SALTSTACK MASTER SERVICES AGREEMENT
(APPLICABLE TO CUSTOMERS PURCHASING SUPPORT SERVICES, CONSULTING SERVICES, OR TRAINING SERVICES FROM SALTSTACK)

This SaltStack Master Services Agreement (the "Agreement") is made by and between the customer identified in a Sales Order or Statement of Work that references this Agreement ("Customer") and SaltStack, Inc., a Delaware corporation with an office located at 3401 Hillview Avenue, Palo Alto, CA 94304 ("SaltStack"). This Agreement is effective as of the date Customer accepts the terms of this Agreement (the "Effective Date").

YOU MUST READ THIS AGREEMENT BEFORE PURCHASING OR USING SALTSTACK SUPPORT SERVICES, CONSULTING SERVICES OR TRAINING SERVICES.

BY EXECUTING A SALES ORDER OR STATEMENT OF WORK THAT REFERENCES THIS AGREEMENT OR BY CLICKING A BOX INDICATING ACCEPTANCE OF THIS AGREEMENT, CUSTOMER AGREES THAT THE TERMS AND CONDITIONS OF THIS AGREEMENT WILL GOVERN CUSTOMER'S PURCHASE AND USE OF SALTSTACK SUPPORT SERVICES, CONSULTING SERVICES OR TRAINING SERVICES. IF YOU ARE ACTING ON BEHALF OF AN ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY. IF CUSTOMER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MUST NOT PURCHASE OR USE THE INDICATED SERVICES.

Defined terms have the meaning ascribed to them in Section 10.

1. **SERVICES.**
   a) Subject to the terms and conditions of this Agreement, SaltStack will provide to Customer the Support Services, Consulting Services, and/or Training Services ("Services") agreed by the parties in written and executed Sales Orders and/or SOWs. Sales Orders and SOWs shall be deemed incorporated herein.
   b) Each Consulting Services engagement shall be set forth in a mutually agreed and written SOW, subject to the following:
      (i) The SOW will (a) incorporate by reference this Agreement; and (b) specify and describe the relevant business parameters, including, but not limited to, the Consulting Services, the Work Product, the Customer Provided Materials, primary contact information for SaltStack and Customer, project description, delivery schedule, staff roles, pricing, and a payment schedule. In the event of a conflict between the terms of this Agreement and the terms of a SOW, this Agreement will govern unless otherwise explicitly superseded in the SOW.
      (ii) Either Party may request a modification to the SOW and/or applicable Work Product by submitting a Project Change Request ("PCR"). Upon receipt of a PCR, SaltStack will estimate its financial and schedule impacts, if any. The Parties will review these estimates to determine whether the PCR would be mutually acceptable. If the Parties agree on the PCR, the Parties will execute the PCR, and SaltStack will attach the final PCR to the SOW. If the Parties are unable to agree within five (5) business days after the PCR is submitted, then the submitting Party may either withdraw the PCR or terminate the SOW. If the SOW is terminated, the only payments due are for the Work Product delivered, Consulting Services performed, and expenses incurred by SaltStack prior to the termination date.
   c) Services are only for Customer's internal use. Customer may not use the Services to supply any consulting, training or support services to any third party. All Services delivered under this Agreement are deemed accepted by Customer upon delivery unless otherwise stated in the applicable Sales Orders and/or SOWs.
   d) Customer acknowledges that if any security resource is required for the performance of Training Services or Consulting Services pursuant to this Agreement, Customer will issue the appropriate security specifications and/or DD 254 to SaltStack.

2. **FEES; PAYMENT TERMS; AUDIT. CANCELLATION AND FORFEITURE.**
   2.1. **Fees and Expenses.** In consideration for the Services, Customer will pay SaltStack the fees set forth in the applicable Sales Order and/or SOW.
   a) Consulting Services may be provided (i) for a fixed fee or (ii) on a time and materials basis, as described in the SOW, plus applicable taxes. Customer is responsible for ensuring that its purchase order ("PO") issued to SaltStack for the Consulting Services reflects the pricing set forth in the Sales Order and/or SOW SOW. If there is any difference in pricing listed in the Sales Order and/or SOW and the pricing listed in the PO, the pricing in the Sales Order and/or SOW will control. Subject to the SOW, all fees paid by Customer are non-refundable.

b) Fees for Support Services may be based on certain metrics, parameters, and/or limitations as set forth in SaltStack's Support subscription descriptions or in Sales Orders ("Support Metrics"), including for example, and without limitation, Support Metrics related to the size of Customer's computing environment and the number of nodes on which SaltStack Software is installed. Customer agrees to purchase and pay for Support Services in accordance with any such applicable Support Metrics.

c) Customer will also reimburse SaltStack for reasonable out-of-pocket travel, living, and other reimbursable expenses incurred by SaltStack in the provision of Consulting Services and Training Services.

2.2. Invoicing and Payment Terms. Unless otherwise agreed by the parties in an applicable Sales Order or SOW, SaltStack will invoice Customer upon execution of the applicable Sales Order or SOW. All charges and fees will be in U.S. dollars unless the currency is otherwise specified in the applicable Sales Order and/or SOW. Customer will pay all invoices issued by SaltStack under Sales Orders and SOWs in full within thirty (30) days of the date of each invoice, without setoff, counterclaim, or deduction of any kind. All invoiced amounts not paid by Customer when due will accrue interest at the rate of one percent (1%) per month or the maximum amount permitted by law, whichever is lower. SaltStack may, in its sole discretion and upon ten (10) days prior written notice to Customer, suspend the provision of Support Services, Consulting Services or Training Services, as applicable, if any invoice is more than thirty (30) days past due. This right of suspension will not limit any other of SaltStack's rights or remedies related to Customer's failure to pay. Customer agrees that POs do not have to be signed by Customer to be valid and enforceable.

2.3. Taxes. All fees and expenses charged by SaltStack under this Agreement are exclusive of any taxes, duties, or similar charges imposed by any government, and Customer agrees to pay for any and all federal, state, or local sales, use, excise, privilege, or other taxes, duties or assessments, however designated or levied, relating to this Agreement, exclusive of taxes based on SaltStack's net income. If Customer is required under applicable law to pay its local taxing authority any withholding tax, charge or levy in respect of any payments due to SaltStack hereunder ("Withholding Tax"), Customer may deduct such Withholding Tax from applicable payments due to SaltStack provided that (a) Customer cooperates with SaltStack to minimize any such Withholding Tax, including obtaining treaty exemption certificates and filing for a tax ruling with the applicable taxing authority and (b) such withheld amounts shall be paid to the appropriate taxing authority by Customer, and Customer shall provide SaltStack with (i) copies of all official government issued receipts issued by the said taxing authority and all such other evidence as is reasonably necessary for SaltStack to establish that such taxes have been paid, and (ii) a schedule showing the invoice number and gross amounts to which such receipts relate (collectively, "Payment Documentation"). Such Payment Documentation must be provided to SaltStack by email to: ar@vmware.com within forty-five (45) days of the date Customer remits payment for each applicable SaltStack invoice. A failure to pay an invoice in full without submitting the Payment Documentation to SaltStack will cause interest to accrue on unpaid and undocumented amounts. Customer confirms that SaltStack can rely on the Customer address set forth in the applicable Sales Order or SOW as being the place of supply for tax purposes.

2.4. Audit. During the term of this Agreement and for a period of two (2) years thereafter (the "Audit Period"), Customer agrees to keep and maintain complete and accurate records sufficient to verify Customer's compliance with the terms of this Agreement, including, without limitation, payment of applicable fees ("Records"). Such Records must include, at a minimum, information regarding Customer's computing environment and systems on which Support Services fees are based. During the Audit Period, SaltStack (or its authorized representative) will have the right, upon ten (10) days prior written notice to Customer, to perform an inspection and audit of the Records, as well as all Customer computing environments and systems within which SaltStack Software is or was installed during the term of this Agreement (an "Audit"). Audits will be performed during Customer's normal business hours and in a manner that does not unreasonably interfere with Customer's normal business operations. If an Audit reveals that Customer has underpaid SaltStack for Support, Customer shall promptly pay such underpaid amounts. SaltStack will bear the costs of the Audit; provided, however, that if the Audit reveals underpayment by Customer by more than five percent (5%), Customer will reimburse SaltStack for the cost of the Audit.

2.5. Cancellation and Forfeiture Policy. Customer acknowledges that cancellation or rescheduling of a Consulting Services or Training Services engagement under a Sales Order or SOW may cause SaltStack to incur non-refundable expenses. Accordingly, if Customer cancels or reschedules such an engagement with less than ten (10) business days' notice, Customer will pay SaltStack the fees equivalent to one day of the Services under the applicable Sales Order or SOW. If Customer cancels or reschedules an engagement with less than three (3) business days' notice, Customer will pay SaltStack the fees equivalent to five (5) days of Services under the applicable Sales Order or SOW. In addition, in each such case, Customer will pay SaltStack the amount of any out-of-pocket expenses incurred by SaltStack prior to the date of cancellation that would have otherwise been subject to reimbursement by Customer under the terms of this

Agreement or the applicable Sales Order or SOW but for the cancellation or rescheduling. If Customer reschedules the engagement, Customer will work with SaltStack to arrange a mutually agreed upon return date and prioritize the remaining time in the engagement. Any cancellation or rescheduling will be in writing and will be effective when received by SaltStack. Training Services and Consulting Services purchased under a Sales Order or SOW must be scheduled or redeemed by Customer within 12 months after the date of purchase or they will be forfeited. For the avoidance of doubt, a cancellation of an engagement under a Sales Order or SOW will not constitute a termination of the applicable Sales Order or SOW, and this section will not be construed as limiting any of SaltStack's right to damages in connection with any termination of this Agreement or Sales Order or SOW.

3. **PROPRIETARY RIGHTS.**
    3.1. **Customer Retained Property**. Customer owns and retains all worldwide right, title, and interest in and to all of Customer's Pre-existing Intellectual Property and Customer's Confidential Information (together, the "Customer Retained Property"). Pursuant to Customer's Intellectual Property Rights in the Customer Retained Property, Customer grants SaltStack a non-exclusive and non-transferable right to use Customer Retained Property solely for the benefit of Customer in fulfillment of SaltStack's obligations under the Sales Order and/or SOW. Customer warrants that it has the necessary rights to provide Customer Retained Property to SaltStack, so that SaltStack can access, use, and modify Customer Retained Property as necessary for SaltStack's performance of the Consulting Services. Except as expressly set forth herein, nothing in this Agreement conveys any right, title, or interest in or to the Customer Retained Property to SaltStack or any other third party. Customer acknowledges that SaltStack's performance of the Consulting Services and delivery of the Work Product is contingent on Customer's timely delivery of the Customer Retained Property required to perform the Consulting Services. Customer agrees that any reasonable scheduling or financial impacts caused by Customer's failure to deliver Customer Retained Property within the specified time will be treated as a PCR.
    3.2. **SaltStack Retained Property.** SaltStack owns and retains all worldwide right, title and interest in and to all: (a) of SaltStack's Pre-Existing Intellectual Property, (b) General Enhancements, (c) Services Materials, (d) Training Materials, and (e) Documentation (together, the "SaltStack Retained Property"), including any and all Intellectual Property therein and thereto. Except as expressly set forth herein, nothing in this Agreement conveys any right, title, or interest in or to the SaltStack Retained Property to Customer or any other third party. SaltStack will not be limited in developing, using or marketing services, materials or products that are similar to or related to the Work Products (other than those portions of the Work Product where ownership of the copyright has been granted to Customer) or the Consulting Services, or, subject to SaltStack's confidentiality obligations to Customer, in using the Work Product in or performing similar Consulting Services for any other projects or parties.
    3.3. **Work Product.**
        a) Customer acknowledges that any recommendations, ideas, contributions, corrections, enhancements, improvements, or the like relating to SaltStack Software or any other Salt-Stack Pre-Existing Intellectual Property that are submitted by Customer to SaltStack and are incorporated, implemented or used by SaltStack in SaltStack Software or any other Salt-Stack Pre-Existing Intellectual Property, or other products, technology or processes of SaltStack, shall be the sole property of SaltStack and the same, together with all copyrights, trade secrets, patent rights and other intellectual property thereto will be, and hereby are, assigned to Salt Stack. If any customizations or other software development are performed by SaltStack under this agreement for Customer, such customizations and software and all copyrights, trade secrets, patent rights and other intellectual property thereto will be owned by SaltStack. SaltStack does not assign or transfer ownership of any intellectual property to Customer or grant any exclusivity to Customer.
        b) Subject to Customer's payment of the amounts due under the applicable Sales Order and/or SOW and to Customer's compliance with the terms of this Agreement:
            1) Customer will own all copyrights to the portion of the Work Product consisting solely of written reports, analyses, and other working papers (other than SaltStack Retained Property), prepared and delivered by SaltStack to Customer under the applicable Sales Order and/or SOW, provided that Customer will exercise its rights for Customer's internal business operations only and will not resell or distribute such Work Product to any third party.
            2) For SaltStack Retained Property and the portion of the Work Product that consists of scripts, code, templates, customizations, and all other materials developed or otherwise provided by SaltStack in connection with the Consulting Services ("Deliverables"), and SaltStack grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of the Sales Order and/or SOW), perpetual license to the Deliverables, without the right to sublicense, to internally use, execute, reproduce, display, and

perform such SaltStack Retained Property solely for use with the SaltStack Software and related Support Services for Customer's internal business operations only (the "Deliverables License"). The Deliverables License will be subject to the following restrictions: (a) the Deliverables are licensed to Customer in object code format only and may not be reverse engineered, de-compiled or disassembled, (b) the Deliverables may not be sublicensed, loaned, sold, rented, leased, transferred or otherwise distributed to any other user; (c) SaltStack may immediately terminate Customer's use of the Deliverables if Customer fails to comply with any of these restrictions, and (d) THE DELIVERABLES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND. THIS IS NOT A WORK FOR HIRE AGREEMENT, AND ALL WORK PRODUCT IS AND WILL BE OWNED BY SALTSTACK. The Deliverables License does not apply to (i) Customer Retained Property, and (ii) any other products or items licensed, or otherwise provided, under a separate agreement.

c) The above licenses expressly exclude the SaltStack Software (including General Enhancements thereto) and any other software provided to Customer as part of Support Services. Such software is licensed under, and its use by Customer is subject to, the terms of the SaltStack Enterprise License Terms or other separately negotiated license, as applicable.

d) Notwithstanding anything herein to the contrary, open source software is licensed to the customer under that open source software's own applicable license terms. The open source license terms may contain additional rights benefiting Customer. The open source software license terms take precedence over the terms of this Agreement.

e) Third Party Agents may use the Work Product under the terms of the applicable license solely for the benefit and on behalf of Customer, provided Customer remains responsible for the Third Party Agents, and the Customer and the Third Party Agents execute an agreement that includes applicable confidentiality terms substantially as set forth in this Agreement.

3.4. **Training Materials**. Training Materials are for internal use only, and may only be used by the specific individuals to whom the Training Services are provided and may not be copied electronically or otherwise (whether or not for archive purposes), modified, translated, re-distributed or disclosed to third parties, lent, hired out, made available to the public, sold, offered for sale, shared, or transferred in any other way.

3.5. **Residual Rights.** Each Party reserves for itself all other Intellectual Property Rights that it has not expressly granted to the other. The parties acknowledge and agree that SaltStack is in the business of providing training, consulting, and support services to third parties that are or may be substantially similar to the Services being provided to Customer. Customer agrees that SaltStack, its employees, and agents will be free to use and employ their general skills, know---how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any Services performed under this Agreement and retained in the unaided memory of SaltStack's employees or agents, subject to its obligations respecting Customer's Confidential Information pursuant to Section 4.

3.6. **Release of Deliverables to the Open Source Community**. Notwithstanding Subsection 3.3(b), the parties may agree in a Sales Order and/or SOW to release the Work Product (except for the SaltStack Retained Property and Customer Retained Property) to (i) an existing open source project governed by a free and open source license approved by the Open Source Initiative, or (ii) a new open source project created by the parties and governed by a free and open source license approved by the Open Source Initiative.

4. **CONFIDENTIALITY.**

4.1. **Obligations.** For a period of three (3) years from the date of disclosure of the applicable Confidential Information, the Receiving Party will (i) hold the Confidential Information of the Disclosing Party in trust and confidence and avoid the unauthorized disclosure or release thereof to any other person or entity by using the same degree of care as the Receiving Party uses to avoid unauthorized use, disclosure, or dissemination of its own confidential information of a similar nature, but, in no event, less than a reasonable degree of care, and (ii) not use Confidential Information for any purpose except as expressly contemplated under this Agreement or any Sales Order or SOW; provided that, to the extent Confidential Information constitutes a trade secret under applicable law, the Receiving Party agrees to protect such information for so long as it qualifies as a trade secret. Notwithstanding any other provision of this Agreement, the Receiving Party may disclose Confidential Information to those of the Receiving Party's employees and contractors having a need to know such Confidential Information, provided that the Receiving Party takes reasonable measures to ensure that such employees and contractors comply with the provisions of this Section 4. Each party shall be liable for all violations of this Section 4 by its employees and contractors.

4.2. **Exclusions.** The obligations of the Receiving Party under this Section 4 will not apply to information of the Disclosing Party that the Receiving Party can demonstrate (i) was in the possession of the Receiving Party at the time of disclosure without any restrictions as to confidentiality of such information, (ii) was generally available to the public at the time of disclosure or became generally available to the public after disclosure through no breach of this Agreement or other wrongful act by the Receiving Party, (iii) was rightfully received by the Receiving Party from a third party without restriction on disclosure, or (iv) is independently developed by the Receiving Party without use of or reference to the Confidential Information. The Receiving Party may disclose Confidential Information to the extent required to comply with binding orders of governmental entities that have jurisdiction over it; provided that, to the extent legally permitted, the Receiving Party gives the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or other appropriate remedy, discloses only such Confidential Information as is required by the governmental entity, and uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information disclosed.

4.3. **Return and Destruction.** Upon the written request of the Disclosing Party, the Receiving Party shall promptly return or destroy the Confidential Information, including all copies thereof (certifying the fact of such destruction to the Disclosing Party), with the exception that the Receiving Party (a) may retain an archival copy of the Confidential Information and (b) is not required to destroy or alter computer---based back---up files generated in the normal course of its business. Any Confidential Information contained in such archival copies or back---up files shall, however, remain subject to the confidentiality obligations of this Section 4.

4.4. **Equitable Relief.** The parties acknowledge and agree that any breach of the obligations of this Section 4 may cause the non-breaching party irreparable harm for which an adequate remedy at law may not be available and that, therefore, the non-breaching party shall be entitled to seek injunctive relief, in addition to all other remedies available at law.

5. **TERM AND TERMINATION.**

5.1. **Term.** The term of this Agreement will commence on the Effective Date and will automatically terminate at the term of the term of the applicable Services as set forth in such Sales Order or SOW; provided, however, that if a Sales Order for Support does not specify the term for such Support, Support will be deemed to have commenced upon execution of the Sales Order.

5.2. **Termination.** Each party will have the right to terminate this Agreement or any individual Sales Order or SOW for cause upon written notice to the other party: (a) if the other party breaches any material term of this Agreement or the applicable Sales Order or SOW, and, if such breach is capable of cure, the breaching party fails to cure such breach within thirty (30) days of its receipt of notice of the breach from the non--breaching party, or (b) if (i) the other party becomes insolvent or makes an assignment for the benefit of creditors, (ii) a trustee or receiver is appointed for such other party or for a substantial portion of its assets or (iii) bankruptcy, reorganization or insolvency proceedings are instituted by or against such other party. Termination of a specific Sales Order or SOW will not result in the termination of any other Sales Orders or SOWs. Termination of this Agreement for cause will result in the immediate termination of all active Sales Orders and SOWs.

5.3. **Effects of Termination.** Upon any termination, SaltStack will be entitled to payment for all Services rendered, and expenses incurred, through the effective date of termination, including for work in progress. Sections 2, 3, 4, 5.3, 6.2, 7, 8 and 10 will survive any termination of this Agreement.

6. **WARRANTY.**

6.1. **Limited Warranties.**

a) Each party represents and warrants that it has the right, power, and authority to enter into, and perform its obligations under, this Agreement and each Sales Order and SOW.

b) SaltStack warrants that the Services will be performed by qualified personnel in a professional and workmanlike manner consistent with applicable industry standards. Customer must notify SaltStack in writing if Customer reasonably believes that SaltStack did not perform the Consulting Services or Training Services in substantial conformance with the applicable Sales Order and/or SOW within thirty (30) days of the delivery of the affected Services. Customer's notice must specifically identify and explain each alleged non-conformance with the terms of the SOW. SaltStacks' entire liability and Customer's sole remedy for SaltStack's failure to perform in accordance with the above warranty shall be for SaltStack to, at SaltStack's option: (i) use commercially reasonable efforts to

cure or correct such failure, or (ii) if SaltStack is unable to cure or correct such failure, terminate the affected Services and refund that portion of fees paid by Customer to SaltStack that corresponds to such failure to perform.

6.2. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6.1, SALTSTACK DOES NOT MAKE OR GIVE ANY REPRESENTATION, WARRANTY, OR COVENANT OF ANY KIND, WHETHER EXPRESS OR IMPLIED, IN CONNECTION WITH THE SERVICES PROVIDED HEREUNDER. WITHOUT LIMITING THE FOREGOING, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SALTSTACK EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, NON-INFRINGEMENT, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE AND ANY REPRESENTATION, WARRANTY, OR COVENANT BASED ON COURSE OF DEALING OR USAGE IN TRADE. SALTSTACK WILL NOT BE LIABLE FOR ANY THIRD-PARTY SERVICES OR PRODUCTS IDENTIFIED OR REFERRED TO CUSTOMER BY SALTSTACK. NO EMPLOYEE, AGENT, REPRESENTATIVE OR AFFILIATE OF SALTSTACK HAS THE AUTHORITY TO BIND SALTSTACK TO ANY REPRESENTATIONS OR WARRANTIES OUTSIDE OF THE SOW

7. **INDEMNIFICATION.**

7.1. **General.** Each party (the "Indemnitor") agrees, at its own expense, to (a) defend the other party, its Affiliates, and their respective directors, officers, employees, and agents (the "Indemnitees") from and against any third party claim, suit, or action brought against any of the Indemnitees for death, bodily injury, or damage to or loss of any real or tangible personal property to the extent arising out of the Indemnitor's (including its employees and agents) gross negligence or willful misconduct in the performance of this Agreement (each a "General Claim"), and (b) indemnify the Indemnitees against any and all liabilities, losses, damages, costs, and expenses finally awarded by a court of competent jurisdiction or agreed by the Indemnitor in settlement with regard to any such General Claim.

7.2. **Intellectual Property Infringement.** Subject to the remainder of this Section 7, SaltStack shall, at its own expense (a) defend Customer, Customer's Affiliates, and their respective directors, officers, employees, and agents ("Customer Indemnitees") against any third party claim, suit, or action brought against any of the Customer Indemnitees alleging that any Work Product or SaltStack Retained Property set forth as a deliverable in the applicable Sales Order or SOW and delivered to Customer in connection with Services provided under this Agreement, or any part thereof, when used as contemplated by the applicable Sales Order and/or SOW, infringe such third party's United States patent, trademark, or copyright, or misappropriate such third party's trade secrets under the laws of the United States (each an "Infringement Claim"), and (b) indemnify each of the Customer Indemnitees from the resulting costs and damages finally awarded against such Customer Indemnitees to the third party making such claim by a court of competent jurisdiction or agreed to in settlement with regard to any such Infringement Claim. Notwithstanding any other terms or conditions of this Agreement, SaltStack shall have no liability or obligations under this Section 7.2 if the alleged infringement is based on (i) combination of the Work Product or SaltStack Retained Property with non-SaltStack products, (ii) use of the Work Product or SaltStack Retained Property for a purpose or in a manner for which it was not designed or beyond its reasonably intended use, (iii) use of any older version of the Work Product or SaltStack Retained Property when use of a newer version provided by SaltStack would have avoided the infringement, (iv) any modification or alteration of the Work Product or SaltStack Retained Property by a party other than SaltStack or without SaltStack written and express direction, (v) SaltStack's compliance with any materials, designs, specifications or instructions provided by Customer, (vi) Customer using the Work Product or SaltStack Retained Property after SaltStack notifies Customer to discontinue use due to an infringement claim, or (vii) any third party products, services, hardware, software or other materials. THIS SECTION 7.2 STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SALTSTACK'S ENTIRE LIABILITY FOR INFRINGEMENT CLAIMS.

7.3. **Conditions to Indemnification.** As conditions to indemnification under this Section 7, the indemnified party must (a) notify the indemnifying party promptly in writing of the General Claim or Infringement Claim, as applicable, for which the indemnified party is seeking indemnification, (ii) grant the indemnifying party sole control over the defense and settlement of each General Claim or Infringement Claim, as applicable, and (iii) provide the indemnifying party with reasonable cooperation in response to such party's requests for assistance, and (iv) not be in material breach of the SOW. The indemnifying party may not settle or compromise a General Claim or Infringement Claim, as applicable, without the prior written consent of indemnified party if such settlement includes an admission of liability on the part of the indemnified party.

7.4. **Remedies**. If the allegedly infringing Work Product becomes, or in SaltStack's opinion be likely to become, the subject of an Infringement Claim, SaltStack will, at SaltStack's option and expense, do one of the following: (a) procure the rights necessary for Customer to make continued use of the affected Work Product; (b) replace or modify the affected Work Product to make it non-infringing; or (c) terminate the Deliverables License to the affected Work Product, and,

upon Customer's certified deletion or destruction of the affected Work Product, refund that portion of the fees paid by Customer for the affected Work Product. Nothing in this Section 7.4 will limit SaltStack's obligation under Section 7.2 to defend and indemnify Customer, provided that Customer replaces the allegedly infringing Work Product upon SaltStack's making alternate Work Product available to Customer or Customer discontinues using the allegedly infringing Work Product upon receiving SaltStack's notice.

8. **LIMITATION OF LIABILITY**.

   8.1. **Limitation on Direct Damages**. Except with respect to claims pursuant to Section 7 above, SaltStack's total liability and Customer's sole and exclusive remedy for a claim of any nature arising out of the applicable Sales Order or SOW, regardless whether the claim is based on contract, tort, strict liability or otherwise, will be limited to proven direct damages caused by SaltStack's sole negligence in an amount not to exceed (i) US$1,000,000 for damages to real or tangible personal property; and (ii) the fees paid to SaltStack for the Training Services or Consulting Services from which the claim arises, for damages of any type not identified in (i) above or otherwise excluded under the Sales Order or SOW.

   8.2. **Disclaimer of Liability**. To the maximum extent permitted by applicable law, neither Party will be liable for any indirect, incidental, special, punitive or consequential damages, or for any loss of profits, business opportunity, revenue, goodwill or data, even if advised of the possibility of those damages.

   8.3. **Limitation of Liability Exclusions**. The limitations of liability in this 8 will not apply to (a) Customer's violation of SaltStack's or its licensors' Intellectual Property Rights or Customer's use of the Work Product in a manner not expressly authorized by the Sales Order or SOW; (b) SaltStack's indemnification obligations under Section 7; (c) either Party's breach of confidentiality under the Sales Order or SOW; (d) Customer's payment obligations under the Sales Order or SOW; or (e) any liability which may not be excluded by applicable law.

   8.4. **Further Limitations**. SaltStack's licensors will have no liability of any kind under the applicable Sales Order or SOW, and SaltStack's liability with respect to any third-party software embedded in the Work Product will be subject to Sections 8.1 and 8.2 above. Customers may not bring a claim under the Sales Order or SOW more than eighteen (18) months after the cause of action arises.

9. **GENERAL.**

   9.1. **Personnel**. SaltStack will determine the personnel assigned to perform the Services. Customer may request, in writing, with specific reasons stated, the replacement of SaltStack Consulting Services personnel or SaltStack contractors that Customer reasonably believes are not adequately performing the Consulting Services.

   9.2. **Subcontractors.** SaltStack may engage third parties to furnish services in connection with Services, provided that such third parties have executed appropriate confidentiality agreements with SaltStack. In addition, Services may be performed by Affiliates of SaltStack. No engagement by SaltStack of a subcontractor or an Affiliate will relieve SaltStack of any of its obligations under this Agreement.

   9.3. **Assignment.** Neither party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party, which shall not be unreasonably withheld, except that (i) either party may assign this Agreement or rights granted hereunder to its Affiliate without the consent of the other party, and (ii) the transfer of this Agreement or rights granted hereunder to a successor entity in the event of a merger, corporate reorganization, or acquisition of all or substantially all the assets of a party shall not constitute an assignment for purposes of this Section 9.2. Any attempted assignment or transfer in violation of this Section 9.2 shall be null and void. SaltStack may use its Affiliates or other sufficiently qualified subcontractors to provide the Consulting Services to Customer, provided that SaltStack remains responsible to Customer for the Consulting Services' performance.

   9.4. **Governing Law and Venue.** This EULA is governed by the laws of the State of California, United States of America (excluding its conflict of law rules), and the federal laws of the United States. To the extent permitted by law, the state and federal courts located in Santa Clara County, California will be the exclusive jurisdiction for disputes arising out of or in connection with this Agreement. The U.N. Convention on Contracts for the International Sale of Goods does not apply. The parties acknowledge and agree that this Agreement relates solely to the performance of services (not the sale of goods) and, accordingly, will not be governed by the Uniform Commercial Code. In addition, the provisions of the Uniform Computerized Information Transaction Act and United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. All Services provided hereunder are "Commercial Items" as that term is defined in the Federal Acquisition Regulation (FAR) at 48 C.F.R. 2.101.

9.5. **Independent Parties.** The relationship between the parties established under this Agreement is that of independent contractors, and nothing in this Agreement, SOWs or Sales Orders shall be construed to create an employment, partnership, joint venture, or agency relationship between the parties.

9.6. **Notices.** SaltStack shall give notices under this Agreement to Customer by electronic mail to the Customer's e-mail address with the delivery receipt kept on file. Customer shall give notices under this Agreement to SaltStack by letter delivered by certified or registered mail, to the attention of the General Counsel at 3401 Hillview Avenue, Palo Alto, CA 94304 (or such other place as SaltStack may notify Customer of from time to time), returned receipt requested, and deemed given upon personal delivery or five days after deposit in the mail.

9.7. **Publicity.** Customer agrees that SaltStack may reference and use Customer's name and trademarks in SaltStack marketing and promotional materials, including, but not limited to, the SaltStack website, solely for purposes of identifying Customer as a customer of SaltStack. Otherwise, neither party may use the trade names, trademarks, service marks, or logos of the other party without the express written consent of the other party.

9.8. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions will remain in full force and effect and such provision will be enforced to the maximum extent possible so as to achieve the intent of the parties and will be reformed to the extent necessary to make such provision valid and enforceable.

9.9. **No Waiver.** The failure of a party to enforce any provision or exercise any right under this Agreement shall not constitute a waiver of such provision or right and shall not preclude such party from enforcing such provision or exercising such right at any later time.

9.10. **Force Majeure.** Except for the obligation to pay sums due hereunder, neither party will be liable to the other for any delay or failure to perform due to causes beyond its reasonable control.

9.11. **Insurance.** SaltStack agrees to maintain, throughout the term of this Agreement, commercially reasonable levels of insurance in relation to its obligations hereunder and under any Sales Orders and SOWs.

9.12. **No Third-Party Beneficiaries.** The terms of this Agreement are intended to be, and are solely for the benefit of, SaltStack and Customer and do not create any right in favor of any third party.

9.13. **Compliance with Export and Other Laws.** Customer acknowledges that items provided hereunder are of United States origin, are provided subject to the U.S. Export Administration Regulations, and may be subject to other applicable national and international laws. Diversion or distribution contrary to applicable export control laws is prohibited. Customer represents that (1) it is not, and is not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions, or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons or the U.S. Commerce Department's Denied Persons List or Denied Entity List; and (2) it will not permit items delivered under this Agreement to be used for any purposes prohibited by law, including, but not limited to, any prohibited development, design, manufacture, or production of missiles or nuclear, chemical, or biological weapons. Additionally, each of the parties agrees that it will not engage in any illegal, unfair, deceptive, or unethical business practices whatsoever, including, but not limited to, any act that would constitute a violation of the U.S. Foreign Corrupt Practices Act.

9.14. **Counterparts and Signatures.** Sales Orders and SOWs may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Facsimile and electronic copies of signatures shall have the same effect as originals. If a party elects to sign Sales Orders or SOWs electronically, it expressly acknowledges and agrees that such electronic signature is the legal equivalent of, and has the same force and effect as, a manual signature.

9.15. **Entire Agreement.** This Agreement, together with any Sales Orders or SOWs, constitutes the entire agreement between the parties concerning the subject matter hereof. Any additional or conflicting terms contained in purchase orders issued by Customer with respect to Services or Support provided hereunder are hereby expressly rejected and shall have no force or effect on the terms of this Agreement or any Sales Order or SOW. This Agreement supersedes all prior or contemporaneous discussions, proposals, and agreements between the parties, whether written or oral, relating to the subject matter hereof. No amendment, modification, or waiver of any provision of this Agreement will be effective unless in writing and signed by both parties.

9.16. **Precedence.** In the event of a conflict between the terms of any Sales Order or SOW with the terms of this Agreement, the terms of the Sales Order or SOW shall control but (a) only with respect to the specific Services or Support purchased under such Sales Order or SOW, and (b) only if the Sales Order or SOW specifically references the conflicting provision(s) of this Agreement with the intention to supersede such provision(s).

10. **DEFINITIONS.** As used in this Agreement, the following terms shall have the meanings set forth in this Section 10. Certain other terms may be defined in the context of their use elsewhere in the Agreement.

10.1. "**Affiliate**" means any corporation, company or other entity in which more than fifty percent (50%) of the voting shares or outstanding capital stock are owned or controlled, directly or indirectly, by a Party.

10.2. "**Confidential Information**" means any information that is clearly identified in writing as confidential at the time of disclosure, and any written or oral information that, based on the substance and circumstances under which it was disclosed, a reasonable person would believe to be confidential that has been or is hereafter disclosed or made available by one party (the "Disclosing Party") to the other (the "Receiving Party") in connection with this Agreement. Such Confidential Information includes, but is not limited to, terms of this Agreement or any Sales Order or SOW, product proposals, technological processes, product forecasts, trade secrets, pre-publication patent applications, product designs, license keys, pricing information and rate cards, software and system designs, functionalities, know-how, technology specifications, source code, object code, graphic designs, report templates, proprietary financial, personnel and sales information, business plans, sales or marketing methods, customer lists or requirements, Customer---specific terms or pricing set forth in business proposals, and where SaltStack is the disclosing party, (a) SaltStack's Pre---Existing Intellectual Property, (b) General Enhancements, (c) Services Materials, (d) Training Materials, and (e) Documentation. Confidential Information also includes all copies, summaries and extracts of any Confidential Information. The restrictions on the receiving Party's use and disclosure of disclosing Party's Confidential Information shall not apply to any Confidential Information which the receiving Party can demonstrate: (i) is or becomes a part of the public domain without breach of this Agreement by the receiving Party; (ii) was rightfully in the receiving Party's possession free of restriction prior to the disclosure by the Disclosing Party and had not been obtained by the receiving Party either directly or indirectly from the disclosing Party; (iii) is rightfully disclosed to the receiving Party by a third party without restriction on disclosure; or (iv) is independently developed by the receiving Party without use of or reference to the disclosing Party's Confidential Information.

10.3. "**Consulting Services**" means SaltStack consulting services offerings as set forth in an applicable Sales Order or SOW.

10.4. "**Documentation**" means all SaltStack published user manuals and guides, regardless of media, that explain or facilitate the use of SaltStack's software.

10.5. "**General Enhancements**" means any improvements, modifications, enhancements, or extensions to or derivative works of SaltStack Pre---existing Intellectual Property that have or could have general applicability to SaltStack customers, including, but not limited to, any modifications to, or derivative works of, the SaltStack Software.

10.6. "**Intellectual Property**" means any and all patents, inventions, copyrights, works of authorship, trademarks, trade secrets, know-how, and all other intellectual property (whether registered or unregistered and including the right to register such intellectual property) that are, in each case, protected under the laws of any governmental authority having jurisdiction.

10.7. "**Intellectual Property Rights**" means all worldwide Intellectual Property rights including copyrights, trademarks, service marks, trade secrets, know-how, inventions, patents, patent applications, moral rights and all other proprietary rights, whether registered or unregistered.

10.8. "**Pre-Existing Intellectual Property**" means: (a) Intellectual Property in existence as of the Effective Date of this Agreement, and (b) Intellectual Property that a party creates or develops outside the scope of Services or Support provided by SaltStack to Customer under this Agreement and without the use of the other party's Confidential Information.

10.9. "**Sales Order**" means an order document executed by the parties that sets forth specific Services and/or Support being purchased by Customer under this Agreement.

10.10. "**SaltStack Software**" means the SaltStack software used by the Customer and to which the Services relate, as may be further described in the applicable Sales Order or SOW. Some components of the Software may be subject to the terms of an open source license. In addition, SaltStack may provide third-party software to Customer in conjunction with the Software; such third-party software is subject to its own terms and conditions. Please see www.saltstack.com/terms (SaltStack Dependency Licenses) for more details.

10.11. "**Services**" means SaltStack Support Services, Consulting Services, and/or Training Services, as applicable, as set forth in an applicable Sales Order or SOW.

10.12. "**Services Materials**" means (a) the processes, know-how, proprietary information and methodologies, document templates, and project tools including, but not limited to, best practice guides and reference architecture materials; and (b) scripts, tools, SaltStack Software implementation code, and other software (and any updates thereto) that, in each case, are used by SaltStack to deliver the Services or Support to Customer.

10.13.   "**Statement of Work**" or "**SOW**" means a statement of work executed by the parties that describes Services to be provided by SaltStack to Customer under this Agreement.

10.14.   "**Support Services**" means the SaltStack subscription support services as set forth in the SaltStack Support Policy located here: https://www-review.vmware.com/content/dam/digitalmarketing/vmware/en/pdf/downloads/eula/saltstack-support-policy.pdf, pursuant to an applicable Sales Order.

10.15.   "**Third Party Agent**" means a third party delivering information technology services to Customer pursuant to a written contract with Customer.

10.16.   "**Training Materials**" means SaltStack training courses, documentation, and other associated training materials, including any and all updates thereto.

10.17.   "**Training Services**" means SaltStack's training services offerings as set forth in an applicable Sales Order or SOW. Training Services are subject to SaltStack's Training Services policies available at www.SaltStack.com/terms.

10.18.   "**Work Product**" means all inventions, improvements, modifications, enhancements, derivatives, processes, methodologies, formulas, designs, drawings, data, information, and works of authorship in which any proprietary right exists or may be acquired or asserted, and which are developed, discovered, invented, authored, or first reduced to practice by SaltStack, alone or jointly with Customer and/or any third party or parties, in connection with the performance of Services under this Agreement.

If executed, this Agreement may be executed in any number of counterparts by either handwritten or electronic signature, each of which counterparts may be delivered by emailing the other party to the Agreement a signed scanned document or electronically signed portable document format (pdf) version of the contract (as applicable). Each of the parties consents to the execution of this Agreement in this manner, and the parties acknowledge that execution in this manner shall create a binding contract between the parties at the time of delivery of the last party's counterpart in the manner provided for in this section.

IN WITNESS WHEREOF, each party hereto warrants and represents that this Agreement has been executed by a duly authorized representative of such party, and this Agreement, constitutes the legal, valid and binding obligation of such party.

Customer

Signature: _____

Name: _____

Title: _____

Date: _____

SaltStack, Inc.

Signature: _____

Name: _____

Title: _____

Date: _____