



Global Terms of Use for Exterro Products

Available on AWS Marketplace to AWS Account Holders

READ THESE TERMS CAREFULLY BEFORE ENROLLING FOR OR USING THE SERVICE. IF YOU DO NOT AGREE WITH THESE TERMS, YOU MAY NOT ACCESS OR OTHERWISE USE THE SERVICE. THESE GLOBAL TERMS OF USE ARE BETWEEN YOU (“CUSTOMER”) AND THE APPLICABLE EXTERRO AFFILIATE GOVERN YOUR USE OF THE EXTERRO PRODUCTS. BY USING THE SERVICE, YOU INDICATE YOUR ACKNOWLEDGMENT THAT YOU HAVE READ AND ACCEPTED THESE TERMS. IF YOU ENTER INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES. THIS AGREEMENT GOVERNS YOUR ACCESS AND USE OF EXTERRO’S SERVICES.

You may not access the Services (i) if you are a direct competitor of Exterro or its Affiliates, except with Exterro’s prior written consent; (ii) for purposes of monitoring their availability, performance, or functionality, or (iii) for any other benchmarking or competitive purposes.

These Terms of Service (“Terms”) are entered into between Exterro® Incorporated (“Exterro”) and the individual and/or entity (“Customer”) identified in an Order Form. This Agreement is effective as of the date Customer registers for the Services (“Effective Date”). In consideration of the mutual covenants and representations set forth in this Agreement, the parties hereby agree as follows:

1. PROVISION OF THE SERVICES

1.1. Subscription Service. “Subscription Service” or “Service” means Exterro’s software (ordered by Customer on the Order) (the “Software”) which is made available by Exterro as a Software as a Service (SaaS) online via web access designated by Exterro. Exterro will make the following Services available to Customer, subject to the terms and conditions of this Agreement and related ordering documents: (a) use of the Subscription Services; (b) professional services and training services (“Professional Services”) set forth in an SOW (Exhibit 1 attached); (c) any additional services defined on an Order; and (d) standard support as stated in Exhibit 2 Exterro Subscription Service Guide (Hosted Services)- for the purchased Services at no additional charge. Exterro will use commercially reasonable efforts to make the online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which Exterro shall give at least 8 hours electronic notice and which Exterro shall schedule to the extent practicable during the weekend hours between 6:00 p.m. Friday and 3:00 a.m. Monday, Pacific time), and (ii) any unavailability caused by circumstances beyond Exterro’s reasonable control, including, but not limited to, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Exterro employees), internet service provider failure or delay, or denial of service attack.



1.2. Professional Services. Exterro shall perform Professional Services in the form, type and manner specified in the Order Form, and which, upon execution of the Order Form, are incorporated into the Agreement.

1.3. Customer Obligations. Customer is responsible for Customer's implementation of the Subscription Services. Customer will (a) be responsible for Users' compliance with this Agreement, (b) be responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired the Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of Services and Customer Data, and notify Exterro promptly of any such unauthorized access or use, (d) use Services and Customer Data only in accordance with the Documentation and applicable laws and government regulations, and (e) comply with terms of service of non- Exterro applications with which Customer uses Services or Content.

1.4. Restrictions. Customer will not (a) make any Service or Data available to, or use any Service or Data for the benefit of, anyone other than Customer or its Users, (b) sell, resell, license, sublicense, distribute, rent or lease any Service or Data, or include any Service or Data in a service bureau or outsourcing offering, (c) use a Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use a Service to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (f) attempt to gain unauthorized access to any Service or Data or its related systems or networks, (g) permit direct or indirect access to or use of any Service or Data in a way that circumvents a contractual usage limit, (h) copy a Service or any part, feature, function or user interface thereof, (i) copy Content except as permitted herein or in an Order or the Documentation, (j) frame or mirror any part of any Service or Data, other than framing on Customer's own intranets or otherwise for Customer's own internal business purposes or as permitted in the Documentation, (k) access any Service or Data to build a competitive product or service, or (l) reverse engineer any Service (to the extent such restriction is permitted by law).

1.5. Customer shall designate a minimum number of named contacts as listed in the applicable Order Form to request and receive support services from Exterro. Named Support Contacts must be trained on the Fusion products for which they initiate support requests

2. FEES AND PAYMENT

2.1 Not a Master Purchase Agreement. Customer acknowledges that this is not a master purchase agreement for subsequent purchase of Exterro Products, but rather, these Terms of Use only apply to each Order of an Exterro Product by Customer on the AWS Marketplace on or after the publication date. Each subsequent Order of an Exterro Product placed by Customer on the AWS Marketplace will be made subject to and conditioned on the Parties accepting the then-current version of these Terms of Use with effect from and after the effective date until the license therefor has expired or is terminated in accordance with the Terms of Use unless otherwise agreed in a written amendment signed by the Parties.

2.2 AWS Not a Party. Customer agrees that it is herein licensing the right to access and use one or more Exterro Products pursuant to these Terms of Use. As a supplier to Exterro, AWS is acting solely as an agent and/or provider of payment/Tax processing and other related services in order to facilitate the purchase by Customer on the AWS Marketplace of the right to access and



use such Exterro Product(s) agreed hereunder and for no other purpose. The Parties agree that payment to AWS acting on behalf of Exterro shall be deemed to be payment to Exterro for all purposes. For the avoidance of doubt, AWS (and not Exterro) is responsible for any AWS Services or other AWS or third party products/services that Customer purchases from AWS.

2.3. Fees Paid to AWS. Customer will pay the applicable fees for the Subscription Services as set forth on the AWS Marketplace site. For any change orders or other modifications, Exterro will invoice Customer for fees specified in the applicable Order Form. Should any invoice (excluding disputed amounts) become overdue by more than thirty (30) days, interest will be charged at a rate of 1.5% per month or the highest rate allowed by law, whichever is less from the original invoice due date, until the overdue balance is settled. Any taxes arising out of this Agreement other than those on Exterro's net income will be Customer's responsibility. Exterro will pay any taxes remitted to it by Customer to the applicable taxing authority when due. The Parties agree to cooperate to help enable each party to accurately determine and reduce its own tax liability and to minimize any potential liability to the extent legally permissible.

2.4. Fees Paid to Exterro, if applicable.

2.4.1. An Order shall specify the term of authorized use of the Subscription Service ("Subscription Term"), the fees and other charges for the Subscription Service, any special payment terms, the scope of use, and the numbers, types and identifiers of permitted users, applications, servers, devices, capacity and locations at or through which the Customer is permitted to use the Subscription Service. Each Order is hereby incorporated into and made a part of this Agreement for that order.

2.4.2. Subscription Service. Fees will be invoiced in accordance with the applicable Order.

2.4.3. Professional Services. Customer shall pay fees at the rates and in accordance with the Order Form. Customer shall reimburse Exterro for all reasonable and necessary travel and living expenses incurred by Exterro in the performance of the Professional Services under this Agreement.

2.5. Payment Terms. Except as expressly set forth in the applicable Order Form (a) Subscription Service fees are invoiced upon registration for a new Order, and annually in advance of renewal Orders. (b) Professional Services fees are invoiced on a time and materials basis (including reasonable travel expenses) monthly in arrears; and (c) Customer shall pay each invoice in full within thirty (30) days after the date of invoice, in U.S. dollars. All fees are based on Service rights acquired and not actual usage. If Customer specifies in an Order Form that it is issuing a purchase order for such Order Form, then Exterro shall reference the applicable Customer purchase order number on its invoices (solely for administrative convenience) so long as Customer provides the purchase order number to Exterro at least five (5) business days prior to the date of the applicable Exterro invoice.

2.6. Non-cancelable & non-refundable. Except as specifically provided for below, all payment obligations under any and all Orders are non-cancelable and all payments are non-refundable. The license rights for the number of Users set forth on any respective Order cannot be decreased during the Term.

2.7. Audit. Exterro shall have the right, at Exterro's expense, to periodically confirm Customer's compliance with the Subscription Services usage terms of any Order Form. Customer shall provide any reasonable assistance to Exterro in conducting an audit. If Customer's use of the



Subscription Services exceeds the usage permitted by the Order Form, Customer shall (a) disable the unpermitted use; or (b) purchase additional rights to bring the actual use into compliance with permitted rights; and (c) compensate Exterro for the reasonable cost of the audit. If Customer fails to correct the unpermitted use, Exterro may, in addition to other rights and remedies provided hereunder or at law, and after providing thirty (30) days of written notice of the noncompliance, terminate or suspend the affected Service.

2.8. Taxes. Exterro fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value added, sales, use, or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Exterro has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section 2.5, Exterro will invoice Customer and Customer will pay that amount unless Customer provides Exterro with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Exterro is solely responsible for taxes based on its income, property and employees.

3. PROPRIETARY RIGHTS

3.1. Reservation of Rights. Subject to the limited rights expressly granted in this Agreement, Exterro and its licensors reserve all right, title and interest in and to the Services and Content, including all related intellectual property rights. No rights are granted to Customer other than as expressly set forth herein. Exterro shall have a royalty-free, worldwide, non-exclusive, transferable, sub-licensable, irrevocable, perpetual right to make, use, sell, offer for sale, import or otherwise incorporate into the Subscription Service, Software, Documentation, any suggestions, enhancements, recommendations, or other feedback provided by Customer relating to the Subscription Service, Software, Documentation and Professional Services.

3.2. License by Exterro to Exterro Content. Exterro grants to Customer a worldwide, non-exclusive, non-transferable, limited-term license, under our applicable intellectual property rights and licenses, to access and use the Services pursuant to Order Forms, subject to those Order Forms, this Agreement and the Documentation.

3.3. Customer Data; License by Customer to Host Customer Data. As between Customer and Exterro, Customer owns its Customer Data. All Customer Confidential Information, and all Personal Identifiable Information ("PII") supplied by, or PII input by Customer or its authorized agents shall be, and remain, the property of Customer. Customer grants Exterro a worldwide, limited-term license to host, copy, transmit and display Customer Data, as necessary for Exterro to provide the Services in accordance with this Agreement. Subject to the limited licenses granted herein, Exterro acquires no right, title or interest from Customer under this Agreement in or to Customer Data.

3.4. Federal Government End Use Provisions. Exterro provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Exterro to determine if there are acceptable terms for



granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

3.5. Aggregated Data. Exterro owns the aggregated and statistical data derived from the operation of the Subscription Service, including without limitation, the number of records in the Service, the number and types of transactions, configurations, and reports processed in the Service and the performance results for the Service (the "Aggregated Data"). Exterro may utilize the Aggregated Data for purposes of operating Exterro's business, provided that Exterro's use of the Aggregated Data will not reveal the identity, whether directly or indirectly, of any individual or specific data entered by any individual into the Subscription Service. In no event does the Aggregated Data include any personally identifiable information.

4. CONFIDENTIALITY

4.1. Confidential Information. "Confidential Information" means all information disclosed by a Party (the "Disclosing Party") to the other Party (the "Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure, including without limitation: each Party's respective business plans and processes; financial and employee data; proprietary technology and product information and designs; the Subscription Service and Software; Customer Data. The terms of this Agreement, Order Form(s) and pricing are Confidential Information of Exterro. Confidential information excludes information that: (i) is or becomes generally known to be public; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation to the Disclosing Party; (iii) is received from a third party without any obligation of confidentiality to a third party or breach of any obligation of confidentiality to the Disclosing Party; (iv) or was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information.

4.2. Protection. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care). The Receiving Party agrees (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this Section 4.2. In the event of a court order or government regulation compelling disclosure of any Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt written notice thereof, and shall reasonably cooperate with the Disclosing Party to seek confidential or other protective treatment. If a party discloses or uses (or threatens to disclose or use) any Confidential Information of the other Party in breach of confidentiality protections hereunder, the other party shall have the right, in addition to any other remedies available, to injunctive relief to enjoin such acts, it being acknowledged by the Parties that any other available remedies are inadequate. If the Receiving Party is compelled by law to



disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information. Each Party's obligations set forth in this Section 4 shall remain in effect during the term and three (3) years after termination of this Agreement. The Receiving Party shall promptly return to the Disclosing Party or destroy (with certification of such destruction provided by the Receiving Party upon request of the Disclosing Party) all Confidential Information of the Disclosing Party in its possession or control upon request from the Disclosing Party.

5. PROTECTION OF CUSTOMER DATA

5.1. Protection. During the Term of this Agreement, Exterro shall maintain a formal security program materially in accordance with industry standards that is designed to: (i) ensure the security and integrity of Customer Data; (ii) protect against threats or hazards to the security or integrity of Customer Data; and (iii) prevent unauthorized access to Customer Data.

Notwithstanding the preceding, Exterro does not warrant that said security measures will be infallible. As Exterro's only liability and Customer's only remedy related to Customer Data, Exterro will assist Customer to resolve any Data loss and any security issues related to a specific Service. If Exterro cannot correct such issue within a mutually agreed time, Exterro will refund the fees paid by the Customer for the particular Service at issue.

5.2. Security Breach Remedy. In the case of a SaaS Subscription, subject to the liability provisions of Section 8, if any unauthorized access, use or disclosure of any Customer Data results from breach of Exterro's obligations under any Privacy and Security Terms, Exterro will pay the reasonable and documented costs incurred by Customer for investigation, notification, remediation and mitigation concerning such unauthorized access, use or disclosure of Customer Data, including notice of breach to affected individuals, industry self-regulatory agencies, government authorities and the public, and credit and identity theft monitoring services for affected individuals.

5.3. Unauthorized Disclosure. If either Party believes that there has been a disclosure of Customer Data to anyone other than an Authorized Party or Exterro, such Party must promptly notify the other Party. Additionally, each Party will reasonably assist the other Party in remediating or mitigating any potential damage, including any notification which should be sent to individuals impacted or potentially impacted, or the provision of credit reporting services to such individuals. Each Party shall bear the costs of such remediation or mitigation to the extent the breach or security incident was caused by it.

6. REPRESENTATIONS, WARRANTIES & DISCLAIMERS

6.1. Warranties.

6.1.1. Each Party warrants that it has the authority to enter into this Agreement and, in connection with its performance of this Agreement, shall comply with all laws applicable to it related to data privacy, international communications and the transmission of technical or personal data.

6.1.2. Exterro warrants that (a) this Agreement, the Order Forms and the Documentation accurately describe the applicable administrative, physical, and technical safeguards for



protection of the security, confidentiality and integrity of Your Data, (b) Exterro will not materially decrease the overall security of the Purchased Services during a subscription term, (c)

the Purchased Services will perform materially in accordance with the applicable Documentation, (d) Exterro will not materially decrease the functionality of the Purchased Services during a subscription term, and (e) the Purchased Services and Content will not introduce Malicious Code into Customer's systems.

6.1.3. Professional Services. Exterro warrants that it shall perform all Professional Services obligations defined in the Order Form in a professional and workmanlike manner.

6.1.4. As Customer's exclusive remedy and Exterro's sole liability for breach of warranties in Section 6.1, Exterro shall (a) correct the non-conforming Professional Service, Deliverable or Subscription Service at no additional charge to Customer or (b) in the event Exterro is unable to correct such deficiencies after good-faith efforts, refund Customer prorated amounts paid for the defective Professional Service, Deliverable or Subscription Service. To receive the warranty remedy, Customer must promptly report deficiencies in writing to Exterro, but no later than thirty (30) days after the first date the deficiency is identified by Customer.

6.2. DISCLAIMERS. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, EXTERRO DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES ARISING UNDER STATUTE, WARRANTIES OF MERCHANTABILITY, ACCURACY, TITLE, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXTERRO SPECIFICALLY DOES NOT WARRANT THAT THE SERVICES, DELIVERABLES, OR SOFTWARE WILL MEET THE REQUIREMENTS OF CUSTOMER OR OTHERS OR THAT THEY WILL BE ACCURATE OR OPERATE WITHOUT INTERRUPTION OR ERROR. EXTERRO DISCLAIMS ANY LIABILITY TO CUSTOMER FOR SYSTEM INTERRUPTION OR UNAVAILABILITY OF ACCESS TO DATA FOR ANY REASON. EACH PARTY DISCLAIMS ALL LIABILITY FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD PARTY HOSTING PROVIDERS. CUSTOMER ACKNOWLEDGES THAT IN ENTERING THIS AGREEMENT IT HAS NOT RELIED ON ANY PROMISE, WARRANTY OR REPRESENTATION NOT EXPRESSLY SET FORTH HEREIN OR INCORPORATED INTO THIS AGREEMENT BY REFERENCE.

7. INDEMNIFICATION

7.1. Exterro Obligation. Subject to the exclusions set forth below, Exterro shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand ("Claim") alleging that Customer's use of the Subscription Service in accordance with this Agreement infringes any valid patent, copyright, or trademark of a third party that is issued or registered in the United States, Canada, Australia, the European Union or Switzerland; and (ii) pay any court-ordered award of damages or settlement amount, and reasonable attorney fees, to the extent caused by such Claim. If any portion of the Subscription Service becomes the subject of a Claim, Exterro may: (a) contest the Claim; (b) obtain permission from the claimant for Customer's continued use of the Subscription Service; (c) replace or modify the Subscription



Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in Exterro's judgment, then (d) terminate Customer's use of the

affected Subscription Service upon forty-five (45) days' written notice and pay to Customer a refund of any prepaid subscription fees covering the remaining portion of the applicable Subscription Term for the affected Subscription Service after the date of termination.

Notwithstanding the preceding, Exterro shall have no indemnification obligation or liability for any Claim arising in whole or in part from: (i) any use of the Subscription Service which exceeds the authorized use permitted under this Agreement; (ii) Customer Data; (iii) use of the Subscription Service by Customer in violation of applicable law; (iv) use of the affected Subscription Service after termination in accordance with clause (d) of this Section 7.1; (v) modifications to the Subscription Service by any person other than Exterro or a person acting at Exterro's direction; or (vii) use of the Subscription Service in combination with any hardware, software, application or service made or provided other than by Exterro.

7.2. Process. All of the foregoing indemnity obligations are conditioned on the Customer notifying Exterro promptly in writing of any actual or threatened Claim, the Customer giving Exterro sole control of the defense thereof and any related settlement negotiations, and the Customer cooperating and, at Exterro's request and expense, assisting in such defense.

SECTION 7 STATES EACH PARTY'S ENTIRE LIABILITY, AND THE OTHER PARTY'S EXCLUSIVE REMEDY, FOR THIRD PARTY INFRINGEMENT CLAIMS AND ACTIONS.

8. LIMITATION OF LIABILITY AND DAMAGES

8.1. General Cap. SUBJECT TO SECTIONS 8.2, 8.3 AND 8.4, IN NO EVENT WILL (a) EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (b) EITHER PARTY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT, WHETHER SUCH DAMAGES ARE BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY, EXCEED THE GREATER OF (i) THE FEES AND OTHER AMOUNTS PAID BY CUSTOMER FOR THE SUBSCRIPTION IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE DAMAGES, OR (ii) \$500,000.

8.2. Exception for Certain Indemnification Obligations. THE EXCLUSIONS OF AND LIMITATIONS ON LIABILITY SET FORTH IN SECTIONS 8.1(a) AND (b) WILL NOT APPLY TO ANY COSTS OF DEFENSE AND ANY AMOUNTS AWARDED AGAINST THE INDEMNIFIED PARTY BY A COURT OF COMPETENT JURISDICTION OR AGREED UPON PURSUANT TO SETTLEMENT AGREEMENT THAT ARE SUBJECT TO SUCH PARTY'S INDEMNIFICATION AND DEFENSE OBLIGATIONS UNDER THIS AGREEMENT.

8.3. Special Cap for Security Breach.

8.3.1. FOR SAAS SUBSCRIPTIONS, THE EXCLUSIONS OF AND LIMITATIONS ON LIABILITY SET FORTH IN SECTIONS 8.1(a) AND (b) WILL NOT APPLY TO, AND INSTEAD SECTION 8.3.2 WILL APPLY TO: (a) CUSTOMER'S COSTS OF INVESTIGATION, NOTIFICATION, REMEDIATION AND MITIGATION RESULTING FROM ANY UNAUTHORIZED ACCESS, USE OR DISCLOSURE OF CUSTOMER DATA



RESULTING FROM BREACH OF EXTERRO'S OBLIGATIONS UNDER ANY PRIVACY AND SECURITY TERMS, INCLUDING NOTICE OF BREACH TO AFFECTED INDIVIDUALS, INDUSTRY SELF-REGULATORY AGENCIES, GOVERNMENT

AUTHORITIES AND THE PUBLIC, AND CREDIT AND IDENTITY THEFT MONITORING SERVICES FOR AFFECTED INDIVIDUALS AND EXTERRO'S OBLIGATIONS WITH RESPECT THERETO PURSUANT TO SECTION 5; AND (b) ANY LIABILITIES ARISING FROM CLAIMS BROUGHT BY THIRD PARTIES AGAINST CUSTOMER ARISING FROM ANY UNAUTHORIZED ACCESS, USE OR DISCLOSURE OF CUSTOMER DATA RESULTING FROM BREACH OF EXTERRO'S OBLIGATIONS UNDER ANY PRIVACY AND SECURITY TERMS, INCLUDING REASONABLE OUT-OF-POCKET COSTS OF DEFENSE AND ANY AMOUNTS AWARDED AGAINST CUSTOMER BY A COURT OF COMPETENT JURISDICTION OR AGREED UPON PURSUANT TO A SETTLEMENT AGREEMENT.

8.3.2. FOR SAAS SUBSCRIPTIONS, EXTERRO'S AGGREGATE LIABILITY UNDER THIS AGREEMENT FOR ANY UNAUTHORIZED ACCESS, USE OR DISCLOSURE OF CUSTOMER DATA RESULTING FROM BREACH OF EXTERRO'S OBLIGATIONS UNDER ANY PRIVACY AND SECURITY TERMS, INCLUDING CUSTOMER'S COSTS SET FORTH IN SECTION 8.3.1 AND OBLIGATIONS PURSUANT TO SECTION 5.2, WHETHER SUCH DAMAGES ARE BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY, WILL NOT EXCEED (IN LIEU OF AND NOT IN ADDITION TO THE AMOUNT SET FORTH IN SECTION 8.1) THE GREATER OF (i) THREE TIMES THE FEES AND OTHER AMOUNTS PAID AND REQUIRED TO BE PAID BY CUSTOMER FOR THE SUBSCRIPTION UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE DAMAGES OR (ii) \$1 MILLION.

9. TERM AND TERMINATION

9.1. Term. The term of this Agreement commences on the Effective Date and continues until the stated term in all Order Forms has expired or has otherwise been terminated in accordance with the terms set forth in this Section 9. Following the initial term defined in the Order Form, an Order shall automatically renew for successive one year terms, or other mutually agreed multi-year terms set forth on an Order (each, a "Renewal Term") until such time as Customer provides Exterro with written notice of termination; provided, however, that: (a) such notice be given no fewer than thirty (30) calendar days prior to the last day of the then current term; and, (b) any such termination shall be effective as of the date that would have been the first day of the next Renewal Term. "Term" shall collectively mean and include the Agreement terms represented by the initial term and the Renewal Term.

9.2. Termination for Cause. Each Party may terminate this Agreement in its entirety upon written notice if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership or liquidation, in any jurisdiction, that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of creditors. Either Party may terminate a Subscription Service or Professional Services effective immediately upon written notice if the other Party materially breaches a material obligation under this Agreement or the applicable Order Form for the affected service and does not cure the breach within thirty



(30) days after receiving written notice thereof from the non-breaching Party. Professional Services are separately ordered from the Subscription Service, even if they are enumerated on the same Order Form, and are not required for the Subscription Service. A breach by a Party of

its obligations with respect to Professional Services shall not by itself constitute a breach by that Party of its obligations with respect to the Subscription Service.

9.3. Effect of Termination. Upon expiration or other termination of the Subscription Service for any reason, Customer shall stop using, and Exterro shall stop providing, the terminated Subscription Service. (a) If the Subscription Service is terminated by Customer due to Exterro's breach, then Exterro shall refund to Customer, within thirty (30) days after the effective date of termination, all prepaid fees for the remaining portion of the Subscription Term for the terminated Subscription Service after the effective date of termination. (b) If Professional Service is terminated by Customer due to Exterro's breach, then Exterro shall refund to Customer, within thirty (30) days after the effective date of termination, any prepaid amounts for any unperformed Professional Services as defined in the Order Form. (c) If the Subscription Service is terminated by Exterro due to Customer's breach, then Customer shall pay to Exterro, within thirty (30) days after the effective date of termination, fees for the terminated Subscription Service that would have been payable for the remainder of the Subscription Term after the effective date of termination.

9.4. Return of Customer Data. Following the end of the Subscription Term, where Customer has not renewed, or upon Termination, Customer shall have forty-five (45) days to request a copy of the Customer Data from Exterro; and, if requested, Exterro shall use commercially reasonable efforts to provide a copy of that data within fifteen (15) days in a commercially standard format at no cost to. After such forty-five (45) day period, Exterro shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, have the right to delete all Customer Data in its systems or otherwise in its possession or under its control and delete Customer's instances of the Subscription Service.

10. GENERAL PROVISIONS

10.1. Survival. Upon termination of this Agreement for any reason, Customer shall pay all amounts owed hereunder. Sections 3 (Proprietary Rights); Section 1.4 (Restrictions); and Section 4 (Confidentiality); Section 7 (Limitation of Liability and Damages); and Section 9 (General Provisions) of this Agreement, together with any other provision required for their construction or enforcement, shall survive termination of this Agreement for any reason.

10.2. Assignment. Neither Party may assign its rights or obligations, whether by operation of law or otherwise, without the prior written consent of the other Party which shall not be unreasonable withheld, conditioned or delayed. Notwithstanding the foregoing, Exterro may, upon notice and without Customer's consent: (i) in connection with a merger, reorganization or sale of all or substantially all of the assets or equity of Exterro, assign this Agreement in its entirety to Exterro's successor; and (ii) assign this Agreement in its entirety to any company, partnership or other legal entity which from time to time directly or indirectly Controls, is Controlled by or is under the common Control with Exterro, where "Control" means the legal power to direct or cause the direction of the general management of the company, partnership or other legal entity.

10.3. Notice. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery; (ii) when received by the addressee if sent by a nationally



recognized overnight courier (receipt requested); (iii) the second business day after mailing; or (iv) the first business day after sending by email, except that email shall not be sufficient for notices of termination. Notices shall be sent to the parties as set forth on the Order Form.

10.4. Waiver and Amendment. A waiver of any right is only effective if it is in writing and only against the party who signed such writing and for the circumstances given. Any modification of this Agreement, or an Order Form must be in writing and signed by authorized representatives of both parties.

10.5. Relationship of the Parties. The Parties are independent contractors. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship. Neither Party shall have any right or authority to assume or create any obligation of any kind expressed or implied in the name of or on behalf of the other Party. Exterro may at any time subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.

10.6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon and the federal laws of the United States of America. Customer hereby consents and submits to the jurisdiction and forum of the state and federal courts in the State of Oregon in all questions and controversies arising out of this Agreement. In no event shall this Agreement be governed by the United Nations Convention on Contracts for the International Sale of Goods.

10.7. Purchase through Reseller. If Customer purchased a Subscription Service from a reseller or distributor authorized by us ("Reseller"), then to the extent there is any conflict between these Terms and the agreement entered between Customer and the respective Reseller, including any purchase order ("Reseller Agreement"), then, as between Customer and Exterro, these Terms shall prevail. Any rights granted to Customer and/or any of the other Users in such Reseller Agreement which are not contained in these Terms, apply only in connection with the Reseller. In that case, Customer must seek redress or realization or enforcement of such rights solely with the Reseller and not Exterro. For clarity, Customer's and its Users' access to the Service is subject to our receipt from Reseller of the payment of the applicable Fees paid by Customer to Reseller. Customer hereby acknowledges that at any time, at our discretion, the billing of the Subscription Fees may be assigned to us, such that Customer shall pay us directly the respective Subscription Fees.

10.8. Miscellaneous. This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the Parties with respect to the subject matter hereof. In the event of a conflict, the provisions of an Order Form shall take precedence over provisions of the body of this Agreement and over any other Exhibit or Attachment. This Agreement supersedes all other prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.



This Agreement may be executed electronically, by facsimile and in counterparts, which taken together shall form one binding legal instrument.

11. DEFINITIONS

11.1. “Affiliate” means any corporation or company that directly or indirectly controls, or is controlled by, or is under common control with the relevant party, where “control” means to: (a) own more than 50% of the relevant party; or (b) be able to direct the affairs of the relevant party through any lawful means (e.g., a contract that allows control).

11.2. “Customer Data” or “Data” means the electronic data or information submitted by Customer to the Subscription Service.

11.2. “Deliverables” means the training, specifications, configurations, implementation, data conversions, workflow, performance capabilities, and any other activity or document to be completed during the course of Professional Services for delivery to Customer.

11.3. “Documentation” means Exterro’s electronic and hardcopy user guide for the Subscription Service, which may be updated by Exterro from time to time.

11.4. “Intellectual Property Rights” means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

11.5. “Malicious Code” means viruses, worms, time bombs, Trojan horses and other malicious code, files, scripts, agents or programs.

11.6. “Order” or “Order Form” means the separate ordering documents under which Customer subscribes to the Exterro Subscription Service and Professional Services pursuant to this Agreement that have been fully executed by the Parties.

11.7. “Personally Identifiable Information” means any and all individually identifying information related to former, current or prospective employees, consultants, contingent workers, independent contractors, or retirees of Customer that is accessed, disclosed, provided, obtained, created, generated, scanned, entered, collected or processed in connection with the Subscription Service or Professional Services.

11.8. “Production” means the Customer’s use of or Exterro’s written verification of the availability of the Subscription Service to Customer for use in its business processes.

11.9. “User” means Customer’s employee, contractor, consultant, or outsourcing service provider who is provided registered access to the Services in order to perform work for or on behalf of Customer.



Exhibit 1

Statement of Work (SOW)

Exterro Software Implementation

This Statement of Work (“SOW”) defines the Professional Services to be accomplished by Exterro, Inc. (Exterro) under the terms and conditions of this SOW and the Master Subscription and Professional Services Agreement (the “Agreement”), to which this SOW is attached.

Scope of Services

Exterro will provide implementation services to Customer as set forth below (the “Project”). Exterro and Customer (collectively, the “Project Team”) will commit resources to work on the Project. If Project extends beyond specified length of engagement, a change order will be required in providing the Services. Exterro will employ reasonable, industry-standard implementation processes and activities as detailed below.

Services	Exterro Deliverables	Customer Responsibilities
Project Management	<ul style="list-style-type: none">Exterro will provide a resource to provide project oversight and reporting, guide once weekly status meetings, develop a project timeline, mitigate risks, and communicate business and technical requirements	<ul style="list-style-type: none">Customer will provide a resource to provide project oversight and reporting, participate in once weekly status meetings, manage Customer resources, mitigate risks, participate in project planning and communication.Customer is responsible for acknowledging, reviewing, and responding to documents relating to this Project. These documents may include implementation plans, training collateral, escalation issues, or end-of-project collateral.
Exterro Platform Delivery	<ul style="list-style-type: none">Exterro will deliver or update Customer’s single hosted environment with modules and integrations and connectors described in the associated Order Form.	<ul style="list-style-type: none">Customer will identify Users who will have platform access.
Documentation	<ul style="list-style-type: none">Exterro will deliver Standard Users’ Guides/Applicable Product Manuals	<ul style="list-style-type: none">Customer will review and share project documentation to all Customer’s project resources and Users as needed
Business and Technical	<ul style="list-style-type: none">Exterro will provide one hour business and technical workshops related to each module in scope to provide best practices and	<ul style="list-style-type: none">Customer will actively participate in workshops, make business process decisions



Configurations Planning	guidance on requirements and configuration decisions	and make business and technical configuration design decisions
Configuration Setup and Validation	<ul style="list-style-type: none">Exterro will conduct up to two working sessions per week to guide the completion of business and technical configuration set up and validation	<ul style="list-style-type: none">Customer will complete configuration and integration tasks per Exterro documentation.Customer will conduct validation and provide acceptance of Exterro configurations and/or integrations.Customer will take steps to resolve any of its configuration and/or integration issues that are identified
Training	<ul style="list-style-type: none">Exterro will provide product functionality training during implementation for Authorized Users – related to the licensed products in Order Form	<ul style="list-style-type: none">Customer will identify and coordinate training participants
Go-Live Support	<ul style="list-style-type: none">Exterro will guide Customer's transition to live operation of the Exterro platform.Exterro will lead one Customer stakeholder meeting at the conclusion of the project and introduce Exterro Customer support resources.	<ul style="list-style-type: none">Customer will help plan, communicate and conduct steps to transition to live operation of the Exterro platformCustomer stakeholders will participate in a Project review meeting at the conclusion of the project
Adoption Support	<ul style="list-style-type: none">Exterro Project team will be available to provide support during the first week of Customer's live operation using the Exterro software	<ul style="list-style-type: none">Customer will proceed with planned adoption of Exterro platform

Out of Scope Services	Description
Professional Services	<ul style="list-style-type: none">Retention schedules outside the United States are out of scope.
Migration	<ul style="list-style-type: none">Data Migration to or from the Exterro platform is out of scope.

Project Change Control Procedure

A change order may be required when there are changes to the scope, services, timelines, project duration, exclusions or assumptions within the AWS Order or this SOW which result in an increase in the effort of this Project. All changes to the SOW, including those requiring additional funding will be mutually agreed upon between Exterro and Customer prior to initiating the additional work associated with such change.



Roles and Responsibilities

This is a list of Project roles, NOT individuals, required to complete the Project. A single individual may take responsibility for any number of roles, or a single role may require more than one individual. Customer acknowledges its participation is critical for Project success.

Role	Exterro	Customer
Sponsor	<ul style="list-style-type: none">● Champion the project's success from implementation through adoption.● Responsible for allocating Exterro resources.● Serve as resource and escalation point for Exterro's Project Team	<ul style="list-style-type: none">● Champion the project's success from implementation through adoption.● Responsible for ensuring availability of Customer resources.● Responsible for promoting process change where necessary.● Serve as resource and escalation point for Customer's Project Manager ("PM")
Project Manager	<ul style="list-style-type: none">● Primary point of contact for implementation● Coordinate all Exterro resources involved in the Project.● Responsible for oversight of Exterro resources, schedules, risk management and completion of deliverables	<ul style="list-style-type: none">● Primary point of contact for implementation● Secure participation (as required) of key business process owners/SMEs● Responsible for the oversight of Customer resources, schedules, risk management and fulfillment of responsibilities
Trainer	<ul style="list-style-type: none">● Plan and provide Admin and End-User Training related to Exterro platform	<ul style="list-style-type: none">● Schedule end-user training, provide input into training plan
Functional Consultant(s) / Business Process Owner(s)	<ul style="list-style-type: none">● Responsible for providing leadership and guidance on the configuration, validation and overall usage of the Exterro platform	<ul style="list-style-type: none">● Responsible for providing configuration and business process decisions, validation and acceptance on the Exterro platform
Technical Lead/Subject Matter Experts	<ul style="list-style-type: none">● Responsible for providing leadership and guidance on the technical implementation and validation of the Exterro platform	<ul style="list-style-type: none">● Responsible for providing technical configuration decisions, setup of Customer's technical components as required.
Extended Team	<ul style="list-style-type: none">● Support project as needed at the direction of the Project Manager and Technical Lead	<ul style="list-style-type: none">● Support project as needed at the direction of the Customer's Project Manager and Technical Lead



Assumptions

The Parties' obligations and responsibilities provided in this Agreement are based on the following key assumptions. Deviations that arise during the Project will be managed through the procedure described in Project Change Control Procedure.

Project Resources	<ul style="list-style-type: none">• Customer will provide relevant contacts and subject matter experts in a timely fashion to be made available for any necessary work to deliver this SOW according to an as yet agreed Project schedule.• Exterro requires individual Administrative User accounts with appropriate Administrative User login access to the Exterro system during implementation.• Customer will provide a centralized, cross-functional project team that will serve as the voice of the global E-Discovery or Privacy processes related to the scope of this SOW. This cross-functional team will represent the interests of all Authorized Users, countries, divisions, campuses, or brands across all Exterro environments.• Exterro is not offering, dispensing, or agreeing to provide legal advice of any kind to anyone.
Working Hours and Travel	<ul style="list-style-type: none">• Professional Services specified under this SOW will be performed remotely from Exterro's offices during that particular office's normal business hours. Conference calls may be scheduled at mutually agreed upon times outside of normal business hours.
Project Schedule	<ul style="list-style-type: none">• Project will begin on a date mutually agreed between Exterro and Customer.• The Project will extend for the engagement period specified in the SOW. If Project completion is delayed beyond the specified engagement period, a change order is required to extend the engagement period and additional Professional Services may apply at a weekly rate.• Project estimates are based on timely availability of Customer resources during the project engagement.• Should Customer choose not to go live with any aspect of the licensed software, and then at a future date need re-implementation, this will require another SOW and may result in additional costs.
Project Scope	<ul style="list-style-type: none">• All configuration services herein, along with standard Authorized User roles, default system templates, and required technical configurations are included in scope for the out-of-the-box system setup.• Supported Customer validation is limited to configurations, integrations and migrations, if applicable, listed in Scope of Services. Dedicated stress, penetration, and any other QA related testing is not included.



Exhibit 2

Exterro Subscription Service Guide (Hosted Services)

Capitalized terms not defined herein shall have the meaning set forth in the Agreement between Customer and Exterro.

1. Support

During the Subscription Term, Exterro shall use reasonable efforts to resolve Defects (defined below) in the Subscription and Hosting Services (“Support”). Support does not include: implementation services; configuration services; integration services; customization services or other custom software development; support for modifications of the Exterro Software by any person other than Exterro or a person acting at Exterro’s direction; support for development materials; training or “how-to” assistance with administrative functions; other professional services; corrections of immaterial Defects or corrections that will degrade the Subscription Service.

A “Defect” means a problem causing the Subscription Service to not conform to the Product Documentation. “Available” or “Availability” means that the Services are readily available to Customer and operating in accordance with the Product Documentation. Customer may request Support for a Defect at the online portal <https://support.exterro.com> or any successor site.

Exterro will use commercially reasonable efforts to respond to the Support request in the following target time frames:

Nature of Defect	Production Instance Target Initial Response Time	Non-Production Instance Target Initial Response Time
Availability Defect	<ul style="list-style-type: none">• Classified as P1 Defect• Within 30 minutes at all times• Commencement of corrective action is within 2 hours	<ul style="list-style-type: none">• Classified as P2 Defect• Within 4 hours at all times
Critical Defect	<ul style="list-style-type: none">• Classified as P2 Defect• Within 2 hours at all times• Commencement of corrective action is within 6 hours	<ul style="list-style-type: none">• Classified as P3 Defect• Within 12 hours on weekdays, excluding federal holidays
Non-Critical Defect	<ul style="list-style-type: none">• Classified as P3 Defect• Within 12 hours on weekdays, excluding federal holidays• Commencement of corrective action is next service pack or minor release	<ul style="list-style-type: none">• Classified as P4 Defect• Within 24 hours on weekdays, excluding federal holidays
Other	No target initial response time	No target initial response time



The priority level will be assigned by these guidelines: “P1” is a production instance of the Subscription Service not Available; “P2” is a non-production instance not Available or a Defect in a critical function of a production instance; “P3” is a production instance Defect that is not a P1 or P2 request or a Defect in a critical function of a non-production instance; and “P4” is a Defect that is not a P1, P2 or P3 request.

API Support

Exterro APIs function in accordance with their documentation, and Exterro’s support obligation is limited to the functionality delivered as part of the Subscription Service. Exterro is not responsible to support Customer’s information systems, or its internal functions, and third-party products or services which may use Exterro APIs. Exterro disclaims any Service Level failure attributable to Customer’s acts or omissions with regard to Customer’s use of APIs in such internal systems. Upon Customer request, Exterro may assist in diagnosing and resolving issues related use of Exterro APIs with their systems, however Customer acknowledges such support is outside of Exterro’s support obligations and Exterro is not responsible for providing a fix. Requests for such support shall be designated as a P3 Support request.

Case Logging and Monitoring

New cases can be logged online at any time from the Exterro Support Portal, at <https://support.exterro.com>. Our technical support team is on call 24/7/365 to support any high priority issues (P1) that might arise after hours. All tickets logged can be tracked and managed from the Support Portal.

Regardless of the response standards set forth above, Exterro Support endeavors to connect all Priority 1 cases directly to an Exterro Support Analyst during Exterro’s regular hours of service (7:00 a.m. to 6:00 p.m. PST). Any Priority 1 call not immediately connected to a Support Analyst will be serviced within the time frames defined above.

To ensure speedy resolution, the Customer contact who logged the case must be readily available throughout the time period that the case is being worked on. For Priority 1 cases, Exterro Support will work on the case until one of the following states is reached:

- The problem is resolved.
- The Support Analyst is able to provide a reasonable and mutually acceptable alternative solution.
- The Customer contact who created the ticket, or the person listed as the contact, is unavailable or abandons the case. During the case resolution process you are required to involve the appropriate number and level of staff needed to work with Exterro on the issue effectively.

Closing a Support Case

A case is closed only when one of the following occurs:

- The case is resolved, i.e. the Customer contact and our Support Analyst mutually agree on a solution to the issue. This may include an alternative solution, configuration change, or the provision of additional software.
- The issue is found not to be due to any deficiency in the Exterro Software or Subscription Services.



- A resolution can be provided only by an enhancement to the Exterro Software, and the enhancement has been identified as a candidate for future releases. All enhancements remain as candidates until released or deemed inappropriate at a future date.
- A resolution can be provided only by a change to existing functionality in the Exterro Product, and it is determined by Exterro, in its reasonable discretion, that such a change is not suitable and therefore no further action will be taken.
- A resolution can be provided only by in-depth knowledge transfer that must be obtained through engaging Training or other Professional Services.
- A resolution can be provided only by engaging Professional Services to assess any environmental customization, design or architectural influences that might be directly causing or contributing to the issue. This is most likely to occur when the issue cannot be reproduced in a baseline environment.
- The case has been left open for five consecutive business days, while waiting for a response from the Customer contact who created the case. Exterro Support will make reasonable efforts to connect with the Customer contact who created the case or others listed as a contact in the ticket, but if there is no response within the five days, we will close the case.

Case Escalation

Exterro strives to provide its customers with the best support for issue resolution. If it appears that an issue is not being resolved quickly enough, escalation can occur in one of the following ways:

- **Automated Escalation:** Exterro employs automated internal escalation to various resources based on the severity of the issue and the length of the time an issue is open.
- **Proactive Escalation:** Exterro support can escalate an issue at any time if additional resources are required. Additionally our Support Manager reviews issues to ensure progress towards resolution at a reasonable pace given the priority of the issue.
- **Customer Initiated Escalation:** You can request escalation of an open issue, at which time we will assess the issue to quickly determine the cause(s) and work towards a solution. You can make your request through the Account Manager assigned to you who will, in turn, engage a Support Manager to work with you through the escalation process.

2. Updates

Included in Subscription Service

“Updates” are Exterro’s releases of the Subscription Service for repairs, enhancements or new features applied by Exterro to Customer’s instances of the Subscription Service at no additional fee during the Subscription Term. Exterro, alone, has the discretion to provide new functionality either: (i) as an Update included in the current Subscription at no additional fee, or (ii) as different Software or Service for a separate fee. Exterro determines whether and when to develop, release and apply any Update to Customer’s instances of the Subscription Service.

Notice of Updates; Maintenance Downtime

Exterro shall use reasonable efforts to give Customer thirty (30) days’ notice of any Update to the Subscription Services or the Exterro Platform. Exterro shall use reasonable efforts to give Customer ten (10) days’ notice of any upgrade to the infrastructure network, hardware or software used by Exterro to operate and deliver the Subscription Service, if Exterro in its reasonable judgment believes that the cloud infrastructure upgrade will impact Customer’s use of its production instances of the Subscription Service. Exterro will perform regular maintenance of all hosted sites. Maintenance will be performed typically on Thursday nights, in a window that extends from 6:00 p.m. to around 2:00 a.m. (Pacific



Standard Time) the following morning. Exterro will use commercially reasonable efforts to limit the period of time during which the Subscription Service is unavailable due to the application of Updates to no more than two (2) hours per month ("Maintenance Downtime"). Notwithstanding the foregoing, Exterro may provide Customer with a shorter, or no, notice period of an Update if necessary, in the reasonable judgment of Exterro, to maintain the availability, security or performance of the Subscription Service for Customer or other Exterro customers.

Patch Maintenance for the Application

Exterro will perform regular maintenance for all hosted sites. Exterro will provide a notice at least 24 hours in advance regarding all patch maintenance that may affect the Availability of the Subscription and Hosting Services.

Patch for Operating Systems and any vulnerabilities for third party software

Exterro Software supports several databases, operating systems, web servers and application systems. The Product Development and Support teams are constantly reviewing patches provided by third-party vendors for any vulnerabilities or improvements in their applications. Before applying patches that may affect the Availability of the Subscription and Hosting Services we will make commercially reasonable efforts to communicate with the Customer contact to provide notice at least 24 hours in advance. However, urgent vulnerability or Operating System patches may be applied without notice. Some Operating Systems (OS) patches are performed by our hosting partner in coordination with Exterro's technical support and hosting teams.

3. Availability Service Level

Availability.

Exterro's Availability service levels are based on a 24/7/365 basis. "Available" means that the Subscription Service can be accessed by Customer via a secure password protected web site(s) hosted by Exterro, and will operate in accordance with the Product Documentation, except for: (i) Maintenance Downtime in an amount no more than two (2) hours per calendar month; and (ii) downtime caused by circumstances beyond Exterro's reasonable control, including without limitation, selected Force Majeure Events, such as, for example, general Internet outages, failure of Customer's infrastructure or connectivity (including without limitation, direct connectivity and virtual private network (VPN) connectivity to the Subscription Service), computer and telecommunications failures and delays not within Exterro's control, and network intrusions or denial-of-service or other criminal attacks ("Excusable Downtime"). The Subscription Service will be available at least 99.9% of the time during each month, excluding Excusable Downtime ("Uptime Commitment").

Calculation of Subscription Service Availability

Subscription Service Availability = (total hours in month – Excusable Downtime) X .999.

By way of example, in a normal 30-day month, in which there are no uncontrollable events, Subscription Service Availability will be (30 (days) X 24 (hours) – 2 (hrs. Maintenance)] X .999 (uptime percentage) = 717.282 hours. For any time, the Subscription Service Availability is less than 717.282 hours in that reporting period, the Service Level credit applies.



Failure to Meet Service Levels.

In the event Exterro does not meet one or more of the requisite Service Levels, Exterro shall: (a) reduce the next applicable Subscription Services Fees invoice to Customer by the amount of the applicable Performance Credits (defined below) as a credit and, (b) use its best efforts to ensure that any unmet Service Level is subsequently met. Notwithstanding the foregoing, Exterro will use commercially reasonable efforts to minimize the impact or duration of any outage, interruption, or degradation of Service.

If Customer documents that Exterro has breached the Uptime Commitment service level in any month, Customer shall so notify Exterro and provide the dates and times that the Service was not available. Upon reasonable verification that the Uptime Commitment was not achieved, Customer's sole remedy for failure to meet the Service Level is that Exterro shall issue Customer a credit based on the percentage of annual Subscription Fees calculated in accordance with the table below for that month. Such credit will be applied against subsequent invoice(s).

Availability Percentage in any Month	Performance Credit
Less than 99.90% but at least 98.00%	5% of the Annual Subscription Fee divided by 12
Less than 98.00% but at least 95.00%	8% of the Annual Subscription Fee divided by 12
Less than 95.00% but at least 90.00%	10% of the Annual Subscription Fee divided by 12
Less than 90.00%	13% of the Annual Subscription Fee divided by 12

If Exterro fails to meet its Uptime Commitment in three consecutive months during any calendar year, Customer may terminate the Agreement and Exterro will refund any unused, prepaid Fees for the Subscription Services.