

**Any Sales Order or Statement of Work and all attachments contained therein that you, customer and/or partner, (“Customer”) signed that references this Master Subscription Agreement (“Agreement”), is governed by the terms and conditions contained in this Agreement. The effective date of this Agreement is the date that Customer signed the Sales Order or Statement of Work, whichever is applicable (“Effective Date”).**

**BY ACCEPTING THIS AGREEMENT THROUGH A SALES ORDER OR STATEMENT OF WORK, CUSTOMER AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.**

**IF CUSTOMER IS ENTERING INTO THIS AGREEMENT ON BEHALF OF OTHER COMPANIES OR ENTITIES (FOR INSTANCE, AS AN AGENCY OR AUTHORIZED RESELLER), THEN CUSTOMER REPRESENTS AND WARRANTS THAT IT HAS THE AUTHORITY TO BIND SUCH COMPANIES AND ENTITIES TO THIS AGREEMENT AND ALL SALES ORDERS AND STATEMENTS OF WORK.**

**ELIXIR MAY UPDATE OR OTHERWISE MODIFY THIS AGREEMENT FROM TIME TO TIME. CUSTOMER’S CONTINUED USE OF THE SUBSCRIPTION SERVICES AFTER AN UPDATE AND/OR MODIFICATION WILL CONSTITUTE CUSTOMER’S ACCEPTANCE OF THE UPDATES AND/OR MODIFICATIONS OF THE AGREEMENT.**

## **1. DEFINITIONS**

**"User"** means an individual who is authorized by Customer to use the Subscription Services, for whom Customer has purchased the Subscription Services and to whom Customer has supplied a user identification and password. Users may include, for example, Customer’s employees and consultants.

**"Agreement"** means this Agreement including any Sales Order, Statements of Work, Support Services & Service Levels (Attachment A) and any amendments to this Agreement from time to time;

**“Content”** means information obtained by Elixir from publicly available sources or its third party content providers and made available to Customer through the Subscription Services.

**"Customer Data"** means all data, works and materials submitted by Customer to the Subscription Services or generated for Customer by the Subscription Services;

**“Deliverables”** means materials, reports, design documents, models, software, and other work product delivered by Elixir to Customer pursuant to a Statement of Work.

**"Documentation"** means the documentation for the Subscription Services Elixir makes available to Customer.

**“Force Majeure Event”** means events beyond the reasonable control of the Parties, including, but not limited to, acts of God, acts of government, floods, fire, earthquake, civil unrest, embargoes, war or other military actions and terrorist acts.

**“Initial Term”** means the first three (3) years of this Agreement.

**“Intellectual Property”** means all concepts, inventions (whether or not protected under patent laws), works of authorship, information fixed in any tangible medium of expression (whether or not protected under copyright laws), moral rights, mask works, trademarks, trade names, trade dress, trade secrets, publicity rights, names, likenesses, know-how, ideas (whether or not protected under trade secret laws) and all other subject matter protected under patent (or which is not patented, but is subject matter that is protected under patent law), copyright, mask work, trademark, trade secret, or other laws, whether existing now or in the future, whether statutory or common law, in any jurisdiction in the world, for all media now known or later developed, including all new or useful art, combinations, discoveries, formulae, algorithms, specifications, manufacturing techniques, technical developments, systems, computer architecture, artwork, software, programming, applets, scripts, designs, processes and methods of doing business.

**“On Premise”** means the Subscription Services that are delivered via software managed and operated by Customer and deployed on computing and network infrastructure determined by Customer.

**“Sales Order”** and **“Statement of Work”** means a document executed by the Parties noting the Subscription Services, other services Elixir shall provide, and corresponding pricing and the Subscription Term.

**“Consulting Services”** means system analysis, integration, application development, deployment, configurations, automation, technical training, and custom software development performed by Elixir.

**“Subscription Services”** means the services Elixir provides to Customer in accordance with this Agreement.

**“Subscription Term”** means the commencement date for an annual period for the Subscription Services, unless modified in a Sales Order or Statement of Work.

## 2. TERM

This Agreement commences on the Effective Date and shall continue until terminated pursuant to section 16.

## 3. SUBSCRIPTION RIGHTS & RESPONSIBILITIES

3.1 Subject to Elixir’s receipt of all applicable fees owed by Customer and subject to Customer complying with the terms and conditions contained in this Agreement, Elixir grants to Customer a non-transferable, non-exclusive right to use the Subscription Services. Customer authorizes Elixir to use a subcontractor to perform Consulting Services pursuant to a Statement of Work. Elixir is responsible for the completion of all its subcontracted work.

3.2 Unauthorized Usage. Both Parties shall use reasonable endeavors to ensure that no unauthorized person may gain access to the Subscription Services. The Subscription Term

commences upon the Effective Date. Customer must procure and make the necessary hardware available, and this obligation of the Customer will not in any way affect the start of the Subscription Term and invoice the Subscription fees.

3.3 Usage Restrictions. Customer must not use the Subscription Services as follows:

- (a) In any way that is unlawful, illegal, fraudulent or harmful;
- (b) Customer shall ensure that persons employed by Customer or under Customer's direction and control (including Customer's subcontractors and consultants) comply with all of the terms and conditions of this Agreement. Customer will have no right to access the compiled program objects of the Subscription Services, either during this Agreement or after this Agreement is terminated. Customer shall not knowingly permit anyone to use any portion of the Subscription Services for the purpose of deriving its source code or compiled program objects. Customer shall not modify, adapt, translate, reverse engineer, disassemble, or decompile the Subscription Services, or any portion thereof. In the event the Customer becomes aware that the Subscription Services are being used by such persons in a manner unauthorized by this Agreement, Customer shall immediately have such unauthorized use of the Subscription Services cease. Customer shall immediately notify Elixir in writing of the unauthorized use of the Subscription Services.

Any use or utilization of the Subscription Services in violation of this Agreement shall be a material breach of this Agreement and shall entitle Elixir to all the rights deriving from such a breach, without limitation. Such rights shall also include Elixir's right to obtain an immediate injunction enjoining any such unauthorized use and charge Customer additional fees for the Subscription Services.

The Subscription Services will be used only by the Customer. The Customer is prohibited from providing access to the Subscription Services to any person or entity that is not an employee or consultant of the Customer.

- (c) Customer will not access the Subscription Services if Customer is a competitor of Elixir, except with Elixir's prior written consent. In addition, Customer will not access the Subscription Services for purposes of monitoring the availability, performance or functionality of the Subscription Services, or for any other benchmarking or competitive purposes.
- (d) Elixir may suspend access to the Subscription Services if any amount due to be paid by Customer to Elixir under this Agreement is overdue.
- (e) Customer will only use the Subscription Services Customer has purchased.

### 3.4 On Premise Subscription Services

The Customer's On-Premise computing and network infrastructure must conform to at least Elixir's minimum guidelines for provisioned infrastructure. Customer is responsible for that infrastructure, including hardware, software (such as operating systems) and network

components, and for physical and electronic security, configuration, system backup and restore and for other IT best practices necessary to ensure system integrity, security and reliability.

#### **4. SUPPORT**

Support Services & Service Levels are contained in Attachment A.

#### **5. INVOICING AND PAYMENT**

5.1 Customer shall pay the fees to Elixir in accordance with each Sales Order and Statement of Work. All Subscription Services fees are billed in advance and payment obligations are non-cancelable and the fees are non-refundable. Quantities purchased cannot be decreased during the relevant Subscription Term. The fees are based on the Subscription Services and Content purchased and not actual usage. All invoiced amounts are in US dollars. Payment for all invoices are due within thirty (30) days of the date of the invoice. Payment for Subscription Services is due at the commencement of the Subscription Term and each anniversary thereafter unless stated otherwise in the Statement of Work or Sales Order. The per-unit pricing for any renewal Subscription Term will increase by up to seven percent (7%) above the applicable pricing in the prior Subscription Term unless Elixir provides Customer notice of different pricing at least sixty (60) days prior to the applicable renewal Subscription Term. Increased pricing will be based on Elixir's applicable list price in effect at the time of the effective date of the applicable Sales Order, not the amount of any promotional or one-time subscription fees provided in the applicable Sales Order. Any renewal in which subscription volume or subscription length for any Subscription Services has decreased from the prior Subscription Term will result in re-pricing at the time of renewal without regard to the prior Subscription Term's per-unit pricing.

5.2 Elixir shall charge interest at the rate of one and one half percent (1 1/2 %) per month, eighteen percent (18%) per annum, or at the maximum rate allowed by law, whichever is lower, for all payments not received within thirty (30) days after the date of the invoice. Customer shall also pay all of Elixir's costs incurred (including attorney fees) with the collection of all overdue accounts.

5.3 Customer may add Subscription Services during the Subscription Term. The amount of the fees for the additional Subscription Services will be prorated for the portion of the original Subscription Term remaining at the time the additional Subscription Service is added. All additional Subscription Services will terminate on the same date as the original Subscription Services. Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written comments made by Elixir regarding future functionality or features.

5.4 Elixir may suspend or terminate Subscription Services if Customer does not pay all the fees by the renewal date.

5.5 Taxes. Customer shall pay Elixir all applicable tax, including sales or use taxes, with respect to Customer's use of the Subscription Services and all other services if applicable pursuant to this Agreement.

## 6. ACCEPTANCE FOR STATEMENTS OF WORK

Upon Elixir's delivery of the Deliverables, Customer will review and test such Deliverables to determine whether it meets its specifications and acceptance criteria as agreed by the Parties in writing. Customer will have five (5) days (or such other number of days as may be agreed by the Parties in an SOW). Prior to the expiration of the applicable Review Period, Customer will issue Elixir a written statement ("Word Acceptance Form") indicating acceptance ("Acceptance") or rejection ("Rejection") of the Deliverables. In the event of Rejection, Customer will give its reasons for Rejection detailing the errors, defects and non-conformities. Customer will be deemed to have Accepted any Deliverables if Customer does not provide Elixir with a Work Acceptance Form by the end of the Review Period. Acceptance will occur only as described above.

## 7. CONFIDENTIALITY

7.1 Definition of Confidential Information. "Confidential Information" means all information disclosed by a Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer's Confidential Information includes Customer Data; Elixir's Confidential Information includes the Subscription Services; and Confidential Information of each Party includes the terms and conditions of this Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

7.2 The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its employees and consultants who need that access for purposes consistent with this Agreement. Neither Party will disclose the terms of this Agreement, Statement of Work or any Sales Order to any third-

party other than its legal counsel and accountant without the other Party's prior written consent, provided that a Party that makes any such disclosure to its legal counsel or accountant will remain responsible for legal counsel's or accountant's compliance with this "Confidentiality" section.

7.3 **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

7.4 **Continuing Obligations.** A Receiving Party's obligation to maintain the confidentiality of Confidential Information shall remain in force perpetually with respect to all Confidential Information received prior to the termination of this Agreement. Information in the public domain is not considered Confidential.

## **8. Warranties AND DISCLAIMER OF WARRANTIES**

8.1 Elixir warrants that:

- (a) Elixir has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement;
- (b) Elixir will comply with all applicable legal and regulatory requirements;
- (c) The Subscription Services, when used by Customer in accordance with this Agreement, will not infringe the Intellectual Property rights of any person or entity.

8.2 Customer warrants to Elixir that Customer has the legal right and authority to enter into this Agreement and to perform Customer's obligations under this Agreement, Statements of Work and Sales Orders. Customer also warrants that Customer (a) Will not transfer the Subscription Service to any third party; (b) Shall use the Subscription Service in compliance with applicable laws, rules regulations; and (c) Shall not allow unauthorized users access to the Subscription Service and third-party components / frameworks without prior written authorization of Elixir.

8.3 **Disclaimer of Warranties.** EXCEPT FOR THE EXPRESS WARRANTIES MADE OR REFERENCED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## **9. LIMITATION ON LIABILITY & DAMAGES**

9.1 **Limitation of Liability.** In no event shall either Party, and any owner of third party components / frameworks of the Subscription Service, be liable to the other or to any third



party, whether in contract, tort (including negligence), warranty or otherwise, for any indirect, incidental, special, consequential, exemplary or punitive damages (including, without limitation, loss of profits) and losses arising out of or relating to this Agreement, even if such Party has been advised of the possibility of such damages.

**9.2 Limit on Direct Damages.** In no event shall either Party's aggregate liability exceed the amount paid or payable by Customer to Elixir, pursuant to this Agreement, for the Subscription Term in the twelve (12) months preceding the month in which the event occurred or dispute arose giving rise to the claim for damages.

**9.3 Disclaimer of Warranties.** EXCEPT FOR THE EXPRESS WARRANTIES MADE OR REFERENCED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## **10. FORCE MAJEURE EVENT**

**10.1** Notwithstanding anything to the contrary, neither Party shall be liable for damages caused by delay or failure to perform its obligations under this Agreement, where such delay or failure is caused by an event beyond its reasonable control (a "Force Majeure Event"). The Parties agree that an event shall not be considered beyond one's reasonable control if common or standard technology management practices, such as fault tolerance and redundancy, would materially mitigate or negate the effects of such an event. The Parties further agree that an event shall not be considered beyond a Party's reasonable control if, in the same or similar circumstances under the same or similar obligations as the provisions of this Agreement, a reasonable business person applying due diligence would have put in place contingency plans to either materially mitigate or negate the effects of such an event. If a Party seeks to excuse itself from its obligations under this Agreement due to a Force Majeure Event, that Party shall immediately notify the other Party of the delay or nonperformance, the reason for such delay or nonperformance and the anticipated period of delay or nonperformance.

**10.2** A Party whose performance of its obligations under this Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

## **11. Intellectual Property Ownership**

**11.1** Elixir Intellectual Property Rights. Elixir owns the Intellectual Property in the Subscription Services and all other services that Elixir provides to Customer. All third-party parties and their affiliates and suppliers including third-party components / frameworks thereof.

**11.2** Customer Intellectual Property. Notwithstanding anything to the contrary contained in section 11.1 above, Customer owns the Intellectual Property in the Customer Data.

**11.3** Nothing in this Agreement shall operate to assign or transfer any Intellectual Property rights from Elixir to Customer or from Customer to Elixir.

## **12. Indemnification**

12.1 Elixir's indemnification obligations. If Customer notifies Elixir promptly in writing Elixir shall indemnify, defend and hold Customer harmless from and against any third-party claims based upon (a) any allegation that any portion of the Subscription Service, or Documentation, provided by Elixir to Customer pursuant to this Agreement infringes, misappropriates or violates any Intellectual Property of any third party. Elixir's indemnity obligations in this Agreement shall not extend to the extent of any infringement arising out of: (i) Customer's use of the Subscription Services, and/or software in a manner inconsistent with the Documentation, the terms of this Agreement, Sales Order and Statement of Work; (ii) alterations or modifications made to all services including the Subscription Services and/or software by Customer without the written approval of Elixir; or (iii) use of any services, including Subscription Services and/or software in combination with other services, Subscription Services and/or software not provided, authorized, or recommended by Elixir and (b) breach of confidentiality obligations pursuant to this Agreement.

12.2 Customer's indemnification obligations. If Elixir notifies Customer promptly in writing Customer shall indemnify, defend and hold harmless Elixir from and against any third-party claims based upon (a) any unauthorized use of the Subscription Services; and (b) breach of confidentiality obligations pursuant to this Agreement.

## **13. Informal Dispute Resolution**

The Parties agree that they will make a good faith attempt to resolve any dispute arising under this Agreement, Sales Order and Statement of Work before instituting legal action. Such good faith attempt shall include, but not be limited to, elevating the issue to management personnel of each Party who has the power to settle the dispute on behalf of that Party and, failing that, to an executive level employee for each Party as noted below.

## **14. Third Party Beneficiaries**

14.1 All owners of third party components / frameworks of the Subscription Service are intended third party beneficiaries of this Agreement, with the right to enforce its terms relating to the third-party components / frameworks directly against Customer or, if the law governing this Agreement does not expressly provide for enforceable rights of third party beneficiaries, the following section 14.2 applies.

14.2 Elixir enters into this Agreement on its own behalf and as agent and trustee for and on behalf of the owners of all third party components / frameworks of the Subscription Services and the owners of the third party components / frameworks, as principal in that regard, shall be entitled to exercise the rights and benefits of Elixir under and enforce the terms and conditions of this Agreement directly against Customer as if the third party owner were a party to this



Agreement, but Customer acknowledges, without prejudice to the terms and conditions of this Agreement or to any defense that may be available to Customer at the relevant time, that Customer shall have no right of enforcement of any of the terms or conditions of any agreement between Elixir and a third party.

## **15. AUDIT AND REQUEST FOR INFORMATION**

Elixir may during the term of this Agreement on reasonable notice, have access to Customer's premises for the limited purpose of conducting an audit to determine and verify that Customer is in compliance with this Agreement including Customer's usage of the Subscription Services. Customer shall grant such access and reasonably cooperate with Elixir in the audit. The audit shall be reasonably restricted in scope, manner and duration to that necessary to achieve its purpose and not disrupt Customer's operations. In addition, Customer will cooperate with Elixir's request for information and documentation if Elixir chooses to conduct the audit without accessing Customer's premises. Customer shall be liable to Elixir for promptly remedying any underpayments revealed during the audit, including any payments as a result of unauthorized use of the Subscription Services.

## **16. TERM AND TERMINATION**

16.1 This Agreement will commence on the Effective Date and continue for three (3) years thereafter ("Initial Term"). After the Initial Term this Agreement may be extended for Subscription Terms unless either Party terminates the Agreement at least thirty (30) days prior to each anniversary of the Effective Date subject to section 16.3. Customer must pay to Elixir all charges regarding the Subscription Services and other services prior to the termination of the Agreement. Except as otherwise specified in a Sales Order, Subscription Services will automatically renew for additional Subscription Terms equal to the expiring Subscription Term or one year (whichever is shorter), unless either Party gives the other written notice of non-renewal at least thirty (30) days before the end of the relevant Subscription Term.

16.2 Either Party may terminate this Agreement by giving written notice of termination to the other Party if the other Party commits a material breach of this Agreement and does not remedy the material breach within thirty (30) days of receipt of the written notice specifying in detail the nature of the claimed material breach.

16.3 Effect of Termination or Expiration. The termination of a particular Statement of Work or Sales Order shall not result in the termination of the Agreement unless such termination explicitly provides for termination of the entire Agreement. This Agreement will continue to govern any Sales Order or Statement of Work still in effect at the time of the termination of this Agreement. When the Customer does not pay the Subscription fees, or terminates the Agreement or Sales Order, Customer will no longer have access to the Subscription Services and Services Levels contained in Attachment A.

## 17. ASSIGNMENT

Neither Party may assign its rights or obligations under the Agreement to any third party without prior written consent of the other Party.

## 18. EXPORT RULES

Customer agrees that the Subscription Services will not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other export laws, restrictions or regulations (collectively the “Export Laws”). In addition, if the Subscription Services are identified as export controlled items under the Export Laws, Customer represents and warrants that Customer is not a citizen, or otherwise located within, an embargoed nation and that Customer is not otherwise prohibited under the Export Laws from receiving the Software Services. All rights to use the Subscription Services are granted on condition that such rights are forfeited if Customer fails to comply with the terms of this Agreement.

## 19. CHOICE OF LAW AND JURISDICTION

This Agreement shall be governed and interpreted, in accordance with the laws of the State of California, except U.S. federal laws which govern Intellectual Property rights. If any suit or action is filed by either Party to enforce this Agreement, Sales Order, Statement of Work or otherwise with respect to the subject matter of this Agreement, federal courts in Los Angeles County or state courts of Ventura County, California shall have exclusive jurisdiction and venue over any dispute arising out of this Agreement. Both Parties hereby consent to the jurisdiction of such courts.

## 20. NOTICES

All notices related to this Agreement will be in writing.

**Customer contacts for billing, designated User representative, legal, and management:**

**Elixir contacts for Licensing Department, Business Development, Technical, Legal and management:**

Elixir Technologies Corporation  
1314 East Ojai Avenue  
Ojai, CA 93023  
Attention: General Counsel

## 21. INCORPORATION AND CONFLICTING TERMS

Each Sales Order and Statement of Work will incorporate the terms and provisions of this Agreement. If there is a conflict or inconsistency between the terms of this Agreement and the terms contained in the Sales Order, the terms of the Sales Order shall control over the conflicting terms of the Agreement. If there is a conflict or inconsistency between the terms of this Agreement and the terms contained in a Statement of Work, the terms of the Statement of Work shall control over the conflicting terms of the Agreement. If there is a conflict or inconsistency between the terms of a Statement of Work and the terms of a Sales Order, the terms of the Statement of Work shall control over the conflicting terms of the Sales Order.

## 22. MISCELLANEOUS

**22.1 Entire Agreement.** This Agreement sets forth the entire agreement of the Parties with respect to the subject matter of such Agreement, and supersedes any and all prior proposals, agreements, understandings, and contemporaneous discussions, whether oral or written, between the Parties with respect to the subject matter of this Agreement.

**22.2 Modification.** No modification or amendment to this Agreement shall be valid unless in writing and signed by each Party. No delay or omission by either Party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by any Party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

**22.3 Severability.** If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

**22.4 Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not to be considered construing or interpreting this Agreement.

**22.5 Survival.** The provisions of this Agreement that, by their nature and content, must survive the completion, rescission, termination or expiration of this Agreement in order to achieve the fundamental purposes of this Agreement, shall so survive and continue to bind Elixir and Customer to this Agreement.

**ATTACHMENT A**  
**STANDARD SUPPORT SERVICES & SERVICE LEVELS ON-PREM**

Elixir shall adhere to the following service levels:

## 1. Definitions

**Certain capitalized terms, not otherwise defined in this Attachment, will have the meanings set forth in the Agreement, Statement of Work, and Sales Order. The following terms will have the definitions set forth below:**

**Hotfix/Patch** refers to an expedited software adjustment deployed to address significant business-impacting issues when no Workaround exists.

**Initial Response Time** means the time that elapses between the Customer contacting Elixir Support via email, telephone call, or through the Elixir support portal and the acknowledgment of receipt of the report provided by the Elixir Support Representative.

**Maintenance Release** means a release of the Subscription Services consisting of minor new features and intended to solve problems, typically bugs or security issues.

**New Version Release** means a release of the Subscription Services consisting of major new features and bug fixes along with a roll-up of previous Maintenance Releases.

**Production Environment** means an environment where the Subscription Services are used to produce outputs using real/ live data which cannot be used in any other environments.

**Estimated Time to Recovery** means the estimated duration within which Elixir anticipates resolving an incident or restoring the affected service to its normal operational state following an outage or disruption. This represents an estimate of the time required to rectify the issue and resume functionality after the root cause has been determined. Resuming functionality may include Hotfix/Patch, Workarounds, or permanent fixes depending on the complexity of the issue.

**Resolution/ Workaround time** means the elapsed time between Elixir's determination of the issue's root cause to Elixir's delivery of a Workaround or resolution of the issue and restoration of the services

**Staging Environment** means a Subscription Services environment dedicated to testing updates to the Subscription Services and changes to infrastructure, including physical, storage, and network components, operating systems, supporting applications, and network communications, prior to applying those changes to the Production Environment.

**Customer Update** means the Elixir Support representative is responsible for providing periodic updates to the Customer depending upon the severity of the issues reported.

**Workaround** means a bypass of a problem or limitation acknowledged by Elixir. A Workaround is typically a temporary fix that implies that a genuine solution to the problem is needed.

## 2. On Premise Subscription Services

### 2.1 CUSTOMER'S RESPONSIBILITIES

a) **Supported Environment and Operations:** Customer is responsible for undertaking the proper supervision, control, management, and use of the Subscription Services including, but not limited to: (i) providing, maintaining, and assuring proper configuration of the supporting environment; (ii) following industry standard procedures for the security of data/systems/hardware, the accuracy of input and output, and back-up plans, including restart and recovery in the event of hardware or services error or malfunction; and (iii) maintaining industry standard best practice procedures external to the Subscription Services for the reconstruction and restore of lost or altered files, data, and programs.

#### b) Security Considerations:

- a. **Breach/Vulnerability Disclosure:** If Customer becomes aware of a security breach or vulnerability in the software or environment, Customer must notify Elixir immediately. The customer will cooperate with Elixir in the event an investigation is warranted.
- b. Customer must provide Elixir with at least seventy-two (72) written notice prior to commencing a security analysis. Elixir reserves the right to deny, ban, or grant consent for the Customer to perform security analysis at its sole discretion.
- c. Customer shall bear all responsibility and liability for any damages, losses, or consequences arising from security analysis activities performed unauthorized by Elixir and for breach of the scope of any security analysis activities approved by Elixir. The customer shall indemnify and hold Elixir harmless from any claims, actions, or damages resulting from such activities.
- d. The customer acknowledges that Elixir has implemented security measures and protocols to help minimize the risk to the platform and to the Customer's Data.
- e. Elixir is not responsible for the security of end-user devices utilized by the Customer. Customer acknowledges that the security of its own devices, including but not limited to computers, mobile devices, and network connections, remains Customer's sole responsibility. Elixir shall not accept any liability for any breaches, compromise, or damages arising from security vulnerabilities or unauthorized access resulting from Customer's end-user devices or activities, including, but is not limited to, password/credential sharing.
- f. The Customer is not permitted to publicly disclose, or disclose to any party other any Elixir, any security issue, vulnerability, or other information of the Elixir platform and is required to notify Elixir in writing immediately upon discovery.
- g. Customer must maintain a cyber insurance policy in the minimum amount of \$5,000,000 to cover their on-premises environment and provide Elixir with a certificate of insurance confirming the cyber insurance policy
- h. While Elixir aims to uphold high-security standards, these urgent Hotfix/Patch may not fully undergo Elixir's typical security review before release, potentially introducing unforeseen vulnerabilities. Elixir requires Customers to collaborate with our support team during the application of these fixes to ensure optimal security.

- c) **Assistance in Providing Maintenance:** The customer will provide reasonable assistance to Elixir in determining and resolving errors. Error determination activities may include performing network traces, capturing error messages, collecting configuration information, and other similar activities to allow Elixir to reproduce the error. The customer will be responsible for maintaining a Staging Environment which will be an exact replica of the Production Environment. Resolution activities may include access to Customer's personnel and/or remote access especially when Elixir is unable to replicate an issue in-house.
- d) **Performing Activities:** The customer is responsible for performing activities as required to assist Elixir with deploying the error corrections Elixir provides and for responding in a timely manner to requests for information by an Elixir Support Representative. Error corrections may include changing, installing, or reinstalling new or existing versions of web browser software or new components, or modifying processes in a manner that does not materially degrade the performance of the Subscription Services. As a best practice, Elixir requires that these activities be performed in a Staging Environment for testing and validation purposes before applying to the Production Environment. Any information Customer provides to Elixir in connection with the Maintenance process will be used only to resolve reported errors and will not be disclosed to anyone other than Elixir personnel involved in resolving the error.
- e) **Dedicated Resource:** The customer is required to identify a primary and secondary resource that will communicate all support requests to Elixir and will be the main point of contact for follow-up conversations regarding outstanding requests.

## 2.2 ELIXIR'S RESPONSIBILITIES

Elixir will assign a Customer Success Manager. The Elixir Customer Success Manager will be your primary point of contact.

## 2.3 SUPPORT SERVICES

### a) Standard Support Hours:

Elixir will provide 24-hour/5 days per week Customer Support at the levels specified below.

Time Period	Description	Client Support
9:00 AM – 6:00 PM	Monday through Friday	All severity levels

- **Support Hours – based on Customer Headquarter location**
- **Customer can nominate up to 1 Support Contact for Elixir Support Services.**

### b) Elixir Support Response:

A customer issue is assigned a severity based on its impact on the customer's business and the availability of a Workaround. Elixir will respond with a resolution as per the Severity Level/Response Matrix table below.



Severity	Business /Application Disruption	Workaround	Initial Response Time	Estimated Time to Recovery	Customer Update
<b>1 (Critical)</b>	Issues with critical business impact such as services being completely unavailable and halting transactions with no Workaround, or a security breach or data loss that compromises sensitive information.	There is no immediate Workaround available	2 hours	Workaround or Hotfix/Patch within 5 days (120 hours).  However complex fixes may take more than 5 days (120 hours). Elixir to determine if an issue requires a complex fix.	Every 1 day
<b>2 (High)</b>	Issues with a serious business impact that results in a major functional loss or degradation of the services with no reasonable workaround.	There is a Workaround to the problem but it is unacceptable because it is labor intensive or delays the completion of work processes	Within 3 hours	Workaround or Hotfix/Patch Within 20 business days. However complex fixes may take more than 10 business days. Elixir to determine if an issue requires a complex fix.	Every 3 days
<b>3 (Medium)</b>	Issues with a moderate business impact that results in minor functional degradation but with an acceptable workaround or issues around less commonly used/less impactful functionalities.	There is a Workaround to the problem.	Within 3 business days	The next 1-2 available release	Once for the assessment /release queued.  Once for release delivery/deploy scheduling
<b>4 (Low)</b>	Issues with none to minimal business impact but customers reported to Elixir for informational purposes only.	N/A	Within 7 business days	To be queued in future releases by Product Management	Once when it is scheduled for a specific release

Elixir must be able to reproduce errors in order to resolve them. The Customer agrees to cooperate and work closely with Elixir to reproduce errors, including conducting diagnostic or troubleshooting activities as requested and appropriate. Also, subject to the Customer's approval on a case-by-case basis, Users may be asked to provide remote access to their Elixir solution for troubleshooting purposes.

## 2.4 ADDITIONAL SUPPORT FEATURES

The customer will provide Elixir with the names and contact information for one (1) Designated Support Contact (DSC). Each DSC will be the authorized Customer representative to interact with Elixir's Support staff. Each DSC has access to Elixir's:

- Support Ticket Portal – Online support ticketing systems that are available to the DSC. Tickets can be created and monitored for status updates and closure. This allows customers to upload screenshots and additional information to help support further triaging the issue being reported. Standard support ticket reporting is included.

In addition, each DSC will be the exclusive Customer representative that will have access to Elixir's Support Portal and telephone support.

## 2.5 SEVERITY RESPONSE PROCESS

**Severity 1:** An issue will be treated as Severity 1 if the Customer's reported incident meets the criteria for Severity 1 stated above and

- a. No Workaround is available.
- b. If an incident is initially reported as a Severity 1 and Elixir determines that a Workaround is available that meets the Workaround criteria described above for Severity 2, the incident will be downgraded to Severity 2.
- c. If the Workaround meets the Workaround criteria for Severity 3, the incident will be downgraded to Severity 3.

**Severity 2:** After the investigation is completed, a Workaround has been recommended. If the Workaround meets the Workaround criteria for Severity 3, the incident will be downgraded to Severity

## 2.6 NEW RELEASES

- a. Releases Provided with Maintenance and Support:** If and when available, Elixir will provide to Customers any releases that Elixir makes generally available during the maintenance term to customers at no additional charge. Any release is part of the Subscription Services and subject to the terms and conditions of this Agreement. The designation of a release as a Maintenance Release or a New Version Release will be made by Elixir at Elixir's reasonable discretion.
- b. Maintenance and Support of Prior Releases:** Elixir will provide Maintenance and Support as described herein for the most current Maintenance Releases made with respect to the current New Version Release and the last two New Version Releases immediately preceding that release.

- c. Installation and Configuration of Releases:** Maintenance and Support do not include the installation or configuration of any releases. Any services to be provided in connection with the installation or configuration of releases, including New Releases, will be provided for a mutually agreed upon fee as a work product pursuant to a separate Statement of Work.