



MASTER SUBSCRIPTION AGREEMENT

THIS AGREEMENT IS BETWEEN HYDROLIX AND CUSTOMER. BY (1) CLICKING A BOX INDICATING ACCEPTANCE OR (2) USING THE SERVICES, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THE TERMS OF THIS AGREEMENT, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES. HYDROLIX'S DIRECT COMPETITORS ARE PROHIBITED FROM ACCESSING THE SERVICES, EXCEPT WITH HYDROLIX'S PRIOR WRITTEN CONSENT.

THIS AGREEMENT WILL BECOME EFFECTIVE ON THE EARLIER OF THE DATE CUSTOMER ACCEPTS THIS AGREEMENT OR CUSTOMER BEGINS USING THE SERVICES.

1. DEFINITIONS

- 1.1 **"Agreement"** means this Master Subscription Agreement.
- 1.2 **"Beta Services"** means Services or functionality that may be made available to Customer to try at its option at no additional charge that is designated as beta, pilot, proof-of-concept, limited release, developer preview, non-production, evaluation, or by a similar description.
- 1.3 **"Confidential Information"** means all information disclosed by a party (**"Disclosing Party"**) to the other party (**"Receiving Party"**), whether orally or in writing, which is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Customer includes Customer Data; Confidential Information of Hydrolix includes the Services, the terms and conditions of this Agreement, and all Order Forms (including pricing). Confidential Information of each party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without knowledge of any breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party.
- 1.4 **"Customer"** means in the case of an individual accepting this Agreement on his or her own behalf, such individual, or in the case of an individual accepting this Agreement on behalf of a company or other legal entity, the company, or other legal entity for which such individual is accepting this Agreement.
- 1.5 **"Customer Data"** means any Customer-specific data provided or submitted to the Services, excluding any Hydrolix Data.
- 1.6 **"Documentation"** means the online help Hydrolix provides for use with the Services.
- 1.7 **"Free Services"** means Services that Hydrolix makes available to Customer free of charge, including Beta Services and free trials.
- 1.8 **"Hosted Deployment"** means that Customer receives access to Hydrolix products on a software-as-a-service basis, e.g., Customer is provided with access credentials to log into a version of the Hydrolix product that is hosted on Hydrolix's or its third-party hosting provider's server infrastructure.
- 1.9 **"Hydrolix"** means Hydrolix, Inc.



- 1.10 “**Hydrolix Data**” means data that Hydrolix collects in connection with the use or operation of the Services, such as technical or log data, but does not include Customer Data.
- 1.11 “**Managed Deployment**” means that Customer receives access to Hydrolix products on an on-premises basis, e.g., Customer is provided with a copy of the software for a Hydrolix product that is installed and hosted on Customer’s server infrastructure, but Hydrolix manages such installation and hosting on Customer’s behalf.
- 1.12 “**Order Form**” means an ordering document or online order specifying the Services to be provided hereunder that is entered into between Customer and Hydrolix, including any addenda and supplements thereto.
- 1.13 “**Purchased Services**” means Services that Customer purchases under an Order Form or online purchasing portal, as distinguished from Free Services or those provided pursuant to a free trial.
- 1.14 “**Service(s)**” means the products and services that are ordered by Customer under an Order Form or online purchasing portal, or provided to Customer free of charge (as applicable) or under a free trial, and made available online by Hydrolix, including Hosted Deployments, Managed Deployments, and Supported Deployments of Hydrolix products.
- 1.15 “**Supported Deployment**” means that Customer receives access to Hydrolix product on an on-premises basis where Customer is provided with a copy of the software for a Hydrolix product that is installed and hosted on Customer’s server infrastructure and Customer manages such installation and hosting on its own behalf, but Hydrolix provides Customer with Updates for the applicable product.
- 1.16 “**Update**” means upgrades, enhancements, bug fixes, or similar changes to the Services that Hydrolix makes available to its customers at no additional charge.
- 1.17 “**User**” means, in the case of an individual accepting this Agreement on his or her own behalf, such individual, or, in the case of an individual accepting this Agreement on behalf of a company or other legal entity, an individual who is authorized by Customer to use a Service, for whom Customer has purchased a subscription (or in the case of any Services provided by Hydrolix without charge, for whom a Service has been provisioned), and to whom Customer (or, when applicable, Hydrolix at Customer’s request) has supplied a user identification and password (for Services utilizing authentication). Users may include, for example, employees, consultants, contractors and agents of Customer, and third parties with which Customer transacts business.

2. PROVISION OF SERVICES

- 2.1 **Provision of Purchased Services.** Hydrolix will (a) make the Services available to Customer pursuant to this Agreement, and the applicable Order Forms and Documentation, (b) provide applicable Updates for the Purchased Services to Customer at no additional charge, (c) use commercially reasonable efforts to make the online Purchased Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which Hydrolix shall give advance electronic notice), and (ii) any unavailability caused by circumstances beyond Hydrolix’s reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Hydrolix employees), Internet service provider failure or delay, non-Hydrolix application or program, or denial of service attack, and (d) provide the Services in accordance with laws and government regulations applicable to Hydrolix’s provision of its Services to its customers generally (i.e., without regard for Customer’s particular use of the Services), and subject to Customer’s and Users’ use of the Services in accordance with this Agreement, the Documentation and the applicable Order Form. Solely if Customer’s Services consist of a Managed Deployment or Supported Deployment and subject to Customer’s and Users’ use of the Services in accordance with this Agreement, the Documentation and the applicable Order Form, Hydrolix grants Customer a non-exclusive, non-transferable, and non-sublicensable license to install a copy of the software (in object code form) for the Hydrolix product



ordered on the applicable Order Form on Customer's or its third-party hosting provider's server equipment solely to use and access such software for Customer's internal business purposes.

- 2.2 Managed Deployment Terms.** If Customer orders a Managed Deployment, Customer agrees to provide Hydrolix with all requested access credentials and information necessary for Hydrolix to perform the Services, which Hydrolix will treat as Customer's Confidential Information.
- 2.3 Responsibility for Customer Data.** Customer is responsible for the content and delivery of Customer Data, including the accuracy, usefulness, timeliness, completeness, appropriateness, quality, integrity, reliability, and legal sufficiency of Customer Data, and for obtaining all rights related to the Customer Data required by Hydrolix to perform the Services and other obligations, and to exercise all rights, hereunder. Customer is responsible for ensuring Customer Data does not represent a breach of any obligations to a third party or of law. Hydrolix is not obligated to screen Customer Data, although Hydrolix reserves the right to screen Customer Data and to suspend the Services and Hydrolix's activities hereunder without warning if Hydrolix reasonably considers that such Customer Data (or Customer's acts or omissions hereunder) may breach this Agreement or any applicable law. Hydrolix will notify Customer as soon as practicable if Hydrolix suspends the Services or Hydrolix's activities hereunder and will recommence performance as soon as, in Hydrolix's reasonable opinion, doing so would not place Hydrolix at risk of loss or damage. Hydrolix is not liable for any damage or loss caused by Hydrolix's decision to suspend performance for any permissible reason under this Agreement.
- 2.4 Protection of Customer Data.** Hydrolix will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, as described in the Documentation. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Customer Data (other than by Customer or Users). The terms of the data processing addendum at <https://docs.hydrolix.io/docs/hydrolix-dpa> ("DPA") posted as of the effective date are hereby incorporated by reference. For the purposes of the Standard Contractual Clauses, Customer and its applicable Affiliates are each the data exporter, and Customer's acceptance of this Agreement, and an applicable Affiliate's execution of an Order Form, shall be treated as its execution of the Standard Contractual Clauses and Appendices.
- 2.5 Responsibility for Users; Safeguarding Access Credentials.** Customer will be responsible and liable for the acts and omissions of all Users in connection with this Agreement, as well as any and all access to and use of the Services by any User or any other person providing and/or receiving Customer Data or other information in connection with the Services. Customer acknowledges that Customer's access information, including User IDs and passwords of its Users, will be Customer's "key" to Hydrolix Services; accordingly, Customer will be responsible for maintaining the confidentiality of such access information. Customer will: (a) notify Hydrolix promptly of any unauthorized use of any password or account or any other known or suspected breach of security; (b) report to Hydrolix promptly and use reasonable efforts to stop immediately any copying or distribution of Hydrolix Services that is known or suspected by Customer or Customer's Users; and (c) not impersonate another User or provide false identity information to gain access to or use the Services. Hydrolix will not be responsible for any unauthorized use until Customer notifies Hydrolix of the same, in writing.
- 2.6 Free Services.** Hydrolix may make Free Services available to Customer at no charge. If Customer elects to try such Free Services, Hydrolix shall make the Free Services available to Customer subject to (a) the terms of this Agreement, (b) the Order Form for such Free Services, and (c) the Documentation applicable to the Free Services. Customer shall allow only Users to access the Free Services, and only for the purpose(s) described by Hydrolix. Hydrolix may terminate Customer's access to the Free Services at any time in its sole discretion. ANY DATA CUSTOMER ENTERS INTO THE FREE SERVICES, AND ANY CUSTOMIZATIONS MADE TO THE FREE SERVICES BY OR FOR CUSTOMER, WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASES A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE FREE SERVICES OR EXPORTS SUCH DATA BEFORE THE END OF THE FREE SERVICES. NOTWITHSTANDING THE "REPRESENTATIONS AND WARRANTIES" AND "INDEMNIFICATION" SECTIONS BELOW, THE FREE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY AND HYDROLIX SHALL HAVE NO



INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE FREE SERVICES UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE HYDROLIX'S LIABILITY WITH RESPECT TO THE FREE SERVICES SHALL NOT EXCEED \$1,000.00.

3. USE OF SERVICES

- 3.1 Restrictions.** Customer will not (a) make any Services available to anyone other than Customer or Users, or use any Services for the benefit of anyone other than Customer, unless expressly stated otherwise in an Order Form or the Documentation, (b) sell, resell, license, sublicense, distribute, rent or lease any Services, or include any Services 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 its related systems or networks, (g) permit direct or indirect access to or use of any Services in a way that circumvents a contractual usage limit, or use any Services to access, copy or use any of Hydrolix intellectual property except as permitted under this Agreement, an Order Form, or the Documentation, (h) modify, copy, or create derivative works of a Service or any part, feature, function or user interface thereof, (i) frame or mirror any part of any Service, other than framing on Customer's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation, or (j) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile a Service or access it to (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Service, (3) copy any ideas, features, functions or graphics of the Service, or (4) determine whether the Services are within the scope of any patent.
- 3.2 Subscriptions.** Unless otherwise provided in the applicable Order Form or Documentation, (a) Purchased Services are purchased as subscriptions for the term stated in the applicable Order Form or in the applicable online purchasing portal, (b) subscriptions for additional Purchased Services may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions. Customer agrees that its purchases are not contingent on the delivery of any future functionality or features.
- 3.3 Usage Limits.** Services are subject to usage limits specified in Order Forms and Documentation. If Customer exceeds a contractual usage limit, Hydrolix may work with Customer to seek to reduce Customer's usage so that it conforms to that limit. If, notwithstanding Hydrolix's efforts, Customer is unable or unwilling to abide by a contractual usage limit, Customer will execute an Order Form for additional quantities of the applicable Services promptly upon Hydrolix's request, and/or pay any invoice for excess usage in accordance with the payment terms of this Agreement.

4. PAYMENT

- 4.1 Fees.** Customer will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (a) fees are based on Services subscriptions purchased and not actual usage, (b) payment obligations are non-cancelable and fees paid are non-refundable, and (c) quantities purchased cannot be decreased during the relevant subscription term.
- 4.2 Invoicing and Payment.** Customer will provide Hydrolix with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Hydrolix. If Customer provides credit card information to Hydrolix, Customer authorizes Hydrolix to charge such credit card for all Purchased Services listed in the Order Form for the initial subscription term and any renewal subscription term(s). Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card, Hydrolix will invoice Customer in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced fees are



due net 30 days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to Hydrolix and notifying Hydrolix of any changes to such information.

- 4.3 Overdue Charges.** If any invoiced amount is not received by Hydrolix by the due date, then without limiting Hydrolix's rights or remedies, (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, and/or (b) Hydrolix may condition future subscription renewals and Order Forms on payment terms shorter than those specified in this Agreement.
- 4.4 Suspension of Service and Acceleration.** If any charge owing by Customer under this Agreement is 30 days or more overdue, (or 10 or more days overdue in the case of amounts Customer has authorized Hydrolix to charge to Customer's credit card), Hydrolix may, without limiting its other rights and remedies, accelerate Customer's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Services until such amounts are paid in full, provided that, other than for customers paying by credit card or direct debit whose payment has been declined, Hydrolix will give Customer at least 10 days' prior notice that its account is overdue, in accordance with the notice provisions of this Agreement, before suspending services to Customer.
- 4.5 Payment Disputes.** Hydrolix will not exercise its rights under the "Overdue Charges" or "Suspension of Service and Acceleration" section above if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.
- 4.6 Taxes.** Hydrolix's 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 Hydrolix has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Hydrolix will invoice Customer and Customer will pay that amount unless Customer provides Hydrolix with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Hydrolix is solely responsible for taxes assessable against it based on its income, property, and employees.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Hydrolix, its Affiliates, and its licensors reserve all of their right, title and interest in and to the Services and the Hydrolix Data, including all of their related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.
- 5.2 License by Customer to Hydrolix.** Customer grants Hydrolix, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, use, transmit, and display any Customer Data, as appropriate for Hydrolix to provide and ensure proper operation of the Services and associated systems in accordance with this Agreement. Subject to the limited licenses granted herein, Hydrolix acquires no right, title, or interest from Customer or its licensors under this Agreement in or to any Customer Data.
- 5.3 License by Customer to Use Feedback.** Customer grants to Hydrolix and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use, distribute, disclose, and make and incorporate into its services any suggestion, enhancement request, recommendation, correction, or other feedback provided by Customer or Users relating to the operation of Hydrolix's or its Affiliates' services.
- 5.4 Federal Government End Use Provisions.** Hydrolix provides the Services, including related software and technology, for ultimate federal government end use in accordance with the following: The Services consist of "commercial items," as defined at FAR 2.101. In accordance with FAR 12.211-12.212 and DFARS 227.7102-4 and 227.7202-4, as applicable, the rights of the U.S. Government to use, modify, reproduce, release, perform, display, or disclose commercial computer software, commercial computer software documentation, and technical data furnished in connection with the Services shall be as



provided in this Agreement, except that, for U.S. Department of Defense end users, technical data customarily provided to the public is furnished in accordance with DFARS 252.227-7015. If a government agency needs additional rights, it must negotiate a mutually acceptable written addendum to this Agreement specifically granting those rights.

6. CONFIDENTIALITY

- 6.1 Protection of Confidential Information.** As between the parties, each party retains all ownership rights in and to its Confidential Information. 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) to (a) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (b) except as otherwise authorized by the Disclosing Party in writing, 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 not materially less protective of the Confidential Information 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.
- 6.2 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. 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.

7. REPRESENTATIONS AND WARRANTIES

- 7.1 Mutual Representations.** Each party represents that it has validly entered into this Agreement and has the legal power to do so.
- 7.2 Hydrolix Warranties.** Hydrolix warrants that during an applicable subscription term (a) this Agreement, the Order Forms and the Documentation will accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, (b) Hydrolix will not materially decrease the overall security of the Services, (c) the Services will perform materially in accordance with the applicable Documentation, and (d) Hydrolix will not materially decrease the overall functionality of the Services. For any breach of a warranty above, Customer's exclusive remedies are those described in the "Termination" and "Refund or Payment upon Termination" sections below.
- 7.3 Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. HYDROLIX'S SERVICES MAY BE SUBJECT TO, AND HYDROLIX IS NOT RESPONSIBLE FOR, LIMITATIONS, RISKS, AND OTHER PROBLEMS INHERENT IN ELECTRONIC COMMUNICATIONS, AND HYDROLIX DOES NOT WARRANT THAT USE OF THE SERVICES IS RISK-FREE. HYDROLIX DOES NOT PROVIDE REPRESENTATIONS, WARRANTIES, OR ASSURANCES AGAINST INTERCEPTION OR ACCESS. IN PERFORMING THE SERVICES, HYDROLIX MAY BE MAKING RECOMMENDATIONS AND PROVIDING ADVICE, BUT ALL DECISIONS AS TO IMPLEMENTING SUCH ADVICE AND RECOMMENDATIONS WILL BE MADE BY AND WILL BE THE SOLE RESPONSIBILITY OF CUSTOMER; HYDROLIX WILL NOT BE LIABLE TO



CUSTOMER FOR ANY RESULT OBTAINED OR NOT OBTAINED AS A CONSEQUENCE OF CUSTOMER'S IMPLEMENTATION OF SUCH ADVICE OR RECOMMENDATIONS.

8. INDEMNIFICATION

8.1 Hydrolix Indemnification. Hydrolix will defend Customer against any claim, demand, suit, or proceeding made or brought against Customer by a third party alleging that any Purchased Service infringes or misappropriates such third party's intellectual property rights (a "**Claim Against Customer**"), and will indemnify Customer from any damages, attorney fees, and costs finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement approved by Hydrolix in writing of, a Claim Against Customer, provided Customer (a) promptly gives Hydrolix written notice of the Claim Against Customer, (b) gives Hydrolix sole control of the defense and settlement of the Claim Against Customer (except that Hydrolix may not settle any Claim Against Customer unless it unconditionally releases Customer of all liability), and (c) gives Hydrolix all reasonable assistance, at Hydrolix's expense. If Hydrolix receives information about an infringement or misappropriation claim related to a Service, Hydrolix may in its discretion and at no cost to Customer (i) modify the Services so that they are no longer claimed to infringe or misappropriate, without breaching Hydrolix's warranties under "Hydrolix Warranties" above, (ii) obtain a license for Customer's continued use of that Service in accordance with this Agreement, or (iii) terminate Customer's subscriptions for that Service upon 30 days' written notice and refund Customer any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply if (I) the allegation does not state with specificity that the Services are the basis of the Claim Against Customer; (II) a Claim Against Customer arises from the use or combination of the Services or any part thereof with software, hardware, data, or processes not provided by Hydrolix, if the Services or use thereof would not infringe without such combination; (III) a Claim Against Customer arises from Services under an Order Form for which there is no charge; or (IV) a Claim against Customer arises from Customer's breach of this Agreement, the Documentation or applicable Order Forms.

8.2 Indemnification by Customer. Customer will defend Hydrolix and its Affiliates against any claim, demand, suit or proceeding made or brought against Hydrolix by a third party (a) alleging that the combination of a Non-Hydrolix application or service or configuration provided by Customer and used with the Services, infringes or misappropriates such third party's intellectual property rights, or (b) arising from (i) Customer's use of the Services in an unlawful manner or in violation of the Agreement, the Documentation, or Order Form or (ii) any Customer Data or Customer's use of Customer Data with the Services (each a "**Claim Against Hydrolix**"), and will indemnify Hydrolix from any damages, attorney fees, and costs finally awarded against Hydrolix as a result of, or for any amounts paid by Hydrolix under a settlement approved by Customer in writing of, a Claim Against Hydrolix, provided Hydrolix (A) promptly gives Customer written notice of the Claim Against Hydrolix, (B) gives Customer sole control of the defense and settlement of the Claim Against Hydrolix (except that Customer may not settle any Claim Against Hydrolix unless it unconditionally releases Hydrolix of all liability), and (C) gives Customer all reasonable assistance, at Customer's expense. The above defense and indemnification obligations do not apply if a Claim Against Hydrolix arises from Hydrolix's breach of this Agreement, the Documentation, or applicable Order Forms.

8.3 Exclusive Remedy. This "Indemnification" section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any third-party claim described in this section.

9. LIMITATION OF LIABILITY

9.1 Limitation of Liability. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE 12 MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS



OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CUSTOMER'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER SECTION 4 ("PAYMENT") ABOVE OR OBLIGATIONS FOR BREACH OF SECTION 3.1 ("RESTRICTIONS").

9.2 Exclusion of Consequential and Related Damages. IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, BUSINESS INTERRUPTION, OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

10. TERM AND TERMINATION

10.1 Term of Agreement. The term of this Agreement commences on the date Customer first accepts it and continues until all subscriptions hereunder have expired or have been terminated.

10.2 Term of Purchased Subscriptions. The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional one-year terms, unless either party gives the other written notice (email acceptable) at least 30 days before the end of the relevant subscription term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Hydrolix's applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per-unit pricing.

10.3 Termination. A party may terminate this Agreement for cause (a) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period or (b) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.

10.4 Refund or Payment upon Termination. If this Agreement is terminated by Customer in accordance with the "Termination" section above, Hydrolix will refund Customer any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If this Agreement is terminated by Hydrolix in accordance with the "Termination" section above, Customer will pay any unpaid fees covering the remainder of the term of all Order Forms to the extent permitted by applicable law. In no event will termination relieve Customer of its obligation to pay any fees payable to Hydrolix for the period prior to the effective date of termination.

10.5 Effect of Termination; Survival. On termination of this Agreement, Customer's rights and licenses hereunder shall automatically terminate and Receiving Party shall return to Disclosing Party all of Disclosing Party's Confidential Information or, at Disclosing Party's request, destroy or delete such information. Sections 1, 4 (with respect to amounts outstanding as of termination), 5, 6, 7, 8, 9, 10.4, 10.5, and 11 shall survive termination of this Agreement.

11. GENERAL.

11.1 Governing Law; Venue. This Agreement will be governed by California law, without regard to conflicts of law provisions. Neither the U.N. Convention of Contracts for the International Sale of Goods nor UCITA will apply. The parties agree to the exclusive jurisdiction of the state and federal courts located in California for all disputes arising out of or related to this Agreement.

11.2 Export Compliance. The Services, other Hydrolix technology, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Hydrolix and Customer each



represents that it is not on any U.S. government denied-party list. Customer will not permit any User to access or use any Service in a U.S.-embargoed country or region (currently the Crimea, Luhansk or Donetsk regions, Cuba, Iran, North Korea, or Syria) or as may be updated from time to time or in violation of any U.S. export law or regulation.

- 11.3 Anti-Corruption.** Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.
- 11.4 Entire Agreement and Order of Precedence.** This Agreement is the entire agreement between Hydrolix and Customer regarding Customer's use of Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The parties agree that any term or condition stated in a Customer purchase order or in any other Customer order documentation (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement, and (3) the Documentation. Titles and headings of sections of this Agreement are for convenience only and shall not affect the construction of any provision of this Agreement.
- 11.5 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.
- 11.6 Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.
- 11.7 Waiver; Amendment.** No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. This Agreement may only be amended via a written instrument executed by both parties.
- 11.8 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.
- 11.9 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all Order Forms), without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a Customer is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of Hydrolix, then Hydrolix may terminate this Agreement upon written notice. In the event of such a termination, Hydrolix will refund Customer any prepaid fees covering the remainder of the term of all subscriptions for the period after the effective date of such termination. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 11.10 Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, or (c), except for notices of termination or an indemnifiable claim ("Legal Notices"), which shall clearly be identifiable as Legal Notices, the day of sending by email. Billing-related notices to Customer will be addressed to the relevant billing contact designated by Customer. All other notices to Customer will be addressed to the relevant Services system administrator designated by Customer. Notes to Hydrolix should be addressed to: legal@hydrolix.io. Notices to Customer will be addressed to the contact information in Customer's account.