

# Master Services Agreement

Version / Date: 19 May 2021

This Master Services Agreement, including all Sales Orders and Statements of Work agreed to by the parties (collectively, the “**Agreement**”), is between the entity identified in the Sales Order (“**Customer**”) and Wazuh, Inc. (“**Wazuh**”, “**we**” or “**our**”) and sets forth the terms and conditions under which Wazuh will make available certain services and Customer will be permitted to use such services. This Agreement is effective as of the date set forth in the Sales Order or, if no effective date is specified, the date of Customer signature on the Sales Order (“**Effective Date**”). By signing the Sales Order, Customer and Wazuh agree to be bound by the terms of the Agreement.

## Terms and Conditions

### 1. Definitions

- a. “**Affiliate**” means any entity that is controlling, controlled by, or under the common control with Wazuh.
- b. “**Application**” means the web-based service and analysis servers, search engine and visualization platform identified in the applicable Sales Order.
- c. “**Customer Data**” means the data inputted by Customer or its Users for the purpose of using an Application.
- d. “**Documentation**” user manuals and any other materials, including updates thereto, in any form or medium made generally available by Wazuh to Users, regarding the proper installation and use of the Application.
- e. “**Maintenance Services**” means ongoing maintenance and technical support services for the applicable Application.
- f. “**Professional Services**” means all software implementation, training, configuration, consulting and professional services performed by or on behalf of Wazuh for Customer pursuant to this Agreement.
- g. “**Sales Order(s)**” means the ordering documents authorized by Wazuh for purchases of Services hereunder, including addenda thereto, that are entered into between Customer and Wazuh from time to time.
- h. “**Services**” means each Application, Maintenance Services, and Professional Services, collectively.
- i. “**Subscription Term**” for each Application means the period that Customer has the right to use such Application and associated Documentation as set forth in the applicable Sales Order, including the Initial Term and any Renewal Terms.
- j. “**Users**” means individuals who are authorized by Customer to use the applicable Application, including but not limited to Customer employees, consultants, contractors and agents.

## 2. Use of the Application

- a. Use of the Application and Documentation. Customer may only use the Application during the Subscription Term. Subject to the terms and conditions of this Agreement, Wazuh hereby grants to Customer and Customer hereby accepts from Wazuh a limited, non-exclusive, revocable, non-transferable (except as permitted in Section 11.b (Assignability)), non-sublicensable right during the applicable Subscription Term to allow Users to use the Application and Documentation in accordance with the scope of use specified in this Agreement. Wazuh shall support the Application pursuant to the Service Level agreement, attached hereto as Exhibit B.
- b. Use Limitations. Customer's right to use each Application is subject to and contingent upon Customer's compliance with the limitations on Customer's use of such Application specified in the Agreement including user limitations referenced in Documentation.
- c. Audit. Customer shall permit Wazuh to audit Customer's use of each Application to verify compliance with its obligations hereunder. Such audit may be conducted no more than once per twelve months, at Wazuh's expense, and this right will be exercised with reasonable prior notice, in such a manner as not to interfere with Customer's normal conduct of business.
- d. Reservation of Rights. Wazuh and its licensors retain all right, title, and interest to all software, products, works, and other intellectual property created, used, or provided by Wazuh for the purposes of this Agreement, including, but not limited to, each Application and all Documentation. Wazuh shall own all right, title, and interest in and to all modifications or derivatives of, and improvements to, each Application and all Documentation and any other part of the Services (created by either party). Customer hereby makes all assignments necessary to provide Wazuh the ownership rights set forth in the preceding sentence.
- e. Customer Data. Wazuh hereby acknowledges and agrees that all rights, title and interest in and to Customer Data are and shall remain the property of Customer and all intellectual property rights including

Copyright, trademark, and trade secret rights in Customer Data are and will remain the property of Customer. Customer hereby grants to Wazuh, throughout the term of this Agreement and after the term as necessary for any of Wazuh's post-termination obligations to Customer, the necessary rights or license to use Customer Data solely as necessary for Wazuh to perform its obligations hereunder. Customer will not provide Wazuh with any Customer Data that includes Payment Card Industry ("PCI") data or Personal Health Information ("PHI") data. Customer shall provide Wazuh, in the form and format and on the schedule specified by Wazuh, all Customer Data reasonably required for Wazuh's performance hereunder. Customer grants and agrees to grant to Wazuh a non-exclusive, transferable, sublicensable, royalty free license during the Term of the Agreement to use such Customer Data in order to provide the Service to Customer and the Users and as necessary to access the Application to monitor and diagnose performance related issues and to improve the Service. Additionally, Customer agrees that Wazuh may use the Customer Data to collect, develop, create, extract, or otherwise generate statistics and other information and to otherwise compile, synthesize and analyze such Customer Data ("Blind Data"). Customer shall be responsible for maintaining back-up on all Customer Data.

- f. Feedback. If Customer provides any feedback to Wazuh concerning the functionality or performance of an Application (including identifying potential errors and improvements), Customer hereby assigns to Wazuh all right, title, and interest in and to the feedback, and Wazuh is free to use the feedback without payment or restriction.

## 3. Customer's Responsibilities

- a. Account Credentials. Customer is solely responsible for maintaining the confidentiality of the administrator and User logon identifications, passwords, and account information.
- b. Compliance and Use. Customer shall be responsible for Users' compliance with this Agreement; be responsible for the accuracy, quality, integrity and legality of Customer Data and of the means by which Customer acquired Customer Data; use commercially

reasonable efforts to prevent unauthorized access to or use of each Application and all Documentation and immediately notify Wazuh in writing of any such unauthorized access or use or violation by Customer or its Users of this Agreement; use each Application only in accordance with the Documentation; and use each Application and all Documentation in compliance with the Acceptable Use Policy attached hereto as Exhibit A and all applicable laws and government regulations. If there is unauthorized use of any Application or Documentation by anyone who obtained access to such Application or Documentation directly or indirectly through Customer, Customer will take all steps reasonably necessary to terminate the unauthorized use. Customer will cooperate and assist with any actions taken by Wazuh to prevent or terminate unauthorized use of each Application or any Documentation. Customer may not make the Services available to anyone other than Users; use the Applications to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; use the Services to store or transmit malicious code; interfere with or disrupt the integrity or performance of the Services or third-party data contained therein; or attempt to gain unauthorized access to the Applications or their related systems or networks.

- c. Restrictions. Except as otherwise explicitly provided in this Agreement or as may be expressly permitted by applicable law, Customer shall not, and will not permit or authorize third parties to:
- i. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Applications or Documentation in any form or media or by any means; or attempt to reverse compile, disassemble, reverse engineer, or otherwise reduce to human-perceivable form all or any part of the Applications;
  - ii. access all or any part of the Applications or Documentation in order to build a product or service that competes with the Services;
  - iii. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit the

Applications or Documentation, or otherwise make the Applications or Documentation available to any third party (e.g., as a service bureau); or

iv. circumvent or disable any security or other technological features or measures of the Applications.

## 4. Professional Services

For each request for Professional Services hereunder, the parties shall reference such Professional Services in the Sales Order. Additionally, the parties may in good faith negotiate a statement of work for Professional Services ("SOW"), which shall be part of this Agreement. An SOW shall be a separate document executed by the parties. Each SOW will specify the scope of work and specific terms of the project(s) to be performed. Travel expenses, including reasonable transportation, lodging and meal expenses incurred in relation to the provision of pre-approved Professional Services will be reimbursed by Customer and are in addition to the specified Professional Services fees.

## 5. Payment and Fees

- a. Fees. Customer will pay Wazuh the fees and any other amounts owing under this Agreement, plus any applicable sales, use, excise, or other taxes which are due as a result of this Agreement. Unless otherwise specified in the applicable Sales Order, all amounts payable under this Agreement are denominated in U.S. dollars, and Customer will pay all such amounts in U.S. dollars.
- b. Renewal Fees. Wazuh will give Customer at least 30 days' notice (which may be by email) of any increase in the Service fees, or any new charges and fees, prior to the end of the Initial Term (as defined in Section 6(b)) or any Renewal Term (as defined in Section 6(b)).
- c. Invoices and Payment Terms. The fees relating to accessing each Application (the "Subscription Fees") for the Initial Term will be invoiced upon execution of the applicable Sales Order and, for each Renewal Term, at the commencement of such Renewal Term. Fees for Professional Services will be invoiced upon execution of the applicable Sales Order, unless otherwise

specified in such Sales Order. Unless otherwise expressly set forth on the applicable Sales Order, Customer will pay all amounts due within 30 days of the date of the applicable invoice. Customer acknowledges that Subscription Fees for Renewal Terms are due on or by the first day of such Renewal Term.

d. Late Payments. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Customer will reimburse any costs or expenses (including, but not limited to, collection agency fees, reasonable attorneys' fees and court costs) incurred by Wazuh to collect any amount that is not paid when due. In the event of default in the payment of any undisputed invoices, installments or interest for a period in excess of 60 days past their due date, Wazuh may, without notice or demand, declare the entire principal sum payable during the Subscription Term under all outstanding Sales Orders, immediately due and payable. In the event Customer fails to timely make any payment under this Agreement, Wazuh shall have the right to immediately discontinue all Service and terminate this Agreement upon written notice to Customer and collect any remaining balances. If Customer believes that Wazuh has billed Customer incorrectly, Customer must notify Wazuh thereof (in writing) no later than 60 days after the date of the invoice, otherwise the invoice amount shall be conclusively deemed correct by the parties. Amounts due from Customer under this Agreement may not be withheld or offset by Customer against amounts due to Customer for any reason.

e. Taxes. All payments for Services under this Agreement shall be made free and clear and without deduction for any and all present and future Taxes. Payments due to Wazuh under this Agreement shall be increased so that amounts received by Wazuh, after provisions for Taxes and all Taxes on such increase, will be equal to the amounts required under this Agreement if no Taxes were due on such payments. For purposes of this Agreement, the term "Taxes" means all income withholding taxes, levies, imposts, duties, fines, or other charges of whatsoever nature however imposed by any country or any subdivision or authority thereof in any way connected with this Agreement or any

instrument or agreement required hereunder, and all interest, penalties or similar liabilities with respect thereto, except such taxes as are imposed on or measured by a party's net income or property. The Customer shall indemnify Wazuh for the full amount of Taxes attributable to the provision of Services under this Agreement, and any liabilities (including penalties, interest, and expenses) arising from such Taxes, within 30 days from any written demand by Wazuh party. The Customer shall provide evidence that all applicable Taxes have been paid to the appropriate taxing authority by delivering to Wazuh receipts or notarized copies thereof within 30 days after the due date for such tax payments. Without prejudice to the survival of any other Agreement of Customer hereunder, the obligations of Customer contained in this section shall survive the payment in full of all payments hereunder.

f. Suspension. Wazuh may immediately suspend Customer's account and access to the Services if (i) Customer fails to make payment due within 10 business days after Wazuh has provided Customer with written notice of such failure; or (ii) Customer violates Section 3.b (Compliance and Use), Section 3.c (Restrictions), Exhibit A (Wazuh Use Policies), or Section 7 (Confidentiality). Any suspension by Wazuh of the Services under the preceding sentence will not relieve Customer of its payment obligations hereunder.

## 6. Term, Renewal, And Termination

a. Agreement Term. This Agreement will commence upon the Effective Date and continue for as long as there is a Sales Order still in effect unless this Agreement is terminated earlier as set forth herein. In the event there are no Sales Orders in effect for three months, this Agreement will automatically terminate.

b. Subscription Term. The Subscription Term shall commence on the Subscription Start Date. The "Subscription Start Date" will be the same as the Effective Date. The Subscription Term will be in effect for the term specified in the Sales Order, provided that if no such term is indicated in the Sales Order the initial term shall be for one year ("Initial Term"). In the event Wazuh provides Application to Customer after the Effective Date, the Subscription Start Date shall be

defined as the date Wazuh provides the Application to the Customer. Customer is responsible and will pay Wazuh all Subscription Fees under a Sales Order for the entire Subscription Term and any applicable Renewal Term.

- c. Termination for Material Breach. Either party may terminate this Agreement if the other party does not cure its material breach of this Agreement within 30 days of receiving written notice of the material breach from the non-breaching party. Such termination right applies only to the applicable Sales Order and related Services for a particular Application and not to Sales Orders to other Applications governed by this Agreement. Termination in accordance with this Section 6.c will take effect when the breaching party receives written notice of termination from the non-breaching party, which notice must not be delivered until the breaching party has failed to cure its material breach during the 30-day cure period. If Customer fails to timely pay any fees, Wazuh may, without limitation to any of its other rights or remedies, suspend performance of all Services for Customer until Wazuh receives all amounts due. In the event of termination as a result of Customer's failure to comply with any of its obligations under this Agreement, Customer shall continue to be obligated to pay for Subscription Fees and any fees for Services rendered. Termination of the Agreement or any Sales Order shall be in addition to and not in lieu of any equitable remedies available to Wazuh.
- d. Data Transition Assistance. Following the termination of the applicable Sales Order, provided customer makes a written request within 14 days before the effective date of termination and subject to then-current Professional Service fees on a timely and materials basis, Wazuh will offer assistance in exporting Customer Data from the applicable Application.
- e. Survival. Sections 2.c (Audit), 2.d (Reservation of Rights), 2.e (Customer Data), 2.f (Feedback), 3 (Customer's Responsibilities), 5.a (Fees), 5.d (Invoices and Payment Terms), 5.e (Late Payments), 5.f (Taxes), 6 (Term, Renewal, and Termination), 7 (Confidentiality), 8.b (Disclaimer), 10 (Limitations of Liability), and 11 (General) shall survive the termination of this Agreement.

## 7. Confidentiality

- a. Definition. As used herein, "**Confidential Information**" means all confidential information disclosed by or otherwise obtained from a party ("**Disclosing Party**") to or by the other party ("**Receiving Party**"), whether orally, visually, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer's "Confidential Information" includes Customer Data; Wazuh's "Confidential Information" includes each Application, all Documentation and the product of all Services and Wazuh's financial, security, architectural or similar information; and "Confidential Information" of each party shall include the terms and conditions of this Agreement and each Sales Order and SOW (if applicable), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by or on behalf of such party. However, "Confidential Information" does not include any information that is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, is received from a third party without breach of any obligation owed to the Disclosing Party, or was independently developed by the Receiving Party.
- b. Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party, the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and limit access to Confidential Information of the Disclosing Party to those of its employees, contractors, and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Notwithstanding the foregoing, Wazuh is also permitted to disclose Confidential Information of Customer on a need to know basis to employees,

contractors, and agents of its direct and indirect parents, subsidiaries, and sister entities. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information. The confidentiality and non-disclosure obligations set forth in this Section 7 shall remain in effect for a period of three (3) years from the date of disclosure, notwithstanding earlier termination or expiration of this Agreement, except with respect to trade secret information, which shall remain in effect indefinitely.

## 8. Warranties and Disclaimer

- a. Warranties. Each party represents and warrants to the other that: (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms; and (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Agreement.
- b. Disclaimer. EXCEPT AS SET FORTH IN SECTION 8.a (WARRANTIES), EACH APPLICATION, ACCESS THERETO, THE DOCUMENTATION AND ANY SERVICES PROVIDED HEREUNDER ARE PROVIDED ON AN "AS IS" BASIS, AND WAZUH AND ITS AFFILIATES AND AGENTS (A) DO NOT MAKE, AND HEREBY EXPRESSLY DISCLAIM, ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUALITY, ACCURACY, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE; (B) DO NOT WARRANT THAT ACCESS TO ANY APPLICATION WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE, OR THAT ANY INFORMATION, SOFTWARE, OR OTHER MATERIAL

ACCESSIBLE OR PROVIDED THROUGH ANY APPLICATION IS ACCURATE, COMPLETE OR FREE OF VIRUSES OR OTHER HARMFUL CONTENTS OR COMPONENTS; (C) SHALL IN NO EVENT BE LIABLE TO CUSTOMER OR ANYONE ELSE FOR ANY INACCURACY, ERROR, OR OMISSION IN, OR LOSS, INJURY OR DAMAGE (INCLUDING LOSS OF DATA) CAUSED IN WHOLE OR IN PART BY, OR FAILURES, DELAYS, OR INTERRUPTIONS OF ANY APPLICATION, DOCUMENTATION, OR SERVICES. WAZUH EXERCISES NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON THE RESULTS OF CUSTOMER'S USE OF ANY APPLICATION, DOCUMENTATION, OR SERVICES. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN WARRANTIES. IN SUCH JURISDICTIONS, WAZUH'S LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## 9. Mutual Indemnification

- a. Indemnification by Wazuh. Wazuh shall defend Customer against any claim, demand, suit, or proceeding ("Claim") made or brought against Customer by a third party alleging that the use of any Application as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify Customer for any damages finally awarded against Customer, and for reasonable attorney's fees incurred by Customer in connection with any such Claim; provided, that Customer promptly gives Wazuh written notice of the Claim; gives Wazuh sole control of the defense and settlement of the Claim (provided that Wazuh may not settle any Claim unless the settlement unconditionally releases Customer of all liability); and provides to Wazuh all reasonable assistance, at Wazuh's expense.
- b. Exclusions from Obligations. Wazuh will have no obligation under this Section 9 for any infringement or misappropriation to the extent that it arises out of or is based upon use of an Application in combination with other products or services if such infringement or misappropriation would not have arisen but for such combination; use of an Application by Customer for purposes not intended or outside the scope of the license granted to Customer; Customer's failure to use an Application in accordance with instructions provided by Wazuh, if the infringement or

misappropriation would not have occurred but for such failure; or any modification of an Application not made or authorized in writing by Wazuh where such infringement or misappropriation would not have occurred absent such modification.

- c. Mitigation of Infringement Action. If Customer's use of any Application is, or in Wazuh's reasonable opinion is likely to become, enjoined or materially diminished as a result of a proceeding arising under Section 9.a (Indemnification by Wazuh), then Wazuh will either: procure the continuing right of Customer to use the Application; replace or modify the Application in a functionally equivalent manner so that it no longer infringes; or if, despite its commercially reasonable efforts, Wazuh is unable to do either (i) or (ii), Wazuh will terminate Customer's right with respect to the Application and refund to Customer all unused Subscription Fees pre-paid by Customer with respect to such Application.
- d. Limited Remedy. This Section 9 states Wazuh's sole and exclusive liability, and Customer's sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third-party intellectual property right by any Application.
- e. Indemnification by Customer. Customer shall defend Wazuh against any Claim made or brought against Wazuh by a third party alleging that Customer Data, or Customer's use of the Services in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify Wazuh for any damages finally awarded against, and for reasonable attorney's fees incurred by, Wazuh in connection with any such Claim; provided, that Wazuh promptly gives Customer written notice of the Claim; gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless the settlement unconditionally release Wazuh of all liability); and provides to Customer all reasonable assistance, at Customer's expense.

## 10. Limitations of Liability

- a. Disclaimer of Indirect Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, WAZUH DOES NOT HAVE ANY LIABILITY

TOWARDS CUSTOMER FOR ANY DAMAGES CAUSED BY THE USE OR INABILITY TO USE ANY APPLICATION, DOCUMENTATION OR SERVICE, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, ACCURACY OF DATA TRANSFERRED TO ANY OTHER SOFTWARE OR SERVICE, OR INSTANCES IN WHICH CUSTOMER DATA STORED OR COMMUNICATED THROUGH ANY APPLICATION IS ACCESSED BY THIRD PARTIES THROUGH ILLEGAL OR ILLICIT MEANS; INCLUDING WITHOUT LIMITATION SITUATIONS IN WHICH CUSTOMER DATA IS ACCESSED THROUGH THE EXPLOITATION OF SECURITY GAPS, WEAKNESSES OR FLAWS THAT MAY EXIST. EXCEPT FOR LIABILITY ARISING OUT OF BREACHES OF SECTION 3 (CUSTOMER'S RESPONSIBILITIES) OR SECTION 5 (PAYMENT AND FEES), IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR LOST PROFITS OR REVENUES, OR FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER INCURRED BY A THIRD PARTY OR CUSTOMER, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

- b. Cap on Liability. EXCEPT FOR LIABILITY ARISING OUT OF BREACHES OF SECTION 3 (CUSTOMER'S RESPONSIBILITIES) OR SECTION 5 (PAYMENT AND FEES), IN NO EVENT SHALL EITHER PARTY'S AGGREGATE, CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT OF SUBSCRIPTION FEES PAID BY CUSTOMER HEREUNDER IN THE SIX MONTHS PRECEDING THE INCIDENT. THE FOREGOING SHALL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTIONS ENTITLED "PAYMENT AND FEES" AND "TERM, RENEWAL, AND TERMINATION".
- c. Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY WAZUH TO CUSTOMER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN

THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION 10 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

d. Insurance. Wazuh shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts stated herein, with responsible insurance carriers duly qualified in those states (locations) where the Services are to be performed, covering the operations of Wazuh, pursuant to this Agreement. Insurance.

## Types of Insurance Limits of Liability (Minimum Amounts)

- Commercial General Liability Insurance: \$1,000,000 per occurrence, \$2,000,000 aggregate.
- Except in jurisdiction where not applicable, Workers' Compensation and Employer's Liability: \$1,000,000 per accident
- Errors and Omissions Insurance: \$2,000,000 per occurrence

## 11. General

a. Relationship. Wazuh will be and act as an independent contractor (and not as the agent or representative of Customer) in the performance of this Agreement.

b. Assignment and Subcontracting. Neither party may assign performance of this Agreement or any of its rights or delegate any of its duties under this Agreement, including without limitation any change of control involving Customer, without the prior written consent of the other. Notwithstanding the preceding sentence, Wazuh may assign this Agreement without the other party's prior written consent in the case of a merger, acquisition or other change of control, or to an affiliate of which such party directly or indirectly owns at least 50% of the voting equity (or other comparable interest for an entity other than a corporation), and in

such event this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Wazuh may subcontract to an Affiliate, or other third party to perform its duties under this Agreement so long as Wazuh remains responsible for all of its obligations under this Agreement.

c. Notices. Except as otherwise provided herein, all notices to the parties shall be sent to the addresses listed on the Sales Order. All notices must be made either via email (to the extent expressly permitted in this Agreement), conventional mail, or overnight courier. Notice sent via conventional mail, using registered mail, is deemed received four business days after mailing. Notice sent via email or overnight courier is deemed received the second day after having been sent. Wazuh may broadcast notices or messages through the applicable Application or by posting notices or messages on Wazuh's web site to inform Customer of changes to the Services, or other matters of importance; Wazuh shall inform Customer of such broadcast by e-mail. Either party may change its address for receipt of notice by notice to the other party in accordance with this Section 11.d.

d. Trademarks. Customer grants Wazuh the limited right to use its logo for promotional purposes on its website during the term of this Agreement.

e. Force Majeure. Except for payment obligations for Services rendered, neither party shall be liable in damages or have the right to terminate this Agreement or any Sales Order, SOW or other related agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including but not limited to acts of God, government restrictions (including the denial or cancellation of any export of other necessary license), wars, insurrections, and/or any other cause beyond the reasonable control of the party whose performance is affected (including mechanical, electronic, internet service provider, or communications failure).

f. Dispute Resolution. Any and all disputes, controversy or claims related to or arising in connection with this Agreement will first be referred to the Chief Operations Officers of each of the parties for an informal resolution. If this informal resolution does not resolve the dispute within 30 days, the parties hereto agree to

submit the dispute to binding arbitration in



accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect. This provision shall not limit either party's right for interim judicial relief, such as an injunction, an order of eviction, or similar actions. Any such arbitration shall proceed in accordance with the laws of the State of California and the venue of any such arbitration shall be held in San Jose, California. Within ten calendar days after the arbitration demand is served upon a party, the parties must jointly select an arbitrator with at least five years' experience in that capacity. If the parties do not agree on an arbitrator within ten calendar days, a party may petition the AAA in order to appoint an arbitrator. The decision of the arbitrator shall be final and binding and no party shall have rights of appeal. Each party shall bear its own costs and fees in connection with the arbitration; however, the arbitrator shall have the power to order one party to contribute to the reasonable costs and expenses of the other party, or to pay all or any portion of the costs of the arbitration.

g. Waiver. The waiver by either party of any breach of any provision of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement.

h. Severability. Should any term and condition hereof be declared illegal or otherwise unenforceable, it shall be severed from the remainder of this Agreement without affecting the legality or enforceability of the remaining portions.

i. Amendments. Except as expressly stated herein, any waiver, modification, or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of the parties, and in no case can be modified or supplemented by any other written or oral statements, proposals, service descriptions, or purchase order forms. For clarification purposes, neither Wazuh's acceptance of Customer's purchase order nor Wazuh's commencement of performance under this Agreement shall constitute acceptance of any terms, conditions, or other provisions contained therein, and Wazuh shall

conflicting terms unless contained in a written agreement signed by an authorized representative or officer of both parties.

j. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of executing this Agreement, a facsimile copy or a ".pdf" image delivered via email of an executed copy of this Agreement will be deemed an original.

k. Governing Law. This Agreement and all matters arising out of or relating to this Agreement, shall be governed by the laws of the State of California. Any dispute or disagreement arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located within the County of Santa Clara, California, and both parties hereto hereby irrevocably consent to venue and personal jurisdiction in such courts.

l. Announcements. Customer agrees that Wazuh may publicly announce and list Customer as a Customer of Wazuh.

m. Entire Agreement. This Agreement and the exhibits or attachments, if any, constitutes the entire agreement between the parties hereto regarding Customer's use of each Application and receipt of all Services and supersedes and replaces all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof. Sales Order, as defined in Section 1, shall not include any Customer purchase order submitted to or accepted by Wazuh. In the event of conflict or inconsistency among the following documents, the order of precedence shall be: (1) SOW, (2) Sales Order, (3) Sales Order, and (4) the Service Level Agreement (located at [https://wazuh.com/docs/Wazuh\\_Service\\_Level\\_Agreement.pdf](https://wazuh.com/docs/Wazuh_Service_Level_Agreement.pdf)), and (5) the Documentation. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of this Agreement. Wazuh may unilaterally update this Agreement from time-to-time. In the event Wazuh believes such change is a materially alteration of the terms herein, Wazuh will

have no obligation to honor any additional or

provide Customer with written notice describing such change. Customer's continued use of the Services following such updates constitutes Customer's acceptance of the same. Customer must provide Wazuh with not less than thirty days' notice of rejection of such changes. Wazuh has 30 days from receipt of such rejection to either (a) determine whether to continue providing Services under the previous terms, or (b) allow Customer to terminate the Agreement. Wazuh will not be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to this Agreement (whether or not it would materially alter this Agreement) that is proffered by Customer in any receipt, acceptance, confirmation, correspondence, or otherwise, unless Wazuh specifically agrees to such provision in writing and signed by an authorized agent of Wazuh.

# Exhibit A -

## Wazuh Acceptable Use Policy

This Acceptable Use Policy (“AUP”) describes activities that are not permitted on Wazuh’s Services. This AUP is incorporated into reference into Customer’s Agreement with Wazuh. Capitalized terms used in this AUP that are otherwise not defined herein have the meaning ascribed to them in the Agreement.

Customer may not, and may not permit or authorize any third party to:

1. Use the Services to send or store (a) SPAM or otherwise duplicative or unsolicited messages, (b) infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, or © material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;
2. Interfere with or disrupt the integrity or performance of the Services or the data contained therein; 3. Perform security, vulnerability, load testing or penetration tests or intentionally exploit known vulnerabilities in any capacity against the Wazuh infrastructure or applications;
4. Gain, or attempt to gain, unauthorized access to the Services; or
5. Use the Services in violation of (a) telecommunication carrier rules and regulations, or (b) any other applicable laws, rules and regulations, including, without limitation, those applicable to data privacy and use.

# Exhibit B -

## Service Level Agreement

Wazuh shall support the Application pursuant to the Service Level agreement, located at [https://wazuh.com/docs/Wazuh\\_Service\\_Level\\_Agreement.pdf](https://wazuh.com/docs/Wazuh_Service_Level_Agreement.pdf)