

## MASTER SOFTWARE LICENSE AND SUBSCRIPTION AGREEMENT

This Master Software License and Subscription Agreement (the "**Agreement**") is made by and between AvePoint Public Sector, Inc., a Virginia Corporation, with offices at 2101 Wilson Boulevard, Suite 820, Arlington, Virginia 22201, ("AvePoint") including if and where applicable its Affiliates (as defined below), and your company or entity Customer ("**Customer**"), for use of certain of AvePoint's Services and/or Products ("**Solutions**"). Each party hereto shall be referred to as "**Party**"; collectively, the "**Parties**". The Agreement consists of the terms and conditions set forth below, any exhibits, addenda, or appendices identified below, and any Order Forms that properly incorporate this Agreement as controlling. This Agreement is effective immediately upon the earlier of: (1) submission of an Order (as defined below), or (2) accepting these terms by clicking a box indicating your acceptance of the Agreement on the AvePoint website or during the installation process of any of AvePoint's Licensed Solutions (the "**Effective Date**").

To the extent that there exists a previously negotiated Master Software License and Subscription Agreement or similarly negotiated license and/or subscription agreement between the Parties that is currently in effect at the time of this Agreement's Effective Date ("**Prior Negotiated Agreement**"), the provisions of any such Prior Negotiated Agreement shall control unless expressly provided otherwise in such other agreements. In the event that there is no such Prior Negotiated Agreement, then the provision of the Solutions by AvePoint, and Customer's use thereof, shall be governed by this Agreement.

Subject to the terms of this Agreement, AvePoint's Solutions shall be provided to Customer as either web-based access to software as a service ("**SaaS Solution**") or pursuant to a license to use AvePoint's Software in Customer's self-hosted environment ("**Licensed Solution**"). AvePoint reserves the right to update, enhance, or otherwise change the Solutions from time to time and may do so without Customer's consent or agreement. AvePoint Solutions are limited in accordance with AvePoint's licensing and access models as set out in this Agreement and updated periodically under

[https://avepointcdn.azureedge.net/pdfs/en/AvePoint\\_Licensing\\_Access\\_Models.pdf](https://avepointcdn.azureedge.net/pdfs/en/AvePoint_Licensing_Access_Models.pdf). Solutions are deemed accepted upon being made available to Customer and are subject to no further or additional acceptance procedures. In consideration of the foregoing and of the mutual promises contained herein, AvePoint and Customer agree as follows:

### 1. AVEPOINT SOLUTIONS

**1.1. SaaS Solutions.** Customer may access and use the purchased SaaS Solutions on a Subscription basis solely for its internal business operations and purposes, subject to this Agreement, the Documentation, and any scope of use restrictions and Solution descriptions on the applicable Order. A SaaS Solution is limited for the time period specified in the Order as follows: (a) access per user: one user per time period in accordance with the fees set forth on the Order; or (b) access per usage: access is based on the number, size or amount of data processed by the SaaS Solution and is limited to the amount specified on the Order. Acceptance of the Solutions is neither contingent upon the delivery of any future functionality or features, nor is it dependent upon any oral or written public comments made by AvePoint with respect to future functionality or features. Customer is responsible for use of the SaaS Solution by its Authorized Users (as defined below) and their full compliance with this Agreement. Customer shall keep confidential its user IDs and passwords and remain responsible for all actions taken through its accounts.

**1.1.1. SaaS Service Level Agreement.** SaaS Solutions shall have an uptime of not less than 99.9% (resulting in a Downtime of more than 43 minutes and 49 seconds) per month ("**SLA**"). AvePoint must receive sufficiently detailed excessive Downtime claims no later than the end of the calendar month following the month in which the alleged Downtime occurred. Should the Parties determine that AvePoint has not met the uptime requirement following AvePoint's investigation, Customer shall be entitled, as an exclusive remedy, to a Service Credit not to exceed in any particular month, fifteen (15%) of the monthly fees. Notwithstanding the foregoing, if the Parties determine that the SaaS

Solution(s) had an uptime of less than ninety-nine percent (99.0%) (resulting in a Downtime of more than 7 hours and 18 minutes) in a specific month, Customer shall be entitled, as an exclusive remedy, to a Service Credit of twenty percent (20%) of the fees applicable for that specific month. If Customer purchased a SaaS Solution from a Partner, the Service Credit will be based on the estimated retail price for the applicable SaaS Solution, as determined by AvePoint in its sole but reasonable discretion. Service Credits shall be credited to Customer within thirty (30) days of the excessive Downtime determination.

**1.1.2. SaaS Exclusions.** AvePoint shall use commercially reasonable efforts to make the SaaS Solutions available at the gateway between the public internet and the network of the Cloud Services Provider, except for: (i) scheduled Downtime (of which AvePoint shall, to the extent practicable, schedule so as not to adversely affect Customer's business); and (ii) as set forth in the Agreement. AvePoint shall use reasonable efforts to give ten (10) days' notice of any service maintenance to the infrastructure network, hardware, or software used by AvePoint if AvePoint, in its reasonable judgment, believes that such maintenance will impact Customer's use of its production instances. Notwithstanding the foregoing, no notice may be provided if AvePoint, in its sole and reasonable discretion, determines that maintenance is needed to secure the availability, security, stability, or performance of the SaaS Solution. Uptime and Downtime, and any additional performance targets, shall not apply to the extent performance or availability issues result from scheduled Downtime or are directly or indirectly due to factors beyond AvePoint's reasonable control, including but not limited to those that are (i) caused by a fault, failure, or availability of the internet or any public telecommunications network; (ii) caused by a fault, failure, or availability problems of the Cloud Storage Provider; (iii) caused by a fault, failure, or availability problems of any cloud-based services registered by Customer in the SaaS Solution; (iv) caused by Customer's hardware or software; (v) caused by the actions or inactions of Customer; (vi) caused by Customer's use of the SaaS Solution other than in accordance with the Agreement; or (vii) attributable to the acts or omissions of Customer or Customer's Authorized Users, or anyone gaining access to the

SaaS Solution by means of Customer's Accounts, passwords, or equipment.

**1.1.3. Additional SaaS Performance Targets.** AvePoint, in its sole discretion, may announce additional performance targets for SaaS Solutions and shall use commercially reasonable efforts to meet such targets. Nonetheless, the Parties agree that failure to meet such additional performance targets shall not entitle Customer to a refund of any fees paid under the Agreement.

**1.1.4. Suspension of SaaS Solutions.** Customer is responsible for all activities conducted by it or through the accounts of its Users of the SaaS Solution. Without limiting AvePoint's termination or other rights, AvePoint reserves the right in its sole but reasonable discretion to suspend Customer's access to the SaaS Solutions (and any related services) in whole or in part (a) if Customer's account is overdue in violation of Section 4 (Orders and Payment); (b) for Customer's breach of Section 1.4 (Use Restrictions) or Section 1.2 (Licensed Solutions; Limitations); or (c) to prevent harm to other customers or third parties, or to preserve the security, availability, or integrity of the SaaS Solutions. When practicable, AvePoint will use reasonable efforts to provide Customer with advance notice in accordance with Section 12.4 (Notices). Unless this Agreement has been terminated, AvePoint will cooperate to restore Customer's access to the SaaS Solutions promptly after AvePoint has verified that Customer has resolved the issue causing suspension.

**1.2. Licensed Solution; Limitations.** If Customer has purchased a Licensed Solution, subject to this Agreement, AvePoint grants to Customer, and Customer agrees to pay for, a non-exclusive, non-transferable license to use the Licensed Solution. This license grant is solely for Customer's Internal Use in accordance with this Agreement and the terms set forth on the applicable Documentation delivered with the Software. Except as expressly provided elsewhere in this Agreement, no sublicensing of use or access is permitted for any Solutions. The preceding sentence notwithstanding, and except as otherwise agreed between the Parties, Customer may distribute or deploy (but not sublicense) the Licensed Solution(s) to its Affiliates for use solely by the maximum number of Authorized Users or licensed quantities set forth in the Order.

Except as expressly set forth in this Agreement, no license is granted and none shall be deemed granted, by implication, estoppel, or otherwise.

### 1.2.1. Types of Licenses.

**1.2.1.1. Term Licenses.** A Licensed Solution is limited for the time period specified in the Order as follows: (a) Licensed per user: one License per user per time period in accordance with the fees set forth on the Order; (b) Licensed per Named Domain: one License per specific domain name ("**Named Domain**") as set forth on the Order; (c) Licensed per usage: the License granted hereunder is based on the number, size or amount of data processed by the Licensed Solution and is limited to the amount specified on the Order; and/or (d) Licensed per Locality: one License per locality as defined in the Order.

**1.2.1.2. Perpetual Licenses.** A Licensed Solution that is offered under a Perpetual License may be further limited by the Order as follows: (a) Licensed per SharePoint Server: one Perpetual License per SharePoint Server that is being administered through the Licensed Solution; (b) Licensed per usage: the Perpetual License granted hereunder is based on the number, size or amount of data processed by the Licensed Solution and is limited to the amount specified on the applicable Order; (c) Licensed per Named Domain (if offered by AvePoint under a perpetual license model): one Perpetual License per Named Domain as set forth on the applicable Order; and (d) for a Licensed Solution that is classified as part of the DocAve Software Platform, one Perpetual License per DocAve Manager and per Media Services used, where such usage is limited to the amount specified on the applicable Order.

**1.3. Excess Usage.** During the Term, in the event Customer requests or requires additional quantities of the granted Subscriptions or exceeds the allotted quantities of the granted Subscriptions indicated on the applicable Order ("**Excess Usage**"), AvePoint will invoice Customer, and Customer shall be responsible for payment to AvePoint, for such Excess Usage. The price shall be the then-current price per unit (excluding any discounts) of the Subscriptions and the duration of Excess Usage, unless the Parties otherwise agree in writing. For avoidance of doubt, all additional Subscriptions

purchased for Excess Usage shall align with the Subscription Term defined in the initial Order.

**1.4. Use Restrictions.** Customer shall not (and shall not permit any third party to): (a) license, sub-license, sell, re-sell, rent, lease, transfer, distribute, provide access to or otherwise make available any Solutions to any third party except as provided for expressly in this Agreement or in an Order; (b) use the Solutions to provide or incorporate the Solutions into any product or service provided to a third party; (c) use the Solutions to develop a similar or competing product or service; (d) reverse engineer, decompile, disassemble, modify, or otherwise seek to obtain the source code or non-public APIs to the Solutions, except to the extent expressly permitted by applicable law (and then only upon advance Notice to AvePoint); (e) copy, modify or create any derivative work of the Solutions or any Documentation; (f) remove or obscure any proprietary or other notices contained in the Solutions (including any reports or data printed from the Solutions); (g) publicly disseminate performance information regarding the Solutions; (h) use the Solutions to create, use, send, store or run viruses or other harmful computer code, files, scripts, agents or other programs or engage in any other malicious act; (i) disrupt their security, integrity or operation; (j) remove or modify a copyright or other proprietary rights notice in the Solutions; (k) use the Solutions 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; (l) use them unlawfully or in any manner which violates any applicable law or regulation; or (m) use them in a manner that temporarily or permanently alters, erases, removes, copies, modifies, halts or disables any AvePoint or third party data, software or network. Customer must not permit any unauthorized person to access or use the Solutions and shall use reasonable endeavors, including reasonable security measures relating to Account access details, to ensure that no unauthorized person may gain access to the Solutions using an Account. Customer shall be responsible for the lawfulness of, and results obtained from, all Customer Data submitted by users and each user's acts and omissions.

**1.5. User Compliance Check.** AvePoint may, with reasonable notice and at any time during reasonable business hours, not more than once every twelve months, either on its own or through its duly authorized representative, conduct a review of the Customer's compliance with the terms of this Agreement (including but not limited to Customer's use of the Solutions). Notwithstanding the foregoing, AvePoint may use technical measures to conduct compliance checks on an ongoing basis to determine if there is Excess Usage as set out in Section 1.3 above.

## 2. DATA PRIVACY

**2.1. Security.** AvePoint shall use commercially reasonable technical and organizational measures designed to prevent unauthorized access, use, alteration, or disclosure of the Solutions or Customer Data, as further described in AvePoint's then-current DPIS Policy.

**2.2. Customer Data.** All Personal Data received or collected by AvePoint in connection with the performance of this Agreement (including its amendments) will be processed in accordance with AvePoint's Privacy Policy, which can be accessed at <http://www.avepoint.com/company/privacy-policy>, as amended from time to time. Any Personal Data received or collected by AvePoint or its Affiliates will further be processed in accordance with applicable data protection laws. Where the Personal Data is that of a third party, Customer certifies that it has obtained that data pursuant to applicable data protection laws and has obtained all necessary authorizations and consents with respect to such information. AvePoint shall maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data and Business Contact Information, including, but not limited to measures for preventing access, use, modification or disclosure of Customer Data or Business Contact Information except (a) to provide the SaaS Solutions and prevent or address service or technical problems; (b) as compelled by law; or (c) as expressly permitted by Customer in writing. Such specific safeguards shall be as set forth in the Documentation. When providing Customer Data or Business Contact Information, Customer shall not under any circumstances provide Personal Data to AvePoint for

the processing of such data on behalf of Customer, as defined in Article 28.1 GDPR, unless agreed otherwise by way of a separate written agreement between the Parties. All Customer Data passing through SaaS Solutions is stored by AvePoint in a Customer-selected data center. If there is a geographic region indicated on the applicable Order or the website where Customer registers for the SaaS Solutions, Customer Data and all operations will reside and execute from that geographic region's data center, save for (temporary) emergency purposes. Customer acknowledges and to the extent necessary approves that information provided to AvePoint (other than Customer Data) may be stored and processed by AvePoint in the United States or in other countries.

**2.3. Rights in Customer Data.** Customer is solely responsible for the accuracy, content, and legality of all Customer Data. Customer represents and warrants to AvePoint that (1) Customer will comply with all applicable laws in its use of the Solutions (including but not limited to, if applicable, the California Online Privacy Protection Act, GDPR and similar laws governing the protection of personal data) and (2) Customer has provided all disclosures and obtained all necessary rights, consents and permissions to collect, share and use Customer Data as contemplated in this Agreement (including granting AvePoint the rights herein) without violation or infringement of (i) any third party intellectual property, publicity, privacy or other rights, (ii) any Laws, or (iii) any terms of service, privacy policies or other agreement governing Customer Properties or Customer's accounts with third-parties. Customer grants to AvePoint and its Affiliates a non-exclusive, worldwide, limited-term license to use, store, host, copy, transmit, modify, create derivative works of, and display Customer Data and Business Contact Information solely as necessary for AvePoint to provide the Solutions and/or Services as the case may be, in accordance with this Agreement. Subject to these limited licenses, AvePoint shall acquire no right, title, or interest from Customer under this Agreement in or to Customer Data or Business Contact Information. Customer grants AvePoint and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Solutions or the Documentation any request, comments, suggestion, recommendation, correction, or other

feedback provided by Customer related to the Solutions (“**Feedback**”). AvePoint may freely use or exploit Feedback in connection with any of its products or services.

**2.4. Indemnification by Customer.** Customer shall indemnify, defend and hold harmless AvePoint (including its Affiliates) from and against any and all third-party claims, costs, damages, losses, liabilities, judgments, settlements, and expenses (including reasonable attorneys’ fees and costs) arising out of or in connection with any Customer Materials, Customer Data, or breach or alleged breach by Customer of Section 2.3 (Rights in Customer Data). This indemnification obligation is subject to Customer receiving (i) prompt written notice of such claim; (ii) the exclusive right to control and direct the investigation, defense, or settlement of such claim; and (iii) all reasonably necessary cooperation of AvePoint (at Customer’s expense for reasonable out-of-pocket costs).

### 3. OWNERSHIP

Customer agrees that AvePoint or its suppliers retain all right, title, and interest (including all patent, copyright, trademark, trade secret, and other intellectual property rights) in and to the Solutions, all Documentation, deliverables, and any and all related and underlying technology and documentation, and any derivative works, modifications or improvements of any of the foregoing, including as may incorporate Feedback. This Agreement confers no ownership rights to Customer and is not a sale of any rights in the Solutions, the Documentation, or the media on which either is recorded or printed. Customer does not acquire any rights, express or implied, in the Software or the Documentation, other than those rights as a licensee specified in this Agreement. Customer agrees not to disclose, disseminate, or transmit via any medium whatsoever, or make available the Solutions, Software, or any associated trade secrets, to any third party without AvePoint’s prior written consent. AvePoint may generate Usage Data to operate, improve, analyze, and support the Solutions, for benchmarking and reporting and for AvePoint’s other lawful business purposes. Except as expressly set forth in this Agreement, no rights in the Solutions or any AvePoint technology are granted to Customer.

### 4. ORDERS AND PAYMENT

**4.1. Orders.** Customer may purchase Solutions by either (a) entering into an Order with AvePoint or (b) entering into an Order with an AvePoint Partner. Each Order with AvePoint shall be signed by both Customer and AvePoint or issued by AvePoint and acknowledged by Customer via the issuance of a purchase order that incorporates by reference the applicable Order and subsequently accepted by AvePoint. All Orders placed through a Partner will be subject to pricing mutually agreed to between Customer and Partner. The use of all Solutions purchased by Customer through either AvePoint or a Partner shall be governed exclusively by this Agreement and, subject to Section 12.15 (Entire Agreement), the applicable Order.

#### 4.2. Invoices.

**4.2.1. Purchases from AvePoint.** AvePoint shall send, and Customer agrees to receive, electronic invoices in a common format (such as a PDF file). All fees are as set forth in the applicable Order Form and shall be paid by Customer within thirty (30) days from receipt of the invoice, unless otherwise specified in the applicable Order Form. Except as expressly set forth otherwise in this Agreement, all fees are non-refundable. Any late payments shall bear interest from the due date at the rate of 1.5% per month of the amount due or the highest rate of interest permitted by law, whichever is less. If Customer fails to pay the sums provided for in this Agreement (including all addenda hereto) when due, then AvePoint may terminate this Agreement in accordance with Section 10.2 (Termination of this Agreement for Cause).

**4.2.2. Purchases Through a Partner.** For any Solutions purchased by Customer through a Partner, the pricing and payment terms are established through the Order entered into by and between Customer and such Partner and all payments will be made directly to Partner. AvePoint shall not be liable to Customer or to any third party for any liabilities, claims, or expenses arising from or relating to any suspension or termination of Services in accordance with this Section 4.2.2.

**4.3. Disputed Payments.** Customer shall have five (5) business days from the date of an invoice to

dispute a payment. After five (5) business days from the date of an invoice, all amounts payable to AvePoint shall be deemed undisputed. Disputed amounts shall be clearly defined and listed by Customer with sufficient detail for AvePoint’s review. Once received, AvePoint shall promptly review and answer the notice of dispute. The Parties shall strive in good faith to quickly resolve any disputed amounts. If AvePoint still determines the disputed amount is owed, Customer shall pay the disputed amount or AvePoint may terminate the Agreement for cause and seek damages. Any undisputed amounts on an invoice shall become due and payable, regardless of any disputes about the invoice’s remainder amounts.

**4.4. Taxes.** AvePoint’s fees are exclusive of all taxes, levies, or duties, including value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively “**Taxes**”). Customer shall pay all Taxes associated with this Agreement and all Order Forms. If any deduction or withholding is required by law, Customer shall notify and pay AvePoint any additional amounts necessary to ensure that the net amount that AvePoint receives, after any deduction and withholding, equals the amount AvePoint would have received if no deduction or withholding had been required.

**5. SUPPORT SERVICES**

**5.1. General.** AvePoint Support Services include the following: (1) telephone or electronic support to help Customer correct problems with Solutions; (2) bug fixes and code corrections to correct Solution malfunctions and bring Solutions into substantial conformity with the Documentation; and (3) all

upgrades, enhancements, and other changes that AvePoint, at its sole discretion, makes or adds to the Solutions and which AvePoint furnishes, without charge, to all other Customers who receive Support Services. AvePoint shall have the right to verify the existence of any error reported by Customer and AvePoint shall have no obligation to correct any error unless it can be re-created or reproduced by AvePoint with an unaltered version of the Solutions and is not due to incorrect or defective data entry or operator performance by Customer. Customer agrees to provide AvePoint with any information about all programs used by Customer in making its determination that an error exists and shall cooperate in good faith with efforts to resolve any errors. When providing such information, Customer shall not under any circumstances provide personal data to AvePoint for the processing of such data on behalf of Customer, as defined in Article 28.1 GDPR, unless agreed otherwise by way of a separate written agreement between the Parties. AvePoint will then make a prompt and reasonable attempt to provide Customer with a suitable workaround or program change to correct or avoid such error. In the event of on-site services requested by Customer, Customer agrees to reimburse AvePoint for any and all reasonable expenses incurred by AvePoint for purposes of performing such on-site services (including travel expenses).

**5.2. Support Levels.** Support Services provided to Customer during the Support Term are determined by the level of support purchased by Customer (“**Support Level**” or “**Level**”). The Support Level shall be specified in the applicable Order and shall be either Premier, Standard or Basic Level, as further described in the following table:

<b><u>Support Level</u></b>	<b><u>Basic</u></b>	<b><u>Standard</u></b>	<b><u>Premier</u></b> (included with all Subscriptions at no additional cost)
Support Channels	Email or Web Support Ticket Only	Email, Web Support Ticket, Phone and Web Conferencing	Email, Web Support Ticket, Phone and Web Conferencing
Support Hours	Business Days, 7:00 am–7:00 pm Local Office Time	Business Days, 7:00 am–7:00 pm Local Office Time	24 hours / day, 7 days / week

Email/web support ticket response time	Based on Issue Severity	Based on Issue Severity	Based on Issue Severity, with priority handling within Issue Severity Level
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**5.2.1. Support Level for Subscriptions:** All Solutions offered by AvePoint on a Subscription basis include Premier Support Services during the Subscription term stated in the Order.

**5.2.2. Support Levels and Payment for Perpetual Licenses:** Customers purchasing Licensed Solutions under a perpetual license have the option to purchase Premier, Standard, or Basic Support Services. The fees as provided on the applicable Order or on AvePoint’s invoice to Customer are payable prior to the commencement of any services hereunder. Where an annual payment for multi-year Support Terms has been agreed between the Parties, AvePoint, within its

reasonable discretion, shall invoice Customer approximately forty-five (45) days prior to the beginning of each annual period.

**5.3. Support Service Response Times.** Support, E-mail, and web support ticket response times shall be based on Issue Severity Level, as defined in the Support Ticket Response Times table below. Such Issue Severity Level shall be assigned by AvePoint at the time of receipt of such e-mail or web support ticket request from Customer per the Issue Description guidelines given in the table below at AvePoint’s sole discretion. AvePoint shall make all commercially reasonable efforts to respond to such support requests within the given Response Time.

<u>Issue Severity Level</u>	<u>Issue Description</u>	<u>E-mail and Web Response Time</u>	<u>Phone Response Time</u>
Low	<ul style="list-style-type: none"> <li>Minor issue which does not impact production environment</li> <li>Documentation error that does not directly impact production</li> <li>Feature or suggestion for enhancement</li> </ul>	48 hours or less	Immediate
Medium	<ul style="list-style-type: none"> <li>An issue affecting production environment at a minor level</li> <li>Very limited direct impact on operations</li> </ul>	24 hours or less	Immediate
High	<ul style="list-style-type: none"> <li>An issue affecting production environment at a major level</li> <li>Production environment is operational, but Solution activities are limited</li> <li>Long-time adverse effects hindering productivity</li> </ul>	4 hours or less	Immediate
Very High	<ul style="list-style-type: none"> <li>Solution activities on production environment are completely inoperable</li> <li>Major restoration or project is at a mission-critical state</li> <li>Severe impact on business operations</li> </ul>	2 hours or less	Immediate

**5.4. Support Services for Licensed Solutions.** AvePoint will provide Support Services for Licensed Solutions, including updates and modifications (“**Product Releases**”), as described under: <https://www.avepoint.com/services/maintenance-support>. For Customers with access to a particular Product Release, AvePoint will provide it in such form and with accompanying instructions sufficient to enable Customer to install it without the assistance of AvePoint. Customer shall be solely

responsible for installation of the Product Releases. If requested by Customer, AvePoint will install the Product Release at AvePoint’s daily rates then in effect plus reimbursement for reasonable travel and living expenses incurred by AvePoint and its personnel in providing such installation services. Customer agrees that any Product Releases provided by AvePoint shall be subject to all of the conditions contained in the Agreement entered into by and between AvePoint and Customer with

respect to the Software. Product Releases may update or modify portions of the Software not included as part of Customer's Licensed Solution. Availability of and access to Product Releases shall not be construed to entitle Customer to new options or features that are sold separately and that are not direct additions to the Licensed Solution to which Customer's Support Services are associated.

**5.5. Exclusions.** AvePoint shall not be required to provide any Support Services occasioned by neglect or misuse of the Solutions or equipment using the Solutions, or unauthorized alterations or modifications of the Software. Support Services do not include implementation, configuration, integration, or other custom software development; support for modifications of the Solutions by anyone other than AvePoint or a person acting at AvePoint's direction; training or "how-to"; assistance with administrative functions; professional services; corrections of immaterial defects; or corrections that will degrade the Solution.

## 6. WARRANTIES AND DISCLAIMER

**6.1. Limited Warranty.** For Customer's benefit only during the Support Term, AvePoint warrants that the Solutions will substantially conform to the then-current Documentation. AvePoint's sole liability (and Customer's sole and exclusive remedy) for any breach of this warranty shall be, at no charge to Customer, for AvePoint to use commercially reasonable efforts to correct the reported non-conformity, or if AvePoint determines such remedy to be impracticable, either party may terminate the applicable Subscription and Customer will receive as its sole remedy a refund of any fees Customer has pre-paid for use of the applicable Solutions for the terminated portion of the applicable Subscription Term. The limited warranty in this Section 6.1 shall not apply: (i) unless Customer makes a claim within thirty (30) days of the date on which Customer first noticed the non-conformity, (ii) if the error was caused by misuse, unauthorized modifications or third-party hardware, software or services, or (iii) to Beta Releases or any use of the Solutions provided on a no-charge or evaluation basis.

**6.2. Warranty Disclaimer.** EXCEPT FOR THE LIMITED WARRANTIES STATED ABOVE, THE SOLUTIONS AND ALL RELATED SERVICES ARE

PROVIDED "AS IS" AND CUSTOMER'S USE OF THEM IS AT ITS OWN RISK. AVEPOINT DOES NOT MAKE, AND HEREBY SPECIFICALLY DISCLAIMS, AND CUSTOMER RELEASES AND WAIVES, ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE OR FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. AVEPOINT DOES NOT WARRANT THAT CUSTOMER'S USE OF THE SOLUTIONS WILL BE UNINTERRUPTED OR ERROR-FREE, NOR DOES AVEPOINT WARRANT THAT IT WILL REVIEW CUSTOMER DATA FOR ACCURACY OR THAT IT WILL PRESERVE OR MAINTAIN CUSTOMER DATA WITHOUT LOSS. AVEPOINT SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF AVEPOINT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, AVEPOINT DOES NOT WARRANT THAT THE SOLUTIONS WILL MEET CUSTOMER'S REQUIREMENTS, WILL OPERATE IN ANY COMBINATION THAT MAY BE SELECTED FOR USE BY CUSTOMER OR IN COMBINATION WITH OTHER THIRD-PARTY SOFTWARE BEYOND THE THIRD-PARTY SOFTWARE EXPRESSLY APPROVED AS COMPLIANT IN THE DOCUMENTATION. EXCEPT AS TO COMPATIBILITY OF THE LICENSED SOFTWARE AS DESCRIBED IN AVEPOINT'S DOCUMENTATION, AVEPOINT MAKES NO WARRANTIES TO CUSTOMER WITH RESPECT TO CUSTOMER'S COMPUTER EQUIPMENT OR SYSTEM SOFTWARE OR ITS CAPACITY. FURTHERMORE, AVEPOINT DOES NOT WARRANT THAT ANY SOFTWARE ERRORS, DEFECTS, OR INEFFICIENCIES WILL BE CORRECTED, NOR DOES AVEPOINT ASSUME ANY LIABILITY FOR FAILURE TO CORRECT ANY SUCH ERROR, DEFECT OR INEFFICIENCY. AVEPOINT MAKES NO WARRANTY, AND CUSTOMER ASSUMES THE ENTIRE RISK, AS TO THE INTEGRITY OF ANY DATA AND THE RESULTS, CAPABILITIES, SUITABILITY, USE, NON-USE OR PERFORMANCE OF THE SOLUTIONS. IN NO EVENT SHALL AVEPOINT BE LIABLE TO CUSTOMER FOR ANY DAMAGES RESULTING FROM OR RELATED TO THE USE OF THE SOLUTIONS. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED



WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

## 7. REMEDIES AND DAMAGES LIMITATION

### 7.1. Consequential Damages Waiver.

NEITHER PARTY SHALL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOSS OF USE, LOST DATA, LOST PROFITS, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, LOSS CAUSED BY THE INTERRUPTION, TERMINATION OR DELAYED OPERATION OF THE INTERNET, THIRD-PARTY TELECOMMUNICATION SERVICES OR THIRD-PARTY SECURITY FEATURES OR SYSTEMS, EXCEPT AS REQUIRED BY LAW. EXCEPT FOR CUSTOMER'S BREACH OF SECTION 1.4 (USE RESTRICTIONS) OR EITHER PARTY'S UNLAWFUL OR WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED OF THE POSSIBILITY IN ADVANCE, SUFFERED BY ANY PARTY OR ANY PARTY CLAIMING ON BEHALF OF OR THROUGH THE OTHER PARTY, OR ANY OTHER THIRD PARTY RESULTING FROM OR ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF.

**7.2. Liability Cap.** EXCEPT FOR EXCLUDED CLAIMS, EACH PARTY'S ENTIRE CUMULATIVE LIABILITY TO THE OTHER ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT, IN THE CASE OF AVEPOINT, EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER TO AVEPOINT UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY OR, IN THE CASE OF CUSTOMER, EXCEED THE AMOUNT PAYABLE TO AVEPOINT IN ACCORDANCE WITH THE ORDER. FOR THE AVOIDANCE OF DOUBT, THE PRECEDING LIMITATION OF LIABILITY SHALL NOT AFFECT CUSTOMER'S OBLIGATION TO EFFECT PAYMENT AS PER SECTION 4 (ORDERS AND PAYMENT), WHICH SHALL REMAIN IN EFFECT REGARDLESS OF AND ON TOP OF THE LIMITATION OF LIABILITY.

**7.3. Excluded Claims.** "Excluded Claims" means (a) any claim arising from Customer's breach of Section 1.4 (Use Restrictions), 2.3 (Rights in

Customer Data); (b) any amounts payable to third parties pursuant to Customer's indemnification obligations under Section 2.4 (Indemnification by Customer) or AvePoint's indemnification obligations under Section 8 (Indemnification); (c) Customer's breach of Section 3 (Ownership); or (d) unlawful or willful misconduct or gross negligence.

### 7.4. Nature of Claims and Failure of Essential Purpose.

The Parties agree that the waivers and limitations specified in this Section 7 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 specified in this Agreement is found to have failed of its essential purpose.

## 8. INDEMNITY

AvePoint shall defend Customer from and against any claim by a third party alleging that the Solutions when used as authorized under this Agreement infringes a patent or any copyright or trademark and shall indemnify and hold harmless Customer from and against any damages and costs awarded against Customer or agreed in settlement by AvePoint (including reasonable attorneys' fees) resulting from such claim, provided that AvePoint has received from Customer: (i) prompt written notice of such claim (but in any event notice in sufficient time for AvePoint to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense and settlement (if applicable) of such claim; and (iii) all reasonably necessary cooperation of Customer (at AvePoint's expense for reasonable out-of-pocket costs). If Customer's use of the Solutions is (or in AvePoint's opinion is likely to be) enjoined, if required by settlement or if AvePoint determines such actions are reasonably necessary to avoid material liability, AvePoint may, in its sole discretion: (a) substitute substantially functionally similar products or services; (b) procure for Customer the right to continue using the Solutions; or if (a) and (b) are not commercially reasonable, (c) terminate the Agreement and refund to Customer the fees paid by Customer for the portion of the Subscription Term that was paid by Customer but not rendered by AvePoint. The foregoing indemnification obligation of AvePoint shall not apply: (1) if the Solutions are modified by any party other than AvePoint, but solely to the

extent the alleged infringement is caused by such modification; (2) if the Solutions are combined with products or processes not provided by AvePoint, but solely to the extent the alleged infringement is caused by such combination; (3) to any unauthorized use of the Solutions; (4) to any action arising as a result of Customer Data or any third-party deliverables or components contained within the Solutions; or (5) if Customer settles or makes any admissions with respect to a claim without AvePoint's prior written consent. THIS SECTION 8 SETS FORTH AVEPOINT'S AND ITS SUPPLIERS' SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

## 9. CONFIDENTIAL INFORMATION

Each party (as "**Receiving Party**") agrees that all code, inventions, know-how, privacy and/or security reports, business, technical and financial information and trade secrets obtained from the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any AvePoint technology, performance information relating to the Services, and the terms and conditions of this Agreement shall be deemed Confidential Information of AvePoint without any marking or further designation. Except as expressly authorized herein, the Receiving Party shall (1) hold in confidence and not disclose any Confidential Information to third parties except to its own or its Affiliates' directors, officers, employees, auditors, agents, consultants or other representatives, provided that these persons have a clear need to know such Confidential Information in connection with the Purpose and are bound by an obligation of confidentiality no less restrictive than set forth in this Agreement, and provided that the Receiving Party remains responsible for compliance by any such representative with the terms of this Section; and (2) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under this Agreement. The Receiving Party's confidentiality obligations shall not apply to

information that the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may make disclosures to the extent required by law or court order, provided the Receiving Party – to the extent legally permitted – notifies the Disclosing Party in advance and cooperates in any effort to obtain confidential treatment. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

## 10. TERM AND TERMINATION

**10.1. Term.** This Agreement shall remain in full force and effect from the Effective Date until terminated pursuant to Section 10.2 (Termination of this Agreement for Cause), or as otherwise agreed by the Parties in writing when Customer's Subscriptions have expired or been terminated in accordance with this Agreement.

**10.2. Termination of this Agreement for Cause.** Either Party may terminate this Agreement (including all related Orders) if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay fees) within thirty (30) days after written notice; (b) ceases operations without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditor's arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter. Notwithstanding the foregoing, a Party shall not be permitted to terminate this Agreement due to that Party's own material breach of this Agreement.

**10.3. Effect of Termination.** Immediately upon termination, cancellation, or expiration of this

Agreement for any reason, all rights and Licenses granted to Customer shall cease and terminate, and Customer shall have no right thereafter to use, and shall cease the use of, the Solutions. Where applicable, Customer shall uninstall any Licensed Solutions from its systems and shall, at AvePoint's sole discretion, either destroy or return the Licensed Solutions (including all copies thereof) to AvePoint. Except as set out in Section 10.3 (Data Retention and Migration of Generated Data) below, Customer acknowledges that following termination, cancellation, or expiration of this Agreement or any Subscription, it shall have no further access to any Customer Data in the SaaS Solutions, and, except as provided elsewhere in this Agreement, that AvePoint may delete any such data as may have been stored by AvePoint at any time. Except where an exclusive remedy is specified, the exercise of either party of any remedy under this Agreement, including termination, will be without prejudice to other remedies it may have under this Agreement, by law or otherwise. Customer acknowledges and agrees that in case of a termination of this Agreement by AvePoint pursuant to Section 10.2 for cause, all agreed but unpaid fees shall be invoiced by AvePoint and shall immediately be payable by Customer to AvePoint. If Customer terminates pursuant to Section 10.2 for cause, then Customer shall be entitled to a refund of pre-paid fees for Maintenance or subscription-based Solutions for the remaining months in the then-current Support Term or Subscription Term (as applicable).

**10.4. Data Retention and Migration.** Upon cancellation, termination or expiration of a Subscription or termination of this Agreement, Customer Data in the SaaS Solutions will be preserved for fifteen (15) days (the "**Retention Period**") and, upon request, made available to Customer within a commercially reasonable timeframe. After the Retention Period, such Customer Data will be permanently deleted from AvePoint's Server and unrecoverable by Customer. After the Retention Period, AvePoint makes no representations or warranties as to the preservation or integrity of Customer Data. Customer hereby agrees that AvePoint shall have no obligation to retain Customer Data after the Retention Period, unless otherwise prohibited by law. If Customer renews its Subscription to the SaaS Solutions prior to the end of the Retention Period, Customer Data

shall remain available to Customer. Before the Retention Period ends, Customer may request AvePoint to provide certain data migration and/or export services: (1) Generated Data Export Services- Providing a copy of the Customer's Generated Data for export to another Cloud Storage Provider or on-premises location of Customer's choosing; or (2) Data Migration Services- Migration services to assist in the transitioning to or from Customer-provided storage to or from alternative storage of Customer's choosing, or migration of data between Customer's online services tenant and another online services tenant, whether within the same region or across regions. In either instance, AvePoint shall assess whether and to what extent such export/migration is reasonably possible. If AvePoint elects to provide such services, it will do so at its then current rates, unless otherwise agreed in writing between AvePoint and Customer.

**10.5. Surviving Provisions.** The following Sections shall survive any expiration, cancellation, or termination of this Agreement: 1.4 (Use Restrictions), 2.3 (Rights in Customer Data), 2.4 (Indemnification by Customer), 3 (Ownership), 4 (Fees), 6.1 (Warranty Disclaimer), 7 (Limitation of Remedies and Damages), 8 (Indemnification), 9 (Confidential Information), 10 (Term and Termination), and 12 (General Terms).

**10.6. Termination or Expiration of Subscriptions and Support Services.** Expiration or termination of any Subscription or of Support Services for Perpetual Licenses may occur without termination of the Agreement. Unless terminated in accordance with the Agreement, a Subscription or Support Service shall continue in force for the period provided for in the Order (the "**Initial Term**"). Unless otherwise agreed in writing between AvePoint and Customer, the Subscription shall thereafter be automatically renewed for renewal terms of one (1) year ("**Renewal Term**") unless either party gives the other written notice of non-renewal at least thirty (30) days prior to the end of the Initial Term or any subsequent Renewal Term. If the Term automatically renews as provided for herein, the price for such Renewal Term shall increase by no less than five percent (5%) per annum over the prior Term's final year price, unless otherwise agreed in writing between AvePoint and Customer.

**11. CO-MARKETING.** Customer agrees to the use of Customer's name and logo on AvePoint's web site and promotional materials, in press releases, product brochures, sales presentations, financial reports, webinars, and in other public statements or releases. Customer agrees that AvePoint may disclose Customer as a customer of AvePoint.

## 12. GENERAL TERMS

### 12.1. Definitions.

**"Affiliate"** means, with respect to any person, any other person that controls or is controlled by or under common control with such Person; provided, that a person shall be deemed to be an Affiliate only so long as such control exists. For the purposes of this definition, **"person"** means any individual, corporation, partnership, joint venture, joint stock company, trust, estate, association, limited liability company, or other entity the existence of which is recognized by any legal or regulatory authority; and **"control,"** when used with respect to any Person, means direct or indirect ownership of at least fifty percent (50%) of the voting stock, shares, or other equity interest in the controlled Person and possession of the power to direct or cause the direction of the management and policies of the controlled Person.

**"Authorized User"** or **"User"** means: (i) a direct user of the Solutions, including but not limited to Customer's and Customer's Affiliates' employees; or (ii) Customer's and Customer's Affiliates' consultants who have agreed to use the Solutions only for the benefit of Customer and Customer's Affiliates and subject to the terms and conditions and restrictions of this Agreement. For the avoidance of doubt, Customer is responsible for ensuring such compliance of its consultants.

**"Business Contact Information"** means incidental business contact information that Customer provides to AvePoint in the ordinary course of business, which AvePoint in turn retains within various internal systems and departmental records, including but not limited to its customer relationship management system, Legal and Accounting departments.

**"Cloud Storage Provider"** means the third party that provides AvePoint with cloud storage capacities

to store Customer Data and provide the Solutions. Depending on the AvePoint Solution for which Customer purchased an access right, certain Customer Data may be stored on supported cloud storage capacities of a different Cloud Storage Provider that is contracted by Customer.

**"Customer Data"** means data that is: a) provided to AvePoint by, or on behalf of, Customer (including all text, sound, video, or image files, and software) for use with the Solutions (**"Customer Provided Data"**); b) referring to Customer specific configurations that are necessary for the operation of the Solutions (**"Configuration Data"**); or c) generated from Customer Provided Data by features of the Solutions and hosted on the storage of the Cloud Storage Provider, e.g. generated backups of Customer Provided Data or log files generated by the Solutions (**"Generated Data"**).

**"Defect"** means a problem causing the Solution to not materially or substantially conform to the Documentation.

**"Documentation"** means the end user documentation delivered with or related to the Solutions (including but not limited to user guides, manuals, release notes or online portals and wiki pages) as may be modified from time to time including, but not limited to, user guides at <https://www.avepoint.com/resources/user-guides>.

**"Downtime"** means the total accumulated time during which the relevant Solutions are without external connectivity, meaning without bi-directional network traffic over supported protocol.

**"DPIS Policy"** is AvePoint's Data Protection and Information Security Policy as periodically amended: <https://www.avepoint.com/license/dataprotection.html>.

**"Internal Use"** means use of the Solutions by employees of Customer in Customer's internal operations but does not include access of the Solutions by, or use of the Solutions in the provisions of services to, Customer's clients or customers. Internal Use also includes use of the Solutions by contractors of Customer, including contractors providing outsourcing or hosting services, as long as Customer assumes full responsibility for the compliance with this Agreement in such use. Use of the Solutions (or any

part thereof) for the benefit of others, whether by means of a software as a service offering, application service provider, outsourcing or other means of providing service to any third party shall not be considered Internal Use.

**“Licensed Solution”** means the Software for which Customer has purchased a License as identified in an Order, including updates or upgrades to it that AvePoint may at its discretion deliver to Customer.

**“Local Office Time”** means the given time at the nearest appropriate AvePoint office or Call Center designated to provide Support Services to Customer at AvePoint’s discretion.

**“Order”** or **“Order Form”** means a valid order by Customer, which can be a) an AvePoint sales quote that has been signed by Customer; b) a Customer purchase order that has been accepted by AvePoint; or c) where Customer purchases through a Partner, the relevant purchase document that has been accepted. For the avoidance of doubt, any (pre-printed) terms of Customer or references thereto on Customer purchase orders or like order documents shall not be applicable.

**“Partner”** means a reseller or distributor of AvePoint with which AvePoint is party to an agreement memorializing that relationship accordingly.

**“Perpetual License”** means a perpetual license to the Software that is identified in the pertaining applicable Order and is subject to the limitations set forth in Sections 1.2.1.2 (Perpetual Licenses) and 1.4 (Use Restrictions).

**“Personal Data”** has the meaning given to it in the EU Regulation 2016/679 (**“General Data Protection Regulation”** or **“GDPR”**).

**“SaaS Solution”** means the specific AvePoint proprietary hosted service(s) specified on an Order form, including any related AvePoint dashboards, APIs, and AvePoint Software.

**“Service Credit”** means the percentage of the total fees paid for specific SaaS Solutions that are applied to the month (i.e., 1/12 of the annual fees owed by Customer to AvePoint for the specific SaaS Solutions) in which a Service Credit is owed. If Customer purchased SaaS Solutions as part of a suite or other

single offer, the monthly fees and Service Credit for each SaaS Solution will be pro-rated.

**“SharePoint Server”** means a configured and installed server (whether physical or virtual) on which the Microsoft SharePoint application is run.

**“Software”** means the object code (machine readable) version of any computer programs offered by AvePoint and any ancillary data files, modules, libraries, tutorial or demonstration programs or other components and copies of any of the foregoing or portions thereof.

**“Solutions”** means the SaaS Solutions and/or Licensed Solutions for which Customer is purchasing an access right or a License (as applicable) pursuant to this Agreement and the corresponding Order.

**“Subscription”** means the metric according to which SaaS Solutions or Term Licenses are purchased on a non-perpetual basis, as described in the Order.

**“Term”** means the period specified in the applicable Order during which Customer will be granted a) access to the SaaS Solutions; b) a Term License, as applicable; or c) Support Services. For SaaS Solutions and Term Licenses, the Support Term shall be equal to the Subscription Term.

**“Usage Data”** means AvePoint’s technical logs, data and learnings about Customer’s use of the Services (e.g., frequency of logins). For clarity, Usage Data does not include Customer Data.

**12.2. Binding Effect.** This Agreement and all of the provisions hereof shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

**12.3. Amendment.** This Agreement may be amended only by a writing duly executed by the authorized representatives of the Parties hereto which makes specific reference to this Agreement.

**12.4. Notices.** All notices, requests, demands, consents, authorizations, claims, and other communications (each a “Notice”) hereunder must be in writing by an authorized representative of the sender and shall be deemed to have been duly given: (i) when hand-delivered to the addressee; (ii) when transmitted by confirmed e-mail with a duly

signed scan of the Notice attached; (iii) one (1) business day after being given to an overnight courier with a reliable system for tracking delivery; or (iv) three (3) business days after the day of mailing, when mailed by registered or certified mail, return receipt requested, postage prepaid. Notices to AvePoint shall be sent, Attn: General Counsel, 901 E. Byrd Street, Suite 900, Richmond, VA 23219; or, if sent by confirmed e-mail, to legal@avepoint.com. Unless otherwise specified by Customer in writing, Notices to Customer shall be sent to Customer's e-mail address provided in the Order or, if no such e-mail address has been provided, to the registered agent of Customer in the jurisdiction in which Customer is organized or incorporated. Any Party may change the address to which Notices are to be delivered by giving the other Party Notice in the manner herein set forth.

**12.5. Intentionally Omitted.**

**12.6. Assignment.** Except in conjunction with the sale of all or substantially all its stock or assets, Customer may not, directly or indirectly, sell, assign, sublicense, lease, rent, distribute, or otherwise transfer the Agreement or any rights or obligations therein to any other person or entity without AvePoint's written consent.

**12.7. Waiver.** No Party shall be deemed to have waived any of its rights, powers or remedies under this Agreement unless such waiver is expressly set forth in a writing signed by the waiving Party. No written waiver of any provision of this Agreement shall be deemed to be, or shall constitute, (i) a waiver of any other provision of this Agreement, whether or not similar, or (ii) a continuing or subsequent waiver of the same or another provision of this Agreement. The failure of either Party to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by the other Party of any of the provisions of this Agreement, will in no way be construed to be a present or future waiver of any such provisions, or in any way affect the validity of either Party to enforce each and every such provision thereafter.

**12.8. Force Majeure.** Neither Party shall be liable to the other Party for any delay or failure in the performance of its obligations under this Agreement while in effect or otherwise if such delay

or failure arises from any cause or causes beyond the control of such Party including, without limitation, labor shortages or disputes, strikes, other labor or industrial disturbances, delays in transportation, acts of God, floods, lightning, fire, epidemic, shortages of materials, rationing, utility or communication failures, earthquakes, casualty, war, acts of the public enemy, an act of civil or military authority, sabotage, explosives, riots, insurrections, embargoes, blockades, actions, restrictions, regulations or orders of any government, agency or subdivision thereof, or failure of suppliers.

**12.9. Captions.** The captions and headings of Sections and subsections contained in this Agreement are provided for convenience of reference only and shall not be considered a part hereof for purposes of interpreting this Agreement, and, therefore, such captions and headings do not define, modify, limit, describe or affect in any way the meaning or intent of this Agreement or any of its terms or provisions.

**12.10. Severability.** If any Section or other provision of this Agreement, or the application of such Section or provision, is held invalid, then the remainder of this Agreement, and the application of such Section or provision to persons or circumstances other than those with respect to which it is held invalid, shall not in any way be affected or impaired thereby. If any provision of this Agreement becomes or is declared by a court of competent jurisdiction or panel of arbitrators to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision. The Parties agree to negotiate in good faith a substitute valid and enforceable provision that most nearly effects the Parties' intent and to be bound by the mutually agreed substitute provision.

**12.11. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

**12.12. Segmentation.** Any of Customer's purchases under this Agreement are separate Orders and are separate from any other offer that Customer may receive or may have received from AvePoint. Customer understands that it may purchase any AvePoint Solutions independently of

any other purchase from AvePoint. Customer's obligation to pay for any purchase is not contingent on the performance and/or delivery of any other purchase from AvePoint.

**12.13. Remedies.** All remedies shall be cumulative and not alternative and in addition to all other rights and remedies available in law and in equity.

**12.14. Intentionally Omitted.**

**12.15. Entire Agreement.** This Agreement, including any referenced or attached addenda, exhibits, and/or appendices (which shall be deemed incorporated by this reference), is the complete and exclusive statement of the mutual understanding of the Parties. Notwithstanding the foregoing, to the extent that there exists a Prior Negotiated Agreement, the provisions of that Prior Negotiated Agreement shall control unless expressly provided otherwise in such other agreements. In the event that there is no such Prior Negotiated Agreement, then the provision of the Solutions by AvePoint, and Customer's use thereof, shall be governed by this Agreement. Subject to anything to the contrary contained in this Agreement or any Prior Negotiated Agreement, this Agreement between the Parties supersedes and cancels as null and void any and all prior and contemporaneous negotiations, discussions, proposals, agreements, representations or communications, oral or written, of the Parties with respect to the subject matter. Notwithstanding the foregoing, an Order form submitted by Customer and accepted by AvePoint may set forth only the type, description and quantity of Services and provide for a longer Support Term or for a longer Subscription Term, and such terms shall be deemed binding. No other purchase order terms or conditions of Customer shall be deemed to supersede, replace, or modify this Agreement. There are no representations, agreements, arrangements, or understandings, oral or written, between the Parties relating to the subject matter of the Agreement which are not fully expressed. In this Agreement, headings are for convenience only and "including", "e.g.", and similar terms will be construed without limitation.

**12.16. Subpoenas.** Nothing in this Agreement prevents AvePoint from disclosing Customer Data to the extent required by law, subpoenas, or court

orders. AvePoint shall use commercially reasonable efforts to notify Customer where permitted to do so.

**12.17. Independent Contractors.** Customer and AvePoint are independent contractors. There is no relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither Party can bind the other or incur obligations on the other Party's behalf without the other Party's prior written consent.

**12.18. Export Control.** Customer shall comply with all export and import laws and regulations of the United States and other applicable jurisdictions governing use, export, reexport, and transfer of products, technology, and services and will obtain all necessary or required authorizations, permits, and licenses. Without limiting the foregoing, Customer represents and warrants that it is not, and it will not permit access to the Solutions by any user who is (i) designated on the Specially Designated Nationals and Blocked Persons List, the Consolidated Sanctions List, or any other list administered by Office of Foreign Assets Control of the U.S. Treasury Department, (ii) designated on the Denied Persons List, the Unverified List, the Entity List, or any other list administered by the U.S. Commerce Department, (iii) designated on any list of targeted persons issued under the economic, financial, trade or investment sanctions of the United Nations, the European Union, or any other country, (iv) a government of a Sanctioned Territory, the government of Venezuela, or an Iranian bank, (v) located within, operating from, or national of a Sanctioned Territory, or (vi) owned or controlled by, or acting on behalf of, any of the foregoing. For the purposes of this section, "**Sanctioned Territory**" means any country or other territory subject to a general export, import, financial or investment embargo or restriction under U.S. or other applicable law, which as of March 2022, includes Cuba, Iran, North Korea, Syria, Russia, Belarus, and the Crimea, Donetsk People's Republic, and Luhansk People's Republic regions of Ukraine. Customer shall not submit to the Solution any information that is controlled under the U.S. International Traffic in Arms Regulations. Customer represents and warrants that it will not use the Solutions for any purposes prohibited by U.S. law, including, without limitation, the development, design, manufacture, or production of missiles or nuclear, chemical, or

biological weapons. Customer shall immediately notify AvePoint if it has any information or suspicion that there may be a violation of this Section. Customer also represents and warrants that it is aware of, understands, and agrees to comply with, and to avoid any activity that may cause it or AvePoint to violate, applicable anti-bribery and anti-corruption laws including, but not limited to, the U.S. Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§ 78dd-1, et seq.) as amended and the UK Bribery Act 2010 (as applicable) (collectively, "Anti-Corruption Laws"). If Customer takes any action that could constitute a violation of this Section or any Anti-Corruption Laws, AvePoint may immediately terminate this Agreement.

**12.19. Government End-Users.** If the user or licensee of the Solutions is an agency, department,

or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Solutions, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Solutions were developed fully at private expense. All other use is prohibited.

**12.20. Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement.