

GENERAL TERMS AND CONDITIONS

1. GENERAL

- a. **The following terms and conditions (the “*General Terms and Conditions*”), along with other documents referenced below, govern Subscriber’s use of the Exostar Exchange and its Services and are incorporated into each Service Agreement by reference.**
- b. **Subscriber must agree to a Service Agreement for each Service that Subscriber uses on the Exostar Exchange, and Subscriber will have no access to the Exostar Exchange until Subscriber agrees to at least one Service Agreement. Once a Service Agreement is agreed to by Subscriber and accepted by Exostar, Subscriber will have access to the Service(s) to which the agreed to Service Agreement(s) relate and no other Service(s).**
- c. As a condition to using the Exostar Exchange and the Services, Subscriber also agrees to the terms of Exostar’s Privacy Policy, Terms of Access, International Rider, if applicable, and any agreed to Additional Riders. Such terms and conditions are incorporated herein by reference and in the event of a conflict between the terms of the Privacy Policy, the Terms of Access, International Rider, if applicable, any mutually agreed to Additional Riders, if any, and any Service Agreement and these General Terms and Conditions, the agreements shall control in the following order of precedence: Additional Riders, if any; Service Agreement; International Rider, if applicable; General Terms and Conditions; Terms of Access; and Privacy Policy. Services are not subject to any terms and conditions other than those contained in the Additional Riders, if any, any Service Agreement, International Rider (if applicable), these General Terms and Conditions, the Terms of Access, and the Privacy Policy, notwithstanding any other terms and conditions contained in any purchase order or other documentation prepared by Subscriber.

2. **DEFINITIONS.** Unless the context otherwise requires or as otherwise defined herein, capitalized terms used herein shall have the meanings set forth in Schedule 1 attached hereto.

3. ACCESS LICENSE

- a. Subscriber acknowledges that Subscriber’s authorization to access the Exostar Exchange and the Services is a privilege, not a right, and is subject to the terms and conditions of this Agreement.
- b. During each Subscription Period and subject to the terms and conditions of this Agreement, Exostar grants to Subscriber the non-exclusive, non-transferable license to access and use the Exostar Exchange and the Services in the manner authorized by Exostar, up to and within the scope of the subscription package for which Subscriber has executed a Service Agreement and paid the applicable fees (the “*License*”). The Exostar Exchange only may be used for lawful purposes and in a lawful manner.

4. **ACCOUNT ACCESS.** Exostar will provide Subscriber with an organization identification code (“*Org ID*”), user identifications (“*User IDs*”) and passwords or other secured means of access to the Services. Subscriber’s organization will have only one Org ID, but Subscriber may request additional User IDs and passwords for Authorized Users. Subscriber agrees to the terms of Exostar’s Account and Password Policy attached hereto as Schedule 2.

5. EXOSTAR IS ONLY A VENUE

- a. Although sometimes referred to as a “trading exchange”, the Exostar Exchange is only a venue for suppliers to sell goods and services, for buyers to purchase goods and services, for collaboration between Subscriber and Subscriber’s customers, and for other interactions between Subscribers and between Subscribers and Customers. Neither Exostar nor any of Exostar’s suppliers and service providers (“*Third Party Suppliers*”) is a participant in any transaction between Subscriber and any Customer. Subscriber agrees that Exostar may use Third Party Suppliers to provide all or a portion of the Services to be provided by Exostar hereunder.
- b. Subscriber shall have sole responsibility for (1) evaluating and determining the Customers with which Subscriber may transact business and otherwise interact, (2) determining which Customers are authorized to do business with Subscriber, and (3) the terms, risks and results of Subscribers interactions with any Customer or any third party.
- c. Subscriber understands that, as a venue, neither Exostar nor any of its Third Party Suppliers control or make any representations or warranties about any offerings or transactions of its subscribers. Nothing in these General Terms and Conditions is intended to affect the agreements between Subscriber and Customer. THERE ARE RISKS OF DEALING ACROSS STATE OR NATIONAL BORDERS AND WITH PERSONS ACTING UNDER FALSE PRETENSES. EXOSTAR SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGE INCURRED AS THE RESULT OF SUBSCRIBER’S DEALINGS WITH ANY THIRD

PARTY UNLESS AND TO THE EXTENT SUCH LOSS OR DAMAGE INCURRED IS DUE TO EXOSTAR'S GROSS NEGLIGENCE IN PROVIDING THE SERVICES. Should Subscriber have a problem with any purchase, sale, order, or other transaction facilitated using the Exostar Exchange, Subscriber should direct comments/questions to Customer.

- d. Notwithstanding any other provision of this Agreement, Exostar reserves the right to investigate, to involve and cooperate with law enforcement authorities regarding any fraudulent or other illegal or unauthorized activities involving the Exostar Exchange and to disclose any information reasonably necessary for such purpose.
- e. Except as may be otherwise provided in a Service Agreement, Exostar may, in its sole discretion, refuse or restrict anyone's access to any or all of the Exostar Exchange at any time to prevent, or as the result of, any Service Affecting Event.

6. SUBSCRIBER'S OWNERSHIP RIGHTS

- a. Ownership of Subscriber Informational Content. Exostar does not claim ownership of the Subscriber Informational Content. However, by providing, posting, uploading, submitting, inputting or otherwise transmitting Subscriber Informational Content to the Exostar Exchange, Subscriber grants to Exostar and its necessary sublicensees a revocable, non-exclusive license to use the Subscriber Informational Content as reasonably necessary to provide the Exostar Exchange and the Services to Subscriber (including the rights to use, reproduce, store, distribute, display, and transmit the Subscriber Informational Content for such purpose, and to reformat and re-organize the Subscriber Informational Content as reasonably necessary to meet Exostar's technical requirements for the Exostar Exchange). Subscriber shall retain all of its right, title and interest, including all copyrights and other intellectual property rights, in and to the Subscriber Informational Content.
- b. Ownership of Subscriber Technology. Exostar also does not claim ownership of the Subscriber Technology; Subscriber shall retain all of its right, title and interest, including all copyrights and other intellectual property rights, in and to the Subscriber Technology.
- c. Subscriber Trademarks. Subscriber further retains all of its right, title and interest in and to Subscriber Marks. Subscriber grants to Exostar the right to use the Subscriber Marks in accordance with the "Policy on Using Trademarks" attached hereto as Schedule 3. With Subscriber's consent, notwithstanding the foregoing, Subscriber may authorize Exostar and its affiliates and subsidiaries to use Subscriber's name and/or logo in marketing and press releases in accordance with marketing communications standards, if any, provided by Subscriber from time to time to Exostar or its affiliates and subsidiaries.

- 7. **EXOSTAR'S OWNERSHIP RIGHTS.** The Exostar Materials are the sole and exclusive property of Exostar and its licensors and service providers, including all copyrights and other intellectual property rights in and to the Exostar Materials. Nothing shall be deemed to vest in, or grant or transfer to, Subscriber any ownership rights in or to any Exostar Materials. Exostar retains all right, title and interest in and to the Exostar Marks and use of the Exostar Marks shall be subject to the "Policy on Using Trademarks" attached hereto as Schedule 3. All rights not expressly granted are reserved.

8. CONFIDENTIALITY

- a. Obligation. Each Party acknowledges that the other Party treats its Confidential Information as its valuable proprietary property, and Subscriber and Exostar each agree to keep confidential the other Party's Confidential Information in a manner consistent with maintaining the other Party's (and its licensors') rights thereto, using at all times at least commercially reasonable efforts. Each Party agrees not to disclose or otherwise make available the other Party's Confidential Information to any third party without obtaining the other Party's prior written consent. Subscriber and Exostar both agree to use the Confidential Information of the other only for the purpose of performing this Agreement and as authorized expressly by this Agreement. In the event of termination of this Agreement, and Subscriber's subscription and membership in the Exostar Exchange, both Parties agree to promptly discontinue use of any Confidential Information of the other, except as may be required by law or necessary to provide any applicable transition services to Subscriber.
- b. Compliance with Law or Government Order. Notwithstanding the foregoing, either Party may use Confidential Information of the other Party if necessary to comply with any applicable law or regulation, including export control laws or regulations. In addition, either Party may disclose the other Party's Confidential Information to the extent required by an order of a court or other governmental entity, so long as the Party subject to such a requirement notifies the other Party as promptly as practicable so that the other Party may defend against disclosure.

9. WARRANTIES AND DISCLAIMER

- a. Power and Authority. Each Party warrants and represents to the other Party that such Party has full power and authority to enter into this Agreement and to grant the rights granted in this Agreement; to the best of such

Party's knowledge, such Party has secured all necessary licenses, consents and authorizations required to fulfill its obligations under this Agreement.

- b. No Infringement. Subscriber warrants and represents that, to the best of Subscriber's knowledge, no Subscriber Informational Content or other materials provided by or on behalf of Subscriber infringe upon the patent rights, copyrights or trade secrets of any third party. Exostar warrants and represents that, to the best of Exostar's knowledge, Exostar's contributions to the Exostar Exchange do not infringe upon the U.S. patent rights, copyrights or trade secrets of any third party; *provided, however*, Exostar's warranty does not extend to any software, information, transactions, content, or other materials originating with any third party, or to any activities of any third party using the Exostar Exchange or any of the Services, or to the co-mingling of Exostar materials with any such materials.
- c. Compliance with Laws and Regulations. Each Party warrants and represents to the other Party that, to the best of its knowledge, it has complied and will continue to comply with all export control, economic sanctions, government contracting and other laws, rules and regulations of the United States and other countries to the extent such laws, rules and regulations are applicable to it or to its respective affiliates; *provided, however*, (i) in the case of Exostar, the foregoing warranty and representation only applies to Exostar and its actions, (ii) in the case of Subscriber, the foregoing warranty and representation only applies to Subscriber and its actions, and (iii) Exostar makes no warranty or statement about any third party. Each Party further warrants and represents that it will not knowingly export, import, transfer or use any of the other Party's Confidential Information or any other information or materials obtained by such Party while using the Exostar Exchange in violation of export control, government contracting or other laws, rules and regulations of the United States or other countries, to the extent applicable to such Party or such Party's affiliates. Subscriber agrees to its respective additional warranties and representations set forth in the Export and Regulatory Policy attached hereto as Schedule 4.
- d. User ID's and Access Control. Exostar warrants and represents that the User ID(s) provided to Subscriber for access to the Services are unique to Subscriber and Exostar will maintain the confidentiality of any User IDs and password(s) given to Subscriber to access the Exostar Exchange consistent with Exostar's normal business practices.
- e. Disclaimer. THE EXPRESS WRITTEN WARRANTIES MADE BY EXOSTAR ARE IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS. EXCEPT FOR EXOSTAR'S EXPRESS WRITTEN WARRANTIES, TO THE MAXIMUM EXTENT PERMITTED BY LAW, EXOSTAR EXPRESSLY DISCLAIMS, ON BEHALF OF ITSELF AND ITS THIRD PARTY SUPPLIERS, AND MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED OR OTHER WARRANTIES: (1) OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, OR (2) THAT THE EXOSTAR EXCHANGE (IN WHOLE OR IN PART) OR ANY PRODUCTS, SERVICES, OR INFORMATIONAL CONTENT OF EXOSTAR OR ITS SUPPLIERS OR LICENSORS, OR ANY ACCESS OR USE THEREOF, WILL BE UNINTERRUPTED, ERROR FREE, USEFUL, FUNCTIONAL, OR COMPLETELY SECURE, OR THAT PROBLEMS WILL BE CORRECTED.

10. LIABILITY LIMITS

- a. Exclusion of Indirect Damages. TO THE MAXIMUM EXTENT ALLOWABLE AT LAW, NEITHER EXOSTAR (OR ANY OF ITS THIRD PARTY SUPPLIERS) NOR SUBSCRIBER SHALL BE LIABLE FOR ANY INDIRECT DAMAGES (INCLUDING FOR PUNITIVE, EXEMPLARY, SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, LOST PROFITS, LOST DATA, BUSINESS INTERRUPTION, LOSS OF BUSINESS REPUTATION OR GOOD WILL, OR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER CAUSED OR CHARACTERIZED), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b. Maximum Liability. IN NO EVENT WILL THE AGGREGATE LIABILITY OF SUBSCRIBER TO EXOSTAR, OR THE AGGREGATE LIABILITY OF EXOSTAR AND EXOSTAR'S THIRD PARTY SUPPLIERS TO SUBSCRIBER, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE EXOSTAR EXCHANGE (INCLUDING ALL SERVICES) EXCEED DIRECT DAMAGES UP TO THE **GREATER** OF: (i) US\$50,000 (FIFTY THOUSAND DOLLARS), OR (ii) THE TOTAL AMOUNT THAT SUBSCRIBER HAS PAID TO EXOSTAR UNDER THIS AGREEMENT (OR HAS BEEN PAID ON SUBSCRIBER'S BEHALF) IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE EVENTS UNDERLYING THE LIABILITY AROSE UP TO A MAXIMUM OF US\$500,000 (FIVE HUNDRED THOUSAND DOLLARS).
- c. Exclusions and Application. The preceding exclusions and limitations of liability shall not apply to damages or liabilities arising out of or related to: (1) payment of amounts due to Exostar, (2) indemnification obligations hereunder, or (3) obligations under or breach of the Export Control and Regulatory Attachment.

11. INDEMNIFICATION BY EXOSTAR

- a. Indemnification. Exostar agrees to indemnify, defend and hold harmless Subscriber and Subscriber's directors, officers, employees, agents, consultants, distributors and sublicensees from and against all Actions, and Exostar shall pay all Liabilities, to the extent arising out of or related to a claim that software incorporated in the Exostar Exchange infringes upon the U.S. patents or copyrights of a third party. Furthermore, Exostar agrees to pass through to Subscriber, to the extent possible, any corresponding indemnity received by us, if any, from a Third Party Supplier.
 - b. Claims. If such a claim is made or appears likely to be made, Subscriber agrees to permit Exostar to enable Subscriber to continue to use the affected materials, or to have them modified to make them non-infringing, or to have them replaced with a substantially functional equivalent. If Exostar determines that none of these options is reasonably available or feasible, then Exostar may terminate this Agreement in whole or with respect to the affected Service or materials, and Subscriber may be entitled to a credit equal to the price paid for use of the affected materials. THIS SECTION 11 STATES EXOSTAR'S ENTIRE OBLIGATION AND LIABILITY REGARDING INFRINGEMENT OR CLAIMS OF INFRINGEMENT. Exostar shall have no obligation or liability for any Subscriber Matters.
12. **INDEMNIFICATION BY SUBSCRIBER**. Subscriber agrees to indemnify, defend and hold harmless Exostar and its directors, officers, employees, agents, consultants, distributors, sublicensees and Third Party Suppliers (in their capacities as such) from and against Actions, and Subscriber shall pay all Liabilities, to the extent arising out of or related to: (1) Subscriber's breach or alleged breach of a representation, warranty or covenant in this Agreement; (2) any interaction between Subscriber and any third party (exclusive of interactions with Third Party Suppliers required for use of the Exostar Exchange); (3) any violations or alleged violations by Subscriber of U.S. customs or import laws, or U.S. Export Control Laws (as defined in the Export Control, Import, Customs, and Regulatory Policy attached hereto as Schedule 4) or the applicable customs, import, or export control laws and regulations of any other country; or (4) Subscriber's failure to comply with any applicable laws and regulations or to obtain any licenses or approvals necessary to purchase or sell any goods or services using the Exostar Exchange or to otherwise participate in the Exostar Exchange. Subscriber shall have no indemnification obligation hereunder to the extent of claims, actions, liabilities, losses, expenses, damages and costs incurred to due to Subscriber's compliance with specific instructions or requirements of Exostar.
13. **OTHER INDEMNIFICATIONS**. Unless otherwise agreed in writing on a case-by-case basis, neither Exostar nor Subscriber is authorized to make any representations or warranties on behalf of the other Party with respect to the other Party's products or services. Exostar and Subscriber each agree to indemnify, defend and hold harmless the other Party, and the other Party's directors, officers, employees, agents, consultants, distributors and sublicensees from and against Actions, and the indemnifying Party shall pay all Liabilities, to the extent arising out of or related to any unauthorized warranties or representations by Exostar or Subscriber (as the case may be) made to such third person regarding the other Party's products or services.
14. **INDEMNIFICATION PROCEDURE**. The Party seeking indemnification under this Agreement must take all reasonable steps to mitigate any potential expenses and damages, and must promptly provide the Party obligated to provide indemnification under this Agreement with: (1) written notice of any third-party claim or action, or the possibility of a third-party claim or action (but the failure to provide such notice promptly will not relieve the Party obligated to provide indemnification of its obligations, unless the indemnifying Party is materially prejudiced by such failure); (2) sole control and authority over the defense or settlement of such claim or action (although the Party seeking indemnification may retain its own counsel, at its own expense, to participate in such claim or action); and (3) proper and full information and assistance to settle and/or defend any such claim or action. Neither Party shall settle any claim in a manner that does not result in the unconditional release of the indemnified Party without the indemnified Party's written consent, which shall not be withheld unreasonably. An indemnifying Party shall not be liable for any settlement entered into without its written consent.
15. **TERMINATION, MODIFICATION, SUSPENSION OR DISCONTINUANCE**
 - a. Service Affecting Events. Notwithstanding anything to the contrary in this Agreement, Exostar reserves the right to terminate, modify, suspend, or discontinue the Exostar Exchange and any or all of the Services, and any access to or use thereof, immediately upon the occurrence of any Service Affecting Event. Exostar agrees to use reasonable efforts under the circumstances to notify Subscriber as soon as reasonably practical of its taking of such steps and in those circumstances in which it is reasonably practicable to seek termination under the provisions of the related Service Agreement to do so.
 - b. Termination and Suspension of the Agreement. Exostar may terminate or suspend Subscriber and Subscriber's access to and use of the affected Service upon ten (10) days prior written notice if Subscriber materially breaches this Agreement and does not cure such breach within ten (10) days following notice specifying the breach. Notwithstanding the foregoing, the Service Agreements may contain additional rights with respect to particular Services, which shall apply with respect to those Services.
 - c. Termination or Suspension of Subscriber. At the option of Exostar, an uncured Subscriber breach under Subsection 15.b may also result in termination of all Services and access to the Exostar Exchange. Exostar

agrees to use reasonable efforts to discuss any such termination with Subscriber prior to exercising its rights under this Subsection 15.c.

- d. Result of Termination. Once any Service is terminated for any reason: (1) Exostar has have the right to immediately discontinue Subscriber's access to the Service and to remove Subscriber's Descriptive Information from the Exostar Exchange, if applicable; (2) Subscriber agrees promptly to discontinue using the affected Services or the Exostar Exchange, as the case may be, and to discontinue using any Confidential Information that Exostar has given to Subscriber relating to the terminated Service or the Exostar Exchange (if all Services are terminated); (3) within ten (10) days of the date that Service is terminated hereunder, each Party agrees to certify to the other Party in writing that all copies, extracts or derivatives of the services and Confidential Information, in whole or in part, in any form, have either been returned to the other Party or destroyed per the Party's specific instructions; and (4) all licenses to Exostar's intellectual property granted hereunder shall terminate.
- e. Subscriber's Right to Reject. In the event that the Exostar Exchange, or any or all of its Services, is modified, suspended or discontinued and in Subscriber's sole reasonable opinion Subscriber consider the modification, suspension or discontinuance unacceptable, Subscriber may terminate this Agreement (in accordance with the termination provisions hereof) and recover from Exostar that proportion of the fees pre-paid to Exostar in respect of the Services for the balance of the term of this Agreement. Neither Exostar, its affiliates, nor Third Party Suppliers shall be liable to Subscriber or to any third party solely for any modifications, suspensions, or discontinuances under this Section 15.e.

16. **TRANSITION ASSISTANCE**. If Subscriber elects to transition to another service provider as a result of termination of Services or termination, suspension or discontinuance of the Exostar Exchange, Exostar agrees to make reasonable commercial efforts to assist Subscriber, at Subscriber's sole cost and expense, in the transfer of any of Subscriber's data that may be stored on the Exostar Exchange to another service of Subscriber's choosing, or if Subscriber chooses, in the return of such data to Subscriber. To be eligible for such assistance, Subscriber must notify Exostar within fifteen (15) days of a Service termination or the termination, suspension or discontinuance of the Exostar Exchange.

17. **HOW THIS AGREEMENT CAN BE MODIFIED OR AMENDED**

- a. Subscriber understands Exostar's administrative and operational need to maintain consistency of terms, to the extent reasonably possible, among the Subscribers. As an accommodation to Subscriber to assist Subscriber in administering this Agreement, Exostar shall notify Subscriber's Contract Administrator if Exostar proposes an Amendment. Subject to the terms of this paragraph, Subscriber shall have thirty (30) days after notification to submit to Exostar a written objection to the Amendment, describing in reasonable detail the grounds for Subscriber's objection (the "**Objection**" and the "**Objection Period**"); failure to submit an Objection within the Objection Period shall constitute Subscriber's acceptance of the Amendment. If Subscriber submits an Objection within the applicable Objection Period, then the Amendment shall not apply to the Subscriber unless and until both Parties agree to the terms of the Amendment; *however*, if the Parties are unable to agree on the terms of the Amendment within a reasonable time (not to exceed thirty (30) days unless otherwise mutually agreed), either Party may terminate this Agreement upon written notice to the other Party. The process set forth in this paragraph shall not apply to Amendments that Exostar makes to comply with law or requirements of a legal authority, or to avoid material liability to a third party (as may be determined by Exostar in its sole, reasonable discretion), although Subscriber shall retain the right to terminate this Agreement if Subscriber chooses not to agree to any such Amendments. Failure to agree to an Amendment may result in interruption of service to Subscriber and/or Subscriber's Customers and/or users, as otherwise described in these General Terms and Conditions, but only after Subscriber and Exostar have followed the process described in this subsection 17.a.
- b. If Subscriber is informed of an Amendment by written notice, such notice will be provided in accordance with the provisions of Subsection 19.g hereof.
- c. The Parties agree that unless otherwise specifically agreed to in writing by the Parties (and so stated), the terms and conditions of this Agreement and any Service Agreement prevail over the terms and conditions on any purchase order or other document prepared by Subscriber,

18. **DISPUTE RESOLUTION**. The Parties agree that resolution of all claims, controversies or disputes arising out of or relating to this Agreement, or the breach thereof, shall be sought under the Dispute Resolution Policy attached hereto as Schedule 5.

19. **MISCELLANEOUS PROVISIONS**

- a. Governing Law. Except for Schedule 8, this Agreement will be interpreted and governed by the laws of the State of New York without regard to the conflict of laws rules thereof. The Parties irrevocably consent to the personal jurisdiction of the U.S. District Court for the Southern District of New York and to any state court

located in such district of the State of New York and waive any objections to the venue of such courts. Application of the U.N. Convention of Contracts for the International Sale of Goods is expressly excluded. Subscriber agrees to comply with all local, state, federal, national and international laws, statutes, ordinances, and regulations that apply to Subscriber's use of the Exostar Exchange. If Subscriber is incorporated or has a principal place of business outside of the United States or is otherwise subject to non-United States or international laws with respect to Subscriber's acceptance of this Agreement, Subscriber's use of the Exostar Exchange is subject to the International Rider, which in such circumstance is hereby incorporated into these General Terms and Conditions by reference ("**International Rider**"). The International Rider is attached hereto as Schedule 6.

- b. Independent Contractors. The relationship between Subscriber and Exostar established by this Agreement is that of independent contractors, and nothing contained in this Agreement will be construed to constitute the Parties as partners, joint venture partners, co-owners or otherwise as participants in a joint or common undertaking.
- c. No Waiver; Section Headings. No waiver of any breach or default or any failure to exercise any right hereunder shall be construed as a waiver of any subsequent breach or default or relinquishment of any future right to exercise such right. The headings in this Agreement are for convenience only and cannot be used in interpreting this Agreement.
- d. Severability. If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect. To the extent consistent with applicable law, the Parties agree to renegotiate any term held invalid and to be bound by the mutually agreed substitute provision.
- e. Force Majeure. Neither Party will be liable for any failure or delay in its performance under this Agreement due to causes that are beyond its reasonable control, including, but not limited to, an act of God, act of civil or military authority, fire, epidemic, flood, earthquake, riot, war, failure of equipment, failure of telecommunications lines, lack of Internet access, sabotage, espionage (domestic or foreign, industrial, or state-sponsored) and governmental action; *provided* that the delayed Party gives the other Party prompt notice of such cause; and uses its reasonable efforts to correct such failure or delay in its performance. EXOSTAR AND EXOSTAR'S THIRD PARTY SUPPLIERS HAVE NO LIABILITY FOR ANY DELAYS, NON-DELIVERIES, NON-PAYMENTS, MIS-DELIVERIES OR SERVICE INTERRUPTIONS CAUSED BY ANY THIRD PARTY ACTS OR THE INTERNET INFRASTRUCTURE OR ANY NETWORK EXTERNAL TO THE EXOSTAR EXCHANGE UNLESS AND TO THE EXTENT (BUT SUBJECT TO THE OVERALL LIMITATION OF LIABILITY SET FORTH IN SUBSECTION 10.b) SUCH LIABILITY IS DUE TO EXOSTAR'S GROSS NEGLIGENCE.
- f. Assignment. Neither Party may assign or delegate this Agreement or any of its rights or duties under this Agreement, without the prior written consent of the other Party, except to a person or entity which has succeeded to all or substantially all of its business and assets to which this Agreement relates, and which successor has assumed its obligations under this Agreement, and except that Exostar may assign and delegate this Agreement and its rights or duties to any of its affiliates.
- g. Notices. All notices, requests or other communications under this Agreement must be in writing. Except as otherwise provided, Exostar agrees to deliver notices under this Agreement to Subscriber personally at the address specified in Subscriber's registration form, by facsimile transmission to the number specified in Subscriber's registration form, by electronic mail to the electronic mail address specified in Subscriber's registration form, by registered or certified mail to the address specified in Subscriber's registration form, or by overnight courier service to the address specified in Subscriber's registration form. Subscriber agrees to deliver notices under this Agreement to Exostar personally, by registered or certified mail or by overnight courier service to Exostar LLC, 2325 Dulles Corner Blvd, Suite 600, Herndon, VA 20171, Attn: Exostar Contracts/Legal Department, or by electronic mail to Contracts@Exostar.com. All notices will be considered effective on the business day following the day on which they are sent, except that notices sent by registered or certified mail will be considered effective on the third business day following the day on which they are sent, if both Parties are within the United States, and on the fifth business day following the day on which they are sent, if one Party is outside the United States. Each Party may designate another address, facsimile number or electronic mail address for the purpose of giving notice, by giving notice to the other Party at any time.
- h. Notice and Procedure on Making Claims of Copyright Infringement. Exostar respects the copyrights and other intellectual property rights of others. If Subscriber believes that Subscriber's copyrights materials have been copied or posted in a way that constitutes copyright infringement, please contact Exostar's designated agent for notices of infringement in accordance with Exostar's "Policy on Submitting Copyright Infringement Claims" attached hereto as Schedule 7.
- i. Entire Agreement; Survival. This Agreement, including all of the documents and policies referenced herein (all of which are incorporated herein by reference), constitutes the entire agreement between the Parties, and supersedes and cancels all previous and contemporaneous registrations, agreements, commitments and writings, with respect to the Exostar Exchange and any other subject matter addressed in this Agreement. Any

item or service that Exostar furnishes in furtherance of this Agreement shall be covered by this Agreement unless specifically covered by some other agreement executed by Subscriber and by Exostar. Except as may be specifically provided herein, no third parties (including any of Subscriber's Customers) are intended to be the beneficiary of any of the provisions contained in this Agreement. The provisions under the following Sections will survive the termination or expiration of this Agreement for any reason: 5 through 15, 18, and 19 and all warranties, disclaimers of warranty and ownership provisions and restrictions on Subscriber's use of the Exostar Exchange.

- j. EU Data Transfer. Schedule 8 shall apply to the parties to the extent Subscriber constitutes a "*data exporting organization*" as defined and used within Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995. All defined terms within Schedule 8 shall only apply for the purposes of interpreting Schedule 8. The terms "*controller*" and "*processor*" (as defined by Directive 95/46/EC of the European Parliament), shall mean the "Subscriber" and "Exostar", respectively, as defined by the relevant Service Agreement, and "*data exporter*" and "*data importer*" shall be designated as "Subscriber" and "Exostar", respectively. The signatory of the applicable service agreement is deemed to be the signatory of this Schedule.
- k. Employees. For a period of one (1) year following the termination date of this Agreement each party agrees not to encourage, solicit, or employ any employee of the other party or any person who within the preceding twelve (12) months has been an employee of the other party, except with the express written permission of the non-initiating party; *provided, however*, that neither party shall be prohibited from (i) employing or otherwise working with any such person who contacts such party on his or her own initiative and without direct or indirect solicitation and (ii) conducting general solicitations for employees or independent contractors (which solicitations are not specifically targeted at any of the other party's or its affiliates' or subsidiaries' employees) through the use of media advertisements, professional search firms or otherwise.

Schedule 1

Definitions

- a. Capitalized terms used herein shall have the meanings set forth below:
- (1) "**Action**" means claims, actions, suits and proceedings by unaffiliated third parties, including governmental entities.
 - (2) "**Additional Riders**" means documents that amend, modify, or supplement the documents entered into by the Parties for the delivery of the Service(s).
 - (3) "**Agreement**" means, collectively, the General Terms and Conditions; the Privacy Policy; the Terms of Access; International Rider, if applicable; Additional Riders, if any; and one or more Service Agreement, all as may be amended from time to time as provided herein.
 - (4) "**Amendment**" means an amendment or modification of the Agreement.
 - (5) "**Authorized Users**" means, collectively, employees, agents or representatives of Subscriber, that Subscriber authorizes to use the Exostar Exchange or any Service on Subscriber's behalf, for whom Subscriber has purchased a subscription, or for whom Subscriber has arranged for a subscription to be purchased, and the applicable fees for which subscription have been paid or are to be paid. Any acts or omissions of Authorized Users shall be deemed to be those of Subscriber for purposes of this Agreement.
 - (6) "**Business Unit Executive**" means the manager of a business unit (General Manager) or equivalent at each Party.
 - (7) "**Confidential Information**" means confidential information and materials concerning Subscriber's or Exostar's business, plans, customers, research, services, markets, technology, products, Subscriber's Informational Content and Exostar's intellectual property, except Confidential Information does not include any of the following information, unless such information includes encrypted software subject to U.S. Export Administration Regulations: (1) information that is already publicly available or becomes publicly available through no fault of the receiving Party; (2) information that is already in the possession of the receiving Party, and is not already subject to a confidentiality obligation; (3) information that the receiving Party obtained from a third party who was not restricted from disclosing that information; (4) information that was independently developed by the receiving Party without relying on the Confidential Information of the disclosing Party; and (5) Subscriber Informational Content or other materials that are provided to Exostar for posting on the Exostar Exchange for general access by substantially all of the other users of the Exostar Exchange; *provided, however*, Confidential Information does not include the type of security credential, if any, held or to be held by a Subscriber. Confidential Information may be in electronic, written, oral or any other form, but it must be marked or otherwise identified as confidential or proprietary by the Disclosing Party at or before the time it is disclosed to the Receiving Party.
 - (8) "**Contract Administrator**" means the person identified to Exostar by Subscriber in writing upon or concurrently with Subscriber's registration or in a writing subsequently delivered to Exostar.
 - (9) If Subscriber is a supplier, the term "**Customer**" means any entity that uses the Exostar Exchange to buy goods or services from Subscriber. If Subscriber is a buyer, the term "**Customer**" means any entity that uses the Exostar Exchange to sell goods or services to Subscriber. If Subscriber is using Exostar's online collaboration tool, the term "**Customer**" means a person or organization Subscriber has authorized to access or use the collaboration tool. If Subscriber is using the Exostar Exchange to interact with other entities, "**Customer**" means the other entities with whom Subscriber interacts, including other Subscribers and customers. In all cases, the term "**Customer**" may also mean another Subscriber.
 - (10) "**Descriptive Information**" means the materials and information describing Subscriber's goods and services, including any updates, revisions, and corrections to those materials, information, goods and services. Descriptive Information may include, but is not limited to, materials or information in electronic, written, text, graphic, photographic, audio or video format.
 - (11) "**Exostar Exchange**" means the Exostar operated business-to-business marketplace portal for the electronic supply and/or procurement of goods and services, online collaboration, interactions between Subscribers and between Subscribers and Customers, including identity management, and eSourcing, including under the www.exostar.com domain name and other such domain names as Exostar makes

available to Subscribers from time to time. Through the Exostar Exchange, Exostar provides Subscribers with access to and use of a variety of resources, products and services of Exostar and its licensors, and future offerings and versions made available by Exostar.

- (12) **“Exostar Marks”** means the trademarks, trade names, logos, service marks and other commercial product and service designations of Exostar.
- (13) **“Exostar Materials”** means the Exostar Exchange, including its informational content (e.g., information, HTML or other code, pages, graphics, software and all other materials associated or within the Exostar Exchange and the Services), the compilation of content and the “look and feel” of the Exostar Exchange, and all products, services, databases, and any other intellectual property of Exostar or its licensors or service providers, and all parts and derivatives thereof.
- (14) **“Liabilities”** means costs, losses, damages, and reasonable attorneys’ fees that a court finally awards, and all agreed to settlements.
- (15) **“Privacy Policy”** means the privacy policy of the Exostar Exchange, as amended from time to time in accordance with the General Terms and Conditions and as displayed on the Exostar Exchange.
- (16) **“Service Affecting Event”** means any of the following (i) as a result of repeated violations by Subscriber of this Agreement, (ii) as a result of government regulation or requirement, (iii) to avoid material liability (as may be determined in the sole reasonable discretion of Exostar) to a third party, (iv) Exostar’s relationships with its service providers or licensors so require (e.g., due to expiration of an applicable service agreement, etc.), (v) to avoid violations of law or regulation, or (vi) such other reasons or circumstances as may be set forth in applicable Service Agreements.
- (17) **“Service Agreement”** means the agreement so identified for each Service with that title, governing the delivery of the related Service, between Exostar and Subscriber, and into which these General Terms and Conditions are incorporated.
- (18) **“Services”** means the services that Exostar provides its Subscribers on the Exostar Exchange, and are described in more detail in each of the applicable Service Agreements. Services do not include any goods or services that Subscriber purchases from or supplies to other users of the Exostar Exchange or for which Subscriber have not agreed to a Service Agreement.
- (19) **“Subscriber Informational Content”** means informational content or other materials that Subscriber (or its Authorized Users) provides in connection with Subscriber’s using the Exostar Exchange, or which Subscriber (or its Authorized Users) posts or otherwise transmits to or through the Exostar Exchange without regard to whether Subscriber owns or licenses such content.
- (20) **“Subscriber Marks”** means the trademarks, trade names, logos, service marks and other commercial product and service designations of Subscriber.
- (21) **“Subscriber Matters”** means (i) the use of software other than as Exostar specifies, (ii) the use, co-mingling, or combination of software with non-Exostar materials, software, systems or information, or the modification or customization of software by a party other than Exostar or its authorized representatives, (iii) any Action in which Subscriber or any of its indemnified parties has a pecuniary or other material interest.
- (22) **“Subscription Period”** means the subscription period for each Service, as set forth in the applicable Service Agreement.
- (21) **“Subscriber Technology”** means independently developed technology that Subscriber creates to interface with the Exostar Exchange, exclusive of any technology or materials provided by Exostar or its Third Party Suppliers, or derivatives thereof.
- (23) **“Terms of Access”** means the general rules governing access to the Exostar Exchange, as amended from time to time in accordance with the General Terms and Conditions and as displayed on the Exostar Exchange.

b. Each of the following terms is defined in the Section of the General Terms and Conditions opposite such term:

<u>Term</u>	<u>Section</u>
General Terms and Conditions	1.a
International Rider	19.a
License	3.b
Local Law	Schedule 6
Objection	17.a
Objection Period	17.a
OFAC	Schedule 4

Org ID 4
Other Lists Schedule 4
SDN List..... Schedule 4
Third Party Exclusion Schedule 6
Third Party Suppliers.....5.a
Unlawful Exclusion..... Schedule 6
Unlawful Indemnification..... Schedule 6
Unlawful Limitation..... Schedule 6
User IDs 4
U.S. Export Control Laws Schedule 4

- c. Terms not defined herein shall have the meaning set forth in the Service Agreement to which these General Terms and Conditions are incorporated by reference.

Schedule 2

Account and Password Policy

a. Subscriber may not allow any party other than an Authorized User to use or access the Exostar Exchange or any Service.

b. Subscriber agrees to keep the Org ID, the User IDs and passwords confidential and secure. If for any reason, an unauthorized person obtains Subscriber's password or User ID, Subscriber must immediately notify Exostar so that Exostar can change the affected password or User ID. Exostar will not be liable for any loss that you may incur as a result of someone else using any Subscriber password or account, either with or without Subscriber's knowledge. Subscriber may not use anyone else's account at any time, without the permission of the account holder.

c. Subscriber agrees that Subscriber is fully responsible for all of its (and its Authorized Users') activities, transmissions and transactions while using the Exostar Exchange and for any accounts that may be established by or for Subscriber or any of its Authorized Users (including for any payments accrued, and for any informational content and other materials that may be accessed, submitted, received or transmitted while using the Exostar Exchange, and for all transactions via the Exostar Exchange).

d. Subscriber is and shall be fully responsible for all actions taken under any account established for it; any breach of this Agreement using a Subscriber's account shall be deemed a breach by Subscriber.

Schedule 3

Policy on Using Trademarks

a. Exostar User Directory. Subject to Subscriber supplying information for inclusion, Subscriber agrees to be listed in Exostar's User Directory. Such listing generally will include Subscriber's company name, address, phone number and such other details as Exostar includes in the User Directory generally and as are supplied by Subscriber. The failure of a Subscriber to supply the necessary information will result in the Subscriber not being listed in any such directory or in Subscriber being listed with incorrect/incomplete information. Supplier shall supply only current and accurate information for the User Directory. If the User Directory includes trademarks of the Subscriber, Exostar shall have the right to use the Subscriber Marks for such purpose.

b. Subscriber's Trademark Usage Guidelines. Exostar understands that any use of Subscriber Marks must conform with Subscriber's trademark guidelines that Subscriber provides in writing to Exostar. Exostar further understands that it must immediately discontinue the use and display of Subscriber Marks upon written notice from Subscriber that Exostar is not using Subscriber Marks in a manner that is consistent with Subscriber's guidelines, unless Exostar takes the steps necessary to conform to Subscriber's guidelines. All uses by Exostar of Subscriber Marks and the goodwill associated therewith shall inure to Subscriber's benefit.

c. Use of Exostar Marks. Subject to the terms and conditions of this Agreement, Exostar grants Subscriber a nonexclusive, revocable, non-transferable worldwide license during the term of this Agreement to use and reproduce Exostar's trademark "Exostar" and the Exostar logo and to provide a hyperlink to the Exostar Exchange website on Subscriber's websites (should Subscriber choose to do so), only in accordance with the trademark guidelines that Exostar specifies to Subscriber, if any. All of Subscriber's use of Exostar Marks and the goodwill associated therewith shall inure to the benefit of Exostar.

Schedule 4

Export Control, Import, Customs, and Regulatory Policy

a. Additional Definitions

- (1) "**Other Lists**" means the Entities List, the Denied Persons List, the Debarred Parties List, and any other listing by any U.S. or non-U.S. regulatory or governmental authority that restricts trade or business dealings with identified persons or entities to the extent such restriction is consistent with U.S. law.
- (2) "**SDN List**" means the alphabetical Listing of Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Global Terrorists, Foreign Terrorist Organizations, Specially Designated Narcotics Traffickers, Specially Designated Narcotics Kingpins, proliferators of weapons of mass destruction, or any other entity, organization, or person on this List.
- (3) "**U.S. Export Control Laws**" means all U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations, the regulations administered by the Office of Foreign Assets Control, and the U.S. Export Administration Regulations.

b. Subscriber's Independent Obligations. Subscriber acknowledges that Subscriber has an independent obligation under applicable law to comply with the customs, import, export control and economic sanctions requirements of any applicable jurisdiction, including the customs and import laws of the United States, and U.S. Export Control Laws, and to conduct each sale in accordance with all applicable laws (including export, import, and customs laws and regulations). Subscriber agrees not to export or import any controlled item, data, technology or services, to any foreign person (including those foreign persons employed by, associated with, or under contract with Subscriber or Subscriber's lower tier suppliers) without the authority of an applicable license or an applicable license exception. Subscriber agrees that nothing in this Agreement affects, modifies or changes Subscriber's ultimate responsibility for customs, import, export control and economic sanctions compliance, and Subscriber specifically acknowledge that Exostar is not responsible for discharging Subscriber's obligations in this regard.

c. Subscriber's Responsibility. Subscriber acknowledges and agrees that Subscriber remains responsible for obtaining any license or authorization required to permit the lawful import or export by Subscriber of any controlled item, technical data, technology or software that is made available through Subscriber's use of the Exostar Exchange. The preceding sentence is not intended to impose import or export control licensing requirements on Subscriber in circumstances in which another party or entity is the real party in interest for import/export control purposes.

d. Assurance. Subscriber agrees that to the extent Subscriber engages in transactions with Subscriber's Customers using Exostar Services, Subscriber will undertake reasonable steps to ensure that such Customers are not listed on the SDN List or Other Lists and are not prohibited from engaging in such transactions under U.S. law, including U.S. Export Control Laws or the applicable customs, import, or export control law of any other country that has jurisdiction over a transaction and which do not conflict with U.S. law.

e. Notice. Subscriber agrees to immediately notify Exostar and be terminated from the Exostar Exchange if Subscriber becomes listed in any denied parties list or if Subscriber's import or export privileges are otherwise denied, suspended or revoked in whole or in part by any government entity or agency.

f. Additional Warranties Regarding Regulatory Requirements Applicable to Subscriber. Subscriber warrants and represents that neither Subscriber nor any of Subscriber's subsidiaries or affiliated companies, officers, directors or controlling shareholders (a) is located in, is a resident of, or is acting directly or indirectly for the government of, any country or territory which is the subject of a trade embargo administered by Office of Foreign Assets Control ("**OFAC**")¹, (b) is named on the SDN List or Other Lists, or (c) is located in, or is acting directly or indirectly for the government of, any country or territory which is

¹ The countries, territories and organizations that are subject to U.S. economic sanctions are set forth in 31 C.F.R. Chapter V, and are also posted on the OFAC web site at <http://www.treas.gov/offices/enforcement/ofac/>. The economic sanctions administered by OFAC, unlike export controls administered by the U.S. Departments of State and Commerce, extend beyond trade restrictions and include broad restrictions on transactions and property "blocking" requirements. They also prohibit U.S. persons from "facilitating" activities of foreign persons vis-à-vis sanctioned countries, organizations, persons or entities. Such economic sanctions are separate and distinct from trade embargoes implemented or administered by the U.S. Department of State, Office of Defense Trade Controls under the Arms Export Control Act. Any reference to "economic sanctions" administered by OFAC is not intended to include embargoes administered by the State Department.

identified as an embargoed country by the Office of Defense Trade Controls, or is otherwise prohibited from defense trade under the International Traffic in Arms Regulations;

- g. Additional Subscriber Termination Rights. Subscriber will immediately notify Exostar and the appropriate governmental agency and agree to be subject to termination from the Exostar Exchange in the event that Subscriber, Subscriber's subsidiaries or affiliated companies, or any of Subscriber's officers, directors, or controlling shareholders: (a) becomes located in, becomes a resident of, or begins acting directly or indirectly for the government of, any country or territory which is the subject of any regulation administered by OFAC, or (b) is named on the SDN List or Other Lists.
- h. Subscriber Informational Content. Subscriber Informational Content, unless licensed for import or export to the intended Exostar Exchange user(s) or excepted from licensing, does not and will not contain any technical data controlled by U.S. import or customs laws, or U.S. Export Control Laws. Only if any such controlled Subscriber Informational Content is licensed or otherwise authorized for export to the intended Exostar Exchange user(s) may it be posted on the Exostar Exchange.

Schedule 5

Dispute Resolution Policy

- a. The dispute shall be submitted in writing to the Business Unit Executive at each Party and the Business Unit Executives shall attempt to resolve the dispute within thirty (30) days after such submittal.
- b. If the Business Unit Executives are unable to resolve the dispute within thirty (30) days, and any Party wishes to pursue the dispute, that Party shall submit the dispute in writing to the President (or equivalent officer) of each Party for resolution, and the Presidents shall attempt to resolve the dispute within thirty (30) days after such submittal.
- c. If the Presidents are unable to resolve the dispute within thirty (30) days, as provided in a and b above, the dispute, shall be settled by binding arbitration in accordance with the commercial rules (or international rules, if Subscriber is a non-US entity) of the American Arbitration Association then in effect. The arbitration panel shall consist of one (1) neutral arbitrator if the amount in controversy is less than \$10,000, otherwise the panel shall consist of three (3) neutral arbitrators, each an attorney with five (5) or more years of experience in computer and technology law and/or the primary area of law as to which the dispute relates. The arbitrator(s) shall have never been employed (either as an employee or as an independent consultant) by either of the Parties, or any parent, subsidiary or affiliate thereof. The Parties shall have the right to take discovery of the other Party by any or all methods provided in the Federal Rules of Civil Procedure. The arbitrator(s) may upon request exclude from being used in the arbitration preceding any evidence not made available to the other Party pursuant to a proper discovery request. The arbitrator(s) shall apply the law of the State of New York and the arbitration proceeding shall be held in New York City, New York, USA or in such other location as is mutually agreed upon. The cost of the arbitration shall be borne equally by the Parties, unless the arbitrator(s) awards costs and attorneys fees to the prevailing Party. Notwithstanding the choice of law provision in this Agreement, the Federal Arbitration Act, except as modified herein, shall govern the interpretation and enforcement of this provision. All arbitration proceedings shall be conducted in English.
- d. Notwithstanding the foregoing dispute resolution procedures, either Party may apply to any court having jurisdiction to (i) enforce the agreement to arbitrate, (ii) seek provisional injunctive relief so as to maintain the status quo until the arbitration award is rendered or the dispute is otherwise resolved, or to otherwise prevent irreparable harm, (iii) avoid the expiration of any applicable limitation period, (iv) preserve a superior position with respect to creditors, or (v) challenge or vacate any final decision or award of the arbitration panel that does not comport with the express provisions of this Schedule 5.

Schedule 6

International Rider

Subscriber acknowledges and agrees that, pursuant to this Rider to the General Terms and Conditions, Section 19.d, entitled "MISCELLANEOUS PROVISIONS – Severability", is hereby deleted in its entirety and the following substituted in its place:

Severability

In the event: (i) any court of competent jurisdiction, other than a court of the State of New York, is entitled to exercise jurisdiction over the interpretation or enforcement of this Agreement, or (ii) the law of any other jurisdiction ("**Local Law**") is held applicable to the interpretation or enforcement of this Agreement, then both Parties intend and agree that the following shall apply, in the order specified:

- To the maximum extent permitted by Local Law, the Parties intend that this Agreement shall be enforced in accordance with its terms, including without limitation, in accordance with the Governing Law provision;
- Certain jurisdictions may prohibit, or may not enforce, an exclusion by a party from, or limitation by a party of, liability arising from the willful misconduct of such party, and to the extent this Agreement is subject to Local Law which prohibits such exclusions or limitations, any provision in this Agreement which excludes or limits liability in respect of willful misconduct shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to exclude any reference or application to willful misconduct;
- Certain jurisdictions may prohibit, or may not enforce, an exclusion by a party from, or limitation by a party of, liability arising from the gross negligence of such party, and to the extent this Agreement is subject to Local Law which prohibits such exclusions or limitations, any provision in this Agreement which excludes or limits liability in respect of gross negligence shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to exclude any reference or application to gross negligence;
- Certain jurisdictions may prohibit, or may not enforce, an exclusion by a party from, or limitation by a party of, liability relating to certain types of damages (such as personal injury or death), and to the extent this Agreement is subject to Local Law which prohibits such exclusions or limitations, any provision in this Agreement which excludes or limits liability in respect of such damages shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to exclude any reference or application to such damages;
- Certain jurisdictions may prohibit, or may not enforce, the disclaimer or exclusion of claims which a party may have against a third party ("**Third Party Exclusion**"), and to the extent any provision in this Agreement would be held unenforceable under Local Law which prohibits such exclusions or limitations, such provision shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to exclude reference or application to any such Third Party Exclusion. In such event, both Parties agree to enter into Agreements with any third party licensors and service providers to provide such licensors and service providers with comparable protection as would have been provided by the applicable provisions of this Agreement prior to any amendment of such provisions;
- Certain jurisdictions may prohibit, or may not enforce, the disclaimer or exclusion of certain types of damages or liability (collectively, an "**Unlawful Exclusion**"), and to the extent any provision in this Agreement would be held unenforceable under Local Law which prohibits such exclusions or limitations, such provision shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to exclude reference or application to any such Unlawful Exclusion;
- Certain jurisdictions may prohibit, or may not enforce, a limitation on a party's aggregate liability in respect of certain types of liability ("**Unlawful Limitation**"), and to the extent any provision in this Agreement would be held unenforceable under Local Law which prohibits such exclusions or limitations, such provision shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to exclude reference or application to any such Unlawful Limitation;
- Certain jurisdictions may prohibit, or may not enforce, a disclaimer or exclusion of certain warranties or conditions which may arise from Local Law or otherwise ("**Unlawful Disclaimer**"), and to the extent any provision in this Agreement would be held unenforceable under Local Law, such provision shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to exclude reference or application to any such Unlawful Disclaimer;

- Certain jurisdictions may prohibit, or may not enforce, an obligation by one party to indemnify another party for certain types of actions, failures, violations or other conduct of the indemnified party ("**Unlawful Indemnification**"), and to the extent any provision in this Agreement would be held unenforceable under Local Law which prohibits such indemnification, such provision shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to exclude reference or application to any such Unlawful Indemnification;
- Certain jurisdiction may prohibit, or may not enforce, a limitation of remedies to any exclusive remedy that may be specified in this Agreement and in such case, any such exclusive remedy specified in this Agreement shall be deemed inapplicable but the applicable party's liability shall nevertheless be subject to all other exclusions and limitations contained in this Agreement;
- Certain jurisdictions may impose an obligation on a party to comply with certain Local Law and to the extent any provision in this Agreement would be held unenforceable under Local Law for attempting to exclude the obligation to comply with such Local Law, such provision shall be deemed amended, as narrowly and specifically as possible and only for the purpose of this Agreement, to remove the exclusion of the obligation to comply with such Local Law, except to the extent U.S. laws or regulations require otherwise; and
- If any provision of this Agreement is held to be contrary to Local Law, such provision shall be changed so as to conform to Local Law, except to the extent inconsistent with U.S. laws or regulations.

Any amendment required to be made by the foregoing shall be made in a manner so as to best accomplish the objectives of the original provision to the fullest extent allowed by Local Law; the remaining provisions of this Agreement shall remain in full force and effect.

Schedule 7

Policy on Submitting Copyright Infringement Claims

As provided in the General Terms and Conditions, Exostar reserves the right to terminate or suspend any user's access to the Exostar Exchange or any of the Services for violations of the Agreement, including use of the Services in a manner that infringes the intellectual property rights of others. In accordance with the Digital Millennium Copyright Act, it is Exostar's policy to terminate a Subscriber's access, in appropriate circumstances, if the Subscriber repeatedly infringes the copyrights of others. These policies do not affect any other rights Exostar may have under law or contract. Capitalized terms not otherwise defined in this document shall have the meanings set forth in the General Terms and Conditions.

UNDER FEDERAL LAW, IF A SUBSCRIBER KNOWINGLY MISREPRESENTS THAT ONLINE MATERIAL IS INFRINGING ON A COPYRIGHT, SUBSCRIBER WILL BE SUBJECT TO CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES THAT ANY COPYRIGHT OWNER, COPYRIGHT OWNER'S LICENSEE, OR EXOSTAR MAY INCUR AS A RESULT OF RELIANCE UPON SUCH MISREPRESENTATION. SUBSCRIBER MAY ALSO BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY.

If you believe that material has been stored on the Exostar Exchange or any Service at the direction of a user in a manner that *you*, as either the copyright owner or the copyright owner's agent, have not authorized, please notify Exostar at:

EXOSTAR LLC
2325 Dulles Corner Blvd. suite 600
Herndon, VA 20171
Attn: EXOSTAR Contracts/Legal Department
Phone: 703-561-0500
E-mail: CONTRACTS@EXOSTAR.COM

- (1) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- (2) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- (3) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Exostar to locate the material;
- (4) Information reasonably sufficient to permit Exostar to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- (5) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- (6) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf to the owner of an exclusive right that is allegedly infringed.

Do not send any inquiries unrelated to copyright infringement (*e.g.*, requests for technical assistance or customer service, reports of e-mail abuse, etc.) to the contact above. You will *NOT* receive a response if such inquiries are sent to that contact. **Schedule 8**

Schedule 8

Commission Decision Standard Contractual Clauses for Data Transfer

Standard Contractual Clauses for Transfer of Personal Data *to* Third Countries Under EU General Data Protection Regulation (GDPR) and UK GDPR (pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council)

SECTION I

Clause 1

Purpose and scope

(a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)¹ for the transfer of personal data to a third country.

(b) The Parties:

(i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter “entity/ies”) transferring the personal data, as listed in Annex I.A. (hereinafter each “data exporter”), and

(ii) the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each “data importer”)

have agreed to these standard contractual clauses (hereinafter: “Clauses”).

(c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.

(d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

Clause 2

Effect and invariability of the Clauses

(a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

(b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

Clause 3

Third-party beneficiaries

(a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:

(i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;

(ii) Clause 8 - Clause 8.1(b), 8.9(a), (c), (d) and (e);

(iii) Clause 9 - Clause 9(a), (c), (d) and (e);

(iv) Clause 12 - Clause 12(a), (d) and (f);

(v) Clause 13;

(vi) Clause 15.1(c), (d) and (e);

(vii) Clause 16(e);

(viii) Clause 18 - Clause 18(a) and (b).

(b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

Clause 4

Interpretation

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.
- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

Clause 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

Clause 7

Docking clause

- (a) An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- (b) Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- (c) The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

SECTION II – OBLIGATIONS OF THE PARTIES

Clause 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

8.1 Instructions

(a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.

(b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B, unless on further instructions from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

(a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter “personal data breach”). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

(b) The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

(c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

(d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter "sensitive data"), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union⁴ (in the same country as the data importer or in another third country, hereinafter "onward transfer") if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

(i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;

(ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;

(iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or

(iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

(a) The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.

(b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.

(c) The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.

(d) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.

(e) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

Clause 9

Use of sub-processors

(a) **OPTION 2: GENERAL WRITTEN AUTHORISATION** The data importer has the data exporter's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the data exporter in writing of any intended changes to that list through the addition or replacement of sub-processors at least thirty (30) days in advance, thereby giving the data exporter sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the data exporter with the information necessary to enable the data exporter to exercise its right to object.

(b) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects.⁸ The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

(c) The data importer shall provide, at the data exporter's request, a copy of such a sub-processor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.

(d) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.

(e) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent - the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

Clause 10

Data subject rights

(a) The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.

(b) The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.

(c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

Clause 11

Redress

(a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

(b) In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.

(c) Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:

(i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;

(ii) refer the dispute to the competent courts within the meaning of Clause 18.

(d) The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.

(e) The data importer shall abide by a decision that is binding under the applicable EU or Member State law.

(f) The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

Clause 12

Liability

(a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

(b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.

(c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.

(d) The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.

(e) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.

(f) The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.

(g) The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

Clause 13

Supervision

(a) [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679:] The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.

(b) The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

Clause 14

Local laws and practices affecting compliance with the Clauses

(a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.

(b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:

(i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;

(ii) the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards;

(iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.

(c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.

(d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.

(e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a). [For Module Three: The data exporter shall forward the notification to the controller.]

(f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation [for Module Three: , if appropriate in consultation with the controller]. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by [for Module Three: the controller or] the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

Clause 15

Obligations of the data importer in case of access by public authorities

15.1 Notification

(a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:

(i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or

(ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

(b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

(c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).

(d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.

(e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

(a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).

(b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.

(c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

Clause 16

Non-compliance with the Clauses and termination

(a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.

(b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).

(c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:

(i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;

(ii) the data importer is in substantial or persistent breach of these Clauses; or

(iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

(d) Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data. Personal data collected by the data exporter in the EU that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall immediately be deleted in its entirety, including any copy thereof. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

(e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

Clause 17

Governing law

These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of Ireland.

Clause 18

Choice of forum and jurisdiction

(a) Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.

(b) The Parties agree that those shall be the courts of Ireland.

(c) A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.

(d) The Parties agree to submit themselves to the jurisdiction of such courts.

APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties.

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

ANNEX I

Data exporter

The data exporter is the Subscriber to Exostar's services as defined in the relevant service agreement. Subscriber has entered into an agreement for provision of software-as-a-service and platform-as-a-service solutions which include the processing of transactional data in furtherance of those services. Subscriber, in utilizing the services provided by data importer, shall provide basic user registration information to the data importer.

Data importer

The data importer is Exostar LLC. Exostar LLC is a provider of secure collaboration software as a service solutions and business process integration. Such services are focused in the aerospace, defense, healthcare and life sciences industries.

B. DESCRIPTION OF TRANSFER

Categories of data subjects

The personal data transferred concern the following categories of data subjects: Customer account administrators, aerospace and defense suppliers, healthcare providers, clinical researchers, manufacturers.

Categories of data

The personal data transferred concern the following categories of data: User registration information (i.e. name, address, email address).

Special categories of data (if appropriate)

The personal data transferred concern the following special categories of data: not applicable.

Processing operations

The personal data transferred will be subject to the following basic processing activities: Processing activities may include operations, whether automated or not, such as collection, recording, organization, storage, retrieval, disclosure to authorized individuals, blocking, erasure, and destruction.

C. COMPETENT SUPERVISORY AUTHORITY

Pursuant to Clause 13, the competent supervisory authority/authorities is/are:

Ireland.

ANNEX II TO THE STANDARD CONTRACTUAL CLAUSES

This Annex II forms part of the Clauses and must be completed and signed by the parties.

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

Exostar has developed an industry standard information security risk management and governance practice. It has implemented industry best-practices to protect sensitive information, such as next generation firewalls and two-factor authentication. Exostar's security policies are based on ISO 27001 Information Security Standards which provide the basis to secure Exostar's network information and customer sensitive information. Exostar proactively monitors its infrastructure for threats and has developed an incident-response process to deal with threats. Exostar also teams with industry peers to understand the current threat landscape is continually evolving its ability to defend against those threats. Non-restricted details about Exostar's security measures may be provided to Subscribers upon request.

ANNEX III – LIST OF SUB-PROCESSORS

Name and Address	Location of Processing (if different from address)	Processing Description
Tech Mahindra	3320 Westrac Drive Suite E Fargo, North Dakota 58103 USA	Providing technical support to Exostar and customers.
Saddle Creek Corporate	1353 Baker Court Lexington, Kentucky 40511USA	Fulfilling orders for physical tokens for Exostar customers and their suppliers.

International Data Transfer Addendum to the EU Commission Standard Contractual Clauses

VERSION B1.0, in force 21 March 2022

This Addendum has been issued by the Information Commissioner for Parties making Restricted Transfers. The Information Commissioner considers that it provides Appropriate Safeguards for Restricted Transfers when it is entered into as a legally binding contract.

Part 1: Tables

Table 1: Parties

Start date		
The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
Parties' details	Full legal name: Trading name (if different): Main address (if a company registered address): Per agreement Official registration number (if any) (company number or similar identifier):	Full legal name: Exostar LLC Trading name (if different): Main address (if a company registered address): Per agreement Official registration number (if any) (company number or similar identifier):

Key Contact	Full Name (optional): Job Title: Contact details including email:	Full Name (optional): Job Title: Contact details including email:
Signature (if required for the purposes of Section 2)		

Table 2: Selected SCCs, Modules and Selected Clauses

Addendum EU SCCs	<input type="checkbox"/> All the version of the Approved EU SCCs which this Addendum is appended to, detailed below, including the Appendix Information: Date: Reference (if any): Other identifier (if any): Or the Approved EU SCCs, including the Appendix Information and with only the following modules, clauses or optional provisions of the Approved EU SCCs brought into effect for the purposes of this Addendum: <input type="checkbox"/>					
Module	Module in operation	Clause 7 (Docking Clause)	Clause 11 (Option)	Clause 9a (Prior Authorisation or General Authorisation)	Clause 9a (Time period)	Is personal data received from the Importer combined with personal data collected by the Exporter?
1						
2						
3						
4						

Table 3: Appendix Information

“**Appendix Information**” means the information which must be provided for the selected modules as set out in the Appendix of the Approved EU SCCs (other than the Parties), and which for this Addendum is set out in:

Annex 1A: List of Parties:

Annex 1B: Description of Transfer: See Appendix 1

Annex II: Technical and organisational measures including technical and organisational measures to ensure the security of the data: See Appendix II

Annex III: List of Sub processors (Modules 2 and 3 only):

Table 4: Ending this Addendum when the Approved Addendum Changes

Ending this Addendum when the Approved Addendum changes	Which Parties may end this Addendum as set out in Section 19: Importer <input type="checkbox"/> Exporter <input type="checkbox"/> XXneither Party <input type="checkbox"/>
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Part 2: Mandatory Clauses

Entering into this Addendum

1. Each Party agrees to be bound by the terms and conditions set out in this Addendum, in exchange for the other Party also agreeing to be bound by this Addendum.
2. Although Annex 1A and Clause 7 of the Approved EU SCCs require signature by the Parties, for the purpose of making Restricted Transfers, the Parties may enter into this Addendum in any way that makes them legally binding on the Parties and allows data subjects to enforce their rights as set out in this Addendum. Entering into this Addendum will have the same effect as signing the Approved EU SCCs and any part of the Approved EU SCCs.

Interpretation of this Addendum

3. Where this Addendum uses terms that are defined in the Approved EU SCCs those terms shall have the same meaning as in the Approved EU SCCs. In addition, the following terms have the following meanings:

Addendum	This International Data Transfer Addendum which is made up of this Addendum incorporating the Addendum EU SCCs.
Addendum EU SCCs	The version(s) of the Approved EU SCCs which this Addendum is appended to, as set out in Table 2, including the Appendix Information.
Appendix Information	As set out in Table 3.
Appropriate Safeguards	The standard of protection over the personal data and of data subjects' rights, which is required by UK Data Protection Laws when you are making a Restricted Transfer relying on standard data protection clauses under Article 46(2)(d) UK GDPR.
Approved Addendum	The template Addendum issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 18.
Approved EU SCCs	The Standard Contractual Clauses set out in the Annex of Commission Implementing Decision (EU) 2021/914 of 4 June 2021.
ICO	The Information Commissioner.
Restricted Transfer	A transfer which is covered by Chapter V of the UK GDPR.
UK	The United Kingdom of Great Britain and Northern Ireland.
UK Data Protection Laws	All laws relating to data protection, the processing of personal data, privacy and/or electronic communications in force from time to time in the UK,

	including the UK GDPR and the Data Protection Act 2018.
UK GDPR	As defined in section 3 of the Data Protection Act 2018.

4. This Addendum must always be interpreted in a manner that is consistent with UK Data Protection Laws and so that it fulfils the Parties' obligation to provide the Appropriate Safeguards.
5. If the provisions included in the Addendum EU SCCs amend the Approved SCCs in any way which is not permitted under the Approved EU SCCs or the Approved Addendum, such amendment(s) will not be incorporated in this Addendum and the equivalent provision of the Approved EU SCCs will take their place.
6. If there is any inconsistency or conflict between UK Data Protection Laws and this Addendum, UK Data Protection Laws applies.
7. If the meaning of this Addendum is unclear or there is more than one meaning, the meaning which most closely aligns with UK Data Protection Laws applies.
8. Any references to legislation (or specific provisions of legislation) means that legislation (or specific provision) as it may change over time. This includes where that legislation (or specific provision) has been consolidated, re- enacted and/or replaced after this Addendum has been entered into.

Hierarchy

9. Although Clause 5 of the Approved EU SCCs sets out that the Approved EU SCCs prevail over all related agreements between the parties, the parties agree that, for Restricted Transfers, the hierarchy in Section 10 will prevail.
10. Where there is any inconsistency or conflict between the Approved Addendum and the Addendum EU SCCs (as applicable), the Approved Addendum overrides the Addendum EU SCCs, except where (and in so far as) the inconsistent or conflicting terms of the Addendum EU SCCs provides greater protection for data subjects, in which case those terms will override the Approved Addendum.
11. Where this Addendum incorporates Addendum EU SCCs which have been entered into to protect transfers subject to the General Data Protection Regulation (EU) 2016/679 then the Parties acknowledge that nothing in this Addendum impacts those Addendum EU SCCs.

Incorporation of and changes to the EU SCCs

12. This Addendum incorporates the Addendum EU SCCs which are amended to the extent necessary so that:
 - a. together they operate for data transfers made by the data exporter to the data importer, to the extent that UK Data Protection Laws apply to the data exporter's processing when making that data transfer, and they provide Appropriate Safeguards for those data transfers;
 - b. Sections 9 to 11 override Clause 5 (Hierarchy) of the Addendum EU SCCs; and
 - c. this Addendum (including the Addendum EU SCCs incorporated into it) is (1) governed by the laws of England and Wales and (2) any dispute arising from it is resolved by the courts of England and Wales, in each case unless the laws and/or courts of Scotland or Northern Ireland have been expressly selected by the Parties.
13. Unless the Parties have agreed alternative amendments which meet the requirements of Section 12, the provisions of Section 15 will apply.
14. No amendments to the Approved EU SCCs other than to meet the requirements of Section 12 may be made.
15. The following amendments to the Addendum EU SCCs (for the purpose of Section 12) are made:
 - a. References to the "Clauses" means this Addendum, incorporating the Addendum EU SCCs;
 - b. In Clause 2, delete the words:

"and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679";
 - c. Clause 6 (Description of the transfer(s)) is replaced with:

"The details of the transfers(s) and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred) are those specified in Annex I.B where UK Data Protection Laws apply to the data exporter's processing when making that transfer.";
 - d. Clause 8.7(i) of Module 1 is replaced with:

"it is to a country benefitting from adequacy regulations pursuant to Section 17A of the UK GDPR that covers the onward transfer";

- e. Clause 8.8(i) of Modules 2 and 3 is replaced with:

“the onward transfer is to a country benefitting from adequacy regulations pursuant to Section 17A of the UK GDPR that covers the onward transfer;”

- f. References to “Regulation (EU) 2016/679”, “Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)” and “that Regulation” are all replaced by “UK Data Protection Laws”. References to specific Article(s) of “Regulation (EU) 2016/679” are replaced with the equivalent Article or Section of UK Data Protection Laws;

- g. References to Regulation (EU) 2018/1725 are removed;

- h. References to the “European Union”, “Union”, “EU”, “EU Member State”, “Member State” and “EU or Member State” are all replaced with the “UK”;

- i. The reference to “Clause 12(c)(i)” at Clause 10(b)(i) of Module one, is replaced with “Clause 11(c)(i)”;

- j. Clause 13(a) and Part C of Annex I are not used;

- k. The “competent supervisory authority” and “supervisory authority” are both replaced with the “Information Commissioner”;

- l. In Clause 16(e), subsection (i) is replaced with:

“the Secretary of State makes regulations pursuant to Section 17A of the Data Protection Act 2018 that cover the transfer of personal data to which these clauses apply;”

- m. Clause 17 is replaced with:

“These Clauses are governed by the laws of England and Wales.”;

- n. Clause 18 is replaced with:

“Any dispute arising from these Clauses shall be resolved by the courts of England and Wales. A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of any country in the UK. The Parties agree to submit themselves to the jurisdiction of such courts.”; and

- o. The footnotes to the Approved EU SCCs do not form part of the Addendum, except for footnotes 8, 9, 10 and 11.

Amendments to this Addendum

16. The Parties may agree to change Clauses 17 and/or 18 of the Addendum EU SCCs to refer to the laws and/or courts of Scotland or Northern Ireland.
17. If the Parties wish to change the format of the information included in Part 1: Tables of the Approved Addendum, they may do so by agreeing to the change in writing, provided that the change does not reduce the Appropriate Safeguards.
18. From time to time, the ICO may issue a revised Approved Addendum which:
 - a. makes reasonable and proportionate changes to the Approved Addendum, including correcting errors in the Approved Addendum; and/or
 - b. reflects changes to UK Data Protection Laws;

The revised Approved Addendum will specify the start date from which the changes to the Approved Addendum are effective and whether the Parties need to review this Addendum including the Appendix Information. This Addendum is automatically amended as set out in the revised Approved Addendum from the start date specified.

19. If the ICO issues a revised Approved Addendum under Section 18, if any Party selected in Table 4 “Ending the Addendum when the Approved Addendum changes”, will as a direct result of the changes in the Approved Addendum have a substantial, disproportionate and demonstrable increase in:
 - a its direct costs of performing its obligations under the Addendum; and/or
 - b its risk under the Addendum,

and in either case it has first taken reasonable steps to reduce those costs or risks so that it is not substantial and disproportionate, then that Party may end this Addendum at the end of a reasonable notice period, by providing written notice for that period to the other Party before the start date of the revised Approved Addendum.

20. The Parties do not need the consent of any third party to make changes to this Addendum, but any changes must be made in accordance with its terms.