

SUBSCRIPTION SERVICE AGREEMENT

This Subscription Service Agreement (“**Agreement**”) is made between the fatstacks.tech entity (“**FATSTACKS**”) and the customer entity (“**Customer**”) on the ordering document and becomes effective on the last signature date of the ordering document issued by FATSTACKS (“**Effective Date**”).

1. DEFINITIONS

1.1. “Confidential Information” means: (a) FATSTACKS Core Technology (which is Confidential Information of FATSTACKS); (b) Customer Data and Customer Technology (which are Confidential Information of Customer); (c) any other information of a party that is disclosed in writing or orally and is designated as *Confidential* or *Proprietary* at the time of disclosure (and, in the case of oral disclosures, summarized in writing within thirty (30) days of the initial disclosure and delivered to the receiving party), or that due to the nature of the information the receiving party would clearly understand it to be confidential information of the disclosing party; and (d) the specific terms and conditions of this Agreement, any Use Authorization, any SOW, and any amendment and attachment thereof, between the parties. Confidential Information shall not include any information that: (i) is or becomes generally known to the public through no fault or breach of this Agreement by the receiving party; (ii) was rightfully in the receiving party’s possession at the time of disclosure without restriction on use or disclosure; (iii) is independently developed by the receiving party without use of the disclosing party’s Confidential Information; or (iv) was or is rightfully obtained by the receiving party from a third party not under a duty of confidentiality and without restriction on use or disclosure.

1.2. “Customer Data” means electronic data uploaded by or for Customer and Customer’s agents, employees and contractors, and processed in the Subscription Service, excluding the FATSTACKS Core Technology.

1.3. “Customer Technology” means software, methodologies, templates, business processes, documentation or other material authored, invented or otherwise created or licensed (other than by or from FATSTACKS) by Customer using or for use with the Subscription Service, excluding the FATSTACKS Core Technology.

1.4. “Development Tools” means source code, application programming interfaces (APIs), executable software and tools in human readable format made available by FATSTACKS for the implementation, customization, configuration, and use of the Subscription Service, such as scripts, code snippets, sample code, and development tools published by FATSTACKS.

1.5. “Documentation” means the FATSTACKS product documentation relating to the operation and use of the Subscription Service, Software and Development Tools, including technical program or interface documentation, user manuals, operating instructions and release notes, as updated from time to time by FATSTACKS.

1.6. “Product Overview” means the description of the ordered products and their functionalities attached to a Use Authorization or referenced therein.

1.7. “Professional Services” means any services provided by FATSTACKS pursuant to an agreed SOW or Service Description.

1.8. “Service Description” means the written description for a packaged Professional Service, attached to a Use Authorization or referenced therein.

1.9. “FATSTACKS Core Technology” means: (a) the Subscription Service; Software; Development Tools, Documentation; and FATSTACKS technology and methodologies (including, without limitation, products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation) existing as of the Effective Date or otherwise arising outside of work under a Professional Service; (b) updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related technical or end user documentation or manuals; and (c) intellectual property anywhere in the world relating to the foregoing.

1.10. “Software” means software provided by FATSTACKS to Customer that operates on Customer-provided machines solely to facilitate the use of the Subscription Service.

1.11. “SOW” means a statement of work for Professional Services.

1.12. “Subscription Service” means the FATSTACKS software as a service (SaaS) offering identified in a Use Authorization.

1.13. “Subscription Term” means the term of authorized use of the Subscription Service as set forth in the Use Authorization.

1.14. “Use Authorization” means a written document provided to Customer specifying the services that Customer has purchased, along with the term and scope of the authorized use thereof.

2. GRANT OF USE RIGHTS

2.1. SUBSCRIPTION SERVICE. Subject to the terms of this Agreement, FATSTACKS authorizes Customer to access and use the purchased Subscription Service during the Subscription Term as set forth in an applicable Use Authorization for its internal

business purposes in accordance with the Documentation. Customer shall not use or otherwise access the Subscription Service in a manner that exceeds Customer's authorized use as set forth in this Agreement and the applicable Use Authorization.

2.2. SOFTWARE. FATSTACKS grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 10.1 (Assignment)), non-exclusive license during the Subscription Term to install and execute Software on machines operated by or for Customer solely to facilitate Customer's authorized access to and use of the purchased Subscription Service. The Software may include code that is licensed under third party license agreements, including open source made available or provided with the Software. Software is licensed and not sold even if for convenience FATSTACKS makes reference to words such as *sale* or *purchase*.

2.3. DEVELOPMENT TOOLS. In support of Customer's authorized internal business use of the Subscription Service during the Subscription Term, FATSTACKS grants to Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 9.1 (Assignment)), non-exclusive license to download and make a reasonable number of copies of the Development Tools, and to use, copy, modify and create derivative works of the Development Tools, in using, implementing and integrating the FATSTACKS applications with other software and systems. Customer shall not use the Development Tools in a manner that causes it to exceed the limits of its authorized use of the Subscription Service as set forth in this Agreement and the Use Authorization. From time to time, FATSTACKS may provide Development Tools subject to the terms and conditions of separate agreements which will be provided to Customer for review and to which Customer will be required to agree prior to use of such Development Tools; provided that FATSTACKS shall not require Customer to agree to separate terms and conditions for any Development Tool that is necessary for Customer's use of its ordered Subscription Service in conformance with the Product Overview unless set forth on the Use Authorization.

2.4. RESTRICTIONS. Customer shall not (and shall not permit others to) do the following with respect to the FATSTACKS Core Technology: (i) use the Subscription Service with external programs in a manner that intentionally circumvents contractual usage restrictions; (ii) license, sub-license, sell, re-sell, rent, lease, transfer, distribute or time share or otherwise make any of it available for access by third parties except as otherwise expressly provided in a Use Authorization; (iii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition with the Subscription Service; (iv) disassemble, reverse engineer or decompile it; (v) copy, create derivative works based on or otherwise modify it except as permitted in this Agreement; (vi) remove or modify a copyright or other proprietary rights notice in it; (vii) use it to reproduce, distribute, display, transmit or use material protected by copyright or other intellectual property right (including the rights of publicity or privacy) without first obtaining the permission of the owner; (viii) use it to create, use, send, store or run viruses or other harmful computer code, files, scripts, agents or other programs or otherwise engage in a malicious act or disrupt its security, integrity or operation; or (ix) access or disable any FATSTACKS or third party data, software or network (other than Customer's Subscription Service in accordance with this Agreement). Before Customer exercises any of the foregoing actions that Customer believes it is entitled to, Customer shall provide FATSTACKS with thirty (30) days' prior written notice to info@fatstacks.tech (or, if applicable law or the relevant court order does not allow for such notice, then the maximum amount of notice allowable), and provide reasonably requested information to allow FATSTACKS to assess Customer's claim and, at FATSTACKS's sole discretion, provide alternatives that reduce adverse impacts on FATSTACKS's intellectual property and other rights.

3. INTELLECTUAL PROPERTY

3.1. FATSTACKS OWNERSHIP. As between FATSTACKS and Customer, all rights, title, and interest in and to all intellectual property rights in the FATSTACKS Core Technology are owned exclusively by FATSTACKS notwithstanding any other provision in this Agreement. Except as expressly provided in this Agreement, FATSTACKS reserves all rights in the FATSTACKS Core Technology and does not grant Customer any rights, express or implied or by estoppel.

3.2. CUSTOMER OWNERSHIP. As between Customer and FATSTACKS, Customer shall retain all of its rights, title, and interest in and to its intellectual property rights in Customer Data and Customer Technology. Customer hereby grants to FATSTACKS a royalty-free, fully-paid, non-exclusive, non-transferable (except as set forth in Section 10.1 (Assignment)), sub-licensable, worldwide right to use Customer Data and Customer Technology solely for the purpose of providing the Subscription Service and Professional Services to Customer.

3.3. FEEDBACK. FATSTACKS encourages Customer to provide suggestions, proposals, ideas, recommendations or other feedback regarding improvements to FATSTACKS's services and related resources. To the extent Customer provides such feedback, Customer grants to FATSTACKS a royalty-free, fully paid, sub-licensable, transferable (notwithstanding Section 10.1 (Assignment)), non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import and

otherwise exploit feedback (including by incorporation of such feedback into the FATSTACKS Core Technology) without restriction.

3.4. PROFESSIONAL SERVICES. Subject to the provisions of this Section 3.4, FATSTACKS shall assign to Customer any Newly Created IP (as defined below) in Deliverables upon payment in full by Customer of all amounts due for the Professional Service under which the Deliverable was created. A “*Deliverable*” is a deliverable that is identified in the applicable SOW or Service Description and that is created by FATSTACKS for Customer in the performance of the Professional Services. “*Newly Created IP*” means intellectual property in any inventions or works of authorship that are made by FATSTACKS specifically for Customer in the course of performing Professional Services for Customer that is identified as “Newly Created IP” in an SOW, excluding the FATSTACKS Core Technology. To the extent (if at all) any FATSTACKS Core Technology is incorporated into a Deliverable, FATSTACKS grants to Customer a non-exclusive, royalty-free, non-transferable, non-sublicensable worldwide license to use the FATSTACKS Core Technology solely to use the Deliverable in connection with the Subscription Service as contemplated under this Agreement during the Subscription Term. Nothing in this Agreement shall be deemed to restrict or limit FATSTACKS’s right to perform similar Professional Services for any other party or to assign any employees or subcontractors to perform similar Professional Services for any other party or to use any information incidentally retained in the unaided memories of its employees providing Professional Services.

4. WARRANTIES

4.1. LIMITED SUBSCRIPTION SERVICE WARRANTY. FATSTACKS warrants that during the Subscription Term Customer’s Subscription Service shall materially conform to the Product Overview. To submit a warranty claim under this Section, Customer shall (1) reference this Section; and (2) submit a support request to resolve the non-conformity as provided in the Subscription Service Guide. If the non-conformity persists without relief more than thirty (30) days after written notice of a warranty claim provided to FATSTACKS under this Section 4.1, then Customer may terminate the affected Subscription Service and submit to FATSTACKS a claim for refund of any prepaid subscription fees covering the remainder of the Subscription Term of the affected Subscription Service after the date of termination. Notwithstanding the foregoing, this warranty shall not apply to any non-conformity due to a modification of or defect in the Subscription Service that is made or caused by any person other than FATSTACKS or a person acting at FATSTACKS’s direction. THIS SECTION 4.1 SETS FORTH CUSTOMER’S EXCLUSIVE RIGHTS AND REMEDIES (AND FATSTACKS’S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

4.2. LIMITED PROFESSIONAL SERVICES WARRANTY. FATSTACKS warrants that the Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry standards and practices and all material requirements set forth in the SOW or Service Description. Customer shall notify FATSTACKS in writing of any breach within thirty (30) days after performance of the non-conforming Professional Services. Upon receipt of such notice, FATSTACKS, at its option, shall either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or shall terminate the affected Professional Services, in which case Customer may submit to FATSTACKS a claim for a refund of any amounts paid for the nonconforming Professional Services. THIS SECTION 4.2 SETS FORTH CUSTOMER’S EXCLUSIVE RIGHTS AND REMEDIES (AND FATSTACKS’S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

4.3. DISCLAIMER OF WARRANTIES. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, FATSTACKS DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WARRANTIES ARISING UNDER STATUTE, WARRANTIES OF MERCHANTABILITY, ACCURACY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, FATSTACKS SPECIFICALLY DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE, SOFTWARE, PROFESSIONAL SERVICES, DEVELOPMENT TOOLS, DOCUMENTATION OR DELIVERABLES WILL MEET THE REQUIREMENTS OF CUSTOMER OR OTHERS OR THAT THEY WILL BE ACCURATE OR OPERATE WITHOUT INTERRUPTION OR ERROR. CUSTOMER ACKNOWLEDGES THAT IN ENTERING THIS AGREEMENT IT HAS NOT RELIED ON ANY PROMISE, WARRANTY OR REPRESENTATION NOT EXPRESSLY SET FORTH HEREIN.

5. CONFIDENTIAL INFORMATION

5.1. CONFIDENTIALITY OBLIGATIONS. The recipient of Confidential Information shall: (i) at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event using less than reasonable care; and (ii) not use it except to the extent necessary to exercise rights or fulfill obligations under this Agreement. Each party shall limit the disclosure of the other party’s Confidential Information to those of its employees and contractors with a need to access such Confidential Information for a party’s exercise of its rights and obligations under this

Agreement, provided that all such employees and contractors are subject to binding disclosure and use restrictions at least as protective as those set forth herein. Each party's obligations set forth in this Section 5 shall remain in effect during the term and three (3) years after termination of this Agreement. The receiving party shall, at the disclosing party's request or upon termination of this Agreement, return all originals, copies, reproductions and summaries of Confidential Information and other tangible materials and devices provided to the receiving party as Confidential Information, or at the disclosing party's option, certify destruction of the same. Provisions for the return of Customer Data are set forth in Section 8.4 (Return of Customer Data).

5.2. REQUIRED DISCLOSURES. A party may disclose the disclosing party's Confidential Information to a court or governmental body pursuant to a valid court order, law, subpoena or regulation, provided that the receiving party: (a) promptly notifies the disclosing party of such requirement as far in advance as possible to the extent advanced notice is lawful; and (b) provides reasonable assistance to the disclosing party in any lawful efforts by the disclosing party to resist or limit the disclosure of such Confidential Information.

5.3. EQUITABLE REMEDIES. The parties agree that the receiving party's disclosure of Confidential Information except as provided herein may result in irreparable injury for which a remedy in money damages may be inadequate. The parties further agree that in the event of such disclosure or threatened disclosure, the disclosing party may be entitled to seek an injunction to prevent the breach or threatened breach without the necessity of proving irreparable injury or the inadequacy of money damages, in addition to remedies otherwise available to the disclosing party at law or in equity.

6. INDEMNIFICATION

6.1. FATSTACKS OBLIGATION. Subject to the exclusions set forth below, FATSTACKS shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand (each a "**Claim**") to the extent alleging: (A) that the Subscription Service used in accordance with this Agreement infringes any third party patent, copyright or trademark, or misappropriates any third party trade secret; or (B) that FATSTACKS's personnel when onsite at Customer's premises caused death, bodily harm or damage to tangible personal property due to their negligence or willful misconduct; and (ii) pay any court-ordered award of damages or settlement amount to the extent arising from any such Claims. If any portion of the Subscription Service becomes the subject of a Claim under Section 6.1(i)(A), FATSTACKS may: (a) contest the Claim; (b) obtain permission from the claimant for Customer's continued use of the Subscription Service; (c) replace or modify the Subscription Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in FATSTACKS's judgment, then (d) terminate Customer's use of the affected Subscription Service upon sixty (60) days' written notice, whereupon Customer may submit to FATSTACKS a claim for a refund of any prepaid subscription fees covering the remaining portion of the applicable Subscription Term for the affected Subscription Service after the date of termination. Notwithstanding the above, FATSTACKS shall have no obligation or liability for any Claim under Section 6.1(i)(A) arising in whole or in part from: (1) any use of the Subscription Service which exceeds the authorized use permitted under this Agreement or not in accordance with the Documentation; (2) Customer Data or Customer Technology; (3) use of the Subscription Service by Customer in violation of applicable law; (4) use of the affected Subscription Service after termination in accordance with clause (d) of this Section 6.1; (5) modifications to the Subscription Service made to Customer's specifications or otherwise made by any person other than FATSTACKS or a person acting at FATSTACKS's direction if the Claim would have been avoided by use of the unmodified Subscription Service; or (6) use of the Subscription Service in combination with any hardware, software, application or service that was not provided by FATSTACKS, if the Claim would have been avoided by the non-combined or independent use of the Subscription Service.

6.2. CUSTOMER OBLIGATION. Customer shall: (i) defend FATSTACKS, its officers, directors and employees against any Claim alleging that: (A) Customer Data, (B) Customer Technology or (C) a modification to the Subscription Service made to Customer's specifications or otherwise made by or on behalf of Customer by any person other than FATSTACKS or a person acting at FATSTACKS's direction (but only if the Claim would have been avoided by use of the unmodified Subscription Service), infringes any patent, copyright or trademark, misappropriates any third party trade secret, or violates any third party privacy rights; and (ii) pay any court-ordered award of damages or settlement amount to the extent arising from such Claim.

6.3. PROCESS. All of the foregoing indemnity obligations of FATSTACKS and Customer are conditioned on the indemnified party notifying the indemnifying party promptly in writing of any actual or threatened Claim, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's request and expense, assisting in such defense. SECTION 6 STATES EACH PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR THIRD PARTY CLAIMS AND ACTIONS.

7. LIMITATIONS OF LIABILITY

7.1. LIMITATIONS OF LIABILITY. TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCTS OR SERVICES PROVIDED HEREUNDER WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) CUSTOMER'S OBLIGATION TO PAY FOR PRODUCTS, SERVICES OR TAXES; (2) A PARTY'S OBLIGATIONS IN SECTION 6 (INDEMNIFICATION); AND (3) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

7.2. EXCLUSION OF DAMAGES. TO THE EXTENT PERMITTED BY LAW, NEITHER FATSTACKS NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COVER, SUBSTITUTE GOODS OR SERVICES, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) PAYMENTS TO A THIRD PARTY ARISING FROM A PARTY'S OBLIGATIONS UNDER SECTION 7 (INDEMNIFICATION); AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

7.3. GROSS NEGLIGENCE; WILFUL MISCONDUCT. AS PROVIDED BY LAW, NOTHING HEREIN SHALL BE INTENDED TO LIMIT A PARTY'S LIABILITY IN AN ACTION IN TORT (SEPARATE AND DISTINCT FROM A CAUSE OF ACTION FOR BREACH OF THIS AGREEMENT) FOR THE PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT.

8. TERM AND TERMINATION

8.1. TERM AND TERMINATION. This Agreement continues until terminated under the terms of this Agreement. Each party may terminate this Agreement in its entirety either: (i) upon thirty (30) days' prior written notice to the other party, if at the time of notice there are no Use Authorizations in effect; or (ii) upon written notice if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership or liquidation, in any jurisdiction, that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of creditors. Either party may terminate a Subscription Service or Professional Services upon written notice if the other party materially breaches this Agreement or the applicable Use Authorization for the affected service and does not cure the breach within thirty (30) days after receiving written notice thereof from the non-breaching party. Professional Services are separately ordered from the Subscription Service, and are not required for the Subscription Service. A breach by a party of its obligations with respect to Professional Services shall not by itself constitute a breach by that party of its obligations with respect to the Subscription Service even if the services are enumerated in the same Use Authorization.

8.2. EFFECT OF TERMINATION OF SUBSCRIPTION SERVICE. Upon termination of the Subscription Service for any reason, Customer shall stop using, and FATSTACKS shall stop providing, the Subscription Service and all rights granted to Customer in this Agreement shall terminate. If the Subscription Service is terminated by Customer due to FATSTACKS's breach, then Customer may submit to FATSTACKS a claim for refund of all prepaid fees for the remaining portion of the Subscription Term for the terminated Subscription Service after the effective date of termination. Within thirty (30) days following the effective date of a termination by FATSTACKS for Customer's breach, Customer shall pay all remaining amounts for the Subscription Term applicable to the Subscription Service covering the remainder of the Subscription Term regardless of the due dates specified in FATSTACKS's order form to Customer.

8.3. TRANSITION SERVICES. At least thirty (30) days prior to either the expiration of the Subscription Term (where Customer elects not to renew) or in connection with the termination by Customer of the Subscription Service in accordance with Section 8.1, provided that Customer signs an addendum to this Agreement setting forth payment and other commercial terms between Customer and FATSTACKS, Customer may purchase the following services from FATSTACKS: (i) one (1) extension of the Subscription Service for up to six (6) months ("**Transition Subscription Service**"); and (ii) Professional Services. Prior to the commencement of any Transition Subscription Service or Professional Services, Customer shall sign an ordering document and shall pay in advance for the Transition Subscription Service and any Professional Services plus verifiable travel and expenses.

8.4. RETURN OF CUSTOMER DATA. FATSTACKS shall provide Customer Data in its standard database export format, excluding the FATSTACKS Core Technology, to Customer upon Customer's written request and at no additional cost to Customer, provided that FATSTACKS receives such request from Customer within forty-five (45) days following the expiration or termination of this Agreement for the Subscription Service (including any Transition Subscription Service term, if applicable). If FATSTACKS has not received a request within the foregoing time frame, FATSTACKS shall have no obligation to maintain or provide any Customer

Data and shall thereafter, unless legally prohibited, have the right to delete all Customer Data in its systems or otherwise in its possession or under its control.

8.5. SURVIVAL. Sections 2.4 (Restrictions), 3.1 (FATSTACKS Ownership), 3.2 (Customer Ownership), 3.3 (Feedback) and 5 (Confidential Information) through 9 (General Provisions) of this Agreement, together with any other provision required for their construction or enforcement, shall survive termination of this Agreement for any reason.

9. GENERAL PROVISIONS

9.1. ASSIGNMENT. Neither party may assign its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, either party may, upon notice and without the other party's consent: (i) in connection with a merger, reorganization or sale of all or substantially all of the assets or equity of such party, assign this Agreement in its entirety to such party's successor; and (ii) assign this Agreement in its entirety to any Affiliate. "**Affiliates**" shall mean any person or entity directly or indirectly Controlling, Controlled by or under common Control with a party to the Agreement, where "**Control**" means the legal power to direct or cause the direction of the general management of the company, partnership or other legal entity. Any attempted or purported assignment in violation of this Section 9.1 will be null and void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

9.2. COMPLIANCE WITH LAWS. FATSTACKS shall comply with any statutes and regulations that apply to its provision of the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables, under the Agreement, including but not limited to those applicable to the privacy and security of personal information, including trans-border data transfers and data breach notification requirements as required of FATSTACKS by law. Customer shall comply with all laws that apply to its use of the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables, under the Agreement, including but not limited to those applicable to collection and processing of Customer Data in FATSTACKS systems through the Subscription Service. Customer agrees to provide any required disclosures to and obtain any required consents for the transfer of Customer Data to FATSTACKS. FATSTACKS shall not be responsible for compliance with any laws applicable to Customer and its industry that are not generally applicable to information technology service providers.

9.3. EXPORT COMPLIANCE. Each party shall comply with United States and foreign export control laws and regulations. Customer acknowledges that the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables are subject to the U.S. Export Administration Regulations (the "**EAR**") and that Customer shall comply with the EAR. Without limiting the foregoing, Customer represents and warrants that: (i) Customer is not located in, and shall not use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables from, any country that is subject to U.S. export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan and Syria); (ii) Customer shall not use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, sounding rockets or unmanned air vehicle systems; and (iii) Customer is not prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. In addition, Customer is responsible for complying with any local laws which may impact Customer's right to import, export or use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables.

9.4. US GOVERNMENT RIGHTS. All FATSTACKS software (including Software) is commercial computer software and all services are commercial items. "**Commercial computer software**" has the meaning set forth in Federal Acquisition Regulation ("**FAR**") 2.101 for civilian agency purchases and the Department of Defense ("**DOD**") FAR Supplement ("**DFARS**") 252.227-7014(a)(1) for defense agency purchases. If the software is licensed or the services are acquired by or on behalf of a civilian agency, FATSTACKS provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as required in FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data) and their successors. If the software is licensed or the services are acquired by or on behalf of any agency within the DOD, FATSTACKS provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as specified in DFARS 227.7202-3 and its successors. Only if this is a DOD prime contract or DOD subcontract, the Government acquires additional rights in technical data as set forth in DFARS 252.227-7015. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS or other clause or provision that addresses Government rights in computer software or technical data.

9.5. NOTICE. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery; (ii) when received by the addressee if sent by a recognized overnight courier (receipt requested); (iii) the second business day after mailing; or (iv) the first business day after sending by email with confirmation of receipt, except that email shall not be

sufficient for notices regarding a Claim. Notices shall be sent to the parties as set forth on the signature page of this Agreement or as subsequently updated in writing.

9.6. FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (excluding Customer's failure to pay amounts owed when due), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including without limitation: strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), trespassing, sabotage, theft or other criminal acts, failure of energy sources or transport network, acts of God, export bans, sanctions and other government actions, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, explosions, collapse of building structures, fires, floods, storms, earthquakes, epidemics or similar events, natural disasters or extreme adverse weather conditions (each a "**Force Majeure Event**"). The party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event.

9.7. HIGH RISK ACTIVITIES. Customer shall use the FATSTACKS Core Technology within the intended business purposes described in the Documentation, and not for any purpose that requires fail-safe performance including, but not limited to, stock trading, financial transaction processing, management of hazardous facilities or applications for which failure could result in death, personal injury, or severe physical or environmental damage ("**High Risk Activity**"). FATSTACKS, its licensors and suppliers expressly disclaim all warranties of fitness for any such use and Customer shall release and hold FATSTACKS, its licensors and suppliers harmless from liability arising out of the use of the FATSTACKS Core Technology for High Risk Activity.

9.8. USE OF AGGREGATE DATA. Customer agrees that FATSTACKS may collect, use and disclose quantitative data derived from the use of the Subscription Service for industry analysis, benchmarking, analytics, marketing, and other business purposes. All data collected, used, and disclosed will be in aggregate form only and will not identify Customer or its users.

9.9. ENTIRETY. This Agreement, together with the Use Authorizations, Product Overviews, SOWs, Service Descriptions, and the Subscription Service Guide, is the final and entire agreement between the parties regarding the products and services provided hereunder and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings and negotiations with respect to the subject matter hereof. The terms of this Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of FATSTACKS that is not set out in this Agreement. Customer's orders are not contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any verbal or written communication about FATSTACKS's future plans. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

9.10. WAIVER AND AMENDMENT. A waiver of any right is only effective if it is in writing and only against the party who signed such writing and for the circumstances given. Any modification of this Agreement must be in writing and signed by authorized representatives of both parties.

9.11. RELATIONSHIP OF THE PARTIES. The parties are independent contractors. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship. Neither party shall have any right or authority to assume or create any obligation of any kind expressed or implied in the name of or on behalf of the other party.

9.12. GOVERNING LAW; JURISDICTION AND VENUE. This Agreement shall be governed by the laws of the state of California, without regard to its conflict of laws principles. The parties hereby irrevocably consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in San Francisco, California, for the purposes of adjudicating any dispute arising out of this Agreement. Each party hereto expressly consents to service of process by registered mail. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such party's intellectual property rights.

9.13. CONSTRUCTION. Products and services shall be provided in the English language unless agreed otherwise. The parties confirm that they have requested that this Agreement and all related documents be drafted in English at the express wishes of the parties. Les parties confirment avoir expressément exigé que le présent contrat et les documents de FATSTACKS qui y sont attachés soient rédigés en anglais. Section headings are for convenience only and are not to be used in interpreting this Agreement.