrictions of the Software's relevant licensing model, which are stated in the Pivotal Product Guide and/or attached to the quote from Pivotal or Distributor.

3.5 Restrictions. Without Pivotal's prior written consent, CUSTOMER must not, and must not allow any third party, to: (i) use Software in an application services provider, service bureau, or similar capacity for third parties; (ii) disclose to any third party the results of any benchmarking testing or comparative or competitive analyses of Software done by or on behalf of CUSTOMER except as otherwise permitted herein; (iii) make available Software in any form to anyone other than CUSTOMER's employees or contractors reasonably acceptable to Pivotal and which require access to use Software on behalf of CUSTOMER in a matter permitted by this SLA; (iv) transfer or sublicense Software or Documentation to an Affiliate or any third party (notwithstanding the foregoing restriction, CUSTOMER may use the Software to deliver hosted services to CUSTOMER's Affiliates as defined herein); (v) use Software in conflict with the terms and restrictions of the Software's licensing model and other requirements specified in the Pivotal Product Guide and/or Pivotal quote; (vi) except to the extent permitted by applicable mandatory law, modify, translate, enhance, or create derivative works from the Software, or reverse assemble or disassemble, reverse engineer, decompile, or otherwise attempt to derive source code from the Software; (vii) remove any copyright or other proprietary notices on or in any copies of Software; or (viii) violate or circumvent any technological restrictions within the Software or specified in this SLA, such as via software or services.

3.6 Decompilation. Notwithstanding the foregoing, decompiling the Software is permitted to the extent the laws of the country in which CUSTOMER is using the Software gives CUSTOMER the express right to do so to obtain information necessary to render the Software interoperable with other software; provided that CUSTOMER must first request such information from Pivotal (at legal@pivotal.io), provide all reasonably requested information to allow Pivotal to assess CUSTOMER's claim, and Pivotal may, in its discretion, either provide such interoperability information to CUSTOMER, impose reasonable conditions, including a reasonable fee, on such use of the Software, or offer to provide alternatives to ensure that Pivotal's proprietary rights in the Software are protected and to reduce any

adverse impact on Pivotal's proprietary rights.

3.7 Benchmarking. CUSTOMER may use the Software to conduct internal performance testing and benchmarking studies. CUSTOMER may only publish or otherwise distribute the results of such studies to third parties as follows: only if CUSTOMER provides a copy of CUSTOMER's study to benchmark@pivotal.io for approval prior to such publication and distribution.

3.8 CUSTOMER Responsibilities. CUSTOMER is responsible for separately obtaining any software, hardware or other technology required to operate the Software and complying with any corresponding terms and conditions. CUSTOMER is solely responsible for all obligations to comply with laws applicable to CUSTOMER's use of the Software including without limitation any processing of personal data.

3.9 Data Collection and Usage. CUSTOMER agrees that Pivotal may collect, use, store and transmit technical and related information about CUSTOMER, CUSTOMER's use of the Software including but not limited to server internet protocol address, hardware identification, operating system, application software, peripheral hardware, and Software usage statistics, to facilitate the provisioning of updates, support, invoicing, online services to CUSTOMER. CUSTOMER is responsible for obtaining any consents required in order to enable Pivotal to exercise the rights set forth in this Section 3.9, in each case in compliance with applicable law.

3.10 Audit Rights. During the Term and for two (2) years after termination or expiration of the SLA or Support Services and/or Software Subscription for the Software, CUSTOMER agrees to maintain accurate records as to CUSTOMER's installation and use of the Software sufficient to provide evidence of compliance with the terms of this SLA. As long as all CUSTOMER security requirements are met Pivotal, or an independent third party designated by Pivotal, may audit, upon written notice to CUSTOMER, CUSTOMER's books, records, and computing devices to determine CUSTOMER's compliance with this SLA and CUSTOMER's payment of the applicable license and Support Services and/or Software Subscription fees, if any, for the Software. Pivotal may conduct no more than one (1) audit in any twelve (12) month period. In the event that any such audit reveals an underpayment by CUSTOMER of more than five percent (5%) of the license amounts due to Pivotal in the period being audited, or that CUSTOMER has breached any term of the SLA, then, Pivotal shall invoice CUSTOMER for any underpayments for Software licenses and Support Services and/or Software Subscription fees.

3.11 Reserved Rights. Pivotal retains all right, title, and interest in and to the Software, and all related intellectual property rights. Pivotal retains all rights not expressly granted to CUSTOMER in this SLA.

4. TITLE, DELIVERY, ACCEPTANCE, PAYMENT AND PURCHASE.

4.1 Title, Delivery and Acceptance. Title and risk of loss for physical media containing Software shall transfer to CUSTOMER upon Pivotal's delivery to CUSTOMER ("Delivery"). Unless otherwise agreed, a common carrier shall be specified by Pivotal. Software may be provided by (i) Delivery of physical media; or (ii) electronic download (when so offered by Pivotal). All Software will be deemed to be delivered and accepted, meaning that Software operates in substantial conformity to the Documentation upon (i) Delivery of the physical media; or (ii) transmission of a notice of availability for download (accompanied by the license key when required by Pivotal or its Distributor). Notwithstanding such acceptance, CUSTOMER retains all rights and remedies set forth in Section 9.1 of this SLA.

4.2 Purchasing. Each CUSTOMER purchase order shall reference the applicable Pivotal quote and becomes binding on both parties when it is submitted to CUSTOMER and accepted by Pivotal (i) issuing an e-mail or other written communication to CUSTOMER; or (ii) delivering the Software identified in the purchase order to CUSTOMER.

4.3 Payment. CUSTOMER shall pay Pivotal's invoices in full within thirty (30) days after the date of Pivotal's invoice. In addition to the charges due hereunder, CUSTOMER shall pay or reimburse to Pivotal for all valued added (VAT), sales, use, excise, withholding, personal property and other taxes resulting from a CUSTOMER purchase order, except for taxes based on Pivotal's net income. If CUSTOMER is required to withhold taxes, then CUSTOMER will forward any withholding receipts to Pivotal at legal@pivotal.io. Pivotal shall state separately on its invoices taxes excluded from the fees, and CUSTOMER agrees either to pay the amount of the taxes (based on the current value of

the equipment) to the contractor or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

5. SUPPORT SERVICES AND SOFTWARE SUBSCRIPTION. In the event CUSTOMER has purchased Pivotal Support or Software Subscription CUSTOMER will be entitled to any updates, upgrades or extensions or enhancements to the Software. These Support or Software Subscription are subject to Pivotal's then-current terms and conditions for such Support or Software Subscription located here: www.pivotal.io/support-services. Software Subscription includes Support Services and enables CUSTOMER to obtain unspecified upgrades and major releases of the Software product purchased under such Software Subscription during the Subscription Period.

6. SOFTWARE RELEASES.

CUSTOMER shall use and deploy Software Releases strictly in accordance with terms of the original license for the Software.

7. TERMINATION. Pivotal may terminate this SLA in its entirety as follows:

A. CUSTOMER may terminate this SLA pursuant to FAR 52.212-4(m) or (ii) for convenience pursuant to FAR 52.212-4 (l).

B. Pivotal may terminate this SLA in its entirety as follows: For EULAs with Other Customers LICENSOR may terminate licenses for cause if Customer breaches the terms governing use of the Software and fails to cure within thirty (30) days after receipt of Pivotal's written notice thereof.

C. Upon termination of a license, Customer shall cease all use and return or certify destruction of the applicable Software (including copies) to Pivotal. Any provision that by its nature or context is intended to survive any termination or expiration, including but not limited to provisions relating to payment of outstanding fees, confidentiality and liability, shall so survive. In the event of expiration or any termination of this SLA, CUSTOMER must remove and destroy all copies of the Software, including all backup copies, from the server, virtual machine, and all computers and terminals on which the Software is installed or used and certify destruction of applicable Software (including copies).

8. IP INDEMNITY. Subject to Section 9.3 herein, Pivotal shall (i) at its own expense, defend CUSTOMER against any third party claim that the Software infringes a copyright or patent enforceable in a country that is a signatory to the Berne Convention; and (ii) pay the resulting costs and damages finally awarded against CUSTOMER by a court of competent jurisdiction, or pay the amounts stated in a written settlement negotiated and approved by Pivotal. The foregoing obligations are subject to the following: CUSTOMER (a) notifies Pivotal promptly in writing of such claim; (b)(1) if Customer is an entity for which the Department of Justice (DoJ) has the statutory right to exercise sole control over the defense, DoJ shall have that right, provided that DoJ shall consult appropriately with Pivotal shall have the right to intervene through its own counsel and at its own expense; (b)(2) for all other Customers, Customer grants Pivotal sole control over the defense and settlement thereof; (c) reasonably cooperates in response to an Pivotal request for assistance; and (d) is not in material breach of this EULA.

Should the Software become, or in Pivotal's opinion be likely to become, the subject of such a claim, Pivotal may, at its option and expense, (1) procure for CUSTOMER the right to make continued use thereof; (2) replace or modify such so that it becomes non-infringing; or (3) request return of the Software and, upon receipt thereof, refund the price paid by CUSTOMER, less straight-line depreciation based on a three (3) year useful life for Software. Notwithstanding anything to the contrary stated herein, Pivotal shall have no liability to the extent that the alleged infringement arises out of or relates to: (A) combination, operation or use of the Software with any other software, hardware, technology, data, or other materials, if the infringement would not have arisen but for such combination, operation or use; (B) use for a purpose or in a manner for which the Software was not designed; (C) any modifications to the Software made by any person other than Pivotal or its authorized representatives; (D) any modifications to the Software made by Pivotal pursuant to CUSTOMER's specific instructions; (E) use of any older version of the Software when use of a newer Software Release made available to CUSTOMER would have avoided the infringement; (F) any Open Source Software or other software, hardware, technology, data, or other materials not developed by Pivotal; (G) combination, operation or use of (1) Open Source Software or other software, hardware, technology, data, or other materials not developed by Pivotal with (2) other Open Source Software or other software, hardware, technology, data, or other materials not developed by Pivotal; or (H) combination, operation or use of Pivotal proprietary materials or Open Source Software developed by Pivotal with Open Source Software or other software, hardware, technology, data, or other materials not developed by Pivotal. THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND

PIVOTAL'S ENTIRE LIABILITY WITH RESPECT TO ALLEGED INFRINGEMENT OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS BY ANY OR ALL OF THE SOFTWARE OR ITS OPERATION OR USE.

9. LIMITED WARRANTY AND LIMITATION OF LIABILITY

9.1 Software Warranty, Duration and Remedy. Pivotal warrants to CUSTOMER that the Software will, for a period of ninety (90) days following Delivery or notice of availability for electronic download ("Warranty Period"), substantially conform to the applicable Documentation, provided that the Software: (i) has been properly installed and used at all times in accordance with the applicable Documentation; and (ii) has not been modified or added to by persons other than Pivotal or its authorized representative. Pivotal will, at its own expense and as its sole obligation and CUSTOMER's exclusive remedy for any breach of this warranty, either replace that Software or correct any reproducible error in that Software reported to Pivotal by CUSTOMER in writing during the Warranty Period. If Pivotal determines that it is unable to correct the error or replace the Software, Pivotal will refund to CUSTOMER the amount paid by CUSTOMER for that Software, in which case the license for that Software will terminate.

9.2 WARRANTY EXCLUSIONS. EXCEPT AS SET FORTH IN SECTION 9.1, PIVOTAL AND ITS LICENSORS PROVIDE THE SOFTWARE WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THIS SLA OR COMMUNICATION WITH CUSTOMER, AND PIVOTAL AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE REGARDING OR RELATING TO THE SOFTWARE, THE DOCUMENTATION, OR ANY MATERIALS FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS SLA. PIVOTAL AND ITS LICENSORS DO NOT WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR THAT IT WILL BE FREE FROM DEFECTS OR THAT THE SOFTWARE WILL MEET (OR IS DESIGNED TO MEET) CUSTOMER'S BUSINESS REQUIREMENTS.

9.3 LIMITATION OF LIABILITY. IN NO EVENT WILL PIVOTAL BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND ARISING UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE. PIVOTAL'S AND ITS LICENSORS' AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS SLA OR THE PROVISION OR USE OF ANY AND ALL OF THE SOFTWARE AND SERVICES PROVIDED HEREUNDER, WILL NOT, IN ANY EVENT, EXCEED THE LESSER OF (I) FEES CUSTOMER PAID FOR THE SOFTWARE DURING THE 12 MONTHS PRECEDING THE DATE PIVOTAL RECEIVES WRITTEN NOTICE OF THE FIRST CAUSE OF ACTION TO ARISE HEREUNDER; OR (II) USD\$1,000,000. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER PIVOTAL OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from Pivotal's negligence; (2) for fraud; (3) for any other matter for which liability cannot be excluded by law or (4) express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into the GSA Schedule 70 contract.

9.4 Limitation Period. All claims must be made within (i) the time period specified by applicable law; or (ii) eighteen (18) months after the cause of action accrues if no such period is specified at law.

9.5 Regular Back-ups. As part of its obligation to mitigate damages, CUSTOMER shall take reasonable data backup measures. In particular, CUSTOMER shall backup data before Pivotal performs any remedial works, upgrades, uploads or installs any new Software Release or otherwise works on CUSTOMER's production systems. To the extent Pivotal's liability for loss of data is not anyway excluded under this SLA, Pivotal shall in case of data losses only be liable for the typical effort to recover the data which would have accrued if CUSTOMER had appropriately backed up its data.

10. CONFIDENTIALITY. Each party shall (i) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this SLA; and (ii) use at least reasonable care to protect from disclosure to any third parties any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to CUSTOMER data stored within the Software to which Pivotal may have access in connection with the provision of Support or Software Subscription, which shall remain Confidential Information until or unless one of the exceptions stated in the above definition of Confidential Information applies. Notwithstanding the foregoing, either party may disclose Confidential Information (a) to independent contractors performing services on its behalf and Affiliates for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliates and independent contractors performing services on its behalf comply with the foregoing; and (b) if required by law provided the receiving party has given the disclosing party prompt notice. Pivotal will not be responsible for unauthorized disclosure of CUSTOMER data stored within the Software arising from a data security breach.

10.1 RESERVED

112. GENERAL

112.1 Construction. As used in this SLA: (a) the terms "include" and "including" are meant to be inclusive and shall be deemed to mean "include without limitation" or "including without limitation," (b) the word "or" is disjunctive, but not necessarily exclusive, (c) words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa, (d) references to "dollars" or "\$" shall be to United States dollars unless otherwise specified herein, (e) unless otherwise specified, all references to days, months or years shall be deemed to be preceded by the word "calendar." The headings of this SLA are intended solely for convenience of reference and shall be given no effect in the interpretation or construction of this SLA.

112.2 Governing Law. This SLA This Agreement is governed by the laws of the United States of America, excluding its conflict of law principles. The UN Convention on International Sale of Goods shall not apply.

112.3 Notices. Any notice, consent or other communication to be given under this SLA by any party shall be in writing and shall be either (a) personally delivered, (b) mailed by registered or certified mail, postage prepaid with return receipt requested, (c) delivered by prepaid overnight express delivery service or same-day local courier service, or (d) via e-mail transmission, with receipt confirmed or a confirming copy sent via mail. Notices delivered personally, by overnight express delivery service, by local courier service, facsimile transmission or email shall be deemed given as of actual receipt. Mailed notices shall be deemed given seven (7) Business Days after mailing.

121.4 Successors and Assigns. This SLA may not be assigned without the express written consent of the other party, not to be unreasonably withheld, conditioned or delayed, except that Pivotal may assign or transfer this SLA, in whole or in part, without consent of CUSTOMER to any successors-in-interest to all or substantially all of the business or assets of Pivotal whether by merger, reorganization, asset sale or otherwise, or to any Affiliates of Pivotal. Any purported transfer or assignment in violation of this section is void. Subject to the foregoing restrictions, the terms and conditions of this SLA shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties.

112.5 Severability. If any provision of this SLA becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this SLA, and such court will replace such illegal, void or unenforceable provision of this SLA with a valid and enforceable provision that will achieve, to the extent possible, the same economic, business and other purposes of the illegal, void or unenforceable provision. The balance of this SLA shall be enforceable in accordance with its terms.

112.6 Waiver. Failure to enforce a provision of this SLA will not constitute a waiver.

112.7 Independent Contractor. The parties are independent contractors. Nothing in this SLA shall be construed to create a joint venture, partnership, or an agency relationship between the parties themselves or between the parties and

any third person. Except as expressly provided herein, no party has the authority, without the other party's prior written approval, to bind or commit any other party in any way.

112.8 No Third-party Beneficiaries. This SLA is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

112.9 Force Majeure. In the event that either party is prevented from performing or is unable to perform any of its obligations under this SLA due to any Act of God, fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of production facilities, riot, insurrection, material unavailability, unavailability or interruption of telecommunications equipment or networks, or any other cause beyond the reasonable control of the party invoking this section, and if such party shall have used reasonable efforts to mitigate its effects, such party shall give prompt written notice to the other party, its performance shall be excused, and the time for the performance shall be extended for the period of delay or inability to perform due to such occurrences.

112.10 Compliance with Laws; Export Control; Government Regulations. Each party shall comply with all laws applicable to the actions contemplated by this SLA. CUSTOMER acknowledges that the Software is of United States origin, is provided subject to the U.S. Export Administration Regulations, may be subject to the export control laws of the applicable territory, and that diversion contrary to applicable export control laws is prohibited. CUSTOMER represents that (1) CUSTOMER is not, and is not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (2) CUSTOMER will not permit the Software to be used for, any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons. If the Software and related documentation is licensed to the United States government or any agency thereof, then the Software and documentation will be deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFARS Section 227.7202 and FAR Section 12.212, as applicable. Any use, reproduction, release, performance, display or disclosure of the Software and any related documentation by the U.S. Government will be governed solely by this SLA and is prohibited except to the extent expressly permitted by this SLA.

112.12 Entire Agreement. This SLA together with the underlying GSA Schedule Contract, the Schedule Price List and any applicable GSA Customer Purchase Orders is the complete statement of the agreement of the parties with regard to the subject matter hereof; and (ii) may be modified only by a writing signed by both parties.

112.13 Contact Information. Please direct legal notices or other correspondence to Pivotal Software, Inc., 3495 Deer Creek Road, Palo Alto, CA 94304, United States of America, Attn: legal@pivotal.io.

IN WITNESS WHEREOF, the Parties have caused this SLA to be signed on the respective dates indicated below.

Pivotal's End User License Agreement

Pivotal Software, Inc. with a principal place of business at 875 Howard Street-Fifth Floor, San Francisco, CA 94103 and the _____, an executive agency United States Government or Other Eligible Users (herein referred to as "CUSTOMER") with a principal place of business at _____ hereby enter into this Pivotal Software License Agreement ("SLA") as of the date of the last signature below (the "Effective Date").

This SLA is a legally binding document between CUSTOMER (an agency of the United States Government ("CUSTOMER") as and Pivotal. CUSTOMER's use of the Software is subject to and expressly conditioned upon acceptance of this SLA. This SLA governs CUSTOMER's use of the Software and the provision of Support Services and Subscription Services. This SLA shall apply to all those products and services sold to the U.S. Government under a General Services Administration ("GSA") Schedule contract. Capitalized terms have the meaning stated in the SLA.

2. DEFINITIONS

2.1. "Affiliate" means a legal entity that is controlled by, controls, or is under common "control" of Pivotal or CUSTOMER. "Control" means more than 50% of the voting power or ownership interests.

- 2.2. “Beta Component”** means a component of the Software provided herein which is not yet generally available but is included in the Software.
- 2.3. “Confidential Information”** means the, Software, and all confidential and proprietary information of Pivotal or CUSTOMER, including without limitation, all business plans, product plans, financial information, software, designs, and technical, business and financial data of any nature whatsoever, provided that such information is marked or designated in writing as “confidential,” “proprietary,” or with any other similar term or designation. Confidential Information does not include information that: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party’s files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party’s obligations of confidentiality; or (v) is independently developed by the receiving party without use of or reference to the disclosing party’s Confidential Information, as shown by documents and other competent evidence in the receiving party’s possession and prepared contemporaneously with such independent development; or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure. All Confidential Information shall be so marked.
- 2.4. “Distributor”** means a reseller, distributor, system integrator, service provider, independent software vendor, value-added reseller, OEM, or other partner that is authorized by Pivotal to license Software to end users. The term shall also refer to any third party duly authorized by a Distributor to license Software to end users.
- 2.5. “Documentation”** means, collectively, the operating instructions, release notes, media, printed materials, user manuals and/or help files for the Software in electronic or written form.
- 2.6. “Evaluation Software”** means Software made available by Pivotal directly to CUSTOMER for a limited period of time at no charge to enable CUSTOMER to evaluate such Software prior to making a final decision on licensing or purchasing such from Pivotal.
- 2.7. “License Key”** or **“Compliance Key”** means a serial number that enables CUSTOMER to activate and use the Software, as applicable.
- 2.8. “Major Release,”** means a generally available release of the Software that (a) contains functional enhancements and extensions, (b) fixes for high severity and high priority bugs, and (c) is designated by Pivotal by means of a change in the digit to the left of the first decimal point (e.g., Software 5.0 >> Software 6.0).
- 2.9. “Minor Release”** means a generally available release of the Software that (a) introduces a limited amount of new features, functionality and minor enhancements; (b) fixes for high severity and high priority bugs identified in the current release, and (c) is designated by Pivotal by means of a change in the digit to the right of the decimal point (e.g., Software 5.0>>Software 5.1).
- 2.10. “Open Source Software”** or **“OSS”** means software components that are licensed under a license approved by the Open Source Initiative or similar open source or freeware license and which are included in, embedded, utilized by, provided or distributed with the Software.
- 2.11. “Pivotal Product Guide”** means the notice by which Pivotal informs CUSTOMER of product-specific usage rights and restrictions. The Pivotal Product Guide may be delivered in writing attached to the applicable Distributor quote, or otherwise in writing. Each Pivotal Product Guide is dated and is archived when it is superseded by a newer version. Pivotal shall not change any Pivotal Product Guide retroactively with regard to any products listed on an applicable quote issued prior to the date of the applicable Pivotal Product Guide. At CUSTOMER’s request, Pivotal shall without undue delay provide CUSTOMER with a copy of the applicable Pivotal Product Guide.
- 2.12. “Software”** means the Pivotal computer programs (listed on Pivotal’s commercial price list) for which CUSTOMER obtains a license under an order or quote (which specifies a perpetual, Software Subscription time-bound or license Term), together with any Software Release that is provided to CUSTOMER during the Term.
- 2.13. “Software Release”** means any Major Release and Minor Release provided by Pivotal after initial delivery of the Software, but does not include new Software products or services (as determined by Pivotal).
- 2.14. “Software Subscription”** consists of: (a) access to the Software and Documentation; and (b) Support Services, which include any new Software and upgrades introduced with respect to the Software Subscription set forth in the quote on a “when and if available” basis during the Subscription Period.
- 2.15. “Subscription Period”** means the period of time commencing on the date that Pivotal either (i) ships the physical media to CUSTOMER; or (ii) sends a notification that the Software is available for electronic download, and continues for the period specified as such on the quote.
- 2.16. “Support Services”** means the services available from Pivotal or its designee which provides Software Releases and support services for Software, as such schedule may be updated by Pivotal from time to time.
- 2.17. “Term”** shall mean the period of time during which CUSTOMER is licensed to use the Software (and/or the Software Subscription), as set forth in the quote, or order, and the Software will be available for CUSTOMER’s use and/or access only for the duration of such Term.

2. EVALUATION SOFTWARE AND BETA COMPONENTS

2.1 This SLA shall also apply to Evaluation Software (including any copies made by or on behalf of CUSTOMER) and Documentation licensed to CUSTOMER for a limited duration for the specific purpose of evaluation prior to making a final decision on procurement. CUSTOMER can only use Evaluation Software in a non-commercial, non-production environment and only for a sixty (60) day period beginning on the day the Evaluation Software is made available to CUSTOMER, unless otherwise agreed to in writing by Pivotal or as set forth in the Pivotal Product Guide (“Evaluation Term”). The Evaluation Software, installation site and other transaction-specific conditions shall be as mutually agreed in writing between Pivotal and CUSTOMER.

2.2 Notwithstanding any deviating terms in this SLA, all licenses for Evaluation Software expire at the end of the Evaluation Term. The right to evaluate the Evaluation Software expires at the end of the Evaluation Term or upon return of the Evaluation Software to Pivotal, whichever is earlier.

2.3 Without prejudice to any other limitations on Pivotal’s liability set forth in this SLA (which shall also apply to Evaluation Software), Evaluation Software and Beta Components are provided “AS IS” and any warranty or damage claims against Pivotal in connection with Evaluation Software and Beta Components are hereby excluded, except in the event of fraud or willful misconduct of Pivotal.

2.4 Unless otherwise specifically agreed in writing by Pivotal, Pivotal does not provide maintenance or support for any Evaluation Software and/or any Beta Components of the Software. CUSTOMER RECOGNIZES THAT EVALUATION SOFTWARE OR ANY BETA COMPONENTS OF THE SOFTWARE MAY HAVE DEFECTS OR DEFICIENCIES WHICH CANNOT OR MAY NOT BE CORRECTED BY PIVOTAL. Pivotal shall have no liability to CUSTOMER for any claim, suit, action or proceeding (“Claim(s)”) brought by or against CUSTOMER alleging that any or all of the Evaluation Software or any Beta Components of the Software or its operation or use infringes any patent, copyright, trade secret or other intellectual property or proprietary right. In event of such a Claim, Pivotal retains the right to terminate this SLA and take possession of the Evaluation Software and/or any Beta Components of the Software. THIS SECTION STATES PIVOTAL’S ENTIRE LIABILITY WITH RESPECT TO ALLEGED INFRINGEMENT OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS BY ANY OR ALL OF THE EVALUATION SOFTWARE, BETA COMPONENTS OF THE SOFTWARE, OR THEIR OPERATION OR USE.

3. GRANT AND USE RIGHTS FOR SOFTWARE

3.1 License Grant. The Software is licensed, not sold. Pivotal grants CUSTOMER a non-exclusive, non-transferable license, without rights to sublicense, to use the Software in the country where CUSTOMER is invoiced in accordance with the Documentation and the Pivotal license model set forth in the applicable Pivotal Product Guide, for which CUSTOMER has paid the applicable license fees. Software must be installed on equipment located in the country where CUSTOMER is invoiced. CUSTOMER may allow third party consultants or contractors to access and use the Software on CUSTOMER’s behalf solely for CUSTOMER’s internal business operations, provided that they are bound by an agreement with CUSTOMER protecting Pivotal’s intellectual property with terms no less stringent than this SLA and CUSTOMER ensures that such third party use of the Software complies with the terms of this SLA. CUSTOMER may make one backup, unmodified copy of the Software solely for archival purposes. If CUSTOMER upgrades or exchanges the Software from a previous validly licensed version, CUSTOMER must cease use of the prior version of that Software. CUSTOMER agrees to provide written certification of destruction of the previous version of the Software upon Pivotal’s request.

3.2 Subscription Provisions. Pivotal grants CUSTOMER-the GSA and its ordering activities a non-exclusive, non-transferable license to use the Software up to the maximum licensed capacity during the Subscription Period as set forth in the quote. Should CUSTOMER exceed the licensed capacity during the Subscription Period, CUSTOMER will promptly procure license rights for additional capacity at a mutually-agreed price. Following the expiration of the Subscription Period, the Subscription shall upon mutual agreement, renew for one (1) additional year at the same annual rate as set forth herein. CUSTOMER must notify Pivotal at least thirty (30) days prior to the expiration of the Subscription Period of CUSTOMER’s intent to renew the Software Subscription for one (1) additional year. If

CUSTOMER chooses not to renew, CUSTOMER agrees to cease using the Pivotal Software at the end of the Subscription Period and will certify same to Pivotal.

3.3 Open Source Software. Notwithstanding anything herein to the contrary, Open Source Software is licensed under such OSS's own applicable license terms, which can be found in the `open_source_licenses.txt` file included in the Software, or as applicable, the corresponding source files for the Software available at <http://www.pivotal.io/open-source>. CUSTOMER is responsible for complying with any third party terms and conditions applicable to such Open Source Software. These OSS license terms may contain additional rights benefiting CUSTOMER. The OSS license terms shall take precedence over this SLA to the extent that this SLA imposes greater restrictions on CUSTOMER than the applicable OSS license terms, solely with respect to such OSS.

3.4 Licensing Models. Software is licensed for use only in accordance with the commercial terms and restrictions of the Software's relevant licensing model, which are stated in the Pivotal Product Guide and/or attached to the quote from Pivotal or Distributor.

3.5 Restrictions. Without Pivotal's prior written consent, CUSTOMER must not, and must not allow any third party, to: (i) use Software in an application services provider, service bureau, or similar capacity for third parties; (ii) disclose to any third party the results of any benchmarking testing or comparative or competitive analyses of Software done by or on behalf of CUSTOMER except as otherwise permitted herein; (iii) make available Software in any form to anyone other than CUSTOMER's employees or contractors reasonably acceptable to Pivotal and which require access to use Software on behalf of CUSTOMER in a matter permitted by this SLA; (iv) transfer or sublicense Software or Documentation to an Affiliate or any third party (notwithstanding the foregoing restriction, CUSTOMER may use the Software to deliver hosted services to CUSTOMER's Affiliates as defined herein); (v) use Software in conflict with the terms and restrictions of the Software's licensing model and other requirements specified in the Pivotal Product Guide and/or Pivotal quote; (vi) except to the extent permitted by applicable mandatory law, modify, translate, enhance, or create derivative works from the Software, or reverse assemble or disassemble, reverse engineer, decompile, or otherwise attempt to derive source code from the Software; (vii) remove any copyright or other proprietary notices on or in any copies of Software; or (viii) violate or circumvent any technological restrictions within the Software or specified in this SLA, such as via software or services.

3.6 Decompilation. Notwithstanding the foregoing, decompiling the Software is permitted to the extent the laws of the country in which CUSTOMER is using the Software gives CUSTOMER the express right to do so to obtain information necessary to render the Software interoperable with other software; provided that CUSTOMER must first request such information from Pivotal (at legal@pivotal.io), provide all reasonably requested information to allow Pivotal to assess CUSTOMER's claim, and Pivotal may, in its discretion, either provide such interoperability information to CUSTOMER, impose reasonable conditions, including a reasonable fee, on such use of the Software, or offer to provide alternatives to ensure that Pivotal's proprietary rights in the Software are protected and to reduce any adverse impact on Pivotal's proprietary rights.

3.7 Benchmarking. CUSTOMER may use the Software to conduct internal performance testing and benchmarking studies. CUSTOMER may only publish or otherwise distribute the results of such studies to third parties as follows: only if CUSTOMER provides a copy of CUSTOMER's study to benchmark@pivotal.io for approval prior to such publication and distribution.

3.8 CUSTOMER Responsibilities. CUSTOMER is responsible for separately obtaining any software, hardware or other technology required to operate the Software and complying with any corresponding terms and conditions. CUSTOMER is solely responsible for all obligations to comply with laws applicable to CUSTOMER's use of the Software including without limitation any processing of personal data.

3.9 Data Collection and Usage. CUSTOMER agrees that Pivotal may collect, use, store and transmit technical and related information about CUSTOMER, CUSTOMER's use of the Software including but not limited to server internet protocol address, hardware identification, operating system, application software, peripheral hardware, and Software usage statistics, to facilitate the provisioning of updates, support, invoicing, online services to

CUSTOMER. CUSTOMER is responsible for obtaining any consents required in order to enable Pivotal to exercise the rights set forth in this Section 3.9, in each case in compliance with applicable law.

3.10 Audit Rights. During the Term and for two (2) years after termination or expiration of the SLA or Support Services and/or Software Subscription for the Software, CUSTOMER agrees to maintain accurate records as to CUSTOMER's installation and use of the Software sufficient to provide evidence of compliance with the terms of this SLA. As long as all CUSTOMER security requirements are met Pivotal, or an independent third party designated by Pivotal, may audit, upon written notice to CUSTOMER, CUSTOMER's books, records, and computing devices to determine CUSTOMER's compliance with this SLA and CUSTOMER's payment of the applicable license and Support Services and/or Software Subscription fees, if any, for the Software. Pivotal may conduct no more than one (1) audit in any twelve (12) month period. In the event that any such audit reveals an underpayment by CUSTOMER of more than five percent (5%) of the license amounts due to Pivotal in the period being audited, or that CUSTOMER has breached any term of the SLA, then, Pivotal shall invoice CUSTOMER for any underpayments for Software licenses and Support Services and/or Software Subscription fees.

3.11 Reserved Rights. Pivotal retains all right, title, and interest in and to the Software, and all related intellectual property rights. Pivotal retains all rights not expressly granted to CUSTOMER in this SLA.

4. TITLE, DELIVERY, ACCEPTANCE, PAYMENT AND PURCHASE.

4.1 Title, Delivery and Acceptance. Title and risk of loss for physical media containing Software shall transfer to CUSTOMER upon Pivotal's delivery to CUSTOMER ("Delivery"). Unless otherwise agreed, a common carrier shall be specified by Pivotal. Software may be provided by (i) Delivery of physical media; or (ii) electronic download (when so offered by Pivotal). All Software will be deemed to be delivered and accepted, meaning that Software operates in substantial conformity to the Documentation upon (i) Delivery of the physical media; or (ii) transmission of a notice of availability for download (accompanied by the license key when required by Pivotal or its Distributor). Notwithstanding such acceptance, CUSTOMER retains all rights and remedies set forth in Section 9.1 of this SLA.

4.2 Purchasing. Each CUSTOMER purchase order shall reference the applicable Pivotal quote and becomes binding on both parties when it is submitted to CUSTOMER and accepted by Pivotal (i) issuing an e-mail or other written communication to CUSTOMER; or (ii) delivering the Software identified in the purchase order to CUSTOMER.

4.3 Payment. CUSTOMER shall pay Pivotal's invoices in full within thirty (30) days after the date of Pivotal's invoice. In addition to the charges due hereunder, CUSTOMER shall pay or reimburse to Pivotal for all valued added (VAT), sales, use, excise, withholding, personal property and other taxes resulting from a CUSTOMER purchase order, except for taxes based on Pivotal's net income. If CUSTOMER is required to withhold taxes, then CUSTOMER will forward any withholding receipts to Pivotal at legal@pivotal.io. Pivotal shall state separately on its invoices taxes excluded from the fees, and CUSTOMER agrees either to pay the amount of the taxes (based on the current value of the equipment) to the contractor or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-

1 and FAR 52.229-3.

5. SUPPORT SERVICES AND SOFTWARE SUBSCRIPTION. In the event CUSTOMER has purchased Pivotal Support or Software Subscription CUSTOMER will be entitled to any updates, upgrades or extensions or enhancements to the Software. These Support or Software Subscription are subject to Pivotal's then-current terms and conditions for such Support or Software Subscription located here: www.pivotal.io/support-services. Software Subscription includes Support Services and enables CUSTOMER to obtain unspecified upgrades and major releases of the Software product purchased under such Software Subscription during the Subscription Period.

6. SOFTWARE RELEASES.

CUSTOMER shall use and deploy Software Releases strictly in accordance with terms of the original license for the Software.

7. TERMINATION. Pivotal may terminate this SLA in its entirety as follows:

A. CUSTOMER may terminate this SLA pursuant to FAR 52.212-4(m) or (ii) for convenience pursuant to FAR 52.212-4 (l).

B. Pivotal may terminate this SLA in its entirety as follows: For EULAs with Other Customers LICENSOR may terminate licenses for cause if Customer breaches the terms governing use of the Software and fails to cure within thirty (30) days after receipt of Pivotal's written notice thereof.

C. Upon termination of a license, Customer shall cease all use and return or certify destruction of the applicable Software (including copies) to Pivotal. Any provision that by its nature or context is intended to survive any termination or expiration, including but not limited to provisions relating to payment of outstanding fees, confidentiality and liability, shall so survive. In the event of expiration or any termination of this SLA, CUSTOMER must remove and destroy all copies of the Software, including all backup copies, from the server, virtual machine, and all computers and terminals on which the Software is installed or used and certify destruction of applicable Software (including copies).

8. IP INDEMNITY. Subject to Section 9.3 herein, Pivotal shall (i) at its own expense, defend CUSTOMER against any third party claim that the Software infringes a copyright or patent enforceable in a country that is a signatory to the Berne Convention; and (ii) pay the resulting costs and damages finally awarded against CUSTOMER by a court of competent jurisdiction, or pay the amounts stated in a written settlement negotiated and approved by Pivotal. The foregoing obligations are subject to the following: CUSTOMER (a) notifies Pivotal promptly in writing of such claim; (b)(1) if Customer is an entity for which the Department of Justice (DoJ) has the statutory right to exercise sole control over the defense, DoJ shall have that right, provided that DoJ shall consult appropriately with Pivotal shall have the right to intervene through its own counsel and at its own expense; (b)(2) for all other Customers, Customer grants Pivotal sole control over the defense and settlement thereof; (c) reasonably cooperates in response to an Pivotal request for assistance; and (d) is not in material breach of this EULA.

Should the Software become, or in Pivotal's opinion be likely to become, the subject of such a claim, Pivotal may, at its option and expense, (1) procure for CUSTOMER the right to make continued use thereof; (2) replace or modify such so that it becomes non-infringing; or (3) request return of the Software and, upon receipt thereof, refund the price paid by CUSTOMER, less straight-line depreciation based on a three (3) year useful life for Software. Notwithstanding anything to the contrary stated herein, Pivotal shall have no liability to the extent that the alleged infringement arises out of or relates to: (A) combination, operation or use of the Software with any other software, hardware, technology, data, or other materials, if the infringement would not have arisen but for such combination, operation or use; (B) use for a purpose or in a manner for which the Software was not designed; (C) any modifications to the Software made by any person other than Pivotal or its authorized representatives; (D) any modifications to the Software made by Pivotal pursuant to CUSTOMER's specific instructions; (E) use of any older version of the Software when use of a newer Software Release made available to CUSTOMER would have avoided the infringement; (F) any Open Source Software or other software, hardware, technology, data, or other materials not developed by Pivotal; (G) combination, operation or use of (1) Open Source Software or other software, hardware, technology, data, or other materials not developed by Pivotal with (2) other Open Source Software or other software, hardware, technology, data, or other materials not developed by Pivotal; or (H) combination, operation or use of Pivotal proprietary materials or Open Source Software developed by Pivotal with Open Source Software or other software, hardware, technology, data, or other materials not developed by Pivotal. THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND PIVOTAL'S ENTIRE LIABILITY WITH RESPECT TO ALLEGED INFRINGEMENT OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS BY ANY OR ALL OF THE SOFTWARE OR ITS OPERATION OR USE.

9. LIMITED WARRANTY AND LIMITATION OF LIABILITY

9.1 Software Warranty, Duration and Remedy. Pivotal warrants to CUSTOMER that the Software will, for a period of ninety (90) days following Delivery or notice of availability for electronic download ("Warranty Period"), substantially conform to the applicable Documentation, provided that the Software: (i) has been properly installed and used at all times in accordance with the applicable Documentation; and (ii) has not been modified or added to by persons other than Pivotal or its authorized representative. Pivotal will, at its own expense and as its sole obligation and CUSTOMER's exclusive remedy for any breach of this warranty, either replace that Software or correct any reproducible error in that Software reported to Pivotal by CUSTOMER in writing during the Warranty Period. If Pivotal determines that it is unable to correct the error or replace the Software, Pivotal will refund to CUSTOMER the amount paid by CUSTOMER for that Software, in which case the license for that Software will terminate.

9.2 WARRANTY EXCLUSIONS. EXCEPT AS SET FORTH IN SECTION 9.1, PIVOTAL AND ITS LICENSORS PROVIDE THE SOFTWARE WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THIS SLA OR COMMUNICATION WITH CUSTOMER,

AND PIVOTAL AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE REGARDING OR RELATING TO THE SOFTWARE, THE DOCUMENTATION, OR ANY MATERIALS FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS SLA. PIVOTAL AND ITS LICENSORS DO NOT WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR THAT IT WILL BE FREE FROM DEFECTS OR THAT THE SOFTWARE WILL MEET (OR IS DESIGNED TO MEET) CUSTOMER'S BUSINESS REQUIREMENTS.

9.3 LIMITATION OF LIABILITY. IN NO EVENT WILL PIVOTAL BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND ARISING UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE. PIVOTAL'S AND ITS LICENSORS' AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS SLA OR THE PROVISION OR USE OF ANY AND ALL OF THE SOFTWARE AND SERVICES PROVIDED HEREUNDER, WILL NOT, IN ANY EVENT, EXCEED THE LESSER OF (I) FEES CUSTOMER PAID FOR THE SOFTWARE DURING THE 12 MONTHS PRECEDING THE DATE PIVOTAL RECEIVES WRITTEN NOTICE OF THE FIRST CAUSE OF ACTION TO ARISE HEREUNDER; OR (II) USD\$1,000,000. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER PIVOTAL OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from Pivotal's negligence; (2) for fraud; (3) for any other matter for which liability cannot be excluded by law or (4) express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into the GSA Schedule 70 contract.

9.4 Limitation Period. All claims must be made within (i) the time period specified by applicable law; or (ii) eighteen (18) months after the cause of action accrues if no such period is specified at law.

9.5 Regular Back-ups. As part of its obligation to mitigate damages, CUSTOMER shall take reasonable data backup measures. In particular, CUSTOMER shall backup data before Pivotal performs any remedial works, upgrades, uploads or installs any new Software Release or otherwise works on CUSTOMER's production systems. To the extent Pivotal's liability for loss of data is not anyway excluded under this SLA, Pivotal shall in case of data losses only be liable for the typical effort to recover the data which would have accrued if CUSTOMER had appropriately backed up its data.

10. CONFIDENTIALITY. Each party shall (i) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this SLA; and (ii) use at least reasonable care to protect from disclosure to any third parties any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to CUSTOMER data stored within the Software to which Pivotal may have access in connection with the provision of Support or Software Subscription, which shall remain Confidential Information until or unless one of the exceptions stated in the above definition of Confidential Information applies. Notwithstanding the foregoing, either party may disclose Confidential Information (a) to independent contractors performing services on its behalf and Affiliates for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliates and independent contractors performing services on its behalf comply with the foregoing; and (b) if required by law provided the receiving party has given the disclosing party prompt notice. Pivotal will not be responsible for unauthorized disclosure of CUSTOMER data stored within the Software arising from a data security breach.

10.1 RESERVED

112. GENERAL

112.1 Construction. As used in this SLA: (a) the terms "include" and "including" are meant to be inclusive and shall be deemed to mean "include without limitation" or "including without limitation," (b) the word "or" is disjunctive, but not necessarily exclusive, (c) words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa, (d) references to "dollars" or "\$" shall be to United States dollars unless otherwise specified herein, (e) unless otherwise specified, all references to days, months or years shall be deemed to be preceded by the word "calendar." The headings of this SLA are intended solely for convenience of reference and shall be given no effect in the interpretation or construction of this SLA.

112.2 Governing Law. This SLA This Agreement is governed by the laws of the United States of America, excluding its conflict of law principles. The UN Convention on International Sale of Goods shall not apply.

112.3 Notices. Any notice, consent or other communication to be given under this SLA by any party shall be in writing and shall be either (a) personally delivered, (b) mailed by registered or certified mail, postage prepaid with return receipt requested, (c) delivered by prepaid overnight express delivery service or same-day local courier service, or (d) via e-mail transmission, with receipt confirmed or a confirming copy sent via mail. Notices delivered personally, by overnight express delivery service, by local courier service, facsimile transmission or email shall be deemed given as of actual receipt. Mailed notices shall be deemed given seven (7) Business Days after mailing.

121.4 Successors and Assigns. This SLA may not be assigned without the express written consent of the other party, not to be unreasonably withheld, conditioned or delayed, except that Pivotal may assign or transfer this SLA, in whole or in part, without consent of CUSTOMER to any successors-in-interest to all or substantially all of the business or assets of Pivotal whether by merger, reorganization, asset sale or otherwise, or to any Affiliates of Pivotal. Any purported transfer or assignment in violation of this section is void. Subject to the foregoing restrictions, the terms and conditions of this SLA shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties.

112.5 Severability. If any provision of this SLA becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this SLA, and such court will replace such illegal, void or unenforceable provision of this SLA with a valid and enforceable provision that will achieve, to the extent possible, the same economic, business and other purposes of the illegal, void or unenforceable provision. The balance of this SLA shall be enforceable in accordance with its terms.

112.6 Waiver. Failure to enforce a provision of this SLA will not constitute a waiver.

112.7 Independent Contractor. The parties are independent contractors. Nothing in this SLA shall be construed to create a joint venture, partnership, or an agency relationship between the parties themselves or between the parties and any third person. Except as expressly provided herein, no party has the authority, without the other party's prior written approval, to bind or commit any other party in any way.

112.8 No Third-party Beneficiaries. This SLA is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

112.9 Force Majeure. In the event that either party is prevented from performing or is unable to perform any of its obligations under this SLA due to any Act of God, fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of production facilities, riot, insurrection, material unavailability, unavailability or interruption of telecommunications equipment or networks, or any other cause beyond the reasonable control of the party invoking this section, and if such party shall have used reasonable efforts to mitigate its effects, such party shall give prompt written notice to the other party, its performance shall be excused, and the time for the performance shall be extended for the period of delay or inability to perform due to such occurrences.

112.10 Compliance with Laws; Export Control; Government Regulations. Each party shall comply with all laws

applicable to the actions contemplated by this SLA. CUSTOMER acknowledges that the Software is of United States origin, is provided subject to the U.S. Export Administration Regulations, may be subject to the export control laws of the applicable territory, and that diversion contrary to applicable export control laws is prohibited. CUSTOMER represents that (1) CUSTOMER is not, and is not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (2) CUSTOMER will not permit the Software to be used for, any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons. If the Software and related documentation is licensed to the United States government or any agency thereof, then the Software and documentation will be deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFARS Section 227.7202 and FAR Section 12.212, as applicable. Any use, reproduction, release, performance, display or disclosure of the Software and any related documentation by the U.S. Government will be governed solely by this SLA and is prohibited except to the extent expressly permitted by this SLA.

112.12 Entire Agreement. This SLA together with the underlying GSA Schedule Contract, the Schedule Price List and any applicable GSA Customer Purchase Orders is the complete statement of the agreement of the parties with regard to the subject matter hereof; and (ii) may be modified only by a writing signed by both parties.

112.13 Contact Information. Please direct legal notices or other correspondence to Pivotal Software, Inc., 3495 Deer Creek Road, Palo Alto, CA 94304, United States of America, Attn: legal@pivotal.io.

IN WITNESS WHEREOF, the Parties have caused this SLA to be signed on the respective dates indicated below.