

## Managed Cloud Exchange

### End-User License Agreement

NIMBLE DATA TECHNOLOGIES, INC. *D/B/A* CREST DATA SYSTEMS (“**CREST DATA SYSTEMS**”) IS A NETSKOPE, INC. (“**NETSKOPE**”) AUTHORIZED MANAGED CLOUD EXCHANGE PARTNER (CE). THIS END-USER LICENSE AGREEMENT (“**EULA**”) GOVERNS THE USE OF MANAGED CLOUD EXCHANGE AS A HOSTED SOLUTION THAT IS MONITORED, MAINTAINED, AND MANAGED BY CREST DATA SYSTEMS AND ALLOWS CUSTOMERS TO IMMEDIATELY LEVERAGE ITS FUNCTIONALITIES WITHOUT HAVING TO DEDICATE STAFF TO PROVISION, DEPLOY, AND MANAGE THE PLATFORM, AND ANY RELATED AND SUPPORT SERVICES DESCRIBED HEREIN TO BE PROVIDED BY CREST DATA SYSTEMS. BY SUBSCRIBING OR PURCHASING, OR OTHERWISE ACCESSING OR USING THE PRODUCT AVAILABLE AS SAAS SERVICES, THE ENTITY USING THE SAAS SERVICES (“**CUSTOMER**”) CONSENTS TO BE BOUND BY THIS EULA, INCLUDING ALL TERMS INCORPORATED BY REFERENCE. CREST DATA SYSTEMS PERMITS CUSTOMER TO ACCESS AND USE THE SERVICES ONLY IN ACCORDANCE WITH THE TERMS OF THIS EULA.

THIS SOFTWARE IS PROVIDED BY THE COPYRIGHT HOLDERS AND CONTRIBUTORS “AS IS” AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED. IN NO EVENT SHALL THE COPYRIGHT HOLDER OR CONTRIBUTORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

For Netskope’s warranty, disclaimers and limitations, kindly refer to <https://www.netskope.com/terms-of-use>

Customer may obtain subscriptions to access Product deployed via SaaS Services by purchasing the same from AWS Marketplace. This EULA, the Product Listing and any amendments to any of the foregoing as may be agreed upon by the Parties, which together constitute the agreement between Customer and Crest Data Systems (together, the “**Parties**” and each individually a “**Party**”) with respect to the subject matter herein (the “**Agreement**”), and supersedes all prior discussions and agreements, whether written or oral, with respect to such subject matter. Each Subscription is a separate agreement between Customer and Crest Data Systems. In the event of any conflict between the terms and conditions of the various components of the Agreement, the following order of precedence will apply: (a) any amendment agreed upon by the parties; (b) the Product Listing; and (c) this EULA.

**Product Subscription.** Crest Data Systems will fulfill the Subscription to the Customer. A Subscription, as described in the Product Listing and the corresponding purchase transaction for SaaS Service through Crest Data Systems’ Computing Environment. The pricing and term are set forth in the Product Listing. Additional information concerning the SaaS Service and included services that is included in the Product Listing; such information may include but is not limited to: intended geographic use of the Product and any technical requirements for use of the Product and Support Services etc.

## 1. Licenses

### 1.1. Licensed Materials

- 1.1.1. Crest Data Systems hereby grants to Customer during the term of the Subscription, subject to Section 1.1.3, a nonexclusive, worldwide (subject to Section 11.4), nontransferable (except in connection with an assignment permitted under Section 11.2), non-terminable (except as provided in Section 9) license under all Proprietary Rights in and to the Product, to access and use the Product via the SaaS Service and to allow its Users to access and use the SaaS Service, in accordance with the Product Listing and the usage purchased in the Subscription.
- 1.1.2. Customer may use the Product only: in support of the internal operations of Customer’s and its Affiliates’ business(es) or organization(s), in connection with Customer’s and its Affiliates’ products and services

(but, for clarity, not as a stand-alone product or service of Customer or its Affiliates), and/or in connection with Customer's and its Affiliate's interactions with Users.

- 1.1.3. Customer may make a reasonable number of copies of the Documentation as necessary to use such Product in accordance with the rights granted under this EULA, provided that Customer includes all proprietary legends and other notices on all copies. Netskope retains all rights not expressly granted to Customer under this EULA.
- 1.2. **Affiliates and Contractors.** With respect to Affiliates and Contractors that Customer allows to use the Licensed Materials: (a) Customer remains responsible for all obligations hereunder arising in connection with such Affiliate's or Contractor's use of the Licensed Materials; and (b) Customer agrees to be directly liable for any act or omission by such Affiliate or Contractor to the same degree as if the act or omission were performed by Customer such that a breach by an Affiliate or a Contractor of the provisions of the Agreement will be deemed to be a breach by Customer. The performance of any act or omission under the Agreement by an Affiliate or a Contractor for, by or through Customer will be deemed the act or omission of Customer.
- 1.3. **Restrictions.** Except as specifically provided in the Agreement, Customer and any other User of any Licensed Materials, in whole or in part, may not: (a) copy the Licensed Materials, in whole or in part; (b) distribute copies of Licensed Materials, in whole or in part, to any third party; (c) modify, adapt, translate, make alterations to or make derivative works based on Licensed Materials or any part thereof; (d) except as permitted by Law, decompile, reverse engineer, disassemble or otherwise attempt to derive source code, algorithms or the underlying structure of the Product deployed as SaaS Service; (e) use, rent, loan, sub-license, lease, distribute or attempt to grant other rights to any part of the Licensed Materials to third parties; (f) use the Licensed Materials to act as a consultant, service bureau or application service provider; or (g) permit access of any kind to the Licensed Materials to any third party.
- 1.4. **High-Risk Activities.** The Product is not designed or developed for use in high-risk including without limitation in the operation of nuclear facilities, aircraft navigation or control systems, air traffic control, or weapons systems, or any other application in which the failure of the Product could lead to severe physical or environmental damages ("**High Risk Activities**"). Customer will not use the Product for High Risk Activities.

## 2. Services, Fees and Payment.

- 2.1. **SaaS Service.** Crest Data Systems will provide the Product to Customer as a SaaS Service in accordance with the Product Listing promptly following purchase of the Subscription and continuing until the term or termination, as the case may be, of the Subscription. Crest Data Systems will provide Customer access credentials and passwords necessary for access and use of the Product via the SaaS Service ("**User Access**") as set forth in the Product Listing.
- 2.2. **Support Services.** Crest Data Systems will make available to Customer, Documentation concerning the use and operation of the Product, and Crest Data Systems will provide Support Services to Customer as described, incorporated or referenced in the Product Listing.
- 2.3. **Subscription Fees.** Subscription fees shall be payable as per the details provided in Product Listing at the time of purchasing/ subscribing for each Subscription, beginning on the Subscription start date and continuing upon each renewal of the Subscription.
- 2.4. **Taxes.** Subscription fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales and use, or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases hereunder. For clarity, Customer is not responsible for taxes assessable against Crest Data Systems based on Crest Data Systems' income, property and employees.

## 3. Proprietary Rights.

- 3.1. **Licensed Materials.** Subject to the licenses granted herein, Netskope will retain all right, title and interest it may have in and to the Licensed Materials, including all Proprietary Rights therein. Nothing in this EULA will be construed or interpreted as granting to Customer any rights of ownership or any other proprietary rights in or to the Licensed Materials or any Proprietary Rights therein.

3.2. **Feedback.** Customer may, at its option, provide suggestions, ideas, enhancement requests, recommendations or feedback regarding the Licensed Materials or Support Services (“**Feedback**”), provided however, that Feedback does not include any Proprietary Rights of Customer or Customer’s Affiliates or any Customer Data or Customer Materials. Crest Data Systems may use and incorporate Feedback in Crest Data Systems’ products and services without compensation or accounting to Customer, provided that neither Crest Data Systems nor its use of the Feedback identifies Customer as the source of such Feedback. Feedback is not confidential to Customer. Customer will have no obligation to provide Feedback, and all Feedback is provided by Customer “as is” and without warranty of any kind.

#### 4. **Warranties.**

4.1. **Licensed Materials.** Crest Data Systems represents and warrants that: (a) Crest Data Systems will use industry standard practices designed to detect and protect the Product against any viruses, “Trojan horses”, “worms”, spyware, adware or other harmful code designed or used for unauthorized access to or use, disclosure, modification or destruction of information within the Product or interference with or harm to the operation of the Product or any systems, networks or data, including as applicable scanning the Product for malware and other security vulnerabilities and with up to date scanning software or service on a regular basis; and (b) the Product and Customer’s use thereof as permitted under the Agreement, will not be subject to any license or other terms that require that any Customer Data, Customer Materials or any software, documentation, information or other materials integrated, networked or used by Customer with the Product, in whole or in part, be disclosed or distributed in source code form, be licensed for the purpose of making derivative works, or be redistributable at no charge.

4.2. **Services.** Crest Data Systems represents and warrants that any Support Services will be performed in a professional manner with a level of care, skill and diligence performed by experienced and knowledgeable professionals in the performance of similar services and in accordance with the Product Listing and Documentation.

4.3. **Remedies.** If Product fails to conform to the foregoing warranties, Crest Data Systems promptly will, at its option and expense, correct the Product and re-perform the Services as necessary to conform to the warranties. If Crest Data Systems does not correct the Product or re-perform the Services to conform to the warranties within a reasonable time, not to exceed 30 days (or such other period as may be agreed upon by the Parties) (the “**Cure Period**”), as Customer’s sole remedy and Crest Data Systems’ exclusive liability, Customer may for a period of 30 days following the conclusion of the Cure Period (or such other period as may be agreed upon by the Parties), elect to terminate the Subscription and the Agreement without further liability.

4.4. **Warranty Exclusions.** Crest Data Systems will have no liability or obligation with respect to any warranty to the extent attributable to any: (a) use of the Product by Customer in violation of the Agreement or applicable Law; (b) modifications to the Licensed Materials not provided by Crest Data Systems or its Personnel; (c) use of the Product in combination with third-party equipment or software not provided or made accessible by Crest Data Systems or contemplated by the Product Listing or Documentation; or (d) use by Customer of Product in conflict with the Documentation or the Agreement, to the extent that such nonconformity would not have occurred absent such use or modification by Customer.

4.5. **Compliance with Laws.** Each Party represents and warrants that it will comply with all applicable international, national, state and local laws, ordinances, rules, regulations and orders, as amended from time to time (“**Laws**”) applicable to such Party in its performance under the Agreement.

4.6. **Power and Authority.** Each Party represents and warrants that: (a) it has full power and authority to enter in and perform the Agreement and that the execution and delivery of the Agreement has been duly authorized; and (b) the Agreement and such Party’s performance hereunder will not breach any other agreement to which the Party is a party or is bound or violate any obligation owed by such Party to any third party.

4.7. **Disclaimer.** EXCEPT FOR THE WARRANTIES SPECIFIED IN THE AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE LICENSED MATERIALS, SERVICES, CUSTOMER MATERIALS AND CUSTOMER DATA, AND EACH PARTY HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. Crest Data Systems does not warrant: (a) that the Licensed Materials will meet Customer's requirements; or (b) that the operation of the Product will be uninterrupted or error free.

## 5. Confidentiality.

5.1. **Confidential Information.** "Confidential Information" means any nonpublic information directly or indirectly disclosed by either Party (the "Disclosing Party") to the other Party (the "Receiving Party") or accessible to the Receiving Party pursuant to the Agreement that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential, including without limitation technical data, trade secrets, know-how, research, inventions, processes, designs, drawings, strategic roadmaps, product plans, product designs and architecture, security information, marketing plans, pricing and cost information, marketing and promotional activities, business plans, customer and supplier information, employee and User information, business and marketing plans, and business processes, and other technical, financial or business information, and any third party information that the Disclosing Party is required to maintain as confidential. Confidential Information will not, however, include any information which: (a) was publicly known or made generally available to the public prior to the time of disclosure; (b) becomes publicly known or made generally available after disclosure through no fault of the Receiving Party; (c) is in the possession of the Receiving Party, without restriction as to use or disclosure, at the time of disclosure by the Disclosing Party; (d) was lawfully received, without restriction as to use or disclosure, from a third party (who does not have an obligation of confidentiality or restriction on use itself); or (e) is developed by the Receiving Party independently from the Agreement and without use of or reference to the Disclosing Party's Confidential Information or Proprietary Rights. Except for rights expressly granted in the Agreement, each Party reserves all rights in and to its Confidential Information. The Parties agree that the Licensed Materials are Confidential Information of Netskope.

5.2. **Obligations.** The Parties will maintain as confidential and will avoid disclosure and unauthorized use of Confidential Information of the other Party using reasonable precautions. Each Party will protect such Confidential Information with the same degree of care that a prudent person would exercise to protect its own confidential information of a like nature, and to prevent the unauthorized, negligent, or inadvertent use, disclosure, or publication thereof or access thereto. Each Party will restrict Confidential Information to individuals who need to know such Confidential Information and who are bound to confidentiality obligations at least as protective as the restrictions described in this Section 5. Except as necessary for the proper use of the Product, the exercise of a Party's rights under the Agreement, performance of a Party's obligations under the Agreement or as otherwise permitted under the Agreement, neither Party will use Confidential Information of the other Party for any purpose except in fulfilling its obligations or exercising its rights under the Agreement. Each Party will promptly notify the other Party if it becomes aware of any unauthorized use or disclosure of the other Party's Confidential Information, and reasonably cooperate with the other Party in attempts to limit disclosure.

5.3. **Compelled Disclosure.** If and to the extent required by law, including regulatory requirements, discovery request, subpoena, court order or governmental action, the Receiving Party may disclose or produce Confidential Information but will give reasonable prior notice (and where prior notice is not permitted by applicable Law, notice will be given as soon as the Receiving Party is legally permitted) to the Disclosing Party to permit the Disclosing Party to intervene and to request protective orders or confidential treatment therefor or other appropriate remedy regarding such disclosure. Disclosure of any Confidential Information pursuant to any legal requirement will not be deemed to render it non-confidential, and the Receiving Party's obligations with respect to Confidential Information of the Disclosing Party will not be changed or lessened by virtue of any such disclosure. Notwithstanding any provisions herein, if Customer is a government agency or entity, Customer will comply with all Laws applicable to it with respect to disclosure of public information.

## 6. Additional Obligations and Responsibilities.

### 6.1. Acceptable Use; Restrictions on Sensitive Information.

6.1.1. Customer will not intentionally use the SaaS Service to: (a) store, download or transmit infringing or illegal content, or any viruses, "Trojan horses" or other harmful code; (b) engage in phishing, spamming, denial-of-service attacks or fraudulent or illegal activity; (c) interfere with or disrupt the integrity or performance of the Product, component or data contained therein or on Crest Data Systems' system or network or circumvent the security features of the Product; or (d) perform penetration testing, vulnerability testing or

other security testing on the Product, component or Crest Data Systems' systems or networks or otherwise attempt to gain unauthorized access to the Product or Crest Data Systems' systems or networks.

- 6.1.2. Customer will not use the SaaS Services to store or process Highly Sensitive Information unless Crest Data Systems specifically purchases a SaaS Service Subscription designed to be used with Highly Sensitive Information. "Highly Sensitive Information" means, for purposes of the Agreement: (1) special categories of data enumerated in applicable Data Protection Laws, including European Union Regulation 2016/679, Article 9(1) or any successor legislation; (2) patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (as amended and supplemented) ("HIPAA"); (3) credit, debit, or other payment card data, including bank account numbers; (4) social security numbers, driver's license numbers, or other government identification numbers; (5) other information subject to additional protections or regulation under specific laws such as the Children's Online Privacy Protection Act or Gramm-Leach-Bliley Act (or related rules or regulations). Crest Data Systems shall have no responsibility for Highly Sensitive Information where the SaaS Service is not approved by Crest Data Systems to be used with Highly Sensitive Information.
- 6.1.3. Crest Data Systems may suspend Customer's or a User's right to access or use any portion or all of the SaaS Service immediately upon notice to Customer, if Crest Data Systems, after reasonable due diligence given the nature and severity of the issue, reasonably determines that: (i) Customer or a User's use of the SaaS Service poses a material risk to the security or operation of Crest Data Systems' systems, the SaaS Service or the systems or data of any other customer, or (ii) Customer or a User's use of the SaaS Service violates this Section 6.1 or is illegal or fraudulent. To the extent reasonably practicable, Crest Data Systems will limit the suspension of the SaaS Service as needed to mitigate the applicable risk. Crest Data Systems will promptly restore the SaaS Service to Customer upon resolution of the issue. Further, Crest Data Systems may, without liability, temporarily suspend the Services to some or all of the Users (a) as necessary to prevent an attempted security breach or cyber-attack, (b) in order to protect Crest Data Systems' or Netskope's or its customers' systems; or (c) if required by a governmental entity or law enforcement agency. Customer shall receive prompt notification of such suspension, to the extent and in the manner, that Crest Data Systems provides a notification to its other affected customers.

## **6.2. Customer Data and Customer Materials.**

- 6.2.1. Customer is and will continue to be the sole and exclusive owner of all Customer Materials, Customer Data and other Confidential Information of Customer, including all Proprietary Rights therein. Nothing in the Agreement will be construed or interpreted as granting to Crest Data Systems any rights of ownership or any other proprietary rights in or to the Customer Data and Customer Materials.
- 6.2.2. Customer will obtain all necessary consents, authorizations and rights and provide all necessary notices and disclosures in order to provide Customer Data to Crest Data Systems and for Crest Data Systems to use Customer Data in the performance of its obligations in accordance with the terms and condition of the Agreement, including any access or transmission to third parties with whom Customer shares or permits access to Customer Data.
- 6.2.3. The Parties agree that Customer Data and Customer Materials are Confidential Information of Customer. Customer hereby grants to Crest Data Systems a nonexclusive, nontransferable (except in connection with an assignment permitted under Section 11.2), revocable license, under all Proprietary Rights, to reproduce and use Customer Materials and Customer Data solely for the purpose of, and to the extent necessary for, performing Crest Data Systems' obligations under the Agreement. In no event will Crest Data Systems access, use or disclose to any third party any Customer Data or any Customer Materials for any purpose whatsoever other than as necessary for the purpose of providing the Product and Services to Customer and performing its obligations under the Agreement. Crest Data Systems will not aggregate, anonymize or create any data derivatives of Customer Data other than as necessary to provide the Product or Services and to perform its obligations in accordance with the terms and conditions of the Agreement.
- 6.2.4. During the Term, the Customer will have full access to, and has the right to review and retain, the entirety of Customer Data contained in the Product. At no time will any computer or electronic records containing Customer Data be stored or held in a form or manner not readily accessible to Customer through the ordinary operation of the Product. Crest Data Systems will provide to Customer all passwords, codes, comments and documentation necessary for such access and use of the Product during the Term, and

Customer will be entitled to delete, or have Crest Data Systems delete, Customer Data as expressly specified by Customer during the Term.

- 6.3. **System Data.** To the extent that System Data identifies or permits, alone or in conjunction with other data, identification, association, or correlation of or with Customer, its Affiliates, Users, customers, suppliers or other persons interacting with any of the foregoing, or any Confidential Information of Customer or any device as originating through or interacting with Customer or its Affiliates (“**Identifiable System Data**”), Crest Data Systems may only collect and use Identifiable System Data internally to administer, provide and improve the Product and Services as a generally available service offering, to identify opportunities for Customer to optimize its use of the Product, including the provision of additional training, and to identify to Customer uses of Crest Data Systems’ other products and services. Crest Data Systems will not target any data analysis at, or otherwise use any Identifiable System Data to derive or attempt to derive information regarding, Customer and its Affiliates, their businesses, operations, finances, users, customers, prospective customers, suppliers or other persons interacting with Customer and its Affiliates. Crest Data Systems will not target any development efforts arising from its use of Identifiable System Data at any person on the basis of the intended recipient’s relationship with Customer or any of its Affiliates or the intended recipient being in same industry or market as Customer or any of its Affiliates. Crest Data Systems will not use or disclose any Identifiable System Data for any other purpose unless otherwise agreed in writing by the Parties, and will, except for the use permitted in this Section, maintain the confidentiality and security of Identifiable System Data as Confidential Information.
- 6.4. **Use of Other Data.** Notwithstanding the foregoing, nothing in the Agreement will restrict: (a) Crest Data Systems’ use of System Data or data derived from System Data that does not identify or permit, alone or in conjunction with other data, identification, association, or correlation of or with (i) Customer, its Affiliates, Users, customers, suppliers or other persons interacting with Customer and its Affiliates or any Confidential Information of Customer, or (ii) any device (e.g. computer, mobile telephone, or browser) used to access or use the Product as originating through Customer or its Affiliates or interacting with Customer or its Affiliates; or (b) either Party’s use of any data, records, files, content or other information related to any third party that is collected, received, stored or maintained by a Party independently from the Agreement.
- 6.5. **Third Party Content.** SaaS Services may contain features or functions that enable interoperation with Third-Party Content that Customer, in its sole discretion, choose to add to a SaaS Service. Customer may be required to obtain access separately to such Third-Party Content from the respective providers, and Customer may be required to grant Crest Data Systems access to Customer accounts with such providers to the extent necessary for Crest Data Systems to allow the interoperation with the SaaS Service. By requesting or allowing Crest Data Systems to enable access to such Third-Party Content in connection with the SaaS Services, Customer certifies that Customer is an authorized user under the provider’s terms to allow such access. If Customer install or enable (or direct or otherwise authorize Crest Data Systems to install or enable) Third-Party Content for use with a SaaS Service where the interoperation includes access by the third-party provider to Customer Data, Customer hereby authorizes Crest Data Systems to allow the provider of such Third-Party Content to access Customer Data as necessary for the interoperation. Customer agrees that Crest Data Systems is not responsible or liable for disclosure, modification or deletion of Customer Data resulting from access to Customer Data by such Third-Party Content, nor is Crest Data Systems liable for any damages or downtime that Customer may incur or any impact on Customer’s experience of the SaaS Service, directly or indirectly, as a result of Customer’s use of and/or reliance upon, any Third-Party Content, sites or resources.
- 6.6. **Security; Breach Notification.** Crest Data Systems will follow the security practices in consistent with industry standard practices, implement and maintain physical, administrative and technical safeguards and other security measures: (a) to maintain the security and confidentiality of Customer Data; and (b) to maintain the availability and integrity of Customer Data and to protect Customer Data from known or reasonably anticipated threats or hazards to its security, including accidental loss, unauthorized use, access, alteration or disclosure. Crest Data Systems will inform Customer promptly upon discovery of any material unauthorized access to, any unauthorized loss, use or disclosure of any Customer Data (a “**Security Incident**”), provided that such notification is not prohibited by Law. Crest Data Systems will investigate the cause of the Security Incident and take reasonable steps to prevent further unauthorized access, loss, use or disclosure of Customer Data. At Customer’s request and cost, Crest Data Systems will reasonably cooperate with Customer in complying with its obligations under applicable law pertaining to responding to a Security Incident. Crest Data Systems’ obligation to report or respond to a Security Incident under this Section is not an acknowledgement by Crest Data Systems of any fault or liability with respect to the Security Incident.

## 6.7. Data Protection Legislation.

- 6.7.1. Each Party will comply with all Data Protection Laws, and any implementations of such Laws, applicable to its performance under the Agreement. The Parties acknowledge and agree that they will consider in good faith implementing any codes of practice and best practice guidance issued by relevant authorities as they apply to applicable country specific Data Protection Laws or their implementations.
- 6.7.2. Without limiting the generality of the foregoing, if Crest Data Systems is collecting or furnishing Personal Data to Customer or if Crest Data Systems is processing, storing or transferring Personal Data on behalf of Customer, then Crest Data Systems and Customer and/or their Affiliate(s), as applicable, will agree to supplemental privacy and security terms consistent with applicable Law. Unless Crest Data Systems and Customer expressly agree to be bound by other terms and conditions that reflect their respective legal obligations with respect to Personal Data, Crest Data Systems and Customer agree to the terms and conditions of the attached Data Processing Addendum. For the avoidance of doubt, no Personal Data should be processed or transferred under the Agreement without complying with the privacy and security terms provided in Data Processing Addendum and necessary for compliance with applicable Law.
- 6.8. **Remedies.** Each Party agrees that in the event of a breach or threatened breach of this Section 6, the non-breaching Party will be entitled to injunctive relief against the breaching Party in addition to any other remedies to which the non-breaching Party may be entitled.

## 7. Limitations of Liability.

- 7.1. IN NO EVENT WILL (A) EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) EITHER PARTY'S AGGREGATE LIABILITY UNDER THE AGREEMENT EXCEED THE FEES PAID UNDER THIS EULA IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE DAMAGES.

## 8. Indemnification.

- 8.1. **Crest Data Systems Indemnity.** Crest Data Systems will, at its expense, defend Customer and its Affiliates and their respective officers, directors, employees, agents and representatives (collectively "**Customer Indemnified Parties**") from and against any and all claims, actions, proceedings and suits brought by a third party, ("**Claims**") to the extent arising out of or alleging of any of the following and which are due to gross negligence or misconduct or bad faith of Crest Data Systems: (a) infringement, misappropriation or violation of any Proprietary Rights by the Licensed Materials or Customer's use thereof as permitted under the Agreement; and (b) any unauthorized access, use or disclosure of Customer Data resulting from breach of Crest Data Systems' obligations under the Privacy and Security Terms or any violation by Crest Data Systems of Data Protection Laws. Crest Data Systems will pay all costs, damages and amounts finally awarded by a court or agreed upon in settlement (as set forth in Section 8.3 below) and any government fines and penalties assessed against or incurred by Customer in any such Claims, however, the liabilities of the Crest Data Systems arise under this Section 8 shall be restricted upto the fees paid under this EULA in the 12 months preceding the event giving rise to the damages.
- 8.2. **Customer Indemnity.** Customer will, at its expense, defend Crest Data Systems and its Affiliates and their respective officers, directors, employees, agents and representatives (collectively "**Crest Data Systems Indemnified Parties**") from and against any and all Claims to the extent arising out of or alleging of any of the following and which are due to gross negligence or misconduct or bad faith of Customer: (a) infringement, misappropriation or violation of any Proprietary Rights by the Customer Materials or Customer Data or Crest Data Systems' use thereof as permitted under the Agreement; and (b) any unauthorized or unlawful receipt, processing, transmission or storage of Customer Data by Crest Data Systems in the performance of its obligations as permitted under the Agreement resulting from breach of Customer's obligations under Section 6.2.2. Customer will pay all costs, damages and amounts finally awarded by a court or agreed upon in settlement (as set forth in Section 8.3 below) and any government fines and penalties assessed against or incurred by Crest Data Systems in any such Claims, however, the liabilities of the Customer arise under this Section 8 shall be restricted upto the fees paid under this EULA in the 12 months preceding the event giving rise to the damages.

8.3. **Process.** The party(ies) seeking indemnification pursuant to this Section 8 (each, an “**Indemnified Party**” and collectively, the “**Indemnified Parties**”) will give the other Party (the “**Indemnifying Party**”) prompt notice of each Claim for which it seeks indemnification, provided that failure or delay in providing such notice will not release the Indemnifying Party from any obligations hereunder except to the extent that the Indemnifying Party is prejudiced by such failure. The Indemnified Parties will give the Indemnifying Party their reasonable cooperation in the defense of each Claim for which indemnity is sought, at the Indemnifying Party’s expense. The Indemnifying Party will keep the Indemnified Parties informed of the status of each Claim. An Indemnified Party may participate in the defense at its own expense. The Indemnifying Party will control the defense or settlement of the Claim, provided that the Indemnifying Party, without the Indemnified Parties’ prior written consent: (a) will not enter into any settlement that; (i) includes any admission of guilt or wrongdoing by any Indemnified Party; (ii) imposes any financial obligations on any Indemnified Party that Indemnified Party is not obligated to pay under this Section 8; (iii) imposes any non-monetary obligations on any Indemnified Party; and (iv) does not include a full and unconditional release of any Indemnified Parties; and (b) will not consent to the entry of judgment, except for a dismissal with prejudice of any Claim settled as described in (a). The Indemnifying Party will ensure that any settlement into which it enters for any Claim is made confidential, except where not permitted by applicable Law.

8.4. **Infringement Remedy.** In addition to Crest Data Systems’ obligations under Section 8.1, if the Product or other Licensed Materials is held, or in Crest Data Systems’ opinion is likely to be held, to infringe, misappropriate or violate any Proprietary Rights, or, if based on any claimed infringement, misappropriation or violation of Proprietary Rights, an injunction is obtained, or in Crest Data Systems’ opinion an injunction is likely to be obtained, that would prohibit or interfere with Customer’s use of the Licensed Materials under the Agreement, then within a reasonable time as agreed between the Parties, Crest Data Systems will at its option and expense either: (a) procure for Customer the right to continue using the affected Licensed Materials in accordance with the license granted under the Agreement; or (b) modify or replace the affected Licensed Materials so that the modified or replacement Licensed Materials are reasonably comparable in functionality, interoperability with other software and systems, and levels of security and performance and do not infringe, misappropriate or violate any third-party Proprietary Rights. If, in such circumstances, Crest Data Systems cannot not successfully accomplish any of the foregoing actions on a commercially reasonable basis, Crest Data Systems will notify Customer and either Party may terminate the Subscription and the Agreement. For clarity, Crest Data Systems’ indemnification and defense obligations under this Section include infringement Claims based on use of the Licensed Materials by Customer Indemnified Parties following an initial infringement Claim except that, if Crest Data Systems responds to an infringement Claim by accomplishing the solution in (b), Crest Data Systems will have no obligation to defend and indemnify Customer for infringement Claims arising from Customer’s use after the accomplishment of (b) of the infringing Licensed Materials for which Crest Data Systems provided modified or replacement Licensed Materials and a reasonable time to implement the modified or replacement Licensed Materials.

#### 8.5. **Limitations.**

8.5.1. Crest Data Systems will have no liability or obligation under this Section 8 with respect to any infringement Claim to the extent attributable to any: (a) modifications to the Licensed Materials not provided by Crest Data Systems or its Personnel; (b) use of the Product in combination with third-party equipment or software not provided or made accessible by Crest Data Systems or not specifically referenced for use with the Licensed Materials by the Product Listing or Documentation; or (c) use of the Licensed Materials by Customer in breach of the Agreement. Crest Data Systems’ liability under this Section 8 with respect to any infringement Claim that is attributable to use of the Product in combination with third-party equipment or software provided or made accessible by Crest Data Systems or specifically referenced by the Product Listing or Documentation is limited to Crest Data Systems’ proportional share of defense costs and upto the limit as specified under this Section 8.

8.5.2. Customer will have no liability or obligation under this Section 8 with respect to any infringement Claim to the extent attributable to any: (a) modifications to the Customer Materials or Customer Data not provided by Customer or its Personnel; or (b) use of the Customer Materials or Customer Data by Crest Data Systems in breach of the Agreement.

8.5.3. This Section 8 states the entire liability of Crest Data Systems with respect to infringement, misappropriation or violation of Proprietary Rights of third parties by any Licensed Materials or any part thereof or by any use thereof by Customer, and this Section 8 states the entire liability of Customer with



respect to infringement, misappropriation or violation of Proprietary Rights of third parties by any Customer Materials, Customer Data or any part thereof or by any use, receipt, storage or processing thereof by Crest Data Systems.

## **9. Term and Termination.**

9.1. **Term.** This EULA will continue in full force and effect until conclusion of the Subscription, unless terminated earlier by either Party as provided by this EULA.

9.2. **Termination.** Either Party may terminate the Subscription or this EULA if the other Party materially breaches the Agreement and does not cure the breach within 30 days following its receipt of written notice of the breach from the non-breaching Party. In the case of termination by Crest Data Systems pursuant to this Section does not prejudice Customer's right, and Crest Data Systems' obligation, to extract or assist with the retrieval or deletion of Customer Data as set forth in Section 9.3.2 following such termination.

### **9.3. Effect of Termination.**

9.3.1. Upon termination or expiration of the Subscription or the Agreement, Customer's right to use the Product licensed under such Subscription will terminate, and Customer's access to the Product and Service provided under such Subscription may be disabled and discontinued. Termination or expiration of any Subscription purchased by Customer from Crest Data Systems will not terminate or modify any other Subscription purchased by Customer from Crest Data Systems.

9.3.2. Within 7 days (or such other period as may be agreed upon by the Parties) following termination or expiration of any SaaS Service Subscription for any reason and on Customer's written request at any time before termination or expiration, Crest Data Systems will extract from the Crest Data Systems' Computing Environment and return to Customer all Customer Data. Customer Data must be provided or extractable in a then-current, standard nonproprietary format. Notwithstanding anything herein to the contrary, Crest Data Systems' duty to return or enable Customer's retrieval or deletion of the Customer Data pursuant to this Section 9.3.2 may be delayed but will not be discharged due to the occurrence of any Force Majeure event. Following delivery to Customer of the Customer Data and Customer's confirmation thereof, or Customer's retrieval or deletion of Customer Data and Crest Data Systems' validation thereof or expiration of the applicable period, whichever is soonest, Crest Data Systems may, and within a reasonable time thereafter will, permanently delete and remove Customer Data from its electronic and hard copy records and will, upon Customer's request, certify to such deletion and removal to Customer in writing. If Crest Data Systems is not able to delete any portion of the Customer Data or Customer Confidential Information, it will remain subject to the confidentiality, privacy and data security terms of the Agreement.

9.3.3. Sections 3 (Proprietary Rights), 5 (Confidentiality), 6.2. (Customer Data and Customer Materials), 7 (Limitations of Liability), 8 (Indemnification), 9.3 (Effect of Termination), 10 (Insurance), 11 (General) and 12 (Definitions), together with all other provisions of this EULA that may reasonably be interpreted or construed as surviving expiration or termination, will survive the expiration or termination of this EULA for any reason; but the nonuse and nondisclosure obligations of Section 5 will expire five years following the expiration or termination of the Agreement, except with respect to, and for as long as, any Confidential Information constitutes a trade secret.

## **10. Insurance.**

10.1. **Coverages.** Each Party will obtain and maintain appropriate insurance necessary for implementing and performing under the Agreement in accordance with applicable Law and in accordance with the requirements of this Section 10. Subject to Crest Data Systems' right to self-insure as described below, Crest Data Systems will at its own cost and expense, acquire and continuously maintain the following insurance coverage during the term of the Agreement:

10.1.1. Commercial General Liability insurance, including all major coverage categories with limits of \$1,000,000 per occurrence general aggregate, and \$5,000,000 products/completed operations aggregate;

10.1.2. Professional Liability insurance, with a limit of \$3,000,000 each claim and annual aggregate;

- 10.2. **Umbrella Insurance; Self-Insurance.** The limits of insurance may be satisfied by any combination of primary and umbrella/excess insurance. In addition, either Party may satisfy its insurance obligations specified in the Agreement through a self-insured retention program. Upon request by Customer, Crest Data Systems will provide evidence of Crest Data Systems' self-insurance program in a formal declaration (on Crest Data Systems' letterhead, if available) that declares Crest Data Systems is self-insured for the type and amount of coverage as described in Section 10.1. The declaration also must identify which required coverages are self-insured and which are commercially insured.
- 10.3. **Certificates and Other Requirements.** Prior to execution of the Agreement and annually thereafter during the term, Customer may request that Crest Data Systems furnish to Customer a certificate of insurance evidencing the coverages set forth above. Crest Data Systems' Commercial General Liability and any umbrella insurance relied upon to meet the obligations in this Section will be primary and non-contributory coverage and the policies will not contain any intra-insured exclusions as between insured persons or organizations.

## 11. General.

- 11.1. **Applicable Law.** This EULA will be governed and interpreted under the laws of the State of Delaware, excluding its principles of conflict of laws. The Parties agree that any legal action or proceeding relating to this EULA will be instituted solely in the state and federal courts located in Delaware. Each Party irrevocably submits to the jurisdiction of such courts, and each Party waives any objection that it may have to the laying of the venue of any such action or proceeding in the manner provided in this Section.
- 11.2. **Assignment.** Neither Party may assign or transfer the Agreement or any rights or delegate any duties herein without the prior written consent of the other Party, which will not be reasonably withheld, delayed or conditioned. Notwithstanding the foregoing, and without gaining the other Party's written consent, Crest Data Systems may assign the Agreement, in its entirety, and delegate its obligations to its Affiliates or to any entity acquiring all or substantially all of its assets, whether by sale of assets, sale of stock, merger or otherwise and Customer may assign the Agreement, in its entirety, to any Affiliates or entity acquiring all or substantially all of its assets related to Customer's account or the Customer's entire business, whether by sale of assets, sale of stock, merger or otherwise. Any attempted assignment, transfer or delegation in contravention of this Section will be null and void. This EULA will inure to the benefit of the Parties hereto and their permitted successors and assigns.
- 11.3. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and there are no other representations, understandings or agreements between the Parties relating to the subject matter hereof. This Agreement is solely between Customer and Crest Data Systems. Neither Amazon Web Services, Inc. nor any of its Affiliates are a party to this Agreement and none of them will have any liability or obligations hereunder. The terms and conditions of this Agreement will not be changed, amended, modified or waived unless such change, amendment, modification or waiver is in writing and signed by authorized representatives of the Parties. NEITHER PARTY WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THIS AGREEMENT (WHETHER PROFFERED ORALLY OR IN ANY QUOTATION, PURCHASE ORDER, INVOICE, SHIPPING DOCUMENT, ONLINE TERMS AND CONDITIONS, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN A WRITING SIGNED BY BOTH PARTIES.
- 11.4. **Export Laws.** Each Party will comply with all applicable customs and export control laws and regulations of the United States and/or such other country, in the case of Customer, where Customer or its Users use the Product or Services, and in the case of Crest Data Systems where Crest Data Systems provides the Product or Services. Each Party certifies that it and its Personnel are not on any of the relevant U.S. Government Lists of prohibited persons, including but not limited to the Treasury Department's List of Specially Designated Nationals and the Commerce Department's list of Denied Persons. Neither Party will export, re-export, ship, or otherwise transfer the Licensed Materials, Services or Customer Data to any country subject to an embargo or other sanction by the United States or other applicable jurisdiction.
- 11.5. **Force Majeure.** Neither Party will be liable hereunder for any failure or delay in the performance of its obligations in whole or in part, on account of riots, fire, flood, earthquake, explosion, epidemics, war, strike or labor disputes (not involving the Party claiming force majeure), embargo, civil or military authority, act of God, governmental action or other causes beyond its reasonable control and without the fault or negligence

of such Party or its Personnel and such failure or delay could not have been prevented or circumvented by the non-performing Party through the use of alternate sourcing, workaround plans or other reasonable precautions (a “**Force Majeure Event**”).

- 11.6. **Government Rights.** As defined in FARS §2.101, the Product and Documentation are “commercial items” and according to DFARS §252.227 and 7014(a)(1) and (5) are deemed to be “commercial computer software” and “commercial computer software documentation”. Consistent with FARS §12.212 and DFARS §227.7202, any use, modification, reproduction, release, performance, display or disclosure of such commercial software or commercial software documentation by the U.S. government will be governed solely by the terms of the Agreement and will be prohibited except to the extent expressly permitted by the terms of the Agreement.
- 11.7. **Headings.** The headings throughout this EULA are for reference purposes only, and the words contained therein will in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this EULA.
- 11.8. **No Third-Party Beneficiaries.** Except as specified in Section 8 with respect to Customer Indemnified Parties and Crest Data Systems Indemnified Parties, nothing express or implied in this EULA is intended to confer, nor will anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations or liabilities whatsoever.
- 11.9. **Notices.** To be effective, notice under this EULA must be given in writing. Each Party consents to receiving electronic communications and notifications from the other Party in connection with the Agreement. Each Party agrees that it may receive notices from the other Party regarding the Agreement: (a) by email to the email address designated by such Party as a notice address for the EULA; (b) by personal delivery; (c) by registered or certified mail, return receipt requested; or (d) by nationally recognized courier service. Notice will be deemed given upon written verification of receipt.
- 11.10. **Nonwaiver.** Any failure or delay by either Party to exercise or partially exercise any right, power or privilege under the Agreement will not be deemed a waiver of any such right, power or privilege under the Agreement. No waiver by either Party of a breach of any term, provision or condition of the Agreement by the other Party will constitute a waiver of any succeeding breach of the same or any other provision hereof. No such waiver will be valid unless executed in writing by the Party making the waiver.
- 11.11. **Publicity.** Neither Party will issue any publicity materials or press releases that refer to the other Party or its Affiliates, or use any trade name, trademark, service mark or logo of the other Party or its Affiliates in any advertising, promotions or otherwise, without the other Party’s prior written consent.
- 11.12. **Relationship of Parties.** The relationship of the Parties will be that of independent contractors, and nothing contained in this EULA will create or imply an agency relationship between Customer and Crest Data Systems, nor will this EULA be deemed to constitute a joint venture or partnership or the relationship of employer and employee between Customer and Crest Data Systems. Each Party assumes sole and full responsibility for its acts and the acts of its Personnel. Neither Party will have the authority to make commitments or enter into contracts on behalf of, bind, or otherwise oblige the other Party.
- 11.13. **Severability.** If any term or condition of this EULA is to any extent held invalid or unenforceable by a court of competent jurisdiction, the remainder of this EULA will not be affected thereby, and each term and condition will be valid and enforceable to the fullest extent permitted by law.
- 11.14. **Subcontracting.** Crest Data Systems may use Subcontractors in its performance under the Agreement, provided that: (a) Crest Data Systems remains responsible for all its duties and obligations hereunder and the use of any Subcontractor will not relieve or reduce any liability of Crest Data Systems or cause any loss of warranty under the Agreement; and (b) Crest Data Systems agrees to be directly liable for any act or omission by such Subcontractor to the same degree as if the act or omission were performed by Crest Data Systems such that a breach by a Subcontractor of the provisions of the Agreement will be deemed to be a breach by Crest Data Systems. The performance of any act or omission under the Agreement by a Subcontractor for, by or through Crest Data Systems will be deemed the act or omission of Crest Data Systems. Upon request, Crest Data Systems will identify to Customer any Subcontractors performing under the Agreement, including any that have access to Customer Data, and such other information reasonably requested by Customer about such subcontracting.

## 12. Definitions.

- 12.1. “**Affiliate**” means, with respect to a Party, any entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with such Party.
- 12.2. “**AWS Marketplace**” means the marketplace operated by Amazon Web Services, Inc. located at <https://aws.amazon.com/marketplace/> as it may be updated from time to time.
- 12.3. “**Customer Data**” means all data, records, files, information or content, including text, sound, video, images and software, that is (a) input or uploaded by Customer or its Users to or collected, received, transmitted, processed, or stored by Customer or its Users using the SaaS Service in connection with the Agreement, or (b) derived from (a). Customer Data is Confidential Information of Customer.
- 12.4. “**Customer Materials**” means any property, items or materials, including Customer Data, furnished by Customer to Crest Data Systems for Crest Data Systems’ use in the performance of its obligations under the Agreement.
- 12.5. “**Contractor**” means any third party contractor of Customer or other third party performing services for Customer, including outsourcing suppliers.
- 12.6. “**Data Protection Law**” means all data protection and privacy laws applicable to the processing of Personal Data under the Agreement, including Regulation 2016/679 (General Data Protection Regulation) (“**GDPR**”), and Cal. Civ. Code 1798.100 et seq. (California Consumer Privacy Act) (“**CCPA**”).
- 12.7. “**Documentation**” means and may include the user guides, manuals, instructions, specifications, notes, documentation, printed updates, “read-me” files, release notes and other materials related to the Product (including all information included or incorporated by reference in the applicable Product Listing), its use, operation or maintenance, together with all enhancements, modifications, derivative works, and amendments to those documents, that Crest Data Systems publishes or provides under the Agreement.
- 12.8. “**International Data Transfer Mechanism**” means the special protections that some jurisdictions require two or more parties that transfer information across international borders to adopt to make the transfer lawful, e.g., Standard Contractual Clauses, Binding Corporate Rules, or statutory obligations that require the parties to adopt certain technical, organizational, or contractual measures. “Transfer,” in the context of an International Data Transfer Mechanism, means to disclose or move personal data from a storage location in one jurisdiction to another, or to permit a party in one jurisdiction to access Personal Data that the other party stores in another jurisdiction that requires an International Data Transfer Mechanism.
- 12.9. “**Licensed Materials**” means the Product, Documentation and any other items, materials or deliverables that Crest Data Systems provides, or is obligated to provide, as part of a Subscription.
- 12.10. “**Crest Data Systems’ Computing Environment**” means the computing infrastructure and systems used by Crest Data Systems to provide the Product via SaaS Service.
- 12.11. “**Personal Data**” means information the Customer Data that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a data subject. “Personal Data” includes equivalent terms in other Data Protection Law, such as the CCPA-defined term “Personal Information,” as context requires, to the extent such information forms part of the Customer Data.
- 12.12. “**Personnel**” means a Party or its Affiliate’s directors, officers, employees, non-employee workers, agents, auditors, consultants, contractors, subcontractors and any other person performing services on behalf of such Party (but excludes the other Party and any of the foregoing of the other Party).
- 12.13. “**Privacy and Security Terms**” means Section 6.6, the attached Data Protection Addendum (if applicable), and any other terms and conditions regarding the privacy and security of data agreed upon by the parties that are a part of the Agreement, whether in an addendum or amendment to this EULA.
- 12.14. “**Product Listing**” means the description of Product and other product information listed on the AWS Marketplace and offered by Crest Data Systems, including Support Services and Crest Data Systems’ policies and procedures incorporated or referenced in the product information. The Product Listing may also describe,

incorporate or reference Crest Data Systems' security practices or disclosures concerning Open Source Software.

- 12.15. "**Product**" means the computer software and any associated data, content and services identified in the Product Listing that Crest Data Systems provides or is obligated to provide as part of a Subscription, including any patches, bug fixes, corrections, remediation of security vulnerabilities, updates, upgrades, modifications, enhancements, derivative works, new releases and new versions of the foregoing that Crest Data Systems provides, or is obligated to provide, as part of the Subscription.
- 12.16. "**Proprietary Rights**" means all intellectual property and proprietary rights throughout the world, whether now known or hereinafter discovered or invented, including, without limitation, all: (a) patents and patent applications; (b) copyrights and mask work rights; (c) trade secrets; (d) trademarks; (e) rights in data and databases; and (f) analogous rights throughout the world.
- 12.17. "**SaaS Service**" means access and use of the Product as deployed and hosted by Crest Data Systems in the Crest Data Systems' Computing Environment, and any software and other technology provided or made accessible by Crest Data Systems in connection therewith (and not as a separate product or service) that Customer is required or has the option to use in order to access and use the Product.
- 12.18. "**Services**" means all services and tasks that Crest Data Systems provides or is obligated to provide under the Agreement, including without limitation Support Services.
- 12.19. "**Subcontractor**" means any third party subcontractor or other third party to whom Crest Data Systems delegates any of its duties and obligations under the Agreement.
- 12.20. "**Subscription**" means a Product subscription for a specific use capacity purchased by Customer and fulfilled by Crest Data Systems for the licensing and provision of Product provided as a SaaS Service through Crest Data Systems' Computing Environment.
- 12.21. "**Support Services**" means the support and maintenance services for the Product that Crest Data Systems provides, or is obligated to provide, as described in the Product Listing.
- 12.22. "**System Data**" means data and data elements (other than Customer Data) collected by the Product/ SaaS Service or Crest Data Systems' Computer Environment regarding configuration, environment, usage, performance, vulnerabilities and security of the SaaS Service that may be used to generate logs, statistics and reports regarding performance, availability, integrity and security of the Product or SaaS Service.
- 12.23. "**Third Party Content**" means information, data, technology, or materials made available to Customer by any third party that Customer license and add to a SaaS Service or direct Crest Data Systems to install in connection with a SaaS Service. Third-Party Content includes but is not limited to, Third-Party Extensions, web-based or offline software applications, data service or content that are provided by third parties.
- 12.24. "**User**" means Customer, its Affiliates and any person or software program or computer systems authorized by Customer or any of its Affiliates to access and use the Product as permitted under the Agreement, including Contractors of Customer or its Affiliates.

## Data Processing Addendum

This Data Processing Addendum (this “**Addendum**”) is part of the End-User License Agreement for Managed Cloud Exchange (the “**EULA**”) between Crest Data Systems (who is the Processor) and Customer (who is the Controller) and governs Crest Data Systems’ processing of Personal Data in its capacity as a Processor in connection with Crest Data Systems’ provision of the Services it provides pursuant to the EULA. This Addendum shall only apply if Crest Data Systems and Customer have not entered into a separate data processing agreement or similar contractual arrangement with respect to the processing of Personal Data. All capitalized terms used but not defined in this Addendum have the meanings given to them in the EULA.

### Processing of Personal Data

#### I. Definitions

1. “**Controller**” means the entity that determines the purposes and means of the processing of Personal Data. “Controller” includes equivalent terms in other Data Protection Law, such as the CCPA-defined term “Business” or “Third Party,” as context requires.
2. “**Personal Data Breach**” means a confirmed breach of security of the Services that caused an accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data, or an event that qualifies as a reportable data breach under applicable Data Protection Law.
3. “**Processor**” means an entity that processes personal data on behalf of another entity. “Processor” includes equivalent terms in other Data Protection Law, such as the CCPA-defined term “Service Provider,” as context requires.
4. “**Sensitive Data**” means the following types and categories of data: data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership; genetic data; biometric data; data concerning health, including protected health information governed by the Health Insurance Portability and Accountability Act; data concerning a natural person’s sex life or sexual orientation; government identification numbers (e.g., SSNs, driver’s license); payment card information; nonpublic personal information governed by the Gramm-Leach-Bliley Act; an unencrypted identifier in combination with a password or other access code that would permit access to a data subject’s account; and precise geolocation.

#### II. International Data Transfers

1. **International Data Transfer.** Before Customer transfers Personal Data to Crest Data Systems, or permits Crest Data Systems to access Personal Data located in a jurisdiction that requires an International Data Transfer Mechanism, Customer will notify Crest Data Systems of the relevant requirement and the parties will work together in good faith to fulfill the requirements of that International Data Transfer Mechanism. The parties will institute and comply with any International Data Transfer Mechanism that may be required by applicable Data Protection Law.

#### III. Data Protection generally

1. **Compliance.** The parties will comply with their respective obligations under Data Protection Law and their respective privacy notices.
2. **Confidentiality.** Crest Data Systems will restrict access to Personal Data to those authorized persons who need such information to provide the Services. Such authorized persons are obligated to maintain the confidentiality of any Personal Data.
3. **Security.** Crest Data Systems will implement appropriate technical and organizational measures to ensure a level of security appropriate to the Personal Data provided by Customer and processed by Crest Data Systems. Such security measures will be at least as protective as the security requirements set forth in the EULA. When choosing security controls, Crest Data Systems will consider the state of the art, the cost of implementation, the nature, scope, context, and purposes of Personal Data processing, and the risk to data subjects of a security incident or Personal Data Breach affecting Personal Data.

4. **Retention.** Personal Data received from Customer will be retained only for so long as may be reasonably required in connection with Crest Data Systems' performance of the EULA or as otherwise required under Data Protection Law.
5. **Cooperation.** Crest Data Systems will cooperate to the extent reasonably necessary in connection with Customer's requests related to data protection impact assessments and consultation with supervisory authorities and for the fulfillment of Customer's obligation to respond to requests for exercising a data subject's rights under Data Protection Law. Crest Data Systems reserves the right to charge Customer for its reasonable costs in collecting and preparing Personal Data for transfer and for any special arrangements for making the transfer.
6. **Third Party Requests.** If Crest Data Systems receives a request from a third party in connection with any government investigation or court proceeding that Crest Data Systems believes would require it to produce any Personal Data, unless legally prohibited, Crest Data Systems will inform Customer in writing of such request and cooperate with Customer if Customer wishes to limit, challenge or protect against such disclosure, to the extent permitted by applicable Law.
7. **Instructions from the Customer.** Notwithstanding anything in the EULA to the contrary, Crest Data Systems will only process Personal Data in order to provide the Services to Customer, in accordance with Customer's written instructions, as permitted by the last sentence of Section III.8 below, or as required by applicable Law. Crest Data Systems will promptly inform Customer if following Customer instructions would result in a violation of Data Protection Law or where Crest Data Systems must disclose Personal Data in response to a legal obligation (unless the legal obligation prohibits Crest Data Systems from making such disclosure).
8. **Scope of Processing.** Crest Data Systems is prohibited from: (a) Selling (as such term is defined in the CCPA) Personal Data, (b) retaining, using, or disclosing Personal Data for any purpose other than for the specific business purpose of performing Customer's documented instructions for the business purposes defined in this Addendum, including retaining, using, or disclosing the Personal Data for a commercial purpose other than performing Customer's instructions, or (c) retaining, using, or disclosing the Personal Data outside of the direct business relationship between the parties as defined in the EULA and this Addendum. Crest Data Systems certifies that it understands these restrictions. Notwithstanding the foregoing, Crest Data Systems may process Personal Data to retain or employ another person as a sub-Processor (as defined in Section III.10 below) in accordance with this Addendum, for internal use by the Crest Data Systems to improve the quality of its services (provided that Crest Data Systems does not use the Personal Data to perform services on behalf of another person), or to detect data security incidents or protect against malicious, deceptive, fraudulent or illegal activity.
9. **Sensitive Information.** Customer will inform Crest Data Systems if Personal Data is Sensitive Data.
10. **Sub-processors.** Customer grants Crest Data Systems general authorization, as a processor, to engage other processors ("Sub-processors") to assist in providing the Services consistent with the EULA. Crest Data Systems will make a list of such Sub-processors accessible to Customer prior to transferring any Personal Data to such Sub-processors. Crest Data Systems will notify Customer of any changes to the list of Sub-processors by updating such list from time to time in order to give Customer an opportunity to object to such changes.
11. **Sub-processor Liability.** Where Crest Data Systems engages a Sub-processor for carrying out specific processing activities on behalf of Customer, substantially similar data protection obligations as set out in this Addendum will be imposed on that Sub-processor by way of a contract, in particular providing sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing will meet the requirements of Data Protection Law. Crest Data Systems will be liable for the acts or omissions of its Sub-processors to the same extent as Crest Data Systems would be liable if performing the services of the Sub-processor directly.
12. **Recordkeeping.** Upon a request issued by a supervisory authority for records regarding Personal Data, Crest Data Systems will cooperate to provide the supervisory authority with records related to processing activities performed on Customer's behalf, including information on the categories of Personal Data processed and the purposes of the processing, the use of service providers with respect to such processing,

any data disclosures or transfers to third parties and a general description of technical and organizational measures to protect the security of such data.

13. **Transfer of Personal Data; Appointment.** Customer authorizes Crest Data Systems to transfer, store or process Personal Data in the United States or any other country in which Crest Data Systems or its Sub-processors maintain facilities. Customer appoints Crest Data Systems to perform any such transfer of Personal Data to any such country and to store and process Personal Data in order to provide the Services. Crest Data Systems will conduct all such activity in compliance with the EULA, this Addendum, data protection Law, any applicable International Data Transfer Mechanism and Customer's instructions.
14. **Deletion or Return.** When instructed by Customer, Crest Data Systems will delete any Personal Data or return it to Customer in a secure manner and delete all remaining copies of Personal Data after such return except where otherwise required under applicable Law. Crest Data Systems will relay Customer's instructions to all Sub-processors.
15. **Breach Notification.** After becoming aware of a Personal Data Breach, Crest Data Systems will notify Customer without undue delay of: (a) the nature of the Personal Data Breach; (b) the number and categories of data subjects and data records affected; and (c) the name and contact details for the relevant contact person at Crest Data Systems.
16. **Audits.** Crest Data Systems will supply Customer with any information in its possession or control reasonably requested by Customer to demonstrate its compliance with this Addendum and with Crest Data Systems' legal obligations under the applicable Data Protection Law. Crest Data Systems agrees to reasonably assist (taking into account the number of resources and time required) in responding to any data protection authority requests that Customer receives by (a) providing additional information regarding the Personal Data processing implied in the Services; or (b) allowing for an on-site inspection or audit. The Parties will mutually determine the scope, timing, and duration of any inspection/audit, including the selection of any third-party inspector/auditor requested by Customer to help conduct it. Customer will promptly notify Crest Data Systems of any non-conformance discovered during the inspection/audit.