

## Attachment A - DOCKER

### 1. Definitions

The following capitalized terms shall have the meanings set forth below:

1.1 **“Docker Authorized Business Partner”** shall have the meaning ascribed to that term in Section 3.3.

1.2 **“Feedback”** means any comments or other feedback Ordering Activity may provide to Docker concerning the functionality and performance of the Supported Software, including identification of potential errors and improvements.

1.3 **“Instance”** means a single instance of Licensed Software or Supported Software, as applicable, installed on a physical or virtual computer or server.

1.4 **“Key”** means the license key or similar control mechanism to help ensure compliance with the use and time limitations with respect to the Licensed Software.

1.5 **“Licensed Software”** means the Docker software identified on an Order Form (other than Open Source Software) and licensed to Ordering Activity pursuant to the terms of this Agreement, e.g., the “Docker Hub Enterprise” software or other licensed software from Docker that is identified on the Order Form (excluding any Open Source Software included therein).

1.6 **“Open Source Software”** means Docker or third party software identified at <https://www.docker.com/components-licenses>, for informational purposes only, that is distributed or otherwise made available as “free software”, “open source software” or under a similar licensing or distribution model.

1.7 **“Order Form”** means an ordering document referencing this Agreement between Ordering Activity and Docker, or between Ordering Activity and a Docker Authorized Business Partner.

1.8 **“Subscription Fee”** means the fee for Subscription Services purchased by the Ordering Activity. The amount of the Subscription Fee is based on the number of Instances and the level (e.g., 24X7 or Defined Business Hours) of Subscription Services specified in the Order Form.

1.9 **“Subscription Term”** means the applicable initial and/or renewal subscription term as set forth in the applicable Order Form.

1.10 **“Supported Software”** means the Docker or third party software identified on the Order Form as software for which Docker or its authorized resellers agree to provide Subscription Services to Ordering Activity. For purposes of clarity, Supported Software may include Licensed Software and/or identified versions of Open Source Software with respect to which Docker agrees to provide updates, patches and hotfixes to the Ordering Activity.

1.11 **“Subscription Services”** means standard support and maintenance services and software updates provided by Docker for the Supported Software, as set forth at: [www.docker.com/support, for informational purposes only](http://www.docker.com/support, for informational purposes only).

### 2. License

2.1 **Licensed Software.** Docker hereby grants Ordering Activity a limited, non-exclusive, non-transferable, non-sub-licensable license during the applicable Subscription Term to install, copy and use the Licensed Software for Ordering Activity's internal business purposes, in connection with the deployment of no more than the number of Instances as are set forth in the Order Form.

2.2 **Open Source Software.** If applicable, Open Source Software is distributed or made available under the terms of the open source license agreements referenced in the applicable distribution or the applicable help, notices, about or source files. Copyrights and other proprietary rights to the Open Source Software are held by the copyright holders identified in the applicable distribution or the applicable help, notices, about or source files.

2.3 **License Keys.** Ordering Activity shall not destroy, disable or circumvent, or attempt to destroy, disable or circumvent in any way the Key and/or the use and time limitations set by the Key or the Licensed Software.

### 3. Subscription

3.1 **Subscription Services.** Docker shall provide to Ordering Activity the Subscription Services during the Subscription Term. Ordering Activity must purchase Subscription Services corresponding to the number of Instances specified in the Order Form. Ordering Activity may purchase different levels of Subscription Services with respect to each such Instance; provided, however, that Ordering Activity may not use Subscription Services with a higher support level in connection with an Instance for which Ordering Activity had purchased Subscription Services with a lower support level. In addition, the Ordering Activity may not use Instances of Open Source Software that has not been identified on an Order Form, on computers and or servers that are part of the environment in which Subscription Services are provided. Unless renewed through execution of a new Purchase Order, the Subscription Services will expire at the end of the applicable Subscription Term. This means that while the Ordering Activity is free to use the Open Source Software after the expiration of the applicable Subscription Term, Docker will not provide the Subscription Services after the end of the applicable Subscription Term.

3.2 Reserved.

**3.3 Support from Docker's Business Partners.** In some cases, Ordering Activities may also receive support services, as part of the purchased Subscription Services, from a Docker authorized business partner (each, a "Docker Authorized Business Partner"). Notwithstanding anything to the contrary in Section 3.1, if Ordering Activity purchases support services from a Docker Authorized Business Partner, Docker shall have no obligation to provide any support services to the Ordering Activity and Ordering Activity should work with that Docker Authorized Business Partner to obtain all support services for the Supported Software.

#### **4. Restricted Activities**

Ordering Activity shall not, and shall not encourage any third party to: (a) modify, adapt, alter, translate, or create derivative works of the Licensed Software; (b) reverse-engineer, decompile, disassemble, or attempt to derive the source code for the Licensed Software, in whole or in part, except to the extent that such activities are permitted under applicable law; (c) distribute, license, sublicense, lease, rent, loan, or otherwise transfer the Licensed Software to any third party; (d) remove, alter, or obscure in any way the proprietary rights notices (including copyright, patent, and trademark notices and symbols) of Docker or its suppliers contained on or within any copies of the Licensed Software; (e) use the Licensed Software for the purpose of creating a product or service competitive with the Licensed Software; (f) use the Licensed Software with any unsupported software or hardware (as described in the applicable documentation provided by Docker); (g) use the Licensed Software for any time-sharing, outsourcing, service bureau, hosting, application service provider or like purposes; (h) disclose the results of any benchmark tests on the Licensed Software without Docker's prior written consent; or (i) use the Licensed Software other than as described in the documentation provided therewith, or for any unlawful purpose.

#### **5. Ownership of Licensed Software**

Docker and its licensors own and retain all right, title, and interest, including all intellectual property rights, in and to the Licensed Software, including any improvements, modifications, and enhancements to it. Except for the rights expressly granted in this Agreement, Ordering Activity shall acquire no other rights, express or implied, in or to the Licensed Software, and all rights not expressly provided to Ordering Activity hereunder are reserved by Docker and its licensors. All the copies of the Licensed Software provided or made available hereunder are licensed, not sold.

#### **6. Reserved.**

#### **7. Reserved.**

#### **8. Feedback.**

Ordering Activity may submit to Docker bug reports, comments, feedback or ideas about the Supported Software, including without limitation about how to improve the Supported Software. By submitting any Feedback, Ordering Activity hereby assigns to Docker all right, title, and interest in and to the Feedback, if any.

#### **9. Reserved.**

#### **10. Limited Warranties**

DOCKER WARRANTS THAT (a) THE SUPPORTED SOFTWARE WILL, FOR A PERIOD OF SIXTY (60) DAYS FROM THE DATE OF CUSTOMER'S RECEIPT, PERFORM SUBSTANTIALLY IN ACCORDANCE WITH DOCKER'S WRITTEN MATERIALS ACCOMPANYING IT, AND (b) ANY SUPPORT SERVICES PROVIDED BY DOCKER SHALL BE SUBSTANTIALLY AS DESCRIBED IN APPLICABLE WRITTEN MATERIALS PROVIDED TO CUSTOMER BY DOCKER. EXCLUDING THE FOREGOING, DOCKER, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS MAKE NO EXPRESS WARRANTIES AND DISCLAIM ALL IMPLIED WARRANTIES REGARDING THE SUPPORTED SOFTWARE OR SUPPORT SERVICES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, TOGETHER WITH ANY AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE IN TRADE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM DOCKER OR ELSEWHERE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DOCKER, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO YOU THAT: (A) ORDERING ACTIVITY'S USE OF THE SUPPORTED SOFTWARE OR SUPPORT SERVICES WILL MEET ORDERING ACTIVITY'S REQUIREMENTS, OR (B) ORDERING ACTIVITY'S USE OF THE SUPPORTED SOFTWARE OR SUPPORT SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL EXCLUDE OR LIMIT DOCKER'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. ORDERING ACTIVITY UNDERSTANDS AND ACKNOWLEDGES THAT THE SUPPORTED SOFTWARE IS NOT DESIGNED, INTENDED OR WARRANTED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS, INCLUDING WITHOUT LIMITATION, OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR WEAPONS SYSTEMS.

#### **11. Reserved.**

#### **12. Reserved.**

#### **13. Export Restrictions.**

Ordering Activity understands that Supported Software is subject to United States export controls administered by the U.S. Department of Commerce and the United States Department of Treasury Office of Foreign Assets Control. Ordering Activity acknowledges and agrees that the Supported Software shall not be used, transferred or otherwise exported or re-exported to countries as to which the United States, maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Entity List, Denied Persons List, or Unverified List, or the U.S. Department of State's Nonproliferation

Sanctions list (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Supported Software, Ordering Activity represents and warrants that Ordering Activity is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. Ordering Activity agrees to comply strictly with all U.S. export laws and assume sole responsibility for obtaining United States government export licenses to export or re-export as may be required.

#### **14. Miscellaneous**

The Supported Software and any other software covered under this Agreement are "commercial items" as that term is defined at 48 C.F.R. 2.101; consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Supported Software and any other software and documentation covered under this Agreement with only those rights set forth herein.