



HORIZON 3 AI, INC.
TERMS OF SERVICE AND LICENSE AGREEMENT

YOU AGREE TO ACCESS AND USE THE SERVICES (AS DEFINED BELOW) MADE AVAILABLE TO YOU BY HORIZON 3 AI, INC. (“**HORIZON 3 AI**”) SOLELY IN ACCORDANCE WITH THESE TERMS AND CONDITIONS (THIS “**AGREEMENT**”). YOUR ACCESS AND USE OF THE SERVICES IS EXPRESSLY CONDITIONED ON YOUR ACCEPTANCE OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT YOU MAY NOT ACCESS OR USE THE SERVICES.

IF YOU ARE USING THE SERVICES ON BEHALF OF A COMPANY, ENTITY, OR ORGANIZATION (COLLECTIVELY, THE “**CUSTOMER**”) THEN YOU REPRESENT AND WARRANT THAT YOU: (I) ARE AN AUTHORIZED REPRESENTATIVE OF THE CUSTOMER WITH THE AUTHORITY TO BIND SUCH CUSTOMER TO THE TERMS AND CONDITIONS OF THIS AGREEMENT; (II) HAVE READ THIS AGREEMENT; (III) UNDERSTAND THIS AGREEMENT; AND (IV) AGREE TO THIS AGREEMENT ON BEHALF OF SUCH CUSTOMER AND THE CUSTOMER IS BOUND BY AND A PARTY TO THIS AGREEMENT. HORIZON 3 AI AND CUSTOMER MAY BE REFERRED TO HEREIN COLLECTIVELY AS THE “**PARTIES**” OR INDIVIDUALLY AS A “**PARTY**.”

1. DEFINITIONS.

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| <p>1.1 “Asset” means a unique system, host, device, service, or other resource identified by the NodeZero platform as a single asset instance, based on NodeZero’s asset correlation algorithm. That algorithm correlates and matches across a number of attributes including, but not limited to, hostname, IP address and subnet, external domain name and associated CNAMEs, MAC address, cloud resource identifiers, operating system fingerprints, SSL certificates, etc.</p> <p>1.2 “Authorized User” means Customer's employees, consultants, contractors, and agents: (i) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement; and (ii) for whom access to the Services has been purchased hereunder.</p> <p>1.3 “Customer Data” means any information, data, or content provided by Customer through the Services. For the avoidance of doubt, Customer Data does not include Usage Data, user interaction data, or similar platform analytics that may be collected by Horizon3.ai</p> <p>1.4 “Documentation” means Horizon 3 AI's user manuals, handbooks, guides, technical specifications, and all other similar materials relating to the Services provided by Horizon 3 AI to Customer.</p> <p>1.5 “DPA” means the Data Processing Agreement located at https://trust.horizon3.ai/, which governs the processing of any Customer Data and Personal Data as defined in the DPA. The DPA is incorporated herein by reference.</p> <p>1.6 “Horizon 3 AI IP” means all intellectual property and proprietary materials owned, developed, or</p> | <p>licensed by Horizon 3 AI, whether pre-existing or created during the course of providing the Services. This includes, without limitation, software, algorithms, tools, processes, analytics models, threat intelligence, configurations, techniques, documentation, templates, scripts, interfaces, data models, dashboards, and any updates, enhancements, modifications, or derivative works thereof. Horizon 3 AI IP also includes all aggregated and/or anonymized data, Usage Data and feedback derived from Customer’s use of the Services, provided such data does not identify or relate specifically to an individual customer or customer system. Nothing in this Agreement shall be construed to transfer any ownership rights in the Horizon 3 AI IP to the Customer.</p> <p>1.7 “Order Form” means the Order Form(s) (including attachments thereto) which are provided by Horizon 3 AI to Customer pursuant to this Agreement and executed by the Parties, as such may be amended in writing from time to time by the Parties. All Order Forms are incorporated into this Agreement by reference. In the event Customer purchases the Services through a Horizon 3 AI Partner (as defined in Section 3.3), the applicable order form shall be the order form between Customer and the Partner.</p> <p>1.8 “Fully Qualified Domain Name” or “FQDN” means the complete domain name that uniquely identifies a host on a network.</p> <p>1.9 “Licensed Web Application” means a unique web application identified by the Services based on its Fully Qualified Domain Name (“FQDN”). Unless otherwise expressly agreed by Horizon 3 AI in writing, each unique FQDN constitutes one (1) Licensed Web Application for licensing purposes.</p> |
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Different FQDNs (for example, app.example.com and api.example.com) are separate Licensed Web Applications. URLs, paths, query strings, protocols, and ports associated with the same FQDN are considered part of the same Licensed Web Application.

- 1.10 **“Services”** means the Horizon 3 AI software-as-a-service offering described in an Order Form, including the Documentation and any updates that Horizon 3 AI may, in its sole discretion, make to the Services from time-to-time. Any updates will not materially diminish the functionality of the Services during an Order Form Term.
- 1.11 **“Telemetry Data”** means diagnostic and performance-related data collected from Customer interactions with the Services. This data is used for Service enhancements but does not contain Customer Data or personally identifiable information as further defined under applicable privacy law(s).
- 1.12 **“Threat Intelligence Data”** means anonymized security insights derived from Usage Data. This data is used to improve cybersecurity defenses while ensuring individual Customer details remain confidential and private.
- 1.13 **“Usage Data”** means data related to Customer’s use of the Services, including but not limited to, Telemetry Data, Threat Intelligence Data, configuration, deployment, access, and performance of Horizon 3 AI’s services. This may include information about the operating environment, such as network and systems architecture, sessions, page loads, session views, duration, interactions, errors, number of searches, source types, format, ingest volume, number of active and licensed users, or search concurrency. This data is used for analytics, security improvements, and operational insights but does not contain identifiable Customer Data.

2. ACCESS AND USE.

- 2.1 **Provision of Access.** Subject to and conditioned on Customer's payment of Fees (as defined in Section 3.1) and compliance with all the terms and conditions of this Agreement, Horizon 3 AI hereby grants Customer a non-exclusive, limited, non-transferable (except in compliance with Section 10.7), royalty free, worldwide right to access and use the Services during the applicable Order Form Term for its internal business purposes. Customer may permit Authorized Users to use the Services in accordance with the terms and conditions herein. Customer is granted a perpetual, irrevocable license to use any data, reports, analysis, or other content that result from Customer’s use of the Services. To the extent Customer purchases Web Application functionality

under an applicable Order Form, Customer may use such functionality only with the number of Licensed Web Applications purchased under that Order Form. Customer will use the Services in accordance with applicable laws and regulations.

- 2.2 **Customer Data.** Customer owns all right, title, and interest, including all intellectual property rights, in and to Customer Data. Customer is solely responsible for the accuracy and legality of, and the means by which Customer acquires, Customer Data. Customer hereby grants, and hereby represents, warrants, and covenants that it has all rights necessary to grant to Horizon 3 AI, a non-exclusive, royalty-free, worldwide license to access, display, use and reproduce Customer Data as may be necessary for Horizon 3 AI to provide the Services to Customer.
- 2.3 **Usage Data.** Customer acknowledges that Horizon 3 AI in delivering the Services may generate Usage Data based on Customer Data input into the Services. Customer hereby grants to Horizon 3 AI, a non-exclusive, royalty-free, worldwide license to use Customer Data to generate Usage Data as may be necessary for Horizon 3 AI to provide the Services. As between Horizon 3 AI and Customer, all right, title, and interest in Usage Data, and all intellectual property rights therein, belong to and are retained solely by Horizon 3 AI. Customer agrees that Horizon 3 AI may: (i) use Usage Data to operate, maintain, secure and improve the Services; and (ii) make Usage Data publicly available for industry benchmark reports, threat intelligence summaries including Threat Intelligence Data, statistical analyses of attack patterns and remediation trends, provided that such Usage Data does not identify Customer, its Authorized Users, or disclose Customer Data or Customer's Confidential Information (as defined in Section 4.1).
- 2.4 **Customer Responsibilities.** Customer is responsible and liable for all uses of the Services and is responsible for all acts and omissions of Authorized Users. Customer is responsible for defining the scope of the Services, including identifying the systems, environments, Assets, and Licensed Web Applications to be tested, whether for internal or external testing. Customer remains solely responsible for ensuring that any external penetration testing is properly authorized and complies with all applicable third-party terms, conditions, and requirements.
- 2.5 **Use Restrictions.** Customer shall not use the Services for any purposes beyond the scope of the access granted in this Agreement. Without limiting the generality of the foregoing, Customer shall not at



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any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Services, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services or Documentation; (v) use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; (vi) conduct any benchmarking of the Services against any competing products or services; or (vii) use the Services and/or Documentation for the purpose of developing a product or service that may be competitive with the Services.

2.6 Evaluation Use. If Customer is accessing the Service for evaluation, testing, or proof-of-concept purposes (“**Evaluation Use**”), such use is permitted solely for a limited period of thirty (30) days (unless extended in writing by [Horizon 3 AI](#)), only for Customer’s internal evaluation of the Service, and not for production or commercial use. The Service is provided “as is” for Evaluation Use, without warranties of any kind, and [Horizon 3 AI](#) disclaims all liability arising out of such use to the fullest extent permitted by law. Evaluation Use is also subject to the confidentiality obligations in the NDA between the parties.

2.7 AI and Model Training Restrictions. Customer shall not, and shall not permit any Authorized Users or third parties to, use the Services, any data or content generated by the Services (including without limitation, telemetry, output logs, command responses, or attack simulation data), or any portion thereof, to directly or indirectly train, fine-tune, or improve any machine learning, artificial intelligence, or automated decision-making system, including without limitation models designed to detect, emulate, or respond to cybersecurity threats or attacks. This prohibition applies regardless of whether such systems are for internal use or commercial distribution and whether trained alone or in combination with other data. Any such use is strictly prohibited and constitutes a material breach of this Agreement.

2.8 Suspension. Horizon 3 AI may temporarily suspend Customer’s or any Authorized User’s access to the Services if: (i) Horizon 3 AI reasonably determines that: (a) there is a threat or attack on its systems; (b)

Customer’s or an Authorized User’s use of the Services poses a security risk or disrupts Horizon 3 AI’s systems or other customers; (c) Customer or an Authorized User is using the Services for fraudulent or illegal activities; or (d) providing the Services to Customer is prohibited by law; or (ii) Horizon 3 AI’s access to third-party services required for Customer’s use of the Services has been suspended or terminated. Horizon 3 AI will use commercially reasonable efforts to notify Customer of any suspension and to restore access as soon as the issue is resolved. Horizon 3 AI is not liable for any damages, losses (including data or profits), or other consequences resulting from a Service suspension.

2.9 Monitoring and Law Enforcement. Horizon 3 AI reserves the right to monitor access to and usage of the Services and to edit, remove, or disable access to Customer Data, with reasonable notice to Customer. Additionally, Horizon 3 AI may investigate any violations of this Agreement, or activities affecting the Services and reserves the right to cooperate with law enforcement authorities in such matters. Unless prohibited by law, Horizon 3 AI will promptly notify Customer of any law enforcement inquiries related specifically to Customer’s or its Authorized Users’ use of the Services.

2.10 Reservation of Rights. Except for the limited rights and licenses expressly granted to Customer in this Agreement, nothing in this Agreement grants to Customer, by implication, waiver, estoppel, or otherwise, any right, title, or interest in or to any intellectual property rights, including in any software, the Services or any other Horizon 3 AI IP. Horizon 3 AI reserves all rights not expressly granted to Customer under this Agreement.

3. FEES.

3.1 Fees. Customer shall pay Horizon 3 AI the fees (“**Fees**”) as set forth in the applicable Order Form without offset or deduction. All Fees will be due and payable within thirty (30) calendar days of Customer’s receipt of the applicable invoice. All Order Forms are non-cancelable, and all Fees are non-refundable, unless otherwise agreed to by the Parties.

3.2 Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Horizon 3 AI’s income.



- 3.3 Resale Purchases; Partner Transactions.** If Customer purchases the Services through a Horizon 3 AI authorized reseller, distributor, or other channel partner (“**Partner**”), the commercial terms in this Section 3, including, but not limited to, fees, discounts, invoicing, payment and taxes shall not apply. Any terms of sale shall otherwise be solely between Customer and the Partner pursuant to an agreement between Customer and the Partner. All other terms of this Agreement shall remain in full force and effect and apply to Customer’s use of the Services.
- 3.4 Overages.** If Horizon 3 AI determines, through its monitoring or audit rights under this Agreement, that Customer has exceeded the scope of the licensed use of the Services (including, without limitation, the quantity of purchased Asset licenses and/or Licensed Web Applications specified in an applicable Order Form), Horizon 3 AI will notify Customer in writing of such excess use and the corresponding Fees due, calculated at Horizon 3 AI’s then-current list prices. Customer shall remit full payment of such fees within thirty (30) calendar days of receiving such notice. Failure to timely pay such amounts after such notice shall constitute a material breach of this Agreement and is subject to Section 9.2 (Termination for Cause).
- 3.5 Review.** Horizon 3 AI shall have the right, no more than once per twelve (12) month period and upon at least ten (10) business days’ prior written notice, to audit Customer’s use of the Services to verify compliance with the terms of this Agreement, including but not limited to usage limitations, access restrictions, and licensing metrics. Such review may be conducted remotely or, if reasonably necessary, at Customer’s facilities during normal business hours, and shall be conducted in a manner that does not unreasonably interfere with Customer’s business operations. Horizon 3 AI may perform the review itself or engage an independent third-party auditor, provided that such auditor is (i) mutually agreed upon by the parties (such agreement not to be unreasonably withheld or delayed), and (ii) bound by written confidentiality obligations no less protective than those set forth in this Agreement. Customer agrees to cooperate in good faith with any such review and to provide access to all relevant records, systems, and personnel as reasonably requested by Horizon 3 AI or its authorized auditor. If any review reveals that Customer has exceeded the usage permitted under this Agreement, Customer shall promptly pay any additional fees due based on Horizon 3 AI’s then-current pricing. If the overage exceeds five percent (5%) of the fees paid during the applicable review period, Customer shall also

reimburse Horizon 3 AI for the reasonable costs of conducting the review.

4. CONFIDENTIAL INFORMATION.

- 4.1 “Confidential Information”** is information that one Party provides to the other in connection with this Agreement, orally or in writing, that is designated as confidential or that reasonably should be considered confidential given its nature or the circumstances of disclosure. Confidential Information of Customer includes, without limitation, Customer Data, and Confidential Information of Horizon 3 AI includes, without limitation, Horizon 3 AI IP. Confidential Information does not include information that was, at the date of disclosure, or subsequently becomes, (i) generally known or available to the public through no act or failure to act by the receiving Party; (ii) was rightfully known, without restrictions, by the receiving Party prior to receiving such information; (iii) was rightfully acquired by the receiving Party, without restrictions, from a third party who has the right to disclose such information; or (iv) was independently developed by or for the receiving Party without use of or reference to any Confidential Information of the disclosing Party. The receiving Party may disclose Confidential Information if it is required to be disclosed pursuant to a valid order by a court or other government entity with jurisdiction, provided that the receiving Party provides the disclosing Party with prompt written notice of such order in order to permit the disclosing Party to challenge such disclosure.
- 4.2** Each Party agrees to maintain the confidentiality of Confidential Information received during or prior to entering into this Agreement using the degree of care that it uses to protect its own Confidential Information of a similar kind, but in no event less than reasonable care.
- 4.3** The terms of this Agreement and other Confidential Information may be disclosed confidentially to advisors, attorneys, bona fide potential acquirers, investors, or other funding sources for due diligence or by either Party to a government or regulatory authority with jurisdiction over it or its affiliates or its or their representatives in connection with an examination in the course of such authority’s regulatory oversight of such Party or its affiliates. Furthermore, the receiving Party may disclose Confidential Information to its employees, representatives, and other agents (“**Representatives**”) who have a need to know the Confidential Information for purposes of this Agreement, and who are required to protect the Confidential Information under the terms of a written



agreement with restrictions at least as protective as those herein.

- 4.4** Upon termination or expiration of this Agreement or any Order Form, the receiving Party will return or destroy the disclosing Party's Confidential Information in its possession or control, including permanent removal from any storage devices or other hosting environments in receiving Party's possession or control, and, at the request of the disclosing Party, certify in writing that such Confidential Information has been returned, destroyed, or deleted, except that the receiving Party shall not be required to destroy or deliver to the disclosing Party Confidential Information to the extent retention is required by law, regulation, rule, legal or judicial process or audit requirements, inquiries by a regulator, examiner or self-regulatory organization, document retention or other internal compliance policy, or automated backup or archiving procedures; provided that all such retained Confidential Information will be held subject to the terms of this Section 4.

5. INTELLECTUAL PROPERTY OWNERSHIP; FEEDBACK.

- 5.1 Intellectual Property Ownership.** As between the Parties, each Party retains all right, title, and interest, including all Intellectual Property Rights, in and to its respective intellectual property, whether owned or controlled by such Party prior to the Effective Date or developed by or for such Party independently of this Agreement ("**Background IP**"). Except for the limited rights and licenses expressly granted in this Agreement, nothing in this Agreement shall be construed to transfer, assign, or grant any ownership interest in either Party's Background IP to the other Party, whether by implication, waiver, estoppel, or otherwise.
- 5.2 Feedback.** If Customer or any of its Authorized Users suggest or recommend changes to the Horizon 3 AI IP, including, without limitation, new features or functionality relating thereto, or provide any comments, questions, suggestions, or the like related to Horizon 3 AI's business or offerings ("**Feedback**"), Customer agrees that Horizon 3 AI owns and is free to use such Feedback for any purpose, without any attribution or compensation to Customer or its Authorized Users. Horizon 3 AI is not required to use any Feedback and if it does use such Feedback, it agrees not to mention Customer.

6. LIMITED WARRANTIES; WARRANTY DISCLAIMER.

- 6.1 Mutual Warranties.** Each Party warrants to the other that: (i) it has the authority and capability to enter into this Agreement and to perform its

obligations hereunder, including, with respect to Customer, authorizing internal and external penetration testing on systems, assets and Licensed Web Applications defined by Customer; (ii) the execution, delivery, and performance of this Agreement by such Party have been duly authorized and will not violate any applicable laws, regulations, or contractual obligations; (iii) it has obtained all necessary consents, licenses, and approvals required for the performance of its obligations under this Agreement; (iv) this Agreement constitutes a valid and binding obligation, enforceable in accordance with its terms; and (v) it will comply with all applicable laws, regulations, and industry standards in connection with this Agreement.

- 6.2 Customer Warranties.** Customer warrants that it has the authority to use the Services as described in this Agreement. Customer represents and warrants it owns or otherwise has rights to use and permit Horizon 3 AI to use the Customer Data as contemplated in the Agreement.

- 6.3 Performance Warranty.** During the term of this Agreement, Horizon 3 AI hereby warrants that the Services will conform in all material respects to the then-current Documentation. Customer will have thirty (30) days following the initial provision of the Services to notify Horizon 3 AI of a breach of the foregoing warranty, in which event, Horizon 3 AI's entire liability and Customer's sole and exclusive remedy will be for Horizon 3 AI to reperform, modify, or replace the Services so that they conform to such warranty. Any remedy provided by Horizon 3 AI will not extend the initial provision of the Services or any applicable update thereto. Horizon 3 AI will have no obligation under this Agreement to correct, and Horizon 3 AI makes no warranty with respect to, errors caused by or relating to: (i) use of the Services in a manner inconsistent with the Documentation or this Agreement; or (ii) third party hardware or software, including misuse, modification, or malfunction of either of the foregoing.

- 6.4 Support.** Horizon 3 AI will provide the support services described at <https://www.horizon3.ai/support-policy/>, as such policy may be updated from time-to-time by Horizon 3 AI in its sole discretion.

- 6.5 Disclaimer.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS EXPRESSLY PROVIDED HEREIN, ALL HORIZON 3 AI IP PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, THE SERVICES, IS PROVIDED



"AS IS" AND HORIZON 3 AI DOES NOT MAKE, AND HEREBY DISCLAIMS, ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. HORIZON 3 AI SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. HORIZON 3 AI MAKES NO WARRANTY OF ANY KIND THAT THE HORIZON 3 AI IP OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, IDENTIFY ALL VULNERABILITIES OR WEAKNESSES IN CUSTOMER'S SYSTEMS, ASSETS, OR LICENSED WEB APPLICATIONS, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

7. INDEMNIFICATION.

- 7.1 Horizon 3 AI Indemnification.** Horizon 3 AI shall defend Customer from and against any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") alleging that the Services infringe such third-party's U.S. intellectual property rights and shall pay all amounts finally awarded by a court of competent jurisdiction or agreed to in settlement; provided that the foregoing obligation shall not apply with respect to any Third-Party Claim based in whole or in part upon: (i) Horizon 3 AI's compliance with Customer's specifications; (ii) Customer's use of the Services in combination with data, software, hardware, equipment, or technology not provided or expressly authorized by Horizon 3 AI in writing. If the Services or any component thereof become, or in the opinion of Horizon 3 AI, are likely to become, the subject of a Third-Party Claim (each an "**Allegedly Infringing Item**"), then Horizon 3 AI will use reasonable efforts, at its cost and expense, to: (a) procure for Customer the right to continue using the Allegedly Infringing Item at no additional cost to Customer; (b) replace or modify, in whole or in part, the Allegedly Infringing Item to make the Services no longer infringing; or (c) if neither (a) nor (b) are reasonably commercially available to Horizon 3 AI and the Allegedly Infringing Item is a material part of the Services, either Party may terminate this Agreement, effective immediately on written notice, and Horizon 3 AI will provide to Customer a refund

of unused, prepaid Fees for the remainder of the then-current Order Form Term.

- 7.2 Customer Indemnification.** Customer shall defend Horizon 3 AI and its affiliates, and its and their respective employees, contractors, agents, representatives, successors, and assigns from and against any Third-Party Claim (and pay all amounts finally awarded by a court of competent jurisdiction or agreed to in settlement): (i) alleging that Customer Data, or any use of Customer Data in accordance with this Agreement, infringes or misappropriates such third party's rights; (ii) related to Customer's or any Authorized User's (a) gross negligence or willful misconduct; (b) use of the Services in a manner not authorized by this Agreement; or (c) use of the Services in combination with data, software, hardware, equipment, or technology not provided or expressly authorized by Horizon 3 AI in writing; and (iii) related to the probing, testing, scanning, analyzing, infiltrating, or intruding into Customer's IT systems hosted in the cloud, by a third party, or within Customer's IT environment.
- 7.3 Indemnity Procedures.** The Party seeking indemnification (the "**Indemnified Party**") will provide the Party from whom indemnification is sought (the "**Indemnifying Party**"): (i) prompt written notice of any Third-Party Claim (provided that the Indemnified Party's failure to provide such notice will not relieve the Indemnifying Party of its obligations hereunder except to the extent material prejudice results from such failure); (ii) sole control over the defense and settlement of the Third-Party Claim as described above (provided that the Indemnifying Party may not settle any Third-Party Claim in a manner that imposes any obligation of any kind on the part of the Indemnified Party, other than a monetary obligation, without the Indemnified Party's prior written consent, not to be unreasonably withheld, conditioned, or delayed); and (iii) all reasonable cooperation, at the Indemnifying Party's request and expense, in the defense and settlement of the Third-Party Claim. The Indemnified Party may participate in the defense or settlement of any such claim at its own expense and with its own choice of counsel or, if the Indemnifying Party refuses to fulfill its obligation of defense, the Indemnified Party may defend itself and seek reimbursement from the Indemnifying Party.
- 7.4 Sole Remedy for IP Infringement.** SECTION 7.1 SETS FORTH HORIZON 3 AI'S SOLE AND EXCLUSIVE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, FOR ANY CLAIM OF INFRINGEMENT OF A THIRD-



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PARTY'S INTELLECTUAL PROPERTY RIGHTS.

8. LIMITATIONS OF LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (i) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (ii) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (iii) LOSS OF GOODWILL OR REPUTATION; (iv) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (v) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO HORIZON 3 AI UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING EXCLUSION AND LIMITATION OF LIABILITY WILL NOT APPLY TO: (A) A PARTY'S INDEMNITY OBLIGATIONS; OR (B) A PARTY'S GROSS NEGLIGENCE, FRAUD, OR WILLFUL MISCONDUCT.

9. TERM AND TERMINATION.

9.1 Term of Agreement; Order Form Term. This Agreement commences on the Effective Date and continues until all Order Forms have expired or been terminated. Subscriptions to the Services commence on the Order Form Start Date and continue for the Order Form Term, both as specified in the applicable Order Form. Following the initial Order Form Term, and unless otherwise agreed to by the Parties, the Order Form will automatically renew for additional [one (1) year] terms, unless either Party gives the other Party written notice (email acceptable) of non-renewal at least thirty (30) days prior to the end of the

then-current term. Any pricing changes for renewal terms will be reflected on the renewal invoices.

9.2 Termination for Cause. A Party may terminate this Agreement or an Order Form: (i) upon thirty (30) days' written notice to the other Party of a material breach of this Agreement (including, for the avoidance doubt, any material breach arising under Section 3.1 if such breach remains uncured at the expiration of such period, or (ii) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

9.3 Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement (or an Order Form), Customer shall immediately discontinue use of the Horizon 3 AI IP and, without limiting Customer's obligations under Section 4, Customer shall delete, destroy, or return all copies of the Documentation and as applicable, other Horizon 3 AI IP. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination. In the event of Customer termination for cause pursuant to Section 9.2, Horizon 3 AI will provide a refund of any unused, prepaid Fees for the remainder of the then-current Order Form Term.

9.4 Survival. Any provisions of this Agreement that, by their nature, should survive expiration or termination hereof, shall survive, including but not limited to provisions regarding confidentiality, intellectual property rights, indemnification, limitations of liability, dispute resolution, and any payment obligations accrued prior to expiration or termination.

10. MISCELLANEOUS.

10.1 Entire Agreement. This Agreement, together with any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter.

10.2 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") must be in writing and addressed to the Parties at the addresses set forth in the applicable Order Form or to such other address that may be designated by the Party giving Notice, from time to time, in accordance with this Section. All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with confirmation of transmission)



or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section.

10.3 Force Majeure. In no event shall Horizon 3 AI be liable to Customer, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond Horizon 3 AI's reasonable control, including, but not limited to, acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo or new export or trade restrictions.

10.4 Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement: (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

10.5 Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible.

10.6 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of California. Any legal

suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of California in each case located in San Francisco County, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

10.7 Assignment. Customer may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Horizon 3 AI. Horizon 3 AI may assign this Agreement freely without restriction. Any purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

10.8 Export Regulation; Export Control. Customer acknowledges that the Services and any other Horizon 3 AI IP provided under this Agreement may be subject to the export control laws and regulations of the United States and other jurisdictions. Customer agrees to comply fully with all applicable export and import laws, regulations, and restrictions, including, but not limited to, the U.S. Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and sanctions administered by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC). Customer shall not export, re-export, transfer, or otherwise make available Horizon 3 AI IP to any country, individual, or entity prohibited under such laws, nor shall Customer sell or distribute Horizon 3 AI IP to any party or for any use that may violate these laws. Customer further agrees to provide all necessary information and cooperation to assist in complying with such requirements.

10.9 U.S. Government Rights. The Documentation and software components that constitute the Services are "commercial items" as defined in 48 C.F.R. § 2.101 and consist of "commercial computer software" and "commercial computer software documentation" as those terms are used in 48 C.F.R. § 12.212. Therefore, if Customer is an agency of the U.S. Government or a contractor thereof, Customer acquires only those rights in the Services and Documentation that are granted to all other end users, in accordance with (i) 48 C.F.R. §§ 227.7201-227.7204, for Department of Defense agencies and their contractors, or (ii) 48 C.F.R. §



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~~TRUST~~ BUT VERIFY

12.212, for all other U.S. Government agencies and their contractors.

10.10 Equitable Relief. Customer acknowledges and agrees that a breach or threatened breach of any of its obligations under Section 2 or Section 4, may cause Horizon 3 AI irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, Horizon 3 AI will be entitled to seek equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

10.11 Anticorruption Laws. Customer acknowledges that it is familiar with and understands the provisions of the U.S. Foreign Corrupt Practices Act (the “FCPA”) and the U.K. Bribery Act of 2010 (the “UKBA”), and agrees to comply with their terms, as well as any applicable local laws related to anticorruption. Customer further acknowledges the prohibitions under the FCPA and UKBA against offering, giving, or authorizing the provision of anything of value, including but not limited to payments, gifts, travel, entertainment, or meals, either directly or indirectly, to any foreign government official, political party, or candidate, with the intent to influence an act or decision in their official capacity or to induce them to use their influence to assist in obtaining or retaining business related to the Services. Customer agrees not to violate or knowingly allow any violation of the FCPA, UKBA, or any other applicable anticorruption or antibribery laws, and confirms that no payment it makes will constitute a bribe, kickback, influence payment, rebate, or any other form of improper payment prohibited by such laws.

11. ADDITIONAL CLAUSES FOR THE UK

11.1 Nothing in this Agreement shall limit or exclude either party’s liability for: (i) death or personal injury resulting from a party’s negligence; (ii) fraud or fraudulent misrepresentation; or (iii) loss or damage for which liability cannot be excluded or limited by law.

11.2 Horizon 3 AI processes personal data in accordance with our Privacy Policy available at <https://horizon3.ai/privacy-policy/>.

12. ADDITIONAL CLAUSES FOR GERMANY

12.1 Nothing in this Agreement shall limit or exclude

either party’s liability for: (i) death or personal injury, (ii) fraud or fraudulent misrepresentation or any other willful misconduct; or (iii) any other loss or damage for which liability cannot be excluded or limited by law.

12.2 Horizon 3 AI processes personal data in accordance with our Privacy Policy available at <https://horizon3.ai/privacy-policy/>.

13. ADDITIONAL CLAUSES FOR FRANCE

13.1 Horizon 3 AI reserves the right to charge interest equal at the three (3) times the legal interest rate and a fixed penalty of forty (40) euros corresponding to the collection costs on any overdue amounts, notwithstanding the fact that the Customer shall be responsible for any other costs of collection, including reasonable attorneys' fees and expenses.

a. Clause 3.5 of the Agreement is deleted and replaced with the following provision: “Auditing Rights and Required Records. Customer agrees to maintain complete and accurate records in accordance with generally accepted accounting principles during the Term and for a period of ten (10) years after the termination or expiration of this Agreement with respect to matters necessary for accurately determining amounts due hereunder. Horizon 3 AI may, at its own expense, on reasonable prior notice, periodically inspect and audit Customer's records to evaluate Customer’s compliance with this Agreement, including without limitation Customer’s payment of all amounts due hereunder. If such inspection and audit reveal that Customer has underpaid Horizon 3 AI with respect to any amounts due and payable during the Term, Customer shall promptly pay the amounts necessary to rectify such underpayment, together with interest, if applicable. Customer shall pay for the costs of the audit if the audit determines that Customer's underpayment equals or exceeds five percent (5%) for any quarter or if the audit discovers a material breach of this Agreement. Such inspection and auditing rights will extend throughout the Term of this Agreement and for a period of two (2) years after the termination or expiration of this Agreement.

13.2 Nothing in this Agreement shall limit or exclude either party’s liability for: (i) death or personal injury resulting from a party’s negligence; (ii) fraud or fraudulent misrepresentation; or (iii) loss or damage for which liability cannot be excluded or



limited by law.

- 13.3** Horizon 3 AI processes personal data in accordance with our Privacy Policy available at <https://horizon3.ai/privacy-policy/>.