

## NEW RELIC FEDERAL TERMS OF SERVICE

Effective Date: [Date]

This Supplier License and Services (“Agreement”) is between the Customer, identified in the Purchase Order, Annex, Statement of Work, or similar document, having its principal place of business as set forth in said document, and the GSA Multiple Award Schedule (MAS) Contractor acting on behalf of New Relic Inc., (“Company” or “Supplier”) with its principal place of business at 188 Spear Street, Suite 1000, San Francisco, California 94105, USA. This Agreement governs the Customer’s use of the Supplier software (the “Licensed Software”) and the Supplier documentation made available for use with such software. “You” or “Customer” or “Licensee” means the Government Customer (Agency) who, under GSA Schedule Contracts, is the “Ordering Activity” which is defined as “an entity authorized to order under GSA Schedule Contracts” as defined in GSA Order OGP 4800.21, as may be amended from time to time.

### Section 1 - The Service

1.1. Use of the Service. New Relic grants to Customer during the Subscription Term the right to use and access the Service for its internal business purposes only in accordance with the Documentation (including the Acceptable Use Policy), Order, and this Agreement.

1.2. Customer Users and Affiliates. The employees and contractors of Customer or Affiliates may access and use the Service on Customer’s or Affiliate’s behalf (each, a “User”). Each User may be required to provide a username, email address, password, or other personal information to create and manage an Account (“Login Credentials”) and must keep its Login Credentials confidential and not share them with anyone. New Relic uses and collects Login Credentials for account management and support in accordance with the Order and this Agreement. If Customer is an instrumentality of the United States Government (“USG Customer”), any changes to the Notice will be executed by bilateral modification between the Channel Partner and the USG Customer before such changes are effective and applicable to the USG Customer. Customer is responsible for its Users’ compliance with this Agreement and the actions taken through the Account. If Customer becomes aware of any compromise of a User’s credentials, Customer will let New Relic know as soon as possible.

1.3. Service Level Availability. New Relic will use commercially reasonable efforts to make the Service available in line with industry standards.

1.4. Support. New Relic will provide support to Customer in accordance with the Support Plan commitment set out in the Documentation.

1.5. Restrictions. Customer will not (and will not permit anyone else to) do any of the following: (a) use the Service to develop a similar or competing product or service; (b) obtain or attempt to obtain the Service by any means or device with intent to avoid paying the fees that would otherwise be payable for such access or use; (c) reverse engineer, decompile, disassemble, or seek to access the source code or non-public APIs to the Service or any related features; (d) modify or create derivative works of the Service or copy any element of or related features with the Service (other than authorized copies of the Software); (e) publish benchmarks or performance information about the Service; (f) fail to perform or observe the obligations set out in Section 2.5 (Obligations); (g) perform any security integrity review, penetration test, load test, denial of service simulation, or vulnerability scan on New Relic; (h) provide access to or sublicense the Service to a third party other than a Third-Party Service; or (i) use the Service on behalf of, or to provide any product or service to, third parties.

### Section 2 - Customer Data

2.1. Customer Data Configurations. The Service and related features are designed to provide Customer with control over its configuration and use, including in the types of Customer Data it processes. New Relic refers to the data, information, or content that Customer and Users send to an Account from the Software, the Customer Properties, or Third-Party Services, as “Customer Data.” The Customer Data will be hosted in the data region that Customer selects during the setup of the Account.

2.2. Use of Customer Data to Provide the Service. New Relic needs a limited license to Customer Data in order to provide the Service. For example, depending on the Service subscribed to, the Service and related features may create visualization aides, such as dashboards, charts, and graphs, which requires, among other rights, a right to create derivative works. Customer grants New Relic a non-exclusive, worldwide right to use, copy, store, transmit, display, modify, and create derivative works of the Customer Data, to the extent necessary to manage, improve, and provide the Service and related services, as well as to provide support to Customer.

2.3. Data Security Commitments. New Relic uses industry-standard administrative, technical, physical, and organizational measures designed to protect Customer Data for all of our customers across New Relic’s multi-tenant architecture. New Relic will provide Customer a copy of our most current security attestation report (SOC 2, Type II or equivalent report) upon written request.

2.4. Export of Customer Data; Retention. At any time during the Subscription Term, Customer may export Customer Data from its Account in supported formats. New Relic retains Customer Data in accordance with the data retention policy applicable to the Service.

2.5. Obligations.

(a) Customer, through its use and configuration of the Service, is instructing New Relic to process Customer Data. For example, the type, quantity, and frequency of Customer Data received by New Relic is pursuant to Customer's decisions and instructions. Customer is responsible for its configuration choices, and any risks resulting from Customer's disablement of any New Relic default privacy or security settings or features (e.g. disabling encryption of data in transit). Customer shall implement any Software updates immediately after New Relic makes such available for general release. Customer is responsible for Customer Data, including its content and accuracy. Customer agrees that its use of the Service and related features will comply with the Documentation, including the Acceptable Use Policy.

(b) Customer represents and warrants to New Relic that it has all necessary rights, consents, and permissions to grant New Relic the rights in Section 2.2 (Use of Customer Data to Provide the Service) and to use and submit Customer Data to the Service, all without violating or infringing any applicable laws, third-party rights (including intellectual property, publicity, or privacy rights), or any terms or policies governing Customer Data.

(c) Customer must not send any "Prohibited Data" to the Service, which means any: (1) special categories of data enumerated in European Union Regulation 2016/679, Article 9(1) or any successor legislation; (2) patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (as amended and supplemented) ("HIPAA"); (3) credit, debit, or other payment card data or financial account information, including bank account numbers; (4) credentials granting access to an online account (e.g. username plus password); (5) social security numbers, driver's license numbers, or other government identification numbers; (6) other information subject to regulation or protection under specific laws such as the Children's Online Privacy Protection Act or Gramm-Leach-Bliley Act (or related rules or regulations); or (7) any data similar to the above protected under foreign or domestic laws, including without limitation any data subject to regulation under the International Traffic in Arms Regulations (ITAR), 22 C.F.R. §§ 120-130. Customer also must not use the Service or related features in connection with any activities where its use or failure could lead to death, personal injury, or environmental damage, such as in life support systems, emergency services, nuclear facilities, autonomous vehicles, or air traffic control (collectively, "High Risk Activities"). Customer acknowledges that the Service and related features are not intended to meet any legal obligations for these uses, including HIPAA requirements, and that New Relic is not a Business Associate as defined under HIPAA. Therefore, notwithstanding anything else in this Agreement, New Relic has no liability for Prohibited Data processed, or High Risk Activity-related use, in connection with the Service.

2.6. Suspension. New Relic may temporarily suspend access to, or limit, the Service and related services (and the relevant fees for the Service will continue to apply during such period) if there is a risk of harm to other New Relic customers or the security, availability, or integrity of the Service due to actions taken within an Account or resulting from a Third-Party Service. Where practicable, New Relic will use reasonable efforts to provide prior notice of any suspension. Once the issue requiring suspension is resolved, without limiting any New Relic remedies, New Relic will restore access to the Service in accordance with this Agreement.

2.7. Systems Operations Data. In order to provide its customers with the benefits of a multi-tenant cloud offering, New Relic may collect and process utilization statistics and other technical data (e.g. page load data) regarding use, configuration, and deployment of the Service to operate, manage, improve, instrument, benchmark, and support the Service; provided, New Relic will not disclose any information derived from such data if doing so would make it possible for a third party to identify Customer or any individual natural person.

2.8. Third-Party Services. Customer may choose to use the Service together with Third Party Services. Customer acknowledges that Third-Party Services do not form part of the Service and that Customer's use of Third-Party Services is subject to Customer's agreement with the relevant provider and not this Agreement. For clarity, because Third-Party Services are not controlled by New Relic and do not form part of the Service, New Relic bears no responsibility or liability for Third-Party Services, including their security, availability, functionality, or inoperability, or any effect they may have on your Customer Properties or how the Third-Party Services or their providers use Customer Data. If Customer enables a Third-Party Service with the Service, New Relic may access and exchange Customer Data with the Third-Party Service on Customer's behalf and instruction. Use of the Service with a Third-Party Service does not expand Customer rights or our obligations under this Agreement.

### **Section 3 - Commercial Terms**

3.1. Fees. Fees and invoicing will be described in each Order and/or the Usage Plan, consistent with the Channel Partner's contract with Customer. Unless the Order or Usage Plan provides otherwise, all fees are payable in U.S. dollars. If you exceed usage limits in an Order, you will be invoiced overage fees in accordance with the Order, the Usage Plan, or this Agreement. New Relic refers to the Service pricing and invoicing related information contained within the Documentation as the "Usage Plan." All fees and expenses stated in an Order are non-cancellable and non-refundable except as set out in this Agreement or as prohibited by federal law.

3.2 Taxes. New Relic shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3. Customer shall provide New Relic with a valid tax exemption certificate authorized by the appropriate taxing authority upon request.

3.3. Disputes. Unless the Usage Plan provides otherwise, Customer will notify us of any good-faith invoice dispute within 15 days of the invoice date (or within 5 days for overage invoices) and reasonably cooperate with New Relic to resolve the dispute. All disputes shall be resolved pursuant to the requirements of the Contract Disputes Act, 41 U.S.C. §§ 7101 *et seq.*

3.4. Subscription Term. Each Subscription Term shall be for the duration identified in any Order.

3.5. Affiliate Orders. If applicable, an Affiliate may enter into their own Order(s) with New Relic. This creates a separate agreement between the Affiliate and New Relic incorporating this Agreement with the Affiliate treated as "Customer". Neither Customer nor any Affiliate has any rights under each other's agreement with New Relic, and breach or termination of any such agreement is not breach or termination under any other.

#### **Section 4 - Disclaimers**

4.1 New Relic's Services are provided in substantial conformance with the applicable technical specifications provided in the Documentation. If New Relic breaches this warranty and Customer makes a reasonably detailed warranty claim within 30 days of discovering the issue, then New Relic will use reasonable efforts to correct the non-conformity. If New Relic cannot correct the non-conforming Service, Customer may terminate the applicable Service from the affected Order, in which case New Relic will refund to Customer any such pre-paid, unused fees from the date of its written notice of termination for the terminated portion of the Subscription Term. These procedures are Customer's sole and exclusive remedy and New Relic's entire liability for breach of this Section 4.1. This warranty does not apply to issues caused by misuse or unauthorized modifications.

4.2 EXCEPT AS SET FORTH IN SECTION 4.1, NEW RELIC PROVIDES THE SERVICE, SUPPORT AND ALL RELATED SERVICES "AS IS". NEW RELIC AND ITS SUPPLIERS MAKE NO OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NONINFRINGEMENT. WITHOUT LIMITING OUR EXPRESS OBLIGATIONS IN SECTIONS 1.3 (SERVICE LEVEL AVAILABILITY) AND 1.4 (SUPPORT), NEW RELIC DOES NOT WARRANT THAT USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT WE WILL REVIEW CUSTOMER DATA FOR ACCURACY, OR THAT WE WILL MAINTAIN CUSTOMER DATA WITHOUT LOSS. DISCONTINUATION OF A SERVICE FEATURE OR FUNCTION SHALL NOT CONSTITUTE A BREACH OF THIS AGREEMENT. NEW RELIC IS NOT LIABLE FOR ISSUES WITH THE SERVICE DUE TO CUSTOMER NOT INSTALLING THE LATEST VERSION OF THE SOFTWARE OR DELAYS, FAILURES, OR PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE OUR CONTROL. NEW RELIC MAKES NO WARRANTIES CONCERNING RESULTS TO BE ACHIEVED FROM THE SERVICE. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS, BUT ANY STATUTORILY REQUIRED WARRANTIES WILL BE LIMITED TO THE SHORTEST LEGALLY PERMITTED PERIOD.

#### **Section 5 - Confidentiality**

5.1. Confidential Information. For the purposes of this Agreement, the Parties define "Confidential Information" to mean any of the information disclosed under this Agreement that is designated by the disclosing party as proprietary or confidential, or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. New Relic's Confidential Information includes any technical, pricing, or performance information about the Service or related services. Customer's Confidential Information includes your Customer Data.

5.2. Obligations. As receiving party, each party will (a) hold in confidence and not disclose Confidential Information to third parties except as permitted in this Agreement, and (b) only use Confidential Information to fulfill its obligations and exercise its rights in this Agreement. The receiving party may disclose Confidential Information to its employees, agents, contractors, subcontractors, and other representatives having a legitimate need to know such Confidential Information, provided the receiving party remains responsible for their compliance with this Section 5 (Confidentiality) and such parties are bound to confidentiality obligations no less protective than this Section 5 (Confidentiality).

5.3. Exclusions. These confidentiality obligations do not apply to information that the receiving party can document: (a) is or becomes public knowledge through no fault of the receiving party; (b) it rightfully knew or possessed prior to receipt under this Agreement; (c) it rightfully received from a third party without breach of confidentiality obligations; or (d) it independently developed without using the disclosing party's Confidential Information. The receiving party may disclose Confidential Information if required by law, subpoena, or court order, provided (if permitted by law) it notifies the disclosing party in advance and cooperates in any effort to obtain confidential treatment. New Relic recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor. Nonetheless, Customer agrees to confer with New Relic regarding the applicability of exemption

4 to the Freedom of Information Act, 5 U.S.C. § 552(b)(4), or any other law or rule limiting the Customer's disclosure obligations, prior to disclosing New Relic's Confidential Information.

## **Section 6 - Ownership**

Neither Party grants the other any rights or licenses not expressly set out in this Agreement. Except for New Relic's use rights in this Agreement, as between the Parties, Customer retains all intellectual property and other rights in Customer Data. Except for Customer's use rights in this Agreement, New Relic and its licensors retain all intellectual property and other rights in the Service, the Documentation, and related New Relic technology, services, templates, formats, and dashboards, including any modifications or improvements to these items made by New Relic. If you provide New Relic with feedback or suggestions regarding the Service or other New Relic offerings, we may use the feedback or suggestions without restriction.

## **Section 7 - Limitations of Liability**

7.1. Liability Cap. EACH PARTY'S ENTIRE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED IN AGGREGATE THE AMOUNTS PAID OR PAYABLE BY CUSTOMER TO NEW RELIC FOR THE SERVICE MADE AVAILABLE TO CUSTOMER DURING THE PRIOR 12 MONTHS IMMEDIATELY PRECEDING THE INCIDENT CREATING LIABILITY UNDER THIS AGREEMENT, EXCEPT AS OTHERWISE SET OUT IN THIS SECTION 7 (LIMITATIONS OF LIABILITY).

7.2. Consequential Damages Waiver. EXCEPT FOR EXCLUDED CLAIMS, NEITHER PARTY WILL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOSS OF USE, LOST DATA, LOST PROFITS, FAILURE OF SECURITY MEASURES, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED OF THEIR POSSIBILITY IN ADVANCE.

7.3. Excluded Claims. NO LIMITATION OF LIABILITY WILL APPLY TO EXCLUDED CLAIMS. "EXCLUDED CLAIMS" MEANS: (1) CLAIMS FOR WHICH LIABILITY CANNOT BE LIMITED UNDER APPLICABLE LAW; (2) BREACH OF SECTION 1.5 (RESTRICTIONS) OR PAYMENT OBLIGATIONS IN SECTION 3 (COMMERCIAL TERMS) OR CUSTOMER'S BREACH OF SECTION 5 (CONFIDENTIALITY); (3) CLAIMS ARISING FROM PERSONAL INJURY OR DEATH AS A RESULT OF EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (4) CLAIMS ALLEGING FRAUD.

7.4. Nature of Claims and Failure of Essential Purpose. THE WAIVERS AND LIMITATIONS IN THIS SECTION 7 (LIMITATIONS OF LIABILITY) APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE AND WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

7.5 NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION SHALL BE DEEMED TO IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF, OR RELATED TO, THIS AGREEMENT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31. U.S.C. §§ 3729-3733.

## **Section 8 - Reserved**

### **Section 9 - Term and Termination**

9.1. Term. This Agreement is effective for Customer's applicable Subscription Term unless terminated as described in this Agreement. Any unpaid use of the Service shall be governed as described in Section 11.4 (Entire Agreement).

9.2. Reserved.

9.3. Effect of Termination. Upon expiration or termination of this Agreement or an Order, Customer's access to the applicable Service will immediately cease. Termination of an Order will not be deemed a termination of this Agreement or any other Order; however, termination of this Agreement will immediately terminate all outstanding Orders. At the disclosing party's request upon expiration or termination of this Agreement, the receiving party will delete all of the disclosing party's Confidential Information (including Customer Data, which New Relic will delete after termination or expiration). Confidential Information may be retained in the receiving party's standard backups after deletion but will remain subject to this Agreement's confidentiality restrictions.

9.4. Survival. These Sections survive expiration or termination of this Agreement: 1.5 (Restrictions), 2.5 (Obligations), 2.7 (Systems Operations Data), 3.1 (Fees), 3.2 (Taxes), 4.2 (Disclaimers), 5 (Confidentiality), 6 (Ownership), 7 (Limitations of Liability), 9 (Term and Termination), 11.2 (Governing Law, Jurisdiction, and Venue), 11.3 (Notices), 11.4 (Entire Agreement), 11.6 (Waivers and Severability), and 11.13 (Channel Partner Service Subscriptions).

### **Section 10 - Technical Services**

10.1 Technical Services. From time to time, Customer may choose to engage New Relic for training, enablement, or other technical services in respect of the Service ("Technical Services"). Any purchased Technical Services are as described in the relevant Order. For clarity, the purchase of Technical Services is not required in order for Customer to use and access the Service and Customer agrees that Technical Services do not form part of the Service.

10.2 Delivery; Use. Customer will give New Relic timely access to Customer materials, systems, and other resources (“Customer Materials”) reasonably needed to provide the Technical Services, and if Customer fails to do so, New Relic’s obligation to provide Technical Services will be excused until access is provided. New Relic may make use of service partners to provide the Technical Services. Customer represents and warrants to New Relic that it has all necessary rights, consents, and permissions to provide the Customer Materials to New Relic. Customer, as between the Parties, retains all ownership rights in the Customer Materials and grants to New Relic a limited right to use and access the Customer Materials only to provide the Technical Services to Customer. New Relic will treat the Customer Materials as Confidential Information. Subject to a current subscription to the Service, Customer is granted a non-exclusive and non-transferable license to use the product of any Technical Services for its own internal business purposes only and consistent with the licenses and restrictions set forth in this Agreement.

10.3 Technical Services Warranty; Remedy. New Relic warrants to Customer that New Relic will perform any Technical Services in a professional and workmanlike manner. If New Relic breaches this warranty and Customer makes a reasonably detailed warranty claim within 30 days of discovering the issue, such that New Relic can reproduce or verify such issue, then New Relic will use commercially reasonable efforts to correct the non-conformity. If New Relic cannot correct the non-conforming Technical Services, Customer may terminate the applicable Technical Services from the affected Order, in which case New Relic will refund to Customer any pre-paid, unused fees from the date of its written notice of termination for the terminated portion of the Subscription Term. These procedures are Customer’s sole and exclusive remedy and New Relic’s entire liability for breach of this Section 10.3 (Technical Services Warranty; Remedy). THE ENTIRE LIABILITY OF NEW RELIC UNDER OR IN CONNECTION WITH THE TECHNICAL SERVICES WILL AT ALL TIMES BE LIMITED TO THE GREATER OF FEES PAID FOR SUCH TECHNICAL SERVICES IN THE APPLICABLE TECHNICAL SERVICES ORDER OR FIFTY DOLLARS.

## **Section 11 - General Terms**

11.1. Updates. Any material changes to this Agreement will only become effective when the changes are incorporated into the prime contract through a bilateral modification between the Channel Partner and the USG Customer.

11.2. Governing Law, Jurisdiction, and Venue. This agreement is subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109). The validity, interpretation and enforcement of agreement will be governed by and construed in accordance with the federal laws of the United States.

11.3. Notices. Notices to you will be deemed given upon: (a) personal delivery; (b) 3 days after sending via certified, registered mail, or deposit with a globally recognized courier; or (c) email to your account administrator or the contact on the order. New Relic may also provide notices to you electronically, which shall be deemed given to you upon dispatch including if the last email address you provided to us is invalid, or for any reason that any such notice is not capable of delivery to you. Customer may update its address with notice to New Relic in accordance with this Section 11.3 (Notices). You are responsible for providing us with your most current email address and updating it as applicable. You may give us notice at: New Relic, Inc., 188 Spear Street, Suite 1000, San Francisco, California 94105, Attn: General Counsel. Such notice shall be deemed given when received by New Relic by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the foregoing address.

11.4. Entire Agreement. This Agreement (and all orders between New Relic and Channel Partner), the Documentation, and any addenda or policies otherwise made available on the Site by New Relic is the Parties’ entire agreement regarding its subject matter and supersedes any prior or contemporaneous agreements regarding its subject matter. In the event of any conflict or inconsistency in the Agreement and the applicable order between New Relic and Channel Partner, such the order will prevail. Customer’s purchases are not contingent on delivery of any future functionality or features. The terms set out in this Agreement apply to the Service only, and do not apply to any free trials, unpaid use of the service, or pre-release use of New Relic products or services. Pre-release use of New Relic products or services is governed by the Pre-Release Policy as set out in the Documentation. In this Agreement, headings are for convenience only and “including” and similar terms are to be construed without limitation. The terms in any Customer purchase order will not amend or modify this Agreement and are expressly rejected; any of this documentation is for Customer’s own administrative purposes only and is not binding on New Relic.

11.5. Mitigation. In response to an actual or potential infringement claim, if required by settlement or injunction or as New Relic determines necessary to avoid material liability, New Relic may at its option: (a) procure rights for Customer continued use of the Service; (b) replace or modify the alleged infringing portion of the Service to avoid infringement with substantially similar functionality; or (c) terminate the applicable Service in the affected Order and refund any pre-paid, unused fees as of the date of termination for the terminated portion of the Subscription Term.

11.6. Waivers and Severability. Waivers must be signed by the waiving party’s authorized representative and cannot be implied. If any provision of this Agreement is held invalid, illegal, or unenforceable, it will be limited to the minimum extent necessary so the rest of this Agreement remains in effect.

11.7. Functionality End-of-Life. As requirements evolve and application demands grow, New Relic may phase out existing

functionality of the Service and develop new functionality to meet emerging needs in accordance with New Relic's overall business considerations. As such, certain functionality may reach an end-of-life phase, at which point New Relic shall discontinue and stop supporting such functionality, and potentially replace it with alternative functionality. New Relic shall endeavor to notify Customer when material functionality of the Service is being phased out at least thirty (30) days prior to the designated end-of-life date, unless required by applicable law or FedRAMP requirements to provide notice within a different notice period or if there is a risk of harm to other New Relic customers or the security, availability, or integrity of the Service. Due to the nature of the Service provided, New Relic cannot offer or support end-of-life functionality. New Relic's discontinuation of any functionality of the Service shall in no event constitute a breach of this Agreement.

11.8. Service Support Providers. New Relic uses third-party hosting and other service providers (e.g. data center providers or support ticketing systems) in our supply of the Service and related features and support.

11.9. Independent Contractors. The Parties are independent contractors, not agents, partners, or joint venturers.

11.10. Open Source Software. To the extent New Relic separately makes available other open source software ("OSS") for download (e.g. community tools), such code is governed by the terms of the applicable OSS license. To the extent required, the license for any OSS included in the Software, identified in the Documentation, will apply to the OSS instead of this Agreement.

11.11. Anti-Corruption and Export. Customer will, and will cause its employees, consultants, and agents to, comply with the US Foreign Corrupt Practices Act of 1977 and the UK Bribery Act 2010. Customer agrees to comply with all applicable laws administered by the U.S. Commerce Bureau of Industry and Security, U.S. Treasury Office of Foreign Assets Control, or other governmental entity imposing export controls and trade sanctions ("Export Laws"), including designated countries, entities, and persons ("Sanctions Targets"); and agrees not to directly or indirectly export, re-export, or otherwise deliver the Service to a Sanctions Target, or broker, finance, or otherwise facilitate any transaction in violation of any Export Laws. Customer represents that Customer is not a Sanctions Target or prohibited from receiving the Service. The Service will be used for non-prohibited, commercial purposes by non-prohibited Users and will not be exported or transferred to China or any Sanctions Target.

11.12. Government End-Users. For purposes of this Agreement and to the extent applicable, the Service is "commercial computer software" and a "commercially available off-the-shelf (COTS) item" as defined at FAR 2.101, developed at the private expense of New Relic. If acquired by or on behalf of an agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of the Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulation ("FAR") and its successors. This addendum 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.

11.13 Channel Partner Service Subscriptions. This Section applies to any Customer access of the Service obtained through an authorized New Relic channel partner ("Channel Partner").

(a) Commercial Terms. Customer will pay applicable amounts to the Channel Partner as agreed between Customer and the Channel Partner. Customer's order details (e.g., scope of use and fees) will be as stated in the order placed by Channel Partner with New Relic on Customer's behalf. Channel Partner is responsible for the accuracy of such Order. If Customer is entitled to a refund under this Agreement, New Relic will refund any applicable fees to the Channel Partner and the Channel Partner will be solely responsible for refunding the appropriate amounts to Customer, unless otherwise specified. Access to the Service provided under this Agreement shall terminate at the conclusion of the Subscription Term. For the avoidance of doubt, New Relic does not have privity of contract with Customer, nor is New Relic or a third-party beneficiary of an Order.

(b) Relationship with New Relic. This Agreement governs all use of the Service by Customer. Channel Partners are not authorized to modify this Agreement or make any promises or commitments on New Relic's behalf, and New Relic is not independently bound by any obligations to Customer. New Relic is not party to (or responsible under) any separate agreement between Customer and Channel Partner, and there is no independent privity of contract between New Relic and Customer. The amount paid or payable by the Channel Partner to New Relic for Customer's use of the applicable Service under this Agreement will be deemed the amount paid or payable by Customer to New Relic under this Agreement for purposes of Section 7 (Limitations of Liability). New Relic is not responsible for any acts, omissions, products or services provided by Channel Partner.

**GLOSSARY OF TERMS USED:**

*"Account"* means the online account or subaccounts that New Relic provides for Customer to manage its use of the Service.

*"Affiliate"* means an entity where Customer owns greater than 50% of the voting securities, provided that such an entity will be considered an Affiliate for only such time as such equity interest is maintained.

*"Customer Properties"* includes Customer's websites, infrastructure, networks, mobile applications, or other systems, as well as Customer accounts on Third-Party Services.

*"Documentation"* means the New Relic technical guides and documentation made available from the dedicated 'Documentation' page of the New Relic website.

*"Order"* means the purchasing order for access to the Service or related services that: (1) is either executed by the Parties or entered into by you via self-service, and references this Agreement, or (2) is entered into by you and a Channel Partner.

*"Service"* means the generally-available New Relic proprietary cloud service set out in the New Relic Order, the Software, and any updates, corrections, bug fixes, modifications, improvements, new features, and functionality (made generally available to New Relic's customer base) thereto. Such updates do not constitute contract modification or a breach of this Agreement.

*"Software"* means the distributed software, APIs, scripts, or other code proprietary to New Relic provided with the Service.

*"Subscription Term"* means the then-current period of use set out in the Order.

*"Third-Party Services"* means any third party platform, add-on, service, or product not provided by New Relic and that a User integrates or enables for use with the Service, including third-party applications and plug-ins.