

SAAS LICENSE AND SERVICE AGREEMENT - OXYGENIT

These terms and conditions are valid from October 28, 2024

THIS AGREEMENT GOVERNS THE USE OF THE OXYGENIT SOLUTION, A SOFTWARE-AS-A-SERVICE SOLUTION EDITED BY SCALEDYNAMICS SAS, AND RELATED SERVICES. THIS AGREEMENT CONSISTS OF THIS SAAS LICENSE AND SERVICE AGREEMENT ("**SLSA**"), AND THE ORDER FORM(COLLECTIVELY HEREINAFTER REFERRED TO AS THE "**AGREEMENT**").

THIS SLSA IS A LEGAL AND ENFORCEABLE CONTRACT BETWEEN THE CUSTOMER AND SCALEDYNAMICS SAS ("**SCALEDYNAMICS**").

UPON THE CONDITION THAT THE CUSTOMER LAWFULLY OBTAINED A RIGHT TO USE THE OXYGENIT SOLUTION FROM AN APPROVED SOURCE, BY CLICKING THE "ACCEPT" BUTTON ON CONSOLE.OXYGENIT.IO WEBSITE, OR INSTALLING, DOWNLOADING, LOADING OR USING THE SERVICE AND/OR THE SOFTWARE THAT IS/ARE PROVIDED WITH THIS AGREEMENT, THE END USER AGREES WITH THE TERMS AND CONDITIONS OF THIS SLSA.

IF THE END USER IS ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THE END USER GUARANTEES HE IS A DULY AUTHORIZED REPRESENTATIVE OF SUCH ENTITY AND THAT IT HAS THE AUTHORITY TO BIND SUCH ENTITY TO THIS SLSA.

IF THE END USER DOES NOT AGREE TO THESE TERMS, THE END USER SHALL NOT DOWNLOAD, INSTALL, COPY, ACCESS OR USE THE SERVICE OR THE SOFTWARE.

0. Preamble

SCALEDYNAMICS has developed the OxygenIT Solution to enable its customers with an accurate and granular way of measuring the energy consumption and carbon emissions of their use of public cloud or on-premise IT infrastructure.

With OxygenIT Solution, the End Users have access to a website or APIs so they can report on their carbon emissions via multiple dimensions, such as per applications, get automated actionable reduction recommendations, simulate the energy and carbon impact of a new IT project, an IT transformation or the decommissioning of legacy equipments within their datacenters, and follow up on the result of their actions.

1. Definitions

“Affiliate” means, with respect to a Party, another legal entity that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with this Party, in accordance with the provisions of article L233-3 of the French Code de commerce.

“Cloud Services” means the licensed third-party cloud services selected by SCALEDYNAMICS in conjunction with the Service in the event of SaaS Deployment.

“Commercial License” means the then-current commercial license available for the Service, which may be used for commercial purpose or in a production environment.

“Confidential Information” means any and all information that a Party may communicate to the other Party pursuant to this SLSA, in written or other tangible form and marked “Confidential”, “Proprietary” or collected by a Party pursuant to this SLSA or that appears to a reasonable person to be confidential. Confidential Information shall include but shall not be limited to any business, commercial, technical or other information related to a Party or to the subject matter of this SLSA (e.g. without limitation, know-how, trade secrets, inventions, development, present or future products, work-in-progress, future development, algorithms, schematics, graphical interface, designs, business information).

“Customer Data” means content, information or other materials of the Customer or its Affiliates or any other End-Users provided by or through the Customer to SCALEDYNAMICS or that are transmitted, received, posted, stored, hosted, cached, streamed, or displayed on or through the Service or in connection with the Service.

“Data History” means the set of measures, which has been produced by the Service for the Customer or the configuration parameters entered by the Customer to personalize the Service.

“Data Repository” means the set of information about data centers, cloud regions characteristics such as power usage effectiveness and carbon factor, infrastructure and service models, gathered by SCALEDYNAMICS to serve as a basis for providing the Service. This information is the property of SCALEDYNAMICS and is Confidential Information.

“Documentation” means the SCALEDYNAMICS-provided user manuals, training materials, descriptions and technical specifications, technical manuals, supporting materials and other information relating to the Service and/or the Software.

“Effective Date” means the date the applicable Order Form is executed or the date this Agreement is referenced by the applicable purchase order or by any applicable SCALEDYNAMICS’ document (e.g. POC) or the date of creation of the User Account when a Trial License or the Service is automatically obtained by the End User from SCALEDYNAMICS’ website.

“End User” means the employees, agents or representatives of the Customer or of a Customer's Affiliate authorized by the Customer to use the Service in accordance with the SLSA.

“Fees” means the fees applicable to the use of the Service in accordance with the then-available Service Plan selected by the Customer, stated in the Order Form (or, if no such price is specified, the price set out in SCALEDYNAMICS’ then-current standard published price list available on SCALEDYNAMICS’ website).

“In-House Deployment” means the deployment of the OxygenIT Solution as the form of the Software within Customer’s infrastructure of its choice. SCALEDYNAMICS provides the Software, installation documentation and recommendations, and regular updates and upgrades as the form of patches. The Customer is responsible for the underlying infrastructure and its costs, as well as the operation and maintenance of OxygenIT Solution.

“Login Credentials” means collectively the End User ID, valid email and the password set or changed by the End User.

“Monitored Units” means the number of Customer’s IT resources such as, but not limited to, servers, virtual machines, storage service, backup service, Kubernetes node, container, serverless function, or PaaS or SaaS services, whose energy consumption and carbon emissions are measured by the OxygenIT Solution.

“Number of Users” means the maximum number of User Accounts included within the Trial License and/or Commercial License granted to the Customer

“Order Form” means any order form, sales quotation, proposal, purchase order or other ordering document or webpage issued or accepted by SCALEDYNAMICS that references this Agreement. Each Order Form will form part of this Agreement.

“Party(ies)” means individually or collectively the Customer and/or SCALEDYNAMICS.

“Personal Data” means personal data as defined in Article 4 of the EU Data Protection Regulation 2016/679 of 27 April 2016.

"Professional Service" means the services that may be purchased by the Customer from SCALEDYNAMICS from time to time other than the Service, including time and materials based professional or consulting services, one-time or non-recurring services which are ordered and provided in accordance with a specific professional services agreement ("**PSA**") between the Customer and SCALEDYNAMICS.

"SaaS Deployment" means the deployment, run, operation and maintenance of OxygenIT Solution by SCALEDYNAMICS on a public cloud platform.

"SCALEDYNAMICS" means ScaleDynamics, *Société par actions simplifiée*, duly organized and existing under the laws of France with company number 838 049 120 (RCS RENNES), having its principal place of business at 15 Rue du Chêne Germain 35510 CESSON-SEVIGNE (France).

"Service" means the OxygenIT Solution, its documentation and all related services (though any means whatsoever including but not limited to API, *etc.*) provided by SCALEDYNAMICS to the Customer and to the End Users within the framework of the Agreement with exception of the Professional Services.

"Service Plan" means the description set out on SCALEDYNAMICS' website regarding the pricing, list of features, available resources and limitation of usage related to the Service chosen by the Customer.

"Software" means the proprietary software solutions, applications, and platforms developed, owned, and provided by SCALEDYNAMICS as part of its SaaS services or as part of the In-House Deployment. This includes any accompanying documentation, as well as any subsequent updates, upgrades, enhancements, or modifications made available to the Customer.

"Support" means the support services (if available) provided by SCALEDYNAMICS to the Customer in accordance with the Service Plan and then-current applicable Fees.

"Terminal" means the hardware lawfully owned or controlled by the Customer or by a corporation or legal entity when the Customer acts on behalf of such corporation or legal entity (personal computer or on-premise server or public and/or private cloud-server), device capable of producing or accessing the Service.

"Trial License" means the license for the Service, made available to the Customer by SCALEDYNAMICS for testing and trial use only and only during a Trial Period. Some additional restrictions and pricing may apply in the Order Form.

"Updates" means any minor version of the Software or the Service, developed by SCALEDYNAMICS subsequent to the Effective Date, which implements minor

improvements or augmentations, or which corrects failures of the Service or the Software materially to conform to the then-current Documentation.

“User Account” means the account created by the End User on the OxygenIT Solution in order to access the Service. The End User must provide accurate and complete registration information and is responsible for the security of its password and for any use of its account.

“Usage Metrics” means the Monitored Units, number of End-Users and/or any other quantified information described in the Service Plan and set in the Order Form for the purpose of defining the amount of the Fees.

2. Purposes

The purpose of this Agreement is to establish the terms and conditions under which SCALEDYNAMICS will provide the Service and the Customer will use the Service set forth in the Order Form or in the then-current applicable Service Plan which may be referenced by the Order Form.

Accordingly, the primary obligation of SCALEDYNAMICS under this Agreement is to grant access and usage rights to the OxygenIT Solution as specified in **Section 5**.

2.1. Ordering and use of the Service

By accepting this Agreement or accessing the Software or using any part of the Service, the Customer agrees to be bound by the terms of this Agreement.

This Agreement is effective on the Effective Date and shall govern each Order Form and the access and/or use of the Service by the End Users during the term set forth in **Section 13**.

This SLSA, together with the Order Form constitutes the entire Agreement between SCALEDYNAMICS and the Customer and supersede (i) all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement and (ii) the Customer’s terms and conditions of purchase.

Only an authorized End-User may access the Service. By accessing the Services, the End-Users represent that they are authorized by the Customer, under the Customer’s responsibility, to use the Service and the Customer Data and/or take those actions the Customer submits via the Services, all of which are binding upon the Customer.

No Order shall be deemed to be accepted by SCALEDYNAMICS until an order acknowledgement or written confirmation is provided by SCALEDYNAMICS.

2.2. Evaluation Purpose

If the Customer chooses the Trial License, the Customer may use certain functionalities or features of the OxygenIT Solution according to the scope agreed in the Order Form, not for production purpose, but only to test and evaluate the OxygenIT Solution for its intended purpose during the amount of time set out in **Section 13.1** (the “**Trial Period**”).

During the Trial Period, the use of the OxygenIT Solution may be subject to certain restrictions to ensure that usage remains within reasonable limits appropriate for evaluation purposes.

During the Trial Period, SCALEDYNAMICS does not grant the Customer any right to use data generated by the Solution for external publication or any form of operational application.

In no event will SCALEDYNAMICS be obliged to grant the Customer an access to the Service under a Commercial License, in connection with the Customer’s use of the Trial License.

If the Customer desires to be granted extended rights of use of the Service, then the Customer must obtain the then-current Commercial License(s) and pay the applicable Fees.

During the Trial Period, the Customer agrees to provide free of charge feedback (e.g. suggestions, comments, bug reports, etc.) related to the Service, as reasonably requested by SCALEDYNAMICS. The Customer grants to SCALEDYNAMICS, without charge, the, sublicensable, worldwide, royalty-free, right to use such feedback for any purpose, for the duration of twenty-years as of the Effective Date.

The Trial License is subject to the terms and conditions of the SLSA to the same extent as the commercial release of the Service, unless otherwise expressly stated hereinafter.

Notwithstanding the foregoing, the Service is provided “as is” under the Trial License and SCALEDYNAMICS excludes any implied warranties of merchantability, fitness for a particular purpose and non-infringement. SCALEDYNAMICS is not obliged to provide maintenance, technical support, corrective measures or Updates to the Customer for the Trial Version license.

3. Scope of the Service

3.1. Service availability

SCALEDYNAMICS shall use commercially reasonable efforts to make the Service available 24 hours a day, 7 days a week, including Sundays and public holidays in France, subject to the following conditions.

The OxygenIT Solution is compatible with Google Chrome 64+, Safari 12+, Mozilla Firefox 67+, Edge 79+ and Opera 51+ browsers for web applications. Such list may be updated from time to time and it is the Customer's responsibility to consult the OxygenIT website.

SCALEDYNAMICS shall use commercially reasonable efforts to maximize the availability of the Service.

However, the End User accepts that from time to time the Service may be inaccessible or inoperable for various reasons, including but not limited to scheduled maintenance procedures or Updates or upgrades or certain unscheduled services or equipment malfunctions that are beyond the control of SCALEDYNAMICS such as the interruption or failure of the Cloud Services, or Third-Party Cloud Services or telecommunication or digital transmission links, hostile network attacks, network congestion or other failures, etc.

3.2. Functional scope

The content and scope of the Service depends on the available Service Plans listed on OxygenIT.io website and chosen by the Customer in the Order Form.

The Service may include features or services that have separate rules or conditions specific to the feature or service, including but not limited to in terms of warranty.

The Customer can access the then-current list of services and features on OxygenIT.io website.

The Customer understands and agrees that SCALEDYNAMICS (i) may change, suspend or discontinue any part or all of the Service and (ii) notifies the Customer of any material change to or discontinuation of the Service by any commercially reasonable means including without limitation an email or via its website (a "**Revision**").

IF ANY REVISION MATERIALLY AND ADVERSELY AFFECTS THE CUSTOMER'S USE OF THE SOFTWARE OR THE SERVICE, THE CUSTOMER MAY TERMINATE THIS AGREEMENT WITHIN A FIFTEEN (15)-DAY-PERIOD FROM THE DATE OF

SCALEDYNAMICS' NOTICE OF REVISION. THE CUSTOMER'S CONTINUED USE OF THE SOFTWARE OR THE SERVICE FOLLOWING SCALEDYNAMICS' NOTICE OF ANY REVISION CONSTITUTES CUSTOMER'S ACCEPTANCE OF THIS AGREEMENT AND THE REVISION. No Revision shall release the Customer from liability for all costs already incurred pursuant to the use of the Software or the Service.

For the sake of clarity, the Customer may upgrade to a Service Plan from another one, subject to payment of the specific then-applicable Fees.

3.3. Administration

The identification of the End Users accessing the OxygenIT Solution is performed using identifiers assigned to each End User by the Customer. These identifiers are personal and confidential. The Customer agrees to take all necessary measures to keep these identifiers secret and not to disclose them in any form.

The Customer is solely responsible for the administration, use, and maintenance of their identifiers and those of their End Users. If the End User discloses its Login Credentials to someone, the End User shall be responsible for damages incurred by SCALEDYNAMICS, the End User or any third party resulting or in connection with any use, disclosure, additions, deletions and modifications of such Login Credentials. If the End User becomes aware of any unauthorized use of its Login Credentials or of its User Account, the End User agrees to notify SCALEDYNAMICS immediately.

In the event of a lost password, the End Users may reset it using the password recovery procedure.

3.4. Deployment

Subject to the Service Plan and to the compatibility with the Customer's Terminal and IT environment, two types of deployment for the OxygenIT solution are available: SaaS Deployment and In-House Deployment.

For SaaS Deployment, the Service is made available online to the Customer from a public cloud location chosen by SCALEDYNAMICS. SCALEDYNAMICS is responsible for the deployment, operation, maintenance, and all related costs of the Service.

For In-House Deployment, SCALEDYNAMICS provides the Customer with an installation package and an installation documentation, enabling the Customer to deploy the Software and use the Service from a location of its choice. SCALEDYNAMICS will supply the Customer with regular Updates of the Software in the form of patches, which

the Customer is responsible for deploying in a timely manner. The Customer is responsible for the underlying infrastructure, operation, maintenance of its IT environment and Terminals, and the complementary setup, operation, and maintenance of a database service required by the Service to run, and all related costs of the Service. Subject to a specific Order Form issued under the PSA, SCALEDYNAMICS may provide its remote assistance for the installation and deployment of the Software.

3.5. Support

SCALEDYNAMICS provides to the Customer standard support by SCALEDYNAMICS' qualified experts via email and chat regarding questions and problems related to using and accessing the Service under Commercial License. Responses are provided on a best-effort basis during French business hours in the CET time zone.

If available, specific support and maintenance conditions and/modalities shall be incorporated into a specific agreement between SCALEDYNAMICS and the Customer subject to the payment of additional support Fees.

The Customer acknowledges that access and/or use of the Service or the Software may be suspended or interrupted without prior notice during any schedules or unscheduled maintenance procedure performed by SCALEDYNAMICS.

However, SCALEDYNAMICS may, in its sole discretion, make available or implement any technical support, Updates and/or supplements of the Service and/or the Software and/or related information for downloading or use, and SCALEDYNAMICS may notify the Customer of the availability of these Updates from time to time at its discretion. All Updates will be deemed to be included in the Software and therefore governed by this SLSA, unless other terms of use are provided by SCALEDYNAMICS with those Updates.

If the Customer has chosen In-House Deployment, the Customer :

- may directly contact its IT support team and any relevant third-party providers for assistance in the event of a service suspension caused by interruptions that are beyond the scope of the Software ;
- agrees to provide an access to the environment where the Software is hosted for SCALEDYNAMICS support team members or provide all information required by SCALEDYNAMICS support team members, such as, but not limited to, deployment logs and run logs, to investigate and facilitate the resolution of the issues.

3.6. Update and Upgrade

Regarding the SaaS Deployment, SCALE DYNAMICS will directly implement minor Updates to the OxygenIT Solution, including bug fixes, patches, and minor improvements that do not alter its functionality or add new features.

Regarding In-House Deployment, the same minor Updates to the OxygenIT Solution will be provided to the Customer for deployment in a timely manner. These minor updates will incur no additional costs and cannot be refused by the Customer.

SCALE DYNAMICS will provide the Customer with major Updates, which introduce new functionalities or modify the version of the OxygenIT Solution to offer enhanced features.

SCALE DYNAMICS reserves the right to determine if a major update is included in the subscription or subject to additional Fees. If a major update incurs additional Fees, the Customer will have the option to accept or decline the upgrade.

4. Intellectual Property Rights

SCALE DYNAMICS retains all right, title, and interest, including all copyrights, patents, design rights, trademarks (in particular OxygenIT and SCALE DYNAMICS trademarks), service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights, and all applications and registrations with respect thereto applying to the Documentation, Service and the Software (and any Update, upgrade or future version(s) of SCALE DYNAMICS Software), anywhere in the world ("**Intellectual Property Rights**").

All Intellectual Property Rights in the Service and the Software are and will remain with SCALE DYNAMICS. SCALE DYNAMICS reserves any rights not expressly granted to the Customer in this SLA.

The Customer owns and retains all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

5. License grant – Restrictions – Customer's undertakings

5.1. Licensed rights

Subject to the terms and conditions of this SLSA and payment of the then-applicable Fees, SCALEDYNAMICS hereby grants to the Customer a regional, as defined in the Order Form, non-exclusive, revocable, non-transferable license (without the right to sublicense) to use the Service and/or the Software for the duration set forth in **Section 13**.

With exception of the foregoing, the rights to use the Trial License are provided free of charge during one (1) month and can be subject to a service fee for the remaining duration as set out in the Order Form.

The Customer is allowed to use the Service as a cloud service provided by SCALEDYNAMICS or use the Software after installation as set out in **Section 11.2**.

The Service and/or the Software can be used by a limited number of End-Users and within the commercial boundaries as defined in the Service Plan or superseded in the Order Form.

Under no circumstances should anything in this Agreement be construed as granting or assigning to the Customer and/or its Affiliates, either by implication, exhaustion, estoppel or otherwise (i) a license on the Software and Service except as expressly permitted under this **Section 5.1**, (ii) any right on any patent or patent application of SCALEDYNAMICS, which are implemented or otherwise practiced by or the use of the Service and/or the Software or which practice is induced by using the Service and/or the Software. All rights in the Service and/or the Software not expressly granted hereby to the Customer are reserved to SCALEDYNAMICS, as applicable

SCALEDYNAMICS agree not to assert against the Customer any patents that SCALEDYNAMICS may own or control related to the Service and/or the Software granted under this Agreement and shall not invoice additional license fees for any and all components of the Service or the Software that may be covered by any claims of SCALEDYNAMICS' patent portfolio, provided that the Customer's use of the Service is consistent with the terms and provisions of this Agreement and limited to the permitted use.

5.2. Restrictions

Except as otherwise specifically permitted in this SLSA, the Customer shall not:

- use the Service and/or the Software for any purposes other than those specified in **Section 0**;
- make the Software and/or the Service available to, or use the Services for the benefit of, anyone other than the number of authorized End-Users;
- modify, translate or create any derivative works of the Software or Documentation;
- work around any technical limitations or anomaly in the Software;
- copy the Software except as provided in this SLSA;
- reverse engineer, decompile, or disassemble or otherwise attempt to derive the source code of the Software;
- hack the Service or the Software ;
- market, redistribute, encumber, sell, rent, lease, share, sublicense the Service or the Software, or otherwise transfer rights to the Software for any reason whatsoever;
- remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Software or Documentation;
- make any representations to the Customer's prospective customers which are not made by SCALEDYNAMICS in the SLSA; or
- use the Service or the Software in any way that is against the law;
- access the Service or the Software in order to (i) build a competitive product or service; or (ii) copy any ideas, features, functions or graphics of the Service;
- -combine, link or embed the Software and/or the Service into/with third-party technology or service without SCALEDYNAMICS' prior written consent ;
- file applications or make declarations in order to be granted Intellectual Property Rights for works or creations before any authority or office in the world, which derive, in whole or in part, from the Software, the Service and/or the Confidential Information.

SCALEDYNAMICS reserves the right to seek all remedies available at law and in equity for any breach of this Agreement, including the right to block the Customer's access to the Software and/or the Service or to suspend or terminate the provision of the Service to the Customer.

5.3. Customer Data

By uploading or submitting the Customer Data through the Service, the Customer hereby grants SCALEDYNAMICS a worldwide, non-exclusive, fully paid-up, royalty-free license to use, reproduce, reformat, display, process, stream, transmit and perform the

Customer Data only in connection with the provision of the Service, features and functionalities available on or through the Service.

The Customer warrants that its Customer Data is not subject to any license terms that would purport to SCALE DYNAMICS to comply with any additional obligations (including payment of royalty fees to third parties) with respect to the provision of the Service.

The Customer undertakes not to upload, download, host, display, develop, modify, stream or transmit via the Software and/or the Service any Customer Data containing (i) any virus, Trojan horse and/or malware or spyware and/or (ii) any material which constitutes or encourages conduct that could be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law.

5.4. Usage Metrics

SCALE DYNAMICS may collect, analyze, present, and visualize data on the Customer use of the Software and/or Service for the following purposes, including but not limited to: understanding the adoption of specific features, user engagement, product lifecycles, computing environments, troubleshooting, monitoring the Customer's and/or End-User's compliance with the SLSA.

The Customer is informed that SCALE DYNAMICS is entitled to analyze the Usage Metrics in relation to the suspension of the Service (**Section 14.1**) or the termination of the Agreement (**Section 14.2**).

SCALE DYNAMICS reserves the right to access, collect and use, in an anonymized form, data relating to the viewing time of the Customer Data, location of the viewers of the Customer Data and logfiles (including the viewers' IP addresses), subject to SCALE DYNAMICS' compliance of the provisions of **Section 7**.

Unless required to provide the Service to the Customer and/or monitor the Customer's compliance with the SLSA and/or required by law, such usage data shall be anonymized by SCALE DYNAMICS.

5.5. Customer's undertakings

The Customer declares having assessed the suitability of the Software and Service to its needs and commercial activities before acceptance of the Agreement, with the help of a qualified person for advisory purposes where necessary.

The Customer guarantees that each authorized End-User possesses the necessary skills, knowledge and the professional expertise related to the business management fields that directly concern this End-User. The Customer undertakes to take all necessary precautions for the use of the Service.

The Customer shall be obliged to provide the End-Users with a copy of the SLSA or inform them before the beginning of use of the Software and/or the Service about the rights and obligations set forth in these SLSA. The Customer will be liable for any breach by its End-Users or by other third parties who violate obligations within the Customer's control.

During the Term set forth in **Section 13**, the Customer shall:

- comply with the provisions of this Agreement;
- use the Software and the Service according to the Documentation;
- be responsible for using commercially reasonable efforts to prevent unauthorized access to or use of the Software and/or the Service;
- promptly notify SCALEDYNAMICS of any unauthorized access or use of the Software and/or the Services;
- be responsible for obtaining and maintaining all Terminal, and software and all telecommunications services required to access and use the Software and/or the Service and will ensure that all such equipment and services comply with the technical specifications provided by SCALEDYNAMICS.

6. Payment terms

6.1. Service Fee

In consideration of the license rights granted in **Section 5** under a Commercial License and/or the Service and/or Service Plan selected by the Customer, the Customer shall pay the then-current applicable Fees.

SCALEDYNAMICS calculates and bills Fees and charges as described on SCALEDYNAMICS' website, based upon the Service Plan and related Usage Metrics which the Customer is using. Regarding usage-based Fees, SCALEDYNAMICS' measurement of Customer's use of the Service is final and shall prevail over Customer's own measurement.

The Customer acknowledges and agrees that SCALEDYNAMICS will automatically charge the Customer credit card or other payment account on record with SCALEDYNAMICS in connection with the Customer's use of the Service.

Requests for custom professional services such as, but not limited to, integration creation, deployment, in-house deployment, hardware equipment model design, are subjected to prior specific quotations issued by SCALEDYNAMICS and specific payment terms.

6.2. Billing and payment

If no payment is indicated in the invoice, Order Form or purchasing documentation, the invoices are payable within thirty (30) days of the invoice date. The Customer is responsible for payment of all Taxes and any related interest and/or penalties resulting from any payments made to SCALEDYNAMICS, other than any taxes based on SCALEDYNAMICS' net income.

All amounts are payable and charged (i) at the beginning of the subscription for the Service, when the Customer places its order, and, (ii) at the time of each renewal. The Customer must terminate its subscription in accordance with this SLISA thirty (30) days before it renews to avoid the billing of the Fees for the next subscription period.

The Customer represents and warrants to SCALEDYNAMICS that all of its payment information is valid and that the Customer is authorized to use the payment instrument indicated to SCALEDYNAMICS. The Customer will promptly update its payment information with any changes that may occur.

Changes in pricing – The Customer acknowledges that SCALEDYNAMICS' may change the pricing related to the Service Plan by updating SCALEDYNAMICS' website and by email to the Customer thirty (30) days prior to the new pricing taking effect. The Customer can object to the new pricing by sending an email to SCALEDYNAMICS within fifteen (15) days after reception of the new pricing notification. Objection to the change by the Customer might result in termination of the Agreement. The Customer's continued use of the Software or the Service following SCALEDYNAMICS' notice of any change in pricing constitutes Customer's acceptance of this change in pricing.

6.3. Late payment

Any invoices not paid when they reach their due date shall accrue interest based on a rate equal to three (3) times the current French statutory base rate, starting from the

date when the invoice becomes due and without notification. Additionally, the Customer will pay a flat rate recovery cost indemnity in the minimum amount of forty (40) Euros per unpaid invoice as well as all other costs related to the collection of payments.

Notwithstanding the foregoing, any delay in payment authorizes SCALEDYNAMICS, without formalities or prior notice, to suspend the Customer's access to the Service until payment of the totality of the invoice, without prejudice to other possible actions that SCALEDYNAMICS could take because of the law or the present Agreement.

In the event of late payment, the provisions of the Service shall be suspended in accordance with the provisions of **Section 14**.

6.4. Taxes

Unless otherwise stated, the Fees do not include any taxes, levies, duties or similar governmental assessments, including value-added, sales, use or withholding taxes assessable by any local, state, provincial or foreign jurisdiction (collectively "**Taxes**"). The Customer is responsible for paying Taxes, except those assessable against SCALEDYNAMICS as measured by SCALEDYNAMICS net income.

If SCALEDYNAMICS is required by law to collect Taxes on the provision of the Services, SCALEDYNAMICS will invoice the Customer for such Tax and the Customer must pay SCALEDYNAMICS the amount of the Tax that is due or provide SCALEDYNAMICS with satisfactory evidence of its exemption from the Tax. The obligation to pay any Taxes that the Customer may be required to pay in connection with Customer's use of Services or Customer's payment of amounts due to SCALEDYNAMICS under the Agreement shall be borne exclusively by the Customer. The Customer must provide SCALEDYNAMICS with accurate factual and adequate information and documentation (as determined by SCALEDYNAMICS), to help SCALEDYNAMICS determine if any Tax is due with respect to the provision of the Service.

6.5. Withholding taxes

If any deduction or withholding is required by applicable law, the Customer will notify SCALEDYNAMICS and will pay SCALEDYNAMICS any additional amounts necessary to ensure that the net amount that SCALEDYNAMICS receives, after any deduction and withholding, equals the amount SCALEDYNAMICS would have received if no deduction or withholding had been required. Additionally, the Customer will provide

SCALEDYNAMICS with documentation showing that the withheld and deducted amounts have been paid to the relevant taxing authority.

7. Confidentiality

For the duration set out in **Section 13** and for five (5) years after the termination of the Agreement for any reason whatsoever, the Customer shall keep confidential and shall not disclose or otherwise make available to any third party the feedback, any user passwords and any Confidential Information. The Customer will use the same efforts to prevent the unauthorized disclosure of the Confidential Information that it uses to protect its own similar confidential information in compliance with current business standards.

Each Party will use the other Party's Confidential Information only to perform its obligations or exercise its rights under this SLSA.

The Customer acknowledges that the Customer Data and Data History are hosted and run on a Cloud Service provider storage infrastructure which has separated and dedicated segments for each customer of the Service.

The Service back end architecture shall remain confidential and SCALEDYNAMICS undertakes to keep the Customer's Data confidential.

The obligations of confidentiality shall not apply to any information which (i) is or later becomes publicly known or available without breach of this SLSA by the receiving Party (ii) is lawfully obtained by the receiving Party from a third party lawfully in possession of any or all Confidential Information and which is not under an obligation of confidentiality with the disclosing Party with respect to such information or (iii) is disclosed by the receiving Party pursuant to a judicial order or by operation of law but then only to the extent as ordered or requested.

Prior to any legally compelled disclosure (legal proceedings, subpoena or other similar process), the Customer will, to the extent reasonably possible, give SCALEDYNAMICS notice and cooperate with SCALEDYNAMICS in protecting against such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Confidential Information.

If a Party becomes aware of any unauthorized use or disclosure of any Confidential Information of the other Party, then such Party will promptly and fully notify the other Party in writing of all facts relating to such unauthorized use or disclosure.

8. Limited warranty

8.1. Service and Software warranty

SCALEDYNAMICS warrants that the Service and/or the Software will substantially operate according to, and substantially conform to the Documentation (except for defects or non-conformities causing minor and trivial deviations therefrom) when used in accordance with the SLSA, the Documentation and/or SCALEDYNAMICS' written instructions and/or applicable law.

SCALEDYNAMICS's responsibility under said warranty shall be solely to correct at its costs and expenses any non-conformity or defect regarding the Software. Such warranty period is of thirty (30) days from the Effective Date and shall not be extended in the event of correction or workaround made.

For all warranty claims made by the Customer during the warranty period, SCALEDYNAMICS will use commercially reasonable efforts to resolve, at no charge to the Customer, any such non-conformities.

8.2. Disclaimer of warranty

8.2.1. Software and Service

SCALEDYNAMICS DOES NOT GUARANTEE THE CONTINUING AVAILABILITY OF THE SERVICE OR THE CLOUD SERVICES.

TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, THE LIMITED WARRANTY SET FORTH IN THIS **SECTION 8** IS EXCLUSIVE AND LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. SCALEDYNAMICS EXCLUDES ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

EXCEPT AS SET FORTH HEREIN, THE SERVICE AND THE SOFTWARE ARE PROVIDED TO THE CUSTOMER ON AN "AS IS" BASIS ONLY. SCALEDYNAMICS DOES NOT WARRANT AGAINST INTERFERENCE WITH THE CUSTOMER'S ENJOYMENT OF THE SERVICE AND/OR THE SOFTWARE, THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET THE CUSTOMER'S REQUIREMENTS, THAT THE MEASURES RELATED TO CARBON EMISSIONS AND ENERGY CONSUMPTIONS ARE FULLY ACCURATE, THAT THE OPERATION OF THE SOFTWARE OR THE SERVICE WILL BE UNINTERRUPTED, VIRUS-FREE OR

ERROR-FREE, THAT DEFECTS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE WILL BE COMPATIBLE OR WORK WITH ANY THIRD-PARTY SOFTWARE, APPLICATIONS OR THIRD-PARTY SERVICES OR WITH ANY EQUIPMENT OR TECHNOLOGY NOT PROVIDED BY SCALEDYNAMICS (OR LISTED IN THE DOCUMENTATION).

INSTALLATION OR USE OF THE SOFTWARE MAY AFFECT THE AVAILABILITY AND USABILITY OF THIRD-PARTY SOFTWARE, APPLICATIONS OF THE CUSTOMER OR THIRD-PARTY SERVICES.

THE CUSTOMER ACKNOWLEDGES THAT THERE ARE RISKS INHERENT IN INTERNET CONNECTIVITY THAT COULD RESULT IN THE LOSS OF THE CUSTOMER DATA, CUSTOMER'S CONFIDENTIAL INFORMATION, AND PROPERTY.

SCALEDYNAMICS DOES NOT ENDORSE, SUPPORT, REPRESENT OR GUARANTEE THE COMPLETENESS, TRUTHFULNESS, ACCURACY, OR RELIABILITY OF ANY CUSTOMER DATA, CONTENT, PROJECT OR COMMUNICATIONS POSTED BY ANY CUSTOMER VIA THE SERVICE OR ENDORSE ANY OPINIONS EXPRESSED VIA THE SERVICE.

SCALEDYNAMICS DOES NOT WARRANT (I) THE RESULT OR EFFICIENCY OF ANY CUSTOMER'S BUSINESS, TECHNOLOGICAL OR INDUSTRIAL STRATEGY OR (II) CUSTOMER-LEAD PROCEEDINGS BASED UPON THE CUSTOMER'S USE OF THE SERVICE OR THE SOFTWARE BEFORE ANY AUTHORITY OR ADMINISTRATION WITH REGARD TO CARBON EMISSION REDUCTION FOR ANY PURPOSES WHATSOEVER (INCLUDING BUT NOT LIMITED TO TAX REDUCTION).

REGARDING IN-HOUSE DEPLOYMENT, SCALEDYNAMICS HAS NO OBLIGATIONS FOR: (A) CUSTOMER'S USE OF A VERSION OF THE IN-HOUSE SOFTWARE THAT HAS PASSED ITS END-OF-LIFE DATE; (B) PROBLEMS CAUSED BY ANY THIRD-PARTY SOFTWARE OR HARDWARE; (C) PROBLEMS CAUSED BY THE ACTIONS OF ANY THIRD-PARTY SERVICE PROVIDER (E.G. SOFTWARE INTEGRATOR); OR (D) OTHER MATTERS BEYOND SCALEDYNAMICS' REASONABLE CONTROL.

9. Limitation and exclusion of warranty and liability

9.1. Limitation of liability

The Customer acknowledges and agrees that SCALEDYNAMICS has set the scope of the license granted in **Section 5.1** and entered into this Agreement upon the disclaimers of warranty and the limitation of liability set forth herein, that the same reflect an allocation of risk between the Parties, and that the same form an essential basis of the bargain between the Parties.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO A FINAL DECISION FROM A COURT OF COMPETENT JURISDICTION, SCALEDYNAMICS' TOTAL LIABILITY, FOR ANY REASON WHATSOEVER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS SLISA (INCLUDING THE USE OF THE SERVICE AND/OR THE SOFTWARE) SHALL NOT EXCEED IN THE AGGREGATE FEES EX VAT PAID BY THE CUSTOMER TO SCALEDYNAMICS FOR THE SERVICE AND/OR THE SOFTWARE (EXCLUDING THE PROFESSIONAL FEES IN CONSIDERATION OF THE SERVICE PROVIDED UNDER THE PSA) DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. IN THE EVENT WHERE (I) NO AMOUNT WAS PAID BY THE CUSTOMER WITH REGARD TO FEES WITHIN THE SAID TWELVE (12) MONTH PERIOD OR (II) THE LICENSE FOR THE SERVICE AND/OR THE SOFTWARE IS PROVIDED FREE OF CHARGE, SCALDYNAMICS' AGGREGATE LIABILITY UNDER THIS AGREEMENT IS LIMITED TO 2,000 EUR EX VAT.

NOTHING IN THIS AGREEMENT LIMITS OR EXCLUDES EITHER PARTY'S LIABILITY FOR ANY LOSS OR DAMAGES RESULTING FROM ANY FRAUD OR FRAUDULENT MISREPRESENTATION, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

The Customer may not bring any claim against SCALEDYNAMICS nor file any legal action or proceedings in connection with and/or arising from the Agreement more than twelve (12) months after the cause of action arises.

9.2. Exclusion of warranty and liability

SCALEDYNAMICS makes no representation that the Service and/or the Software are appropriate or available for use in any particular location. The Customer expressly acknowledges and agrees that any use of the Service and/or the Software is done entirely at its own risk and the Customer is responsible for compliance with any applicable laws.

SCALEDYNAMICS disclaims all warranties and liability for any damages incurred by the Customer, the End-Users or by any third party relating to the Service and/or the Software when caused by:

- the Customer's non-compliance with the terms and provisions of the SLSA; or
- the Customer's non-compliance with the Documentation; or
- the upload, use or display of the Customer Data through the Service;
- improper installation of the Software by the Customer, misuse, mishandling or improper maintenance of the Software; or
- use of the Software in an improper or inappropriate operating environment which does not conform to the Documentation; or
- use of the Software in combination with, in connection with or as integrated into software, hardware or equipment which is not the Customer's Terminal, unless such combination connection or integration has been expressly approved in writing by SCALEDYNAMICS; or
- use of the Service and/or the Software for a purpose other than that for which it/they is/are intended to; or
- a weakness, flaw or breach in the security of Customer's IT equipment, architecture or system not directly and exclusively caused by the Software; or
- changes made to the Software, including mandatory changes; or
- maintenance of the Software or support intervention by a third party not previously authorized by SCALEDYNAMICS;
- Customer's failure or delay to install Updates or corrective workarounds made available by SCALEDYNAMICS related to In-House Deployment;
- delays, interruptions and disruptions of network and/or Internet transmissions;
- Any failure, delay or interruption of the Cloud Services or Customer's own cloud resources;
- Third party components;
- Force Majeure events.

The Customer agrees and acknowledges that:

- SCALEDYNAMICS has no responsibility or liability for the deletion or failure to store any Data History, Customer Data, and other communications maintained on or transmitted through use of the Service;
- The Customer is fully liable for its activities related to the use of the Service;
- The Customer is fully responsible for the consequences or damages resulting from the use of the Service and/or the Software.

EXCEPT WITH RESPECT TO (A) BREACHES OF THE CUSTOMER'S OBLIGATIONS SET FORTH IN **SECTION 5.5** (CUSTOMER'S UNDERTAKINGS), **SECTION 7** (CONFIDENTIALITY) AND IN **SECTION 10.2** (THIRD-PARTY CLAIMS) AND (B) DAMAGES ATTRIBUTABLE TO THE CUSTOMER'S MISAPPROPRIATION, VIOLATION OR INFRINGEMENT OF SCALEDYNAMICS' INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION ANY LOST PROFITS, DAMAGES RESULTING FROM LOSS OF DATA, SECURITY BREACH, PROPERTY DAMAGE, LOST REVENUE, LOST SAVINGS OR LOSS OF BUSINESS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE PERFORMANCE OF THE SOFTWARE OR SCALEDYNAMICS' PROVISION OF SERVICE OR OF ANY OTHER OBLIGATIONS RELATING TO THIS AGREEMENT, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Indemnification

10.1. By SCALEDYNAMICS

SCALEDYNAMICS shall defend, indemnify, and hold the Customer harmless against all costs and reasonable expenses (including reasonable attorneys' fees), damages, and liabilities awarded to a third party arising out of any non-frivolous claim by a third party that the Service and/or the Software as provided by SCALEDYNAMICS and when used in accordance with the provisions of this Agreement and the Documentation, infringes or misappropriates, as applicable, any copyrights or trade secrets under applicable laws of any jurisdiction within France, provided that the Customer gives SCALEDYNAMICS (a) prompt written notice of such claim; (b) sole authority to control and direct the defense and/or settlement of such claim; and (c) such information and assistance as SCALEDYNAMICS may reasonably request, at SCALEDYNAMICS' expense, in connection with such defense and/or settlement.

Notwithstanding the foregoing, SCALEDYNAMICS shall have no obligation or liability to the extent that the alleged infringement arises from (1) the combination, operation, or use of the Service and/or the Software with products, services, information, materials, technologies, business methods or processes not furnished or authorized by SCALEDYNAMICS; (2) modifications to the Software, which modifications are not made by SCALEDYNAMICS; (3) failure to use and install Updates to the Software provided by SCALEDYNAMICS; or (4) use of the Service and/or the Software except in accordance with the SLSA or the Documentation (circumstances under the foregoing clauses (1), (2), (3), (4), and (5), collectively, “**Customer Indemnity Responsibilities**”).

Upon the occurrence of any claim for which indemnity is or may be due under **Section 10.1**, or in the event that SCALEDYNAMICS believes that such a claim is likely, SCALEDYNAMICS may, at its option (i) appropriately modify the Service and/or the Software so that it becomes non-infringing, or substitute functionally equivalent software or services; (ii) obtain a license to the applicable third-party intellectual property rights; or (iii) terminate this Agreement on written notice to the Customer and refund to the Customer an amount equal to the Fees ex VAT paid by the Customer for such Service under this SLSA during the six (6) months period preceding the date of the termination notification. The obligations set forth in this **Section 10.1** shall constitute SCALEDYNAMICS’s entire liability and the Customer’s sole remedy for any actual or alleged infringement or misappropriation.

10.2. By the Customer

THE CUSTOMER SHALL INDEMNIFY AND SAVE HARMLESS SCALEDYNAMICS FROM AND AGAINST ANY CLAIM, DEMAND OR LEGAL ACTION ALLEGING LOSS, COSTS, EXPENSES, DAMAGES OR INJURIES ARISING FROM OR RELATED TO THE CUSTOMER’S USE OF THE SERVICE AND/OR THE SOFTWARE.

The Customer shall indemnify, hold harmless, and defend SCALEDYNAMICS from and against all losses, expenses (including reasonable attorneys’ fees), damages, and liabilities awarded to a third party resulting from a claim by a third party arising from or in connection with the Customer Indemnity Responsibilities (as listed in **Section 10.1**) and/or with the Customer’s breach of **Section 4** or **Section 5.5** SCALEDYNAMICS agrees to give the Customer (a) prompt written notice of such claim; (b) sole authority to control and direct the defense and/or settlement of such claim; and (c) such information and assistance as the Customer may reasonably request, at the Customer’s expense, in connection with such defense and/or settlement. Notwithstanding the foregoing, the Customer shall not settle any third-party claim against SCALEDYNAMICS unless such

settlement completely and forever releases SCALEDYNAMICS with respect thereto or unless SCALEDYNAMICS provides its prior written consent to such settlement. In any action for which the Customer provides defense on behalf of SCALEDYNAMICS, SCALEDYNAMICS may participate in such defense at its own expense by counsel of its choice.

11. Third Party Components and services

11.1. Third party component in the Software

The Software may contain third party software or open source software which is delivered to the Customer as part of the Software and may not be taken out or used separately from the Software and for which additional terms may be included in the Documentation.

11.2. In-House Deployment

The Customer acknowledges that the Service runs certain functionalities in the cloud and/or host Data History in the cloud.

In the event of an In-House Deployment, the Customer may choose its own cloud service or a third-party cloud service provider (the “**Third-Party Cloud Service**”) subject to the agreement of SCALEDYNAMICS

In the event where the Customer uses its own cloud server or uses a Third-Party Cloud Service, a specific agreement may have to be executed with SCALEDYNAMICS (proof of concept, In-House Deployment).

The Customer acknowledges that it is receiving the Third-Party Cloud Service directly from the Third-Party Cloud Service provider pursuant to this Third-Party Cloud Service provider’s standard terms and conditions or such other terms as agreed upon by the Customer and such Third-Party Cloud Service provider.

The Customer is responsible for all payments, fees and charges associated with the provisions of the Third Party Cloud Service.

SCALEDYNAMICS is hereby released and shall continue to be released from all direct and/or indirect liability in connection with the lost profits, special or consequential damages incurred by the Customer including but not limited to loss, damage or corruption of the History Data, Customer data and User Accounts, and the Customer

assumes all risk of loss, damage or corruption of History Data Customer Data and User Accounts in any way related to or resulting from the Third-Party Cloud Services (installation of, access to, use of, or reliance on the performance of any of the Third-Party Cloud Services).

12. Personal data

12.1. Personal Data processed by SCALEDYNAMICS

SCALEDYNAMICS collects and processes Personal Data in accordance with applicable data protection laws, including the General Data Protection Regulation (EU) 2016/679 (GDPR) and the French Data Protection Act (*Loi Informatique et Libertés*). The Personal Data collected by SCALEDYNAMICS include information relating to an identified or identifiable individual from and relating to the Customer's representative and End Users. The End Users provide some of their Personal Data directly and SCALEDYNAMICS may collect Personal Data about the End User's interactions, use, and experiences with the Service and/or the Software.

Such Personal Data includes the End User's name, email address, Login Credentials, IP address, End-User account information and professional contacts.

SCALEDYNAMICS uses Personal Data in order to (i) provide SCALEDYNAMICS Service (which includes updating, securing, and troubleshooting, issuing invoices for said Service), as well as providing support, (ii) improve and develop SCALEDYNAMICS Service, (ii) personalize SCALEDYNAMICS Service and provide analysis or recommendations to the Customer, (iii) advertise and market to the Customer, which includes sending promotional communications, targeting advertising, and presenting the Customer with relevant offers from SCALEDYNAMICS or third party companies.

SCALEDYNAMICS acts as the Data Controller in relation to the Personal Data collected from End Users. SCALEDYNAMICS is responsible for determining the purposes and means of processing the Personal Data.

SCALEDYNAMICS shall store Personal Data for the duration of the license set out in **Section 13** of the SLSA. From the date of termination of this Agreement, SCALEDYNAMICS may retain Personal Data for the necessary duration to comply with any legal or regulatory requirements (including but not limited to purposes of proof) which may compel SCALEDYNAMICS to (i) retain Personal Data or to (ii) respond to any requirements from competent authority (supervisory authority, law enforcement

agencies, etc.). If need be, SCALEDYNAMICS may retain Personal Data in an anonymized form.

The Customer hereby accepts that SCALEDYNAMICS, as of the Effective Date and at any time during the term of the Agreement, may share Personal Data with third-party service providers who assist SCALEDYNAMICS in delivering the Services (e.g., hosting, payment processing). These service providers are contractually obligated to protect the Personal Data and process it in compliance with applicable data protection laws.

In the event where SCALEDYNAMICS transfers Personal Data to a country outside the Union, SCALEDYNAMICS shall provide appropriate safeguards to ensure the ongoing confidentiality and integrity of Personal Data.

The Customer can control the Personal Data that SCALEDYNAMICS has obtained, and exercise its data protection rights granted by applicable law (access to and rectification or erasure of Personal Data or restriction of processing concerning the Customer or to withdraw consent to processing), by contacting SCALEDYNAMICS by email: welcome@oxygenit.io

Any requests from the Customer or any of its End-Users that exceed SCALEDYNAMICS's obligations under the Agreement or the applicable regulations or that modify the processing instructions initially communicated to SCALEDYNAMICS on the Effective Date of the Agreement, will be the subject of a specific prior quotation from SCALEDYNAMICS.

If the Customer objects to the above mentioned data processing, the Customer may be required to uninstall the Software or stop using the Service to stop further Personal Data collection.

The Customer is hereby informed that cookies may be installed on its End Users' Terminal to improve access to and use of the Service and/or the Software.

SCALEDYNAMICS reserves the right to amend its personal data policy from time to time to reflect changes in legislation or its processing practices. Any significant changes will be communicated to the Customer through the Service, the OxygenIT website or other appropriate means.

12.2. Personal Data processed by the Customer

In the event where the Customer processes Personal Data through the Service, the Customer:

- acts as data controller for the processing of Personal Data processed in the Service, since the Customer determines the purposes and means of such processing of Personal Data;
- is responsible for providing legally adequate privacy notices and obtaining necessary consents for the processing of such Personal Data and represents to SCALEDYNAMICS that the Customer has provided all necessary privacy notices and obtained all necessary consents;
- retains full liability for any administrative, technical or organizational measures that the Customer may be required to undertake or implement under applicable data protection legislation.

13. Term

13.1. Duration of the Trial Period

If available and selected by the Customer, the Trial Period will start on the Effective Date for a duration of one (1) month unless otherwise agreed in writing in the Order Form.

On or before expiration or termination of the Trial Period, the Customer agrees to either (i) enter into a Commercial License (if available) with SCALEDYNAMICS for continued use of the Service after the expiration of the Trial Period under the terms of such Commercial License, or on the contrary (ii) promptly cease all use of the Service and uninstalling the Software and destroying all copies of the Software in its possession or control in the event of an In-House Deployment

The Customer is informed that the OxygenIT Solution has an automated system that will cause it to “time-out”(cease working) after the Trial Period expires. The Customer agrees not to circumvent or defeat this system and to cease all use of the Service after the end of the Trial Period.

The Customer is informed through the Service by email of (i) the date of discontinuance or the termination of the Service and of (ii) the date of the commercial launch of the Service or the availability of other SCALEDYNAMICS’ Products.

13.2. Duration of the Commercial License

The initial term of this Agreement commences on the Effective Date and continues for the period of time set forth in the Order Form or as detailed on SCALEDYNAMICS' website or, if no such date is specified, for one (1) year as of the Effective Date (the "Initial Term").

The Customer may terminate its use of the Service at any time by sending a termination request to SCALEDYNAMICS at sales@oxygenit.io. Such termination will be effective at the start of the next billing period.

Software or Service on a subscription basis - Except as otherwise stated in the Order Form, at the end of the Initial Term (and each renewal term thereafter, if any), subject to payment of the applicable Fees for each such renewal term, this Agreement will automatically renew for additional successive terms equal to the Initial Term, unless either Party provides the other Party with notice of nonrenewal at least thirty (30) days prior to the end of the then-current term.

14. Termination

14.1. Suspension

SCALEDYNAMICS may suspend the Customer's right to access or use any portion or all of the Service immediately upon notice to the Customer, if SCALEDYNAMICS determines (a) the Customer's use of the Service poses a security risk to the Service or any other customer or end user, and/or could adversely impact SCALEDYNAMICS systems, or the content of any other customer and end user, and/or could subject SCALEDYNAMICS to liability, and/ or could be fraudulent, (b) the Customer is in breach of this Agreement, (c) the Customer is in breach of its payment obligations under **Section 6**.

Any delay in payment mentioned above authorizes SCALEDYNAMICS, without formalities or prior notice, to suspend the Client's access to the Service until payment of the totality of the invoice, without prejudice to other possible actions that SCALEDYNAMICS could take because of the law or the present Agreement.

If SCALEDYNAMICS suspends the Customer right to access or use any portion or all of the Service (a) the Customer remains responsible for all Fees and charges that the Customer incurs during the period of suspension; and (b) the Customer will not be

entitled to any support services (if such support agreement has been prior executed with SCALEDYNAMICS) for any period of suspension.

SCALEDYNAMICS will use commercially reasonable efforts to restore the Customer's access to the Service promptly following resolution of the cause of such suspension.

In the absence of remediation by the Customer of a cause of suspension resulting from the Customer breach of this Agreement, SCALEDYNAMICS may terminate the Agreement in accordance with the provisions of **Section 14.2**.

14.2. Termination for fault

This Agreement and all rights granted by SCALEDYNAMICS hereunder may be terminated by either Party if the other Party has breached any terms of this Agreement and fails to cure such breach within thirty (30) days (or within two (2) days with respect to the Trial License) of a non-breaching Party's notice thereof.

Notwithstanding the foregoing, without prejudice to SCALEDYNAMICS' other rights accorded to it by this Agreement or by law, SCALEDYNAMICS may immediately terminate the Agreement by written notice to the Customer, in the event of (i) breach of the provisions of **Section 4**, **Section 5.1** or (ii) breach of this SLSA, and such breach is not curable or (iii) if the Customer fails to pay the applicable Fees or charges as specified in the Order Form.

14.3. Consequences of termination

On or before the expiration of the Trial Period, the Customer may choose to switch from the Trial License to a Commercial License subject to the then-applicable terms and conditions of such Commercial License, in order to (i) prevent the deletion of the User Account and Data History and (ii) to resume the use of the Service.

Upon expiration or termination of this Agreement for any reason whatsoever, the Customer's rights to use the Software and the Service cease and the Customer shall:

- stop using the Service and/or the Software immediately; and
- uninstall the Software in the event of In-House Deployment; and
- destroy (and certify such destruction) all copies of the Software in its possession or control, including any accompanying Documentation and associated materials.

Upon expiration or termination of the Agreement, the Customer is informed and acknowledges that:

- the User Account will be deleted;
- SCALEDYNAMICS will have no obligation to maintain the History Data and Customer Data in its databases or in the Service or to forward any such information to the Customer or any third party;
- SCALEDYNAMICS shall delete the Data History and Customer Data of the Customer from SCALEDYNAMICS' systems following the effective date of termination, in accordance with SCALEDYNAMICS' then-current standard procedures;
- The Customer is responsible for all Fees and charges that the Customer has incurred up to and including the date of termination.

If this Agreement is terminated by SCALEDYNAMICS in accordance with the **Section 14.2** above, the Customer shall pay any unpaid Fees covering the remainder of the Initial term or any renewed term. In no event, will termination of this Agreement relieve the Customer of its obligation to pay any Fees payable to SCALEDYNAMICS for the period prior to the effective date of termination.

Upon expiration or termination of this Agreement, SCALEDYNAMICS may retain information and data about SCALEDYNAMICS Software execution and performance as long as it is in a form that does not personally identify the Customer, its End-Users, its employees or agents.

Any terms of this Agreement which by their nature should survive the termination of this SLSA shall survive such termination. Termination will not limit any of SCALEDYNAMICS' rights or remedies at law.

Support services or Professional Services: Any Support Services or Professional Services (under the PSA) shall be automatically terminated pursuant to the expiration or termination of the Agreement.

15. International use of the Service - Export controls

15.1. International use of the Service

The Customer represents and warrants that the Customer, authorized Affiliate or End-User is not located in or is a national of any country that is embargoed or highly restricted under export regulations or are otherwise an entity to whom SCALEDYNAMICS is legally prohibited to provide the Service.

The Customer represents and warrants that the Customer will not possess, use, import, export or resell (and shall not permit the possession, use, importation, exportation, or resale of) the Service or any information or technical data provided by SCALEDYNAMICS to the Customer under this Agreement in any manner which would

cause SCALEDYNAMICS to breach any applicable export control laws, rules, or regulations of any jurisdiction. The Customer undertakes not to access and use the Software and/or the Service from locations where such access and/or use is illegal or prohibited.

SCALEDYNAMICS makes no representation that the Software and/or the Service are appropriate or available for use in location outside France.

15.2. Export controls

The Customer acknowledges that the Service may be subject to European Union and, when applicable US export regulations. The Customer shall comply with applicable export and import laws and regulations for the jurisdiction in which the Service will be used or the Software will be imported and/or exported. The Customer shall not provide access to the Service or export the Software to any individual, entity or country prohibited by applicable law or regulation. The Customer is responsible, at its own expense, for any local government permits, licenses or approvals required for importing and/or exporting the Software.

16. Assignment

SCALEDYNAMICS may assign, or transfer this Agreement, or part thereof, and/or delegate, partially or totally, its rights and/or obligations hereunder, to any Affiliate or third party without consent from the Customer.

The Customer shall not rent, lease, lend, sub-license, assign, transfer, delegate, partially or totally, any of its rights and obligations under this Agreement (including its User Account), to any Customer's Affiliate or third party without the prior written consent of SCALEDYNAMICS.

17. Force Majeure

Any delay or non-performance of any provision of this Agreement caused by force majeure event, conditions beyond the reasonable control of the performing Party as defined by French case law, shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the force majeure event preventing the performance.

If the case of force majeure continues for more than thirty (30) consecutive days, either Party may immediately terminate the Agreement by registered letter with acknowledgement of receipt, without entitling the other Party to any compensation.

18. Miscellaneous

If any portion of this SLSA shall be held invalid, illegal or unenforceable, the validity, legality, and enforceability of the remainder of this SLSA shall not in any way be affected or impaired thereby.

Nothing in this SLSA will be construed as creating a joint venture, partnership or principal/agent relationship between the Parties.

Any translation of this SLSA is done for local requirements and in the event of any inconsistencies between the English and non-English versions of the SLSA, the English version of this SLSA shall govern, to the extent not prohibited by local law in the jurisdiction of the Customer.

SCALEDYNAMICS reserves the right to change this SLSA at any time and from time to time to reflect changes in the applicable laws, technical or security requirements, or the functionality of the Service and/or the Software. If SCALEDYNAMICS decides to change this SLSA in the future, SCALEDYNAMICS will post an appropriate notice through the Service. Any non-material change (such as clarifications) to this SLSA will become effective on the date the change is posted. Any material changes in the SLSA will be notified by email to the Customer or with a notice displayed in the Software and the use of the Service shall be subjected to the acceptance of the updated terms of the SLSA by the Customer in its User Account, within five (5) days from the date of the update notice. In the absence of such acceptance, the SLSA and the Service shall be terminated in accordance with the provisions of **Section 14.3** above. The date of the last update of this SLSA is set out at the top of this document. The Customer acknowledges and agrees that the Customer's continued use of the Service and/or the Software after the date of changes to this SLSA indicates the Customer's agreement to such changes.

If SCALEDYNAMICS does not exercise or enforce any legal right or remedy which is contained in the SLSA (or which SCALEDYNAMICS has the benefit of under any applicable law), this will not be deemed a waiver of any such rights or remedies, and that those rights or remedies will still be available to SCALEDYNAMICS.

In the event of any conflict or inconsistency between the terms and conditions of this Agreement and any terms or conditions set forth in any purchase order or other document relating to the transactions contemplated by this Agreement, the terms and conditions set forth in this Agreement shall prevail unless otherwise expressly agreed by the Parties.

Without prejudice of the confidentiality provisions of **Section 7**, the Customer expressly consents to (i) the public release by SCALEDYNAMICS of marketing material making

reference to this Agreement; the relationship between SCALEDYNAMICS and the Customer in respect of the Agreement and (ii) the use of the Customer's company name, trade name and logo as commercial references (or customers list) on SCALEDYNAMICS' websites and commercial documentation.

If any provision of the Agreement is held invalid or unenforceable by a court of competent jurisdiction, the invalid or unenforceable part or provision will be enforced to the maximum extent permissible by applicable law and the other provisions of these Agreement will remain in full force and effect.

19. Audit rights

The Customer shall not have the right to audit or inspect SCALEDYNAMICS' internal systems, procedures, or documentation except as expressly required by applicable law or regulatory obligations. In the event such an audit is required by law and provided that the Customer's audit request is demonstrable and based upon such applicable law or regulatory obligations, SCALEDYNAMICS reserves the right to:

- Require reasonable advance written notice, no less than ten (10) working days (in France) prior to the requested audit date;
- Limit the scope of the audit to information directly relevant to the Customer's contractual obligations with SCALEDYNAMICS;
- Ensure that any audit is conducted during regular business hours, in a manner that minimizes disruption to SCALEDYNAMICS' operations;
- Require that the audit be conducted by an independent third-party auditor, bound by a confidentiality obligation and subject to SCALEDYNAMICS' prior written approval.
- Ensure that all costs and expenses associated with the audit shall be borne solely by the Customer, unless otherwise agreed in writing.

Furthermore, under no circumstances will the audit extend to any Confidential Information of SCALEDYNAMICS that is unrelated to the provision of the Service including, but not limited to, SCALEDYNAMICS' trade secrets, proprietary technology, or internal financial data.

Subject to applicable regulatory obligations, SCALEDYNAMICS may make the required information available to the Customer's auditor at its discretion in a dedicated space hosted in a secured dataroom.

Notwithstanding the above, in the event of an audit conducted on the Customer, and at the Customer's request, SCALEDYNAMICS agrees to provide the approved third-party auditor with the Data Repository information relevant to the delivery of the Service to the Customer. Such information will be treated as Confidential Information and shall not be disclosed to the Customer or any other third party.

20. Governing law and jurisdiction

This Agreement is governed by the laws of FRANCE. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

Failing an amicable settlement, the Parties irrevocably agree that the competent court within the jurisdiction of the Court of appeal of Paris, FRANCE shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this SLISA or its subject matter, formation or termination for any reason whatsoever (including non-contractual disputes or claims).

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