

END USER LICENSE AND SUBSCRIBER AGREEMENT XCITIUM EXTENDED DETECTION AND RESPONSE

THIS AGREEMENT CONTAINS A BINDING ARBITRATION CLAUSE. PLEASE READ THIS AGREEMENT CAREFULLY BEFORE ACCEPTING ITS TERMS AND CONDITIONS.

IMPORTANT – PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SERVICE. BY USING THE SERVICE, OR BY CLICKING ON “I ACCEPT” BELOW, SUBSCRIBER ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AGREES TO BE BOUND BY ITS TERMS. IF SUBSCRIBER DOES NOT AGREE TO THE TERMS HEREIN, DO NOT USE THE SERVICE, SUBSCRIBE TO OR USE THE SERVICE, OR CLICK ON “I ACCEPT”.

This End-User License and Subscriber Agreement (this “Agreement”) governs Subscriber’s trial, purchase, and use of the Service and constitutes a legal contract between Subscriber—the business entity listed on an accepted Order Form—and:

- i. Xcitium Inc., which has its principal place of business at 200 Broadacres Drive, Second Floor, Bloomfield, New Jersey 07003, United States (referred to herein as “Xcitium”).

The “Service” means one of the following Xcitium products and services selected by Subscriber on an Order Form including all documentation provided therein: (1) Xcitium Extended Detection and Response, or (2) Xcitium Extended Detection and Response with the Xcitium NxSensor. “Order Form” means an ordering document and/or online order form used to subscribe to the Service.

In exchange for Subscriber’s use of the Service, Subscriber agrees as follows:

1. License.

- 1.1. Grant of License. Subject to the terms herein, Xcitium grants Subscriber a limited, non-exclusive, non-transferable, and revocable license to use the Service to support Subscriber’s internal and external business operations, including any documentation and files accompanying the Service. All rights not expressly granted herein are reserved to Xcitium.
- 1.2. Restrictions. Subscriber shall not resell, lease, sell, modify, reverse engineer, decompile, or create derivative works of the Service, and shall not attempt to unlock or by-pass any access prevention device in the Service or have anyone else do so. In addition, the licenses granted herein are only valid if:
 - (i) the Service is NOT modified in any manner,
 - (ii) the Service is only installed and used in accordance with Subscriber’s network security policies,
 - (iii) Subscriber possesses the necessary authority and power to install and use the Service,
 - (iv) Subscriber promptly pays all fees when due, and
 - (v) this Agreement is accepted without modification and has not been breached or terminated.
- 1.3. Account. Xcitium shall create an account that Subscriber may use to manage Subscriber’s information and Subscriber’s customers’ information. Access to the account is Confidential Information, and Subscriber shall not allow any third party to access the account. Subscriber shall be responsible for any license ordered through the account, regardless of whether the order was approved or authorized by Subscriber. Subscriber shall keep all account login credentials confidential. Subscriber must notify Xcitium immediately of any unauthorized use of Subscriber’s account.
- 1.4. Hosting. Xcitium shall host the Service and Subscriber may access and use the Service over the Internet using Subscriber’s account login name and password. Subscriber shall access the Service only by connecting remotely over the Internet to Xcitium’s servers and shall not attempt to recreate, install, or develop the Service except as allowed under this Agreement.

- 1.5. Limited License. The licenses granted herein are valid only for the subscription period listed in the Order Form and for which all fees have been paid.
- 1.6. Updates. Xcitium is not obligated to provide updates to the Service. If an update is provided and the update is not accompanied by an additional agreement, this Agreement applies to Subscriber's use and installation of the update. The Service may update automatically without notice.
- 1.7. Trial, Free, Evaluation, and Beta License. For trial versions of the Service, the licenses granted herein terminate at the end of the trial or evaluation period or when Xcitium disables access to the Service. For a trial version of the Service if no term is agreed or specifically set forth in the documentation that Subscriber received with the Service, then the term for the licenses granted herein shall be for the term that Subscriber purchased. Any Limited Guarantee which may be set forth herein is not offered with a trial, version of the Service. All trial licenses are limited to one per customer. Generally, credit card information is required to access a free trial. However, Xcitium shall not charge Subscriber's credit card until the trial period has ended. At the end of the trial period, Xcitium may bill Subscriber's credit card for the Service without further notice. Participants in a free trial are not entitled to a 30 day refund period. Subscriber's termination of this Agreement prior to the end of the free trial is required to avoid fees for the Service. Annual subscriptions expire one year from the end of the trial period. Xcitium may deny or revoke a free trial for any reason.

2. Xcitium NxSensor.

- 2.1. Applicability. Sections 2.2 through 2.7 of this Agreement apply only if (1) the Service is Xcitium Extended Detection and Response with Xcitium NxSensor, and (2) all fees have been paid.
- 2.2. Registration and Installation. As part of the consideration of Subscriber's use of the Service, Subscriber agrees to provide full and accurate information about itself to Xcitium. Subscriber agrees to update this information in a timely manner as the information changes. Subscriber is required to access, download, install, and properly configure both Xcitium Extended Detection and Response and Xcitium NxSensor.
- 2.3. Phases. The Xcitium NxSensor portion of the Service consists of three phases: installation, information gathering, and information monitoring.
 - (i) During phase 1, Subscriber will download and install Xcitium NxSensor. Subscriber shall reconfigure firewalls, antivirus solutions, and other IT security services that interfere with or prevent the Service from operating correctly. Phase 1 shall conclude when Xcitium, in its sole discretion, can effectively monitor Subscriber's network activity.
 - (ii) Phase 2 shall begin shortly after the conclusion of Phase 1 and lasts for one month in duration. During phase 2, Xcitium will collect and analyze information about Subscriber's network activity using the Service and Xcitium NxSensor.
 - (iii) Phase 3 shall begin after the conclusion of phase 2. Xcitium will monitor Subscriber's network for Unusual Activity. "Unusual Activity" means an anomaly in Subscriber's inbound network traffic, outbound network traffic, web traffic, system file changes, or DNS requests. If Xcitium determines that Subscriber's network is experiencing Unusual Activity, Xcitium will classify the event as low-priority, medium-priority, high-priority, or critical-priority.
- 2.4. Response Expectation. During phase 3, the following times specify the level of response by Xcitium once an event has been assigned a level of priority. For medium-priority Unusual Activity, Xcitium will notify Subscriber by email of the Unusual Activity. For high priority Unusual Activity, Xcitium will attempt to contact Subscriber by all communications methods Subscriber have provided to Xcitium within 2 hours after the Unusual Activity being classified as high-priority. For critical-priority Unusual Activity, Xcitium will attempt to contact Subscriber by all communications methods Subscriber have provided to Xcitium within 30 minutes after the Unusual Activity is classified as critical-priority.

- 2.5. Reporting. At the end of each reporting period, Xcitium will generate a report on Subscriber's network activity, including Unusual Activity. The report is considered Confidential Information.
- 2.6. Limitations. The response expectations stated in section 2.4 shall exclude periods during which (i) the Service is being updated, (ii) there is a failure of Xcitium's or Subscriber's internet service provider, and (iii) there is an error or outage in the Service that is a direct result of Subscriber's actions.
- 2.7. Remediation. The Service does not include any remediation assistance from Xcitium and Xcitium shall not be responsible for assisting Subscriber in correcting or eliminating any security flaw or vulnerability. The Service does not, and is not intended to, fix, remedy, prevent, or eliminate vulnerabilities or other insecurities. Remedying any vulnerabilities or insecurities is solely Subscriber's responsibility. Any remediation assistance may be made available by Xcitium in its sole and absolute discretion and may entail an additional fee.

3. Ownership.

- 3.1. No Ownership Rights. The Service is being licensed, not sold. Xcitium retains all ownership rights in and to the Service, including any intellectual property rights therein. In addition, Xcitium retains all ownership rights to Subscriber's account and to all domain names and websites provided for Subscriber's use with the Service ("Site").
- 3.2. Copyright. The Service contains material that is protected by United States and foreign intellectual property laws, including copyright, trademark, trade secret, and patent law. All rights not granted to Subscriber herein are expressly reserved by Xcitium. Subscriber shall not remove any copyright or other proprietary notice of Xcitium from the Service.
- 3.3. Content. Content, including files, links, images, and text, made available or accessible through the Service is the sole responsibility of the person or entity from whom it originated and is the property of the applicable owner. This Agreement does not give any rights to such content and Xcitium does not endorse any such content. Subscriber accepts all responsibility for security risks and any damage resulting from any content viewed or accessed through the Service, and Xcitium is not responsible for any damage or loss caused by Subscriber's use or reliance on any of the content, goods or services, or information available through third party sources regardless of how presented. In addition, Subscriber understands and agrees that all content provided by Subscriber on the Site is Subscriber's sole responsibility.
- 3.4. Submissions. Any communications sent to Xcitium are the property of Xcitium or Xcitium's affiliates. Unless stated otherwise herein, submissions are not considered confidential, and Xcitium is not liable for any use or disclosure of a submission. Except as noted herein, Xcitium is entitled to unrestricted use of any submissions for any purpose whatsoever without compensation to the provider of the submission.

4. Payment.

- 4.1. Fees. Subscriber agrees to pay all fees listed on the Order Form for the Service. Xcitium may modify fees for the Service in its sole discretion. Subscriber's failure to terminate this Agreement after a fee change is posted to Xcitium's website constitutes Subscriber's acceptance of amended prices, which will apply upon Subscriber's next invoice.
- 4.2. Method of Payment. All fees must be paid in advance. Xcitium may automatically charge the credit card provided for renewing subscriptions for the Service. However, Subscriber remains solely responsible for any renewal payment. If a renewal payment is not made before Subscriber's subscription expires, Xcitium may, without notice, restrict or remove Subscriber's access to the Service.
- 4.3. Rejected Charges. If any charges are rejected by Subscriber's credit card issuer then Xcitium may deactivate Subscriber's account until payment is successfully received. Xcitium may deactivate any account that has a disputed charge until Xcitium, in its sole discretion, determines the dispute resolved.
- 4.4. Billing Issues. Subscriber shall provide Xcitium notice of any billing problems or disputes within

60 days after the charge first appears on a statement Subscriber receives from Subscriber's bank, credit card company, or other billing company. Failure to notify Xcitium of the problem within the 60 day period is Subscriber's acceptance of the charges. Xcitium is not obligated to provide a refund for any unused Service.

5. Restrictions.

- 5.1. Lawful Use. The Service is solely for lawful purposes and use. Subscriber is responsible for ensuring that Subscriber's use of the Service is in accordance with this Agreement and any applicable laws, statutes, ordinances, regulations, rules and other government authority.
- 5.2. Compliance. Subscriber shall (1) not interfere or disrupt Xcitium's networks connected to the Service; (2) comply with all regulations, policies and procedures of networks connected to the Service; (3) not use the Service to infringe the privacy or intellectual property rights of a third party; (4) not use the Service to distribute or transmit any file that contains malware, (5) not attempt to gain unauthorized access to other computer systems or mobile devices; and (6) not use the Service to transmit any unlawful, harassing, libelous, defamatory, racist, indecent, abusive, violent, threatening, intimidating, harmful, vulgar, obscene, offensive or otherwise objectionable material of any kind or nature. Xcitium is not responsible for any content Subscriber makes available on the Site. To ensure Subscriber's compliance with this Agreement, Xcitium may periodically review, screen, or remove any content on the Site. Xcitium is not responsible for any omissions or errors on the Site, or any loss or damage resulting from such omissions or errors on the Site.
- 5.3. Subscriber's Customers. The Service may contain a component that allows Subscriber to add Subscriber's customers to a customer list. When using the Service, Subscriber shall only add customers for whom Subscriber provides services. Subscriber shall provide correct and accurate information relating to the location and address of Subscriber's customers, and Subscriber shall update this information regularly as it changes. Subscriber shall not add customers, or use the Service to provide services to customers, that are (1) located in a country on a United States restricted countries list, or (2) on a United States restricted persons list.
- 5.4. Export. Subscriber represents that Subscriber is not located in and will not modify, export or re-export, either directly or indirectly, any portion of the Service to any country or entity under United States restrictions or to any country or entity subject to applicable trade sanctions. The United States restricted country and persons list is subject to change without notice from Xcitium, and Subscriber must comply with the list as it exists in fact. XCITIUM SHALL NOT BE LIABLE FOR SUBSCRIBER'S VIOLATION OF ANY SUCH EXPORT OR IMPORT LAWS, WHETHER UNDER UNITED STATES LAW OR FOREIGN LAW.

6. Termination.

- 6.1. Term. This Agreement is effective until terminated by Subscriber or by Xcitium. Subscriber may only use the Service during the period for which Subscriber has paid the applicable fees.
- 6.2. Termination by Subscriber. Subscriber may terminate this Agreement at any time by doing all of the following: (1) removing all copies of the Service in Subscriber's possession or under Subscriber's control, (2) removing all copies of any related software, (3) notifying Xcitium of Subscriber's intent to terminate this Agreement, and (4) paying all fees associated with Subscriber's use of the Service owed to Xcitium. Notification of termination must be sent by email to support@xcitium.com. Subscriber's termination will be effective upon Xcitium's receipt and processing of the email. Processing may take up to 24 hours.
- 6.3. Termination by Xcitium. Xcitium may terminate this Agreement at any time by posting notice of the termination on its website or sending an email to the address provided during Subscriber's registration for the Service. Xcitium may monitor its systems for excessive consumption of network resources and may take technical or other remedies deemed necessary to prevent or eliminate any excessive consumption. If Xcitium deems Subscriber's use to be excessive, Xcitium may, with email notice, terminate Subscriber's account or adjust the price of the Service.

- 6.4. Events Upon Termination. Upon termination, Subscriber must immediately cease using the Service and delete all copies of any related software found on Subscriber's servers, devices, or network and any backup copies made. Upon termination, Xcitium may disable further use of the Service without further notice and may delete, remove, and erase any account information, any backup data stored by Xcitium, and any other information stored or collected by Xcitium. Such deletions are in Xcitium's sole discretion and may occur without notice to Subscriber. No refunds shall be given for any reason.

7. Indemnification.

- 7.1. Indemnification. Subscriber shall indemnify (i) Xcitium, (ii) Xcitium's affiliates, and (iii) Xcitium's and its affiliate's directors, officers, employees, and agents (each an "Indemnified Person") against all liabilities, losses, expenses, or costs (including reasonable attorney's fees) (collectively "Losses") that, directly or indirectly, are based on (1) Subscriber's breach of this Agreement, (2) information provided by Subscriber, (3) Subscriber's independent modification of the Service, (4) Subscriber's combination of Subscriber Technology with the Service or with any of the files provided with the Service, (5) the negligence or willful misconduct of Subscriber or Subscriber's representatives, or (6) Subscriber's infringement on the rights of a third party. "Subscriber Technology" means any product, software, or service owned or licensed to Subscriber by a third party outside of this Agreement, including internet operations, content, software, software tools, hardware, hardware designs, APIs, trade secrets, patents, and any related documentation (in printed form or electronic form).
- 7.2. Indemnification Procedure. Xcitium shall notify Subscriber promptly of any demand for indemnification. However, Xcitium's failure to notify will not relieve Subscriber from Subscriber's indemnification obligations except to the extent that the failure to provide timely notice materially prejudices Subscriber. Subscriber may assume the defense of any action, suit, or proceeding giving rise to an indemnification obligation unless assuming the defense would result in potential conflicting interests as determined by the Indemnified Person in good faith. Subscriber may not settle any claim, action, suit or proceeding related to this Agreement unless the settlement also includes an unconditional release of all Indemnified Persons from liability.
- 7.3. Additional Liability. Subscriber's indemnification obligations are not Xcitium's sole remedy for a breach and are in addition to any other remedies Xcitium may have against Subscriber under this Agreement. Subscriber's indemnification obligations survive the termination of this Agreement.

8. Disclaimers and Limitation of Liability.

- 8.1. Internet. Subscriber acknowledges that the Service is subject to the operation and telecommunications infrastructures of the Internet and the operation of Subscriber's Internet connection services, all of which are beyond Xcitium's control.
- 8.2. Guarantee Disclaimer; Assumption of Risk. EXCEPT AS SPECIFICALLY STATED OTHERWISE IN THIS AGREEMENT, XCITIUM EXPRESSLY DISCLAIMS ALL IMPLIED AND EXPRESS WARRANTIES IN THE SERVICE. THIS DISCLAIMER INCLUDES ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT AND IS EFFECTIVE TO THE MAXIMUM EXTENT ALLOWED BY LAW. XCITIUM DOES NOT GUARANTEE THAT 1) THE SERVICE WILL MEET SUBSCRIBER'S REQUIREMENTS OR EXPECTATIONS OR 2) THAT ACCESS TO THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE.
- 8.3. Damage Limitation. THE TOTAL LIABILITY OF XCITIUM AND ITS AFFILIATES, AND EACH OF THEIR OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AND CONTRACTORS, RESULTING FROM OR CONNECTED TO THIS AGREEMENT IS LIMITED TO THE AMOUNT PAID BY SUBSCRIBER FOR THE SERVICE. SUBSCRIBER WAIVES ALL LIABILITY FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES. THIS WAIVER INCLUDES ALL DAMAGES FOR LOST PROFITS, REVENUE, USE, OR DATA AND APPLIES EVEN IF XCITIUM IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

These limitations apply to the maximum extent permitted by law regardless of 1) the reason for or nature of the liability, including tort claims, 2) the number of claims, 3) the extent or nature of the damages, and 4) whether any other provisions of this Agreement have been breached or proven ineffective.

- 8.4. Data Transfer. ALL MATERIAL AND/OR DATA DOWNLOADED OR OBTAINED THROUGH THE SERVICE IS AT SUBSCRIBER'S OWN RISK. SUBSCRIBER IS SOLELY RESPONSIBLE FOR THE USE OR SUBSCRIBER'S POSSESSION OF SUCH DATA OR MATERIAL. XCITIUM DOES NOT ACTIVELY MONITOR ANY INFORMATION OR MATERIAL TRANSFERRED THROUGH ITS SERVICE AND CANNOT WARRANT THE CONTENT OF SUCH MATERIAL OR DATA.
- 8.5. Exceptions. If any legal right disallows an exclusion of warranties or disallows limiting certain damages, then the disclaimers of guarantee and limitations on liability herein apply to the maximum extent allowed by law.
- 8.6. Limitations on Remedy. Except for actions and claims related to a party's indemnification obligations, all actions or claims relating to this Agreement must be brought within one (1) year from the date when the cause of action occurred.

9. Privacy.

- 9.1. Privacy Policy. Xcitium shall follow the privacy policy posted on its website at <https://xcitium.com> when collecting and using information from Subscriber and Subscriber's customers. Xcitium may amend the privacy policy at any time by posting the amended privacy policy on its website.
- 9.2. Data Collection. By using the Service, Subscriber consents to Xcitium's collection of Subscriber's Data and Subscriber's customer's Data. "Data" means information, including users' name, address, e-mail address, payment details, computers, files stored on computers, and the computers' interactions with other computers (including, information regarding network, licenses used, hardware type, model, hard disk size, CPU type, disk type, RAM size, operating system, versions, BIOS data, scanners, database size, system telemetry, device ID, IP address, location, content, components, processes, updates, upgrades, usage patterns and services information, information about third party Service installed, and extracts of logs created). Xcitium may also collect non-personally identifiable information about Subscriber's use of the Service, which Xcitium may use without restriction.
- 9.3. Disclosure. Xcitium will disclose information where required by a subpoena, interception order or other lawful process. Xcitium may also disclose information when it believes that such disclosure is necessary to protect the rights or safety of others or to enforce, or protect Xcitium's rights under this Agreement.
- 9.4. Compliance. Subscriber shall be responsible for complying with any and all necessary privacy laws and regulations in any applicable jurisdiction(s). This includes all local, state, and Federal laws in the United States, all European Union laws or directives, and any other laws throughout the world. Subscriber and Subscriber's organization shall make the appropriate and required disclosures to individuals. Pursuant to Section 7, Subscriber shall indemnify Xcitium for any alleged privacy or data security violation.
- 9.5. Opt Out. Subscriber may opt-out of having information used for purposes not directly related to the Service by emailing a clear notice to optout@xcitium.com . By clicking "I AGREE", Subscriber affirmatively consent to receiving Xcitium's and its affiliates' promotional material where allowed by applicable law.

10. Support. Xcitium has no obligation under this Agreement to provide technical or customer support for the Service. Where Xcitium support is included with Subscriber's Service, Subscriber has paid the applicable license fees for support, and Subscriber requests support from Xcitium in Subscriber's operation or use of the Service, then the following provisions apply:

- 10.1. Subscriber authorizes Xcitium to access Subscriber's computer and delete the files that Xcitium deems unnecessary to Subscriber's computers' operation of the Service.
- 10.2. Subscriber grants Xcitium express permission to alter the registry of any computer receiving the Service and to install, configure, and use additional software on Subscriber's computers as Xcitium sees fit for use of this Service.
- 10.3. Subscriber shall assist Xcitium as reasonably requested by Xcitium in diagnosing the computer and providing the Service.
- 10.4. The Xcitium support representative has sole discretion over any instructions and steps taken in providing the Service.
- 10.5. The Xcitium support representative may need to download, run, or use software on Subscriber's computer to assist in diagnosing and resolving computer problems. Such software may include toolbars, utilities, and other tools that allow Xcitium to improve computer performance and solve technical problems (collectively, the "Diagnostic Software"). The use of all Diagnostic Software is subject to the license agreements associated with the Diagnostic Software. Subscriber shall accept and comply with all such license agreements.

11. Miscellaneous.

- 11.1. Notices. All questions, notices, demands, or requests to Xcitium with respect to this Agreement shall be made in English writing to: Xcitium Inc., 200 Broadacres Drive, Second Floor, Bloomfield, New Jersey 07003, United States. All notices to Subscriber shall be made by posting the notice on the Xcitium website.
- 11.2. Entire Agreement. This Agreement, along with the attached schedules and any documents referred to herein, is the entire agreement between the parties with respect to the subject matter, superseding all other agreements that may exist with respect to the subject matter. Section headings are for reference and convenience only and are not part of the interpretation of this Agreement.
- 11.3. Modifications. Xcitium may amend or discontinue the Service, or part of the Service, in its sole discretion, including modifying renewal license fees, availability, equipment and software requirements, and limiting or restricting use of Service. Xcitium may amend this Agreement to the extent allowed by law. Xcitium will give Subscriber notice of these amendments by posting the modified agreement to its website. Subscriber must periodically visit Xcitium's website to be aware of any changes. Continued use of the Service after an amendment constitutes Subscriber's acceptance of the change.
- 11.4. Waiver. A party's failure to enforce a provision of this Agreement does not waive the party's right to enforce the same provision later or right to enforce any other provision of this Agreement. To be effective, all waivers must be both in writing and signed by the party benefiting from the waived provision.
- 11.5. Force Majeure and Internet Frailties. Other than for payment obligations by Subscriber, neither party will be liable for a delay or failure to perform an obligation to the extent that the delay or failure is caused by an occurrence beyond the party's reasonable control. Each party acknowledges that the operation of the Internet is beyond the other party's reasonable control, and neither party will be liable for a delay or failure caused by an interruption or failure of telecommunication or digital transmission links, Internet slow-downs or failures, or other such transmission failure.
- 11.6. Arbitration; Governing Law. To the extent permitted by law, Subscriber shall notify Xcitium of any dispute arising under this Agreement before seeking dispute resolution. If dispute is not resolved within sixty (60) days after initial notice, then a party may proceed as follows:

- (i) The parties shall resolve the dispute by arbitration conducted through the services of the American Arbitration Association (“AAA”). The party initiating the arbitration shall send notice to the other party. All arbitration hearings will be in Bloomfield, New Jersey.
- (ii) The parties shall appoint a panel of three possible arbitrators to hear the matter and then each party shall name one Arbitrator to be dropped from the panel, leaving one arbitrator. The party giving notice of the arbitration shall select the first dropped arbitrator.
- (iii) The parties shall split the costs of the arbitrator equally regardless of the final decision. The party found in default of this Agreement by the arbitrator shall pay all costs of the other party that are incurred in enforcing its rights under this Agreement (including attorney’s fees).

To the extent any matter of this Agreement cannot be covered by Arbitration, the laws of the state of New Jersey govern the interpretation, construction, and enforcement of this Agreement and all proceedings arising out of it, including tort claims, without regard to any conflicts of law principles. All proceedings or legal action arising from this Agreement must be commenced in the state or federal courts of New Jersey. Both parties agree to the exclusive venue and jurisdiction of these courts.

- 11.7. Assignment. Subscriber may not assign any of Subscriber’s rights or obligations under this Agreement, whether by merger, consolidation, operation of law, or any other manner, without the prior written consent of Xcitium. For purposes of this section only, a change in control is deemed an assignment. Any transfer without consent is void. To the extent allowed by law, Xcitium may assign its rights and obligations without Subscriber’s consent.
- 11.8. Severability. Any provision held invalid or unenforceable will be reformed to the minimum extent necessary to make the provision valid and enforceable. If reformation is not possible, the provision is deemed omitted and the balance of this Agreement remains valid and enforceable.
- 11.9. Survival. All provisions relating to confidentiality, proprietary rights, indemnification, and limitations of liability survive the termination of this Agreement.
- 11.10. Rights of Third Parties. There are no third party beneficiaries under this Agreement.

ACCEPTANCE

BY CLICKING “I ACCEPT” BELOW, SUBSCRIBER AGREE THAT SUBSCRIBER HAVE READ AND UNDERSTAND THIS AGREEMENT AND THAT SUBSCRIBER WILL BE BOUND BY AND COMPLY WITH ALL OF ITS TERMS AND ACCEPT THE FUNCTIONS OF THE SERVICE. DO NOT CLICK THE “I ACCEPT” BUTTON IF SUBSCRIBER DO NOT AGREE TO THE FUNCTIONS OF THE SERVICES AND THE TERMS OF THIS AGREEMENT.

Schedule 1 – Third Party and Open Source Software

Third party software may be used to provide the Service and is provided under other licenses and/or has source available from other locations. Third party software that is open-source software may be covered by licenses other than those granted in this Agreement. Subscriber agree that any copies of third party software shall contain the same copyright and proprietary notices that appear in the Service. The following open source software may be included and is provided under other licenses and/or has source available from other locations.

Abbreviations used in this Schedule:

- “Apache v2” means the Apache License, Version 2 (January 2004), located at <http://www.apache.org/licenses/LICENSE-2.0>
- “CDDLv1” means the Common Development and Distribution License, version 1.0, located at <http://opensource.org/licenses/CDDL-1.0>
- “CPLv1” means the Common Public License, version 1.0, located at <http://opensource.org/licenses/cpl1.0.txt>
- “GPLv2” means the GNU General Public License, version 2 (June 1991), located at <https://www.gnu.org/licenses/gpl-2.0.html>
- “LibGPLv2” means the GNU Library General Public License, version 2 (June 1991) located at <https://www.gnu.org/licenses/old-licenses/lgpl-2.0.html>
- “LGPLv2.1” means the GNU Lesser General Public License, version 2.1, located at <https://www.gnu.org/licenses/lgpl-2.1.html>
- “LGPLv3” means the GNU Lesser General Public License, version 3 (June 29, 2007), located at <https://www.gnu.org/licenses/lgpl.html>

NAME	LICENCE	URL
DynamicJasper	LibGPLv2	(ar.com.fdv:DynamicJasper:5.0.2 - http://sourceforge.net/projects/dynamicjasper)
Logback Classic Module	LGPLv2.1	(ch.qos.logback:logback-classic:1.1.2 - http://logback.qos.ch)
ZkClient	Apache v2	(com.101tec:zkclient:0.3 - https://github.com/sgroschupf/zkclient)
stream-lib	Apache v2	(com.clearspring.analytics:stream:2.8.0 - https://github.com/addthis/stream-lib)
Gson	Apache v2	(com.google.code.gson:gson:2.2.4 - http://code.google.com/p/google-gson/)
Gson	Apache v2	(com.google.code.gson:gson:2.3.1 - http://code.google.com/p/google-gson/)
Guava: Google Core Libraries for Java	Apache v2	(com.google.guava:guava:18.0 - http://code.google.com/p/guava-libraries/guava)
JSch	(Revised BSD)	(com.jcraft:jsch:0.1.50 - http://www.jcraft.com/jsch/)
JAX-WS RI Runtime Bundle	CDDLv1 + GPLv2 with classpath exception	(com.sun.xml.ws:jaxws-rt:2.2.10 - http://jax-ws.java.net/jaxws-ri-bom-ext/project/bundles/jaxws-rt/)
Vaadin	Apache v2	(com.vaadin:vaadin-client:7.4.1 - http://vaadin.com)
Vaadin	Apache v2	(com.vaadin:vaadin-client-compiled:7.4.1 - http://vaadin.com)
Vaadin	Apache v2	(com.vaadin:vaadin-push:7.4.1 - http://vaadin.com)
Vaadin	Apache v2	(com.vaadin:vaadin-server:7.4.1 - http://vaadin.com)
Vaadin	Apache v2	(com.vaadin:vaadin-themes:7.4.1 - http://vaadin.com)

Metrics Annotations	Apache v2	(com.yammer.metrics:metrics-annotation:2.2.0 - http://metrics.codahale.com/metrics-annotation/)
Metrics Core Library	Apache v2	(com.yammer.metrics:metrics-core:2.2.0 - http://metrics.codahale.com/metrics-core/)
HikariCP-java6	Apache v2	(com.zaxxer:HikariCP-java6:2.2.5 - https://github.com/brettwooldridge/HikariCP)
Commons BeanUtils	Apache v2	(commons-beanutils:commons-beanutils:1.8.3 - http://commons.apache.org/beanutils/)
Codec	Apache v2	(commons-codec:commons-codec:1.3 - http://jakarta.apache.org/commons/codec/)
Apache Commons Codec	Apache v2	(commons-codec:commons-codec:1.9 - http://commons.apache.org/proper/commons-codec/)
Commons Collections	Apache v2	(commons-collections:commons-collections:3.2.1 - http://commons.apache.org/collections/)
HttpClient	Apache v2	(commons-httpclient:commons-httpclient:3.1 - http://jakarta.apache.org/httpcomponents/httpclient-3.x/)
Commons IO	Apache v2	(commons-io:commons-io:2.0.1 - http://commons.apache.org/io/)
Commons Lang	Apache v2	(commons-lang:commons-lang:2.6 - http://commons.apache.org/lang/)
StAXON Core	Apache v2	(de.odysseus.staxon:staxon:1.3 - http://beckchr.github.com/staxon/staxon/)
The Netty Project	Apache v2	(io.netty:netty:3.9.2.Final - http://netty.io/)
Jest Apache HC Jar	Apache v2	(io.searchbox:jest:0.1.4 - https://github.com/searchbox-io/Jest)
Grok	Apache v2	(io.thekraken:grok:0.1.1 - http://maven.apache.org)
Java Servlet APIjava	CDDLv1	(javax.servlet:javax.servlet-api:3.0.1 - http://servlet-spec.java.net)
Joda-Time	Apache v2	(joda-time:joda-time:2.7 - http://www.joda.org/joda-time/)
JUnit	CPLv1	(junit:junit:4.10 - http://junit.org)
JUnit	CPLv1	(junit:junit:4.11 - http://junit.org)
Apache Log4j	Apache v2	(log4j:log4j:1.2.17 - http://logging.apache.org/log4j/1.2/)
MySQL java connector	GPLv2	(mysql:mysql-connector-java:5.1.26 - http://dev.mysql.com/usingmysql/java/)
Java Native Access	Apache v2	(net.java.dev.jna:jna:4.0.0 - https://github.com/twall/jna)
Java Native Access Platform	Apache v2	(net.java.dev.jna:jna-platform:4.0.0 - https://github.com/twall/jna)
JasperReports DynamicReports	LGPLv3	(net.sf.jasperreports:jasperreports:5.2.0 - http://jasperreports.sourceforge.net) http://www.dynamicreports.org/license
jasperreports-htmlcomponent	LGPLv3	(net.sf.jasperreports:jasperreports-htmlcomponent:5.0.1 - no url defined)
Apache Avro	Apache v2	(org.apache.avro:avro:1.7.4 - http://avro.apache.org)
Apache Avro	Apache v2	(org.apache.avro:avro:1.7.6 - http://avro.apache.org)
Apache Commons CSV	Apache v2	(org.apache.commons:commons-csv:1.0 - http://commons.apache.org/proper/commons-csv/)
Commons Lang	Apache v2	(org.apache.commons:commons-lang3:3.1 - http://commons.apache.org/lang/)
Commons VFS Core	Apache v2	(org.apache.commons:commons-vfs2:2.0 - http://commons.apache.org/vfs/commons-vfs2/)

Curator Recipes	Apache v2	(org.apache.curator:curator-recipes:2.7.0 - http://curator.apache.org/curator-recipes)
Apache Commons Collections	Apache v2	(for Apache Directory Studio) (org.apache.directory.studio:org.apache.commons.collections:3.2.1 - http://directory.apache.org/studio/parent-libraries/org.apache.commons.collections/)
Apache Hadoop Client	Apache v2	(org.apache.hadoop:hadoop-client:2.4.1 - http://hadoop.apache.org/)
Hive JDBC	Apache v2	(org.apache.hive:hive-jdbc:0.13.1 - http://hive.apache.org/hive-jdbc)
Hive JDBC	Apache v2	(org.apache.hive:hive-jdbc:1.0.0 - http://hive.apache.org/hive-jdbc)
Apache HttpCore	Apache v2	(org.apache.httpcomponents:httpcore:4.3.2 - http://hc.apache.org/httpcomponents-core-ga)
kafka	Apache v2	(org.apache.kafka:kafka_2.10:0.8.0 - http://www.apache.org/kafka_2.10/)
zookeeper	Apache v2	(org.apache.zookeeper:zookeeper:3.4.5 - https://zookeeper.apache.org/)
zookeeper	Apache v2	(org.apache.zookeeper:zookeeper:3.4.6 - https://zookeeper.apache.org/)
Groovy	Apache v2	(org.codehaus.groovy:groovy-all:2.1.6 - http://groovy.codehaus.org/)
IzPack installer module	Apache v2	(org.codehaus.izpack:izpack-installer:5.0.0-rc4 - http://izpack.org/izpack-installer/)
elasticsearch	Apache v2	(org.elasticsearch:elasticsearch:1.4.2 - http://nexus.sonatype.org/oss-repository-hosting.html/elasticsearch)
Metro Web Services Runtime non-OSGi Bundle	CDDLv1 + GPLv2 with classpath exception	(org.glassfish.metro:webservices-rt:2.3 - https://metro.java.net/bundles/webservices-rt/)
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SNMP4J	Apache v2	(org.snmp4j:snmp4j:1.10.1 - http://www.snmp4j.org)
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