SERVICE SUPPLEMENT
SHAPE SECURITY

1.   Shape Security – Description. Edgecast's supplier Shape Security, Inc., an affiliate of F5 Networks, Inc. ("**Shape Security**"), shall provide the following services and products (collectively, the "**Shape Software**"):

a. Shape Enterprise Defense: Real-time, Customized, AI-based Fraud Prevention for large enterprises:

Appropriate for large enterprises, Shape Enterprise Defense provides real-time, AI-based prevention of fraud that is caused by both automated (bot-based) and manual (human) attacks on web applications and mobile applications. It is delivered and operated 24x7x365 by Shape SOC and data scientists as a fully-managed, self-contained service, where the mitigation of threats is customized for each large enterprise.

b. Shape Defense: Real-time, AI-based Fraud Prevention Service for midsized and smaller enterprise:

Appropriate for midsized and smaller enterprises, Shape Defense leverages the same real-time AI and accumulated machine learning as Shape Enterprise Defense, but with standardized (rather than customized) mitigation of threats, leveraging Shape's network-based intelligence. It is delivered and operated 24x7x365 by Shape employees as a fully-managed, self-contained service.

c. Shape Blackfish: Real-time, Credential Integrity Checking Service

Appropriate to protect any login system in any size of enterprise, Shape Blackfish analyzes threat data and credentials (usernames and passwords) and provides notification of the use of compromised credentials to gain site access. Every time a credential is entered into the login page of your web or mobile app, a simple API call to Blackfish will first determine, in real-time, if that credential is known by Shape to be compromised, so that your login system will know to deny access, force a credential reset, or take other appropriate action.   Blackfish can also alert your company when criminals actively use your customers' or employees' credentials elsewhere on the web.

2.   Customer's use of Shape Software purchased from Edgecast shall be governed by Shape's F5 Networks End User Services Agreement ("EUSA") attached hereto as Attachment A or available at: https://www.f5.com/pdf/customer-support/eusa.pdf. The EUSA shall be negotiated between and signed by Customer and Shape Security. For clarity, Edgecast and Customer may finalize its agreement for services contemplated hereunder, but will not be able to implement such until the EUSA is fully executed. Prices for the Shape Software and any terms and conditions for invoicing and payment will be as agreed between Customer and Edgecast.

3.   Edgecast expressly disclaims all warranties, whether expressed implied, statutory or otherwise, with respect to the Shape Software, applicable documentation, media and any other services and materials provided to Customer under this Service Supplement, including all implied warranties of merchantability, quality fitness for a particular purpose, non-infringement and warranties arising from a course of dealing, usage or trade practice. Without limitation to the foregoing, Edgecast provides no warranty or undertaking, makes no representation of any kind, whether expressed, implied, statutory or otherwise, that the Shape Software will meet Customer's requirements, achieve any intended results, be compatible or work with any other products, applications, systems or services, operate without interruption, meet any performance or reliability standards, be fully secure or error free.

4.   Service Levels and Credits. For purposes of this Section 4, the following terms will have the following meanings:

(i) "Available" means the Shape Software is available for access and use by the Customer over the Internet. The Shape Software will be deemed Available if, notwithstanding temporary unavailability of the

management console through which Customer may monitor traffic on its customer-facing web infrastructure, the Shape Software continues to operate in accordance with the functional specifications for the Shape Software set forth in the applicable Documentation.

(ii) "Downtime Percentage" means, with respect to a Service Level Failure in any Service Period, the percentage below the Availability Requirement for such Service Period that the Shape Software has not been Available in such Service Period. For example, if the Availability Requirement in a Service Period is 99.5% and the Shape Software has been Available in such Service Period 98% of the time, the Downtime Percentage is 1.5%.

(iii) "Exceptions" means any unavailability of the Shape Software that is due, in whole or in part, to any of the following: (a) Customer's or any other Authorized User's use of the Shape Security in a manner that does not comply with this Agreement or the applicable Product Schedule or Documentation; (b) Customer's or any other Authorized User's delay in performing, or failure to perform, any of its obligations under this Agreement or the applicable Product Schedule; (c) Customer's or any other Authorized User's Internet connectivity; (d) (d) failure, interruption, outage or other problem with any software, hardware, system, network, facility or other matter not supplied by Shape; or (e) disabling, suspension or termination of access to the Shape Software pursuant to this Agreement or the EUSA.

(iv) "Service Credit" means, for any Service Period in which a Service Level Failure occurs, the monthly Fees for the Shape Software due for such Service Period multiplied by the Downtime Percentage in such Service Period, except that in the event the Downtime Percentage for Service Period exceeds 95% the Service Credit will be fifty (50) percent of the monthly Fees for the Shape Software due for such Service Period. For example, if the monthly Fees for the Shape Software due for a Service Period are $100,000 and the Downtime Percentage in such Service Period is 1.5%, the Service Credit for such Service Period is $1,500. If the relevant Product Schedule identifies an annual Fee for the Shape Software to which Customer has subscribed thereunder, the monthly Fees will be one twelfth of that amount.

(v) "Service Level Failure" means a material failure of the Shape Software to meet the Availability Requirement.

(vi) "Service Period" means each calendar month during the Subscription Term.

Service Levels. Subject to the terms and conditions of the Customer Agreement, Shape will use commercially reasonable efforts to make the Shape Software Available at least ninety-nine point ninety-nine percent (99.99%) the time as measured over the course of each Service Period, excluding unavailability as a result of any Exception (the "Availability Requirement"). The Shape Software will not be considered un-Available, and no Service Level Failure will be deemed to have occurred, in connection with any failure to meet the Availability Requirement or impaired ability of Customer or its Authorized Users to access or use the Shape Software that is due, in whole or in part, to any Exception.

In the event of a Service Level Failure in any Service Period, Shape will issue a credit to Customer in the amount of the Service Credit for such Service Period. Any Service Credit payable to Customer under this Agreement will be issued to Customer in the calendar month following the Service Period in which the Service Level Failure occurred. This Section sets forth Shape's sole obligation and liability and Customer's sole remedy for any Service Level Failure.

5.   Support Services. The Shape support team shall provide support services for any issues related to Shape products. Once Edgecast has opened a ticket with the Shape support team, the following terms and conditions and response times shall apply:

Support

Shape will provide to Customer support ("**Support Service**") from 12:00 AM to 11:59 PM ("**Support Hours**"). Support Service will include email, telephone, and research time performed by Shape's support staff ("**Support Staff**"). Customer will report Malfunctions (as defined below) to Shape by emailing or calling the Support Staff. If a member of the Support Staff is not immediately available during the Support Hours, one will be assigned and a response to Customer will be initiated.

Standard Service Levels

Measure	Description	Threshold

Service Availability	Definition Above	99.99% monthly
Response Time	Shape will provide an initial response to requests from approved customer contacts within 30 minutes of receiving the communication via phone or email	Average Response Time Monthly - less than or equal to 30 minutes
Root Cause Analysis for Severity 1 or 2 Incident	A report that describes the event, technical causes, remediating action, and long-term plans for prevention	24 hours - Draft 7 days - Final

Malfunction Corrections

Classification of Malfunction. "**Malfunctions**" are classified into four severity classes, as follows:

(a) Severity Level 1: A problem which renders the Shape Software inoperative, causes a significant and ongoing interruption to Customer's business activities or causes an unrecoverable loss or corruption of data.

(b) Severity Level 2: A problem which causes the Shape Software to be inoperative, disrupted or malfunctioning and which materially interferes with Customer's use of the Shape Software.

(c) Severity Level 3: A problem which causes the Shape Software not to function in accordance with applicable specifications, including the Documentation, but which causes only a minor impact on Customer's use of the Shape Software and for which an acceptable circumvention is available.

(d) Severity Level 4: Any general questions and issues pertaining to the Shape Software and all Malfunctions which are not included in the other Malfunction classifications above.

SHAPE Procedures.

(a) Report of Malfunction. With respect to a report of any Malfunction, Customer personnel making such report will describe to the Support Staff the Malfunction in reasonable detail and the circumstances under which the Malfunction occurred or is occurring and will, with the assistance of the Telephone Support Staff members, classify the Malfunction as a Severity Level 1, 2, 3 or 4 Malfunction.

(b) Critical Malfunctions. If a Severity Level 1 or 2 Malfunction (each, a "**Critical Malfunction**") cannot be corrected to Customer's reasonable satisfaction through communication with the Support Staff within 30 minutes after Shape receives the description of the Malfunction, Shape will: (1) immediately escalate the problem to Shape's customer service management; (2) take and continue to take the actions which will most expeditiously resolve the Critical Malfunction; (3) provide a report to Customer of the steps taken and to be taken to resolve the problem, the progress to correction and the estimated time of correction, and update that report every 1 hour until the Critical Malfunction is resolved; and (4) every 1 hour, provide increasing levels of technical expertise and Shape management involvement in finding a solution to the Critical Malfunction until it has been resolved.

(c) Shape's Level of Effort. Shape will work continuously until any Critical Malfunction for which a correction or workaround has not been achieved has been resolved. Additionally, if a correction or workaround to a Critical Malfunction has not been achieved within 2 days, then Shape will travel to the site of the Malfunction if Customer reasonably believes that such travel will increase the probability of expeditious resolution of the Critical Malfunction. Unless otherwise specified by Customer, Shape will work continuously during normal Shape working hours to resolve any Severity Level 3 Malfunction. Shape and Customer will mutually agree upon a schedule within which to resolve any Severity Level 4 Malfunction.

(d) Action Required from Shape. For a Critical Malfunction, Shape will provide an immediate correction, which Shape will then promptly add to the appropriate part of the Shape Software for Customer to test. For a Severity Level 3 or 4 Malfunction, Shape will provide a correction as promptly as reasonably achievable, and at Customer's request will seek to establish with Customer a mutually agreed schedule for the correction to be provided.

Updates

Shape will provide Customer with access to Updates, as and when Shape makes any such Updates generally available to customers that receive remote access to the Shape Software in Shape's sole discretion.

Conditions and Exclusions

Conditions to Support Services. Shape's obligations under Malfunction Corrections of this Service Supplement are conditioned upon the following:

(a) Customer making reasonable efforts to solve the reported Malfunction after consulting with Shape;

(b) Customer providing Shape with sufficient information and resources to correct the reported Malfunction, as well as access to the personnel, hardware and any additional software involved in discovering or analyzing the Malfunction; and

(c) Customer procuring, installing and maintaining all equipment, telephone lines, communication interfaces and other hardware necessary to operate the Shape Software.

4.2   Exclusions to Support Services. Shape will have no obligations under Malfunction Corrections of this Service Supplement in connection with any Malfunctions caused by:

(a) abuse, misuse, change, modification or damage to any Shape Software;

(b) negligence (other than by Shape) or other causes beyond the reasonable control of Shape;

(c) any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under the Agreement; or

(d)   use of the Shape Software other than in accordance with this Agreement and the Documentation.

Attachment A

F5 NETWORKS

END USER SERVICES AGREEMENT

BY ACCEPTING THIS END USER SERVICES AGREEMENT (THE "**AGREEMENT**"), REGISTERING FOR OR USING AN ACCOUNT ("**ACCOUNT**") FOR THE SAAS OFFERINGS, OR BY ACCESSING OR USING THE SAAS OFFERINGS, YOU (1) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (2) REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, POWER AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND, IF ENTERING INTO THIS AGREEMENT ON BEHALF OF A LEGAL ENTITY, HAVE THE LEGAL AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS HEREOF; AND (3) ACCEPT THIS AGREEMENT AND AGREE, ON BEHALF OF YOURSELF OR THE LEGAL ENTITY FOR WHICH YOU ARE ORDERING SAAS OFFERINGS, TO BE BOUND BY ITS TERMS AND CONDITIONS. THIS AGREEMENT IS A LEGALLY BINDING CONTRACT BETWEEN F5 NETWORKS, INC. AND ITS AFFILIATES (COLLECTIVELY, "**F5,**" "**WE**," "**US**," AND "**OUR**") AND THE LEGAL ENTITY FOR WHICH YOU ARE ACTING ("**YOU**"). IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT ACCEPT THIS AGREEMENT AND DO NOT ACCESS OR USE THE SAAS OFFERINGS. THIS AGREEMENT IS EFFECTIVE AS OF THE DATE ON WHICH YOU ACCEPT THE TERMS OR, IF EARLIER, WHEN YOU REGISTER FOR OR USE AN ACCOUNT (THE "**EFFECTIVE DATE**").

In consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree that this Agreement, together with all exhibits and appendices attached hereto, applies to the SaaS Offerings ordered by you from us or from an Authorized Distribution Partner, as applicable.

1.   Definitions. Unless otherwise defined in this Agreement, the following definitions apply:

1.1   "**Acceptable Use Policy**" means the acceptable use policy located at https://www.f5.com/pdf/customer-support/eusa-aup.pdf (or any successor or related locations designated by us).

1.2   "**Affiliates**" means, with respect to either party, any individual, company, corporation, partnership or other entity, directly or indirectly, controlling, controlled by, or under common control with, such party, where "control" is defined as the ownership of at least fifty percent (50%) of the equity or beneficial interests of the entity.

1.3   "**Aggregated Data**" means Customer Content and Usage Data that has been aggregated and de-identified (i.e., any data that identifies you or your end users have been removed).

1.4   "**Authorized Distribution Partner**" means an entity who is authorized by us to resell SaaS Offerings.

1.5   "**Customer Content**" means software, data, text or image files, or information that you upload or input into a Service or otherwise makes available to the applicable Service.

1.6   "**Documentation**" means any user manuals, help files, or other documentation, in whatever form, which are provided by us and made available to you for use of a SaaS Offering, as updated by us from time to time.

1.7   "**F5**" means (a) F5 Networks Ltd. if your primary place of business is located in Europe, the Middle East or Africa ("**EMEA**"); (b) F5 Networks Singapore Pte Ltd if your primary place of business is located in the Asia-Pacific region ("**APAC**"); (c) F5 Networks, Inc. if your primary place of business is located in a region outside of EMEA or APAC; or (d) Shape Security, Inc.

1.8   "**Open Source Software**" means any software that is distributed as "free software" or "open source software" or is otherwise distributed under distribution models that (i) require the licensing or distribution of source code to licensees, (ii) prohibit or limit the receipt of consideration in connection with sublicensing or distributing any software, (iii) except as specifically permitted by applicable law, allow any licensee to decompile, disassemble or otherwise reverse-engineer any software, or (iv) require the licensing of any software to any other licensee for the purpose of making derivative works (including, but not limited to, software that is licensed under any version of the GNU Affero General Public License, the GNU General Public License, the GNU Lesser General Public License, the Mozilla Public License, or the Common Public License).

1.9   "**Object Code**" means a form of software in a language that a computer can execute directly, but is not generally readable by humans without reverse assembly, reverse compiling or reverse engineering.

1.10   "**Order**" means an order form setting forth a description and related fees of the SaaS Offerings ordered by you.

1.11   "**Portal**" means the applicable F5 portal site through which you can access and update its Account.

1.12   "**Professional Services**" means implementation and configuration services provided by us in connection with any SaaS Offering, where such services are itemized separately as 'Professional Services' or the like in a Statement of Work.

1.13 "**SaaS Offerings**" means the service offerings provided to you by us under this Agreement, as set forth in your Order and as further described in the Service Schedules.

1.14 "**Service Policies**" means the Acceptable Use Policy, Documentation, Service-Specific Terms, and any other policy or terms referenced in or incorporated into this Agreement.

1.15 "**Service-Specific Terms**" means the additional documentation applicable to specific SaaS Offerings and any additional terms and conditions applicable thereto available at https://www.f5.com/pdf/customer- support/eusa-sst.pdf (or any successor or related locations designated by us), as they may be updated by us from time to time.

1.16 "**Source Code**" means software in a human-readable format.

1.17 "**Statement of Work**" means a document that describes Professional Services purchased by you. Each Statement of Work incorporates the terms this Agreement by reference, or such other agreement between us and you governing the provision of Professional Services.

1.18 "**Support Services**" means the support services provided by us in accordance with our then-current support policy.

1.19 "**Usage Data**" means information about your access and use of the SaaS Offerings, including but not limited to usage and performance information.

1.20 "**Users**" means individuals (including non-human devices, such as applications or services) who are authorized by you to use the SaaS Offerings, for whom a subscription to the SaaS Offerings has been procured. Users may include, for example, your and your Affiliates' employees, consultants, clients, external users, contractors, agents, and third parties with which you do business.

2. **Your Obligations**

2.1 <u>**Use Restrictions**</u>. You are responsible for all activities conducted by you and your Users under your Account, including violations of any Service Policies by any of your Users. You shall use the SaaS Offerings strictly in compliance with this Agreement, the applicable Orders, Service Policies, and all applicable laws and shall not directly or indirectly: (a) copy, modify, or create derivative works of the SaaS Offerings, any software component of the SaaS Offerings, or Documentation; (b) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the SaaS Offerings or Documentation except as expressly permitted under this Agreement; (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the SaaS Offerings; (d) remove any proprietary notices from the SaaS Offerings or Documentation; or (e) use the SaaS Offerings or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable laws.

2.2 <u>**Acceptable Use Policy**</u>. You will use the SaaS Offerings solely in accordance with the Acceptable Use Policy, and you agree that any breach of the Acceptable Use Policy shall be deemed an impermissible use of the SaaS Offerings and constitute a material breach of this Agreement by you. You will use reasonable efforts to cooperate with us to resolve any such breach.

2.3 <u>**Suspension**</u>. We reserve the right to suspend your access to a Service if: (a) we reasonably believe you have violated or are about to violate the Acceptable Use Policy; (b) you have not paid the applicable fees for the SaaS Offerings; (c) you are in material breach of any of the terms of the Agreement or the Service Policies; (d) we reasonably believe your use of the SaaS Offerings poses a risk to us, the SaaS Offerings, our other customers or third parties; or (e) you are using the SaaS Offerings or our intellectual property for fraudulent or illegal activities. We will use commercially reasonable efforts to (x) provide you with written notice of any suspension (which may be no notice at all) and (y) resume providing access to the SaaS Offerings as soon as reasonably possible after the event giving rise to the suspension is cured. We will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that you may incur as a result of a suspension imposed in accordance with this Section 2.3.

3. **Proprietary Rights and Restrictions.**

3.1 <u>**Grant of Right**</u>. Subject to the terms and conditions of this Agreement, any applicable Orders, and the Service- Policies, we will provide you the SaaS Offerings set forth in the Order(s) for use in accordance with this Agreement. Subject to your compliance with the terms of this Agreement (including the Service Policies), we grant you a limited, revocable, non-exclusive, non-transferable, non-sublicensable right to access and use the SaaS Offerings and Documentation for your internal business purposes during the applicable Service Term (defined below). You may permit your Affiliates to use the SaaS Offerings; provided that you (a) warrant that you have the ability to bind such Affiliates under this Agreement; (b) are fully liable

and responsible for all acts and omissions of such Affiliates under this Agreement as if such acts and omissions were committed by you; and (c) we consent to the usage by such Affiliate in writing. You may not copy or translate the Documentation without our prior written consent.

3.2 **Proprietary Rights**. We and our suppliers and licensors retain all right, title and interest in and to the SaaS Offerings and any software or other technology used by us in the provision of the SaaS Offerings and all modifications and derivative works thereof; all trademarks, names, logos; and all Documentation for the SaaS Offerings, including without limitation, all rights to patent, copyright, trade secret and other intellectual property rights. Other than as specifically described in Section 3.1, you have no right under the Agreement to any of the SaaS Offerings, Documentation, or to any of our trademarks, patents, copyrights, or other intellectual property rights. We retain all rights not granted herein. This includes any information we collect from your use of the SaaS Offerings, including Aggregated Data, Usage Data and Feedback (defined below).

3.3 **Usage Data**. In connection with the SaaS Offerings, we may collect Usage Data. We may use Usage Data to operate our business, including to support your Account and support, improve, and enhance the SaaS Offerings.

3.4 **Aggregated Data**. We may use Aggregated Data derived from the SaaS Offerings to support and improve our products and services, including in the development of new features, products, tools, and content, and for other commercial purposes.

3.5 **Feedback**. If you provide us any ideas for suggested improvements, modifications, or other feedback about the SaaS Offerings ("**Feedback**"), we may use, disclose or otherwise exploit such Feedback without restriction or further obligation to you.

3.6 **Support Services**. During the Term (defined below), we shall provide Support Services to you in accordance with our then-current support policy, and as identified in an Order. In the event that the level of support is not identified in the Order, you shall receive a "basic" level of support that is included in the SaaS Offerings at no additional cost. we may update or modify our support policy at any time, but any updates or modifications to the Support Services will not materially diminish our responsibilities under the support policy during the Term.

3.7 **Software Development Kit License Grant**.

If, in connection with your use of the SaaS Offerings, we provide you with access to any proprietary software development kits ("**SDK**"), including, but not limited to, the Shape Security SDK, the following terms will apply.

3.7.1 Development License. Subject to the terms and conditions of this Agreement, we grant to you a limited, non-exclusive, royalty-free, non-sublicensable, non-transferable, license to reproduce the Source Code for the SDK solely for (i) your own internal use, and (ii) the purpose of compiling such Source Code into Object Code for distribution to third parties under Section 8(b) below.

3.7.2 Distribution License. Subject to the terms and conditions set forth herein, we grant to you a limited, non-exclusive, royalty-free, non-sublicensable, non-transferable, license to (i) compile the Source Code of the SDK into Object Code, and (ii) reproduce and distribute such Object Code solely as part of, and solely as integrated into, a mobile application and solely for your internal business purposes.

3.7.3 Distribution Agreements. Any distribution of Object Code by you under Section 3.7(b) above must be under the terms of distribution agreements and end user agreements containing the following minimum terms: (1) a provision that prohibits title to the distributed Object Code from passing to the end user or any third party; (2) a provision that prohibits transfer or duplication (except for back-up and archival copies) of the distributed Object Code; and (3) a provision that prohibits causing or permitting the reverse engineering, disassembly, decompiling or any other attempt to derive Source Code of the distributed Object Code, except to the extent the laws of the end user's jurisdiction give the end user the right to do so to obtain information necessary to render the applicable Object Code interoperable with other software or hardware. You will enforce each such agreement with at least the same degree of diligence that you use to enforce similar agreements for other products or services, but in no event with less than reasonable effort. You will not (and will not authorize or knowingly permit any third party to) identify us as the source of any software contained in any of your applications.

3.7.4 Open Source Software. You will not (and will not authorize or knowingly permit any third party to) incorporate any Open Source Software into, or link (statically or dynamically) any Open Source Software with, any of your mobile applications into which any portion of the Object Code of the SDK is integrated.

3.7.5   Source Code Restrictions. You will not (and will not authorize or knowingly permit any third party to): (i) disclose all or any portion of the Source Code for the SDK or related Documentation to anyone other than its employees on a need-to-know basis solely for purposes authorized under this Agreement, provided such employees are expressly bound by the nondisclosure obligations equally as protective as those in this Agreement; (ii) reproduce all or any portion of the Source Code for the SDK, in any form or medium, except as necessary for exercising its rights under this Agreement; (iii) allow hard copy printouts of any portion of the Source Code for the SDK to exist except within secured locations; (iv) allow soft copy versions of any portion of the Source Code for the Shape Security SDK to reside on computers or networks unless such computers or networks are password protected (with such passwords only being made available to such employees); or (v) use any portion of the Source Code for the SDK for any purpose not specifically authorized in this Agreement. You will advise all employees with access to any portion of the Source Code for the SDK of their responsibilities under this Agreement and their respective individual confidentiality agreement both at the time such person's access to the Source Code for the SDK commences, and at the time such access terminates. You will be responsible for any breach of the requirements in this Section 3.7 by any of your employees.

3.7.6   Authorized Users. You may authorize other Users to access and use the SDK as granted to you hereunder; provided, however that you will be responsible for all the acts and omissions of such Users (including without limitation any violation by an Authorized User of Section 3.7(e) above) as if they were your own acts or omissions.

4.   Ordering; Fees; Expenses.

4.1   **Ordering**. You shall order the desired SaaS Offerings using the ordering process described for each such Service in the Service-Specific Terms.

4.2   **Fees and Payment Terms**.

4.2.1   Taxes. You are responsible for all fees, taxes, duties, withholdings and other assessments based on your purchase of the SaaS Offerings (not including those taxes based on our net income or those taxes for which you have provided a valid certificate confirming you are exempt).

4.2.2   Fees. Where applicable, fees are based on your specific usage of the SaaS Offerings (e.g., for our Cloud Services SaaS Offerings). Unless specified in an Order, all fees will be billed in United States dollars. Specific payment terms for each Service are set forth in the Service-Specific Terms for such Service. Unless you have purchased a Service with a committed fee structure for a specified period, we may adjust the fees applicable to any Service by providing notice to you (which may be by publication within the Portal). Any adjustments to the SaaS Offerings fees will not be effective until at least thirty (30) days after we provide notice to you.

4.2.2.1   Payment via Cloud Provider: If you order a SaaS Offering through a cloud computing or similar environment provider ("Cloud Provider"), you will pay all usage or subscription fees plus any applicable sales and/or use taxes or other charges directly to the Cloud Provider. If you are required to pay any taxes based on any SaaS Offering subscriptions, you will pay such taxes with no reduction or offset in the amounts payable to the Cloud Provider.

4.2.2.2   Payment via Credit Card: If you provided us with credit card information for payments of amounts owed, you authorize us to immediately charge when due all fees, including all applicable sales or taxes or other charges, to the card number you provided. If you pay any fees with a credit card, we may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase. You authorize us to periodically charge until cancellation or termination of either the recurring payments or your account, all fees when due. Any recurring subscription payments will continue unless and until cancelled by you.

4.2.3   Payment Terms. Unless otherwise expressly specified in an Order, (i) payment terms are net 30 from the date of invoice; (ii) all fees are non-refundable; and (iii) suspension or termination of the SaaS Offerings shall not relieve you of any payment obligations.

4.2.4   Credit Terms. We reserve the right to set your credit terms in our sole discretion. If you are not extended credit by us, you must pay us all fees in advance of commencement of the SaaS Offerings. If we grant you credit terms, then all invoices are due and payable within thirty (30) days following receipt of our invoice. We may change your credit terms on written notice to you.

4.2.5 <u>Billing Disputes</u>. In the event that you, in good faith, dispute any amount charged or invoiced hereunder, such dispute must be reported to us within thirty (30) days following receipt of invoice or the applicable statement, provided that in no event shall you withhold any fees not subject to a good faith dispute.

4.2.6 <u>Late Payments</u>. Payment of fees not received when due, or that are refused by your credit card or bank, shall be subject to a late charge at a rate equal to the lesser of 1.5% per month (18% per annum) or the highest rate permitted by law, plus all bank charges and costs of collection (including attorneys' fees). In the event that late payments are not paid in full within thirty (30) days following notice of delinquency, we may terminate or suspend your access to the SaaS Offerings pursuant to Section 2.3 of this Agreement.

4.3 **Expenses**. Unless otherwise specified in the applicable Statement of Work, upon invoice from us, you will reimburse us for all pre-approved, reasonable expenses incurred by us while performing Professional Services, including without limitation, transportation services, lodging, and meal and out- of-pocket expenses related to the provision of the Professional Services. We will include reasonably detailed documentation of all such expenses with each related invoice.

5. Term and Termination.

5.1 **Agreement Term**. The term of this Agreement shall commence on the Effective Date and shall continue until terminated in accordance with this Section 5 (the "**Term**").

5.2 **Service Term**. The term for any SaaS Offerings provided hereunder shall either be (i) for pre-paid SaaS Offerings, the term as applicable for the SaaS Offerings ordered and paid for by you pursuant to an Order; or (ii) for consumption-based SaaS Offerings, the period of time in which you use such SaaS Offering (either (i) or (ii), as applicable, the "**Service Term**"), unless earlier terminated pursuant to the terms of this Agreement.

5.3 **Termination**. This Agreement or any Service Term may be terminated by either party (a) upon thirty (30) days prior written notice in the event of a material breach of this Agreement or the applicable Service Policies by the other party which is not cured within such period; (b) immediately upon written notice if either party materially breaches a provision of this Agreement that cannot be cured; (c) immediately upon written notice if the other party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable insolvency proceeding, or if any such insolvency proceeding is instituted against the other (and not dismissed within 120 days); or (d) if there are no Orders then in effect. The foregoing termination rights are in addition to your termination rights set forth in Section 8.3.

5.4 **Effect of Termination.**

5.4.1 <u>Termination of the Agreement</u>. Upon termination of the Agreement, (a) all Service Terms then in effect and the rights granted to you under the Agreement will immediately terminate, (b) all fees owed by you to us are immediately due upon receipt of a final invoice, and (c) and you will immediately cease use of all SaaS Offerings.

5.4.2 <u>Termination of Service Terms</u>. Upon termination of any Service Term, your access to the applicable SaaS Offerings shall immediately cease and the license granted to you to use such SaaS Offerings shall immediately terminate.

5.4.3 <u>Survival</u>. Upon termination of this Agreement, parties' obligations under Sections 3.2 (Proprietary Rights); 3.4 (Aggregated Data); 3.5 (Feedback); 6 (Confidentiality); 7 (Security and Privacy); 8 (Warranties and Disclaimers); 9 (Limitation of Liability); 10 (Indemnification); and 11 (Miscellaneous), will survive.

6. Confidentiality.

6.1 **Definition**. Each party agrees that the business, technical, financial and other information, including without limitation, all software, source code, inventions, algorithms, techniques, methodologies, schematics, know-how, analyses, trade secrets, technical data, strategic planning, marketing data, databases, drawings, models, performance information and ideas and the terms and conditions of this Agreement, that is either designated in writing as confidential, or by the nature of the circumstances a reasonable person would treat as confidential, shall be the confidential property of the disclosing party and its licensors ("**Confidential Information**"). Confidential Information does not include information that (a) is previously rightfully known to the receiving party without restriction on disclosure, (b) is or becomes known to the general public, through no act or omission on the part of the receiving party, (c) is disclosed to the receiving party by a third party without breach of any separate nondisclosure obligation, or (d) is independently developed by the receiving party without use or reference to the Confidential Information of the disclosing party.

6.2   **Confidentiality Obligations**. Each party agrees to protect the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event using less than a reasonable standard of care. A party shall not: (i) disclose or use any Confidential Information of the other party for any purpose outside the scope of this Agreement, except with the disclosing party's prior written permission and (ii) disclose or make the other party's Confidential Information available to any party, except those of its Affiliates, employees, contractors, and agents that have signed or accepted an agreement containing disclosure and use provisions substantially similar to those set forth herein and have a "need to know" in order to carry out the purpose of this Agreement. If a party is compelled by law to disclose Confidential Information of the other party, it shall provide prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure. Due to the unique nature of the parties' Confidential Information disclosed hereunder, there can be no adequate remedy at law for a party's breach of its obligations hereunder, and any such breach may result in irreparable harm to the non-breaching party. Therefore, upon any such breach or threat thereof, the party alleging breach shall be entitled to seek injunctive and other appropriate equitable relief in addition to any other remedies available to it.

7.   Security and Privacy.

7.1   **Security**. We will maintain a security program materially in accordance with industry standards that is designed to (i) ensure the security and integrity of Customer Content and personal data uploaded by you or on your behalf to the SaaS Offerings; (ii) protect against threats or hazards to the security or integrity of Customer Content and personal data; and (iii) prevent unauthorized access to Customer Content and personal data. In furtherance of the foregoing, we will maintain the administrative, physical and technical safeguards to protect the security of Customer Content that are described in the applicable Documentation. Our security safeguards include measures for preventing access, use, modification or disclosure of Customer Content and personal data by our personnel except (a) to provide the SaaS Offerings and prevent or address service or technical problems, (b) as required by applicable law, or (c) as you expressly permit in writing or under this Agreement.

7.2   **Personal Data**. You agree that you shall: (a) not disclose any personal data or other information to us, if such disclosure would violate any applicable law, rule or regulation; (b) not request us to use, disclose or otherwise process personal data or other information in any manner that would not be permissible under any applicable law, rule or regulation, if such use or disclosure or other processing were done by us; (c) disclose to us only the minimum amount of personal data reasonably necessary for us to perform the SaaS Offerings under the Agreement. You will obtain any consents and provide any notices that are legally required for your use of the SaaS Offerings.

7.3   **Security Assessment**. At your written request, but no more than once in any twelve (12) month period, we will (a) submit written responses to reasonable questions regarding its privacy and information security practices that apply to Customer Content; and (b) upon thirty (30) days advance written notice, permit you reasonable access to our security personnel to conduct interviews regarding a privacy and security assessment of our procedures as they relate to the integrity of your data and to the systems that support and transmit Customer Content. You will be solely responsible for all costs and expenses (including our costs and expenses) related to the exercise of your rights in this Section 7.5.

7.4   **Restrictions**. Notwithstanding any other provision in this Agreement, we shall not be required to provide (a) physical or network access to our security systems, (b) documentation to provide evidence of compliance other than applicable attestations of compliance, (c) our costs of providing the SaaS Offerings, (d) any results of security vulnerability assessments; (e) any information to the extent that providing such information is a violation by us of applicable laws or regulations; confidentiality obligations to our customers; or security certifications; or if such disclosure would hinder law enforcement's investigation into a security event or any trade secret of F5.

7.5   **Additional Privacy Terms**. Service-Specific Terms may contain additional detail relevant to security and privacy.

8.   Warranties and Disclaimers.

8.1   **Your Representations and Warranties**. You hereby warrant, represent and covenant that (a) in the performance of your obligations and use of the SaaS Offerings, you will comply with all applicable laws and will not infringe the proprietary rights or privacy rights of any third parties; (b) you will and have provided accurate, current and complete information in connection with your Account and you will maintain and promptly update your Account information to keep it accurate, current and complete; and (d) you will maintain the security of its username(s) and password(s).

8.2   **Our Warranty**. We hereby warrant that we will provide the SaaS Offerings in a manner that substantially conforms to the Documentation for the applicable SaaS Offerings.

8.3   **Remedy**. For any SaaS Offerings not in conformance with Section 8.2, your sole and exclusive remedy shall be that we will correct the non-conformity or, if we fail to correct the non-conformity within thirty (30) days after receiving written notice from you, or such other time period as may be mutually agreed upon by the parties, you may terminate the Service Term for the affected SaaS Offerings. In the event that you terminate the Service Term pursuant to this Section 8.3, we will promptly issue you a refund for the pro-rata amount of any unused fees prepaid by you for such terminated SaaS Offering, calculated from the effective date of termination. The foregoing states your exclusive remedy, and our sole liability arising in connection with the limited warranties herein. The access to and use of the SaaS Offerings granted hereunder do not replace the need for you to maintain regular data backups or redundant data archives. WE HAVE NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF YOUR DATA.

8.4   **Limitations**. This warranty shall not extend to non-conformance that results from: (a) your breach of the Acceptable Use Policy or other use of the SaaS Offerings in violation of the Agreement or not in accordance with the Documentation; (b) a Force Majeure Event (as defined below); or (c) failures caused by your software or other software, hardware, services, or products not provided by us.

8.5   **Disclaimer**. EXCEPT AS OTHERWISE STATED HEREIN, THE SAAS OFFERINGS AND ANY DATA PROVIDED AS A RESULT OF THE SAAS OFFERINGS ARE PROVIDED ON AN "AS IS" BASIS AND NEITHER WE, OUR LICENSORS, NOR OUR SUPPLIERS MAKE ANY OTHER WARRANTIES, AND HEREBY DISCLAIM ALL OTHER WARRANTIES,

EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, CORRECTNESS OR RELIABILITY REGARDING THE USE AND RESULTS OF THE SAAS OFFERINGS OR ANY DATA PROVIDED AS A RESULT OF THE SAAS OFFERINGS, OR THAT USE OF THE SAAS OFFERINGS WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE OR FREE OF HARMFUL COMPONENTS, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN TRADE. IN ADDITION, WE DO NOT WARRANT OR GUARANTEE THE SERVICES WILL DETECT ALL POSSIBLE ATTACKS AND/OR THREATS. WE RECOMMEND ALL CUSTOMERS MAINTAIN APPROPRIATE SECURITY CONTROLS ON THEIR ORIGIN SERVER(S). YOU ASSUME ALL RISK OF USE WITH SECURITY POLICES, INCLUDING APPLICATION UNAVAILABILITY FOR END USERS DUE TO ADVANCED BLOCKING POLICIES.

8.6 **Limitations**. YOU RECOGNIZE THAT THE INTERNET CONSISTS OF MULTIPLE PARTICIPATING NETWORKS THAT ARE SEPARATELY OWNED AND THEREFORE ARE NOT SUBJECT TO OUR CONTROL (SUCH NETWORKS, "**NON-CONTROLLED NETWORKS**"). MALFUNCTION OR CESSATION OF INTERNET SAAS OFFERINGS BY INTERNET SERVICE PROVIDERS OR OF ANY OF THE NETWORKS THAT FORM THE INTERNET MAY MAKE THE SAAS OFFERINGS TEMPORARILY OR PERMANENTLY UNAVAILABLE. YOU AGREE THAT WE SHALL NOT HAVE ANY LIABILITY WHATSOEVER WHEN THE SAAS OFFERINGS ARE TEMPORARILY OR PERMANENTLY UNAVAILABLE DUE TO NON-AVAILABILITY OF NON-CONTROLLED NETWORKS INCLUDING DUE TO THE MALFUNCTION OR CESSATION OF INTERNET SERVICES BY NETWORK(S) OR INTERNET SERVICE PROVIDERS NOT SUBJECT TO OUR CONTROL, OR DUE TO ANY ACCIDENT OR BY YOU. WE SHALL NOT BE LIABLE TO YOU FOR ANY BREACH OF SECURITY ON YOUR NETWORK, SYSTEM OR EQUIPMENT, OR FOR ANY LOSS OR THEFT OF INFORMATION TRANSMITTED OVER THE INTERNET OR STORED ON COMPUTERS DIRECTLY CONNECTED TO THE INTERNET EXCEPT WHERE SUCH BREACH, LOSS OR THEFT IS CAUSED BY OUR WILFUL MISCONDUCT. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

9. **Limitation of Liability.** NEITHER WE NOR ANY OF OUR AFFILIATES OR LICENSORS (I) WILL HAVE ANY LIABILITY, WHETHER ARISING IN CONTRACT (INCLUDING WARRANTY), TORT (INCLUDING ACTIVE, PASSIVE OR IMPUTED NEGLIGENCE, STRICT LIABILITY, OR PRODUCT LIABILITY), OR OTHERWISE FOR ANY PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF DATA, BUSINESS INTERRUPTION, LOSS OF REVENUE, LOSS OF BUSINESS, OR OTHER FINANCIAL LOSS ARISING IN CONNECTION WITH THE SAAS OFFERINGS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) WILL NOT BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (A) YOUR INABILITY TO USE THE SAAS OFFERINGS; OR (B) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY CUSTOMER CONTENT OR OTHER DATA. OUR AGGREGATE LIABILITY UNDER THIS AGREEMENT (INCLUDING ALL ORDERS) WILL NOT EXCEED THE AMOUNT PAID OR PAYABLE FOR THE SAAS OFFERINGS THAT GAVE RISE TO THE CLAIM DURING THE TWELVE (12) MONTHS IMMEDIATELY BEFORE THE INCIDENT GIVING RISE TO THE LIABILITY. THE LIMITATIONS CONTAINED IN THIS SECTION WILL APPLY NOTWITHSTANDING ANY FAILURE OF AN ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED UNDER ANY TERM OF THE AGREEMENT, AND ONLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

10. **Indemnification.**

10.1 **Our Indemnification**. Subject to Section 10.3 below, we will defend you against any claim, demand, suit, or proceeding ("**Claim**") made or brought against you by an unaffiliated third party arising from or alleging that the use of the SaaS Offerings as permitted hereunder infringes or misappropriates a valid U.S or European Union patent, copyright or trade secret and will indemnify you for any damages finally awarded against you (or any settlement approved by us) in connection with any such Claim. The terms "misappropriate" and "trade secret" are used as defined in the Uniform Trade Secrets Act, except in case of claims arising under any claim governed by the laws of any jurisdiction outside the United States, in which case "misappropriation" will mean intentionally unlawful use and "trade secret" will mean "undisclosed information" as specified in Article 39.2 of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement.

10.2 **Your Indemnification**. You will defend us against any Claim made or brought against us or our Affiliates by an unaffiliated third party arising from or alleging (a) a breach by you or any of your employees, personnel, subcontractors, or agents of the Acceptable Use Policy or Service Policies or (b) your use, disclosure or other handling of New Data (as that term is defined in the Service-Specific Terms) in violation of the Agreement.

10.3 **Restrictions**. We will have no liability for any claim of infringement based on (a) use of the SaaS Offerings in combination with equipment, services or software not supplied by us where the SaaS Offerings would not itself be infringing; (b) SaaS Offerings that have been altered or modified in any way by anyone other than us or our authorized agents; (c) use of the SaaS Offerings in an application or environment not described in the Documentation; (d) services, software or technology not developed by us; (e) supply or use of the SaaS Offerings in any country into which the U.S. has embargoed or restricted the export of goods or services; (f) supply or use of the SaaS Offerings

to or by any person or entity who you know or have reason to know will utilize the SaaS Offerings or portion thereof in the design, development or production of nuclear, chemical or biological weapons; or (g) supply of the SaaS Offerings to or use of the SaaS Offerings by any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government including but not limited to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders.

10.4 **Infringement Remedies**. If, in our reasonable opinion, the SaaS Offerings infringe or are likely to infringe, we will have the right, at our sole option and expense, to (a) obtain for you rights to use the SaaS Offerings, (b) modify the SaaS Offerings such that they become non-infringing or (c) if the options in clauses (a) or (b) are not reasonably practicable, terminate the applicable Order and provide a credit not to exceed the pro-rata pre-paid fees paid by you for such SaaS Offerings not delivered.

10.5 **Indemnification Process**. The indemnifying party will pay costs and damages finally awarded against the indemnified party, or agreed in settlement by the indemnifying party directly attributable to any such Claim, and will bear all reasonable costs of the investigation and defense of the claim, but only on condition that (a) the indemnified party notifies the indemnifying party in writing of such claim promptly following receipt of notice; provided that any delay in providing such notice shall not impact the indemnifying party's obligations hereunder except to the extent that the indemnifying party is materially prejudiced by such delay, (b) the indemnifying party has sole control of the defense and settlement negotiations, (c) the indemnified party provides indemnifying party all non-privileged information and communications received by the indemnified party concerning such claim and (d) the indemnified party provides reasonable assistance to the indemnifying party when requested. The indemnified party will have the right to participate in the defense with counsel of its own choosing at its expense; provided that such representation does not interfere with indemnifying party's right to control the defense.

11. Miscellaneous.

11.1 **Relationship of Parties**. The parties are independent contractors in the performance of their obligations under this Agreement, and nothing contained herein shall be deemed to constitute either party as the agent or representative of the other party, or both parties as joint venturers or partners for any purpose.

11.2 **Notices**. Notices under this Agreement shall be sufficient only if in writing in English and delivered in accordance with this section. All notices to us shall be sent to the address(es) of the appropriate F5 entity in the table below by a major commercial rapid delivery courier service or mailed by certified or registered mail, return receipt requested. All notices to you shall be sent to the electronic mail address provided to us in the Portal to the attention of your Legal Department. Notice may also be sent to you by first-class postal mail to the mailing address specified in your Portal. Either party may change its address by giving the other party written notice in accordance with this Section 11.2.

F5 entity:	Address for Notices:	With a copy to:
F5 Networks, Inc.	F5 Networks, Inc. Attn: Legal Dept. 801 Fifth Avenue Seattle, WA 98104 USA	
F5 Networks Ltd.	F5 Networks, Ltd. Attn: Legal Dept. Chertsey Gate West 43-47 London Street Chertsey Surrey KT16 8AP United Kingdom	F5 Networks, Inc. Attn: Legal Dept. 801 Fifth Avenue Seattle, WA 98104 USA
F5 Networks Singapore Pte Ltd	F5 Networks Singapore Pte Ltd	F5 Networks, Inc. Attn: Legal Dept.

Attn: Legal Dept.	801 Fifth Avenue
5 Temasek Boulevard	Seattle, WA 98104
#08-01/02/05 Suntec Tower 5	USA
Singapore 038985	
Singapore	

11.3   **Force Majeure**. If either party is unable to perform any of its obligations under the Agreement or such performance is delayed, other than payment obligations, due to any cause or event beyond the reasonable control of such party (a "**Force Majeure Event**"), then such party shall be excused for such delay or non-performance, as applicable, of those obligations for as long as such Force Majeure Event continues.

11.4   **Export Control; Government Restricted Rights**. The SaaS Offerings are subject to export control legal requirements of various countries, including the laws of the United States. You shall comply with the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions and regulations of the U.S. Department of Commerce, and any other applicable U.S. and foreign authority.

11.5   **Headings**. Headings and captions used in this Agreement are for convenience only and are not to be used in the interpretation of this Agreement.

11.6   **Assignment; Subcontractors**. You may not assign the Agreement in whole or in part, without our prior written consent. We may assign the Agreement or any of our rights and obligations under it at any time. Any attempted assignment or transfer in violation of this Section 11.6 will be void and without effect. Subject to the foregoing, the Agreement will be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns. We may subcontract to third parties (including but not limited to our Affiliates) parts of the SaaS Offerings, including but not limited to services related to management and hosting of the SaaS Offerings. We shall be responsible for breaches of the Agreement caused by any subcontractors used in pursuant to the foregoing sentence.

11.7   **Governing Law; Dispute Resolution**. This Agreement will be governed and construed in accordance with the following governing law ("**Governing Law**") depending on the applicable F5 entity who is a party to this Agreement, without regard to its choice of law rules, and without regard to the Uniform Computer Information Transactions Act or the United Nations Convention on Contracts for the International Sale of Goods.

F5 entity:	Governing Law:	Seat of Arbitration:
F5 Networks, Inc.	The laws of the State of Washington	Seattle, Washington
F5 Networks Ltd.	The laws of England and Wales	London, England
F5 Networks Singapore Pte Ltd	The laws of Singapore	Singapore

   11.7.1   Arbitration. Except for Excluded Claims (defined below), all disputes arising out of or in connection with this Agreement including any question regarding its formation, existence, validity or termination, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. Any dispute concerning the scope or applicability of this agreement to arbitrate shall be finally settled by the arbitrator(s). The seat, or legal place, of arbitration shall be as set forth in the table above corresponding to the applicable licensing F5 entity. The language of the arbitration shall be English. The arbitration award shall be final and binding on the parties, and the parties undertake to carry out any award without delay. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator(s) shall award to the prevailing party, if any, as determined by the arbitrator(s), all of its reasonable costs and fees.

11.7.2 "**Excluded Claims**" means any dispute, claim or action concerning the validity, enforceability, infringement, misappropriation or violation of our intellectual property rights or those of our Licensors and all such Excluded Claims shall be brought in any court of competent jurisdiction.

11.8 <u>**Severability**</u>. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement otherwise remains in full force and effect and enforceable.

11.9 <u>**Entire Agreement; Order of Precedence**</u>. This Agreement together with all the Service Policies and applicable Orders hereto, constitute the entire agreement between the parties relating to the subject matter hereof and supersede all proposals, understandings, or discussions, whether written or oral, relating to the subject matter of this Agreement and all past dealing or industry custom. For any conflict between this Agreement and the Service-Specific Terms related to a specific SaaS Offering, the Service- Specific Terms shall control unless specifically stated otherwise in the applicable Service-Specific Terms. Nothing contained in any Order or other document submitted by you shall in any way add to or otherwise modify this Agreement or Service-Specific Terms. The Service Policies may be updated by us from time to time. If we make a material change to any Service Policy, we will inform you of such changes, either by posting an update to the Portal, updating the "Last Updated" date on the applicable page, or providing email notice to you, provided that you have subscribed with us to be notified of such changes.

11.10 <u>**Waiver**</u>. No provision of, right or privilege under this Agreement shall be deemed to have been waived by any act, delay, omission or acquiescence on the part of any party, its agents or employees, but only by an instrument in writing duly executed by both parties. No waiver by any party of any breach or default of any provision of this Agreement by the other party shall be effective as to any other breach or default, whether of the same or any other provision and whether occurring prior to, concurrent with, or subsequent to the date of such waiver.

11.11 <u>**Modification**</u>. No modification of this Agreement shall be affected by either party's use of any order form, purchase order, acknowledgement, shrinkwrap, boxtop, or clickwrap license, or other form containing additional or different terms. This Agreement may only be modified by an instrument in writing duly executed by both parties, making specific reference to this Agreement and the clause to be modified.

11.12 <u>**No Third Party Beneficiaries**</u>. Nothing in this Agreement, expressed or implied, is intended to confer upon any third party, any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

11.13 Interpretation. This Agreement will not be construed in favor of or against any party by reason of the extent to which any party participated in the preparation of this Agreement.