SUPPORT AND SUBSCRIPTION MODULE

This Support and Subscription Module ("**SnS Module**") is dated _____, 2013 ("**SnS Module Effective Date**") and agreed between _____, a _____ corporation ("**Customer**"), and VMware. These terms and conditions shall apply to Technical Support and Subscription Services purchased by Customer, and "Services", as used herein, shall mean only the Technical Support and Subscription Services purchased by Customer under this SnS Module.

This SnS Module incorporates by reference the General Terms dated _____ between VMware and Customer. Any capitalized terms used in this SnS Module shall have the meanings given in the General Terms unless otherwise provided herein.

1.   Definitions.

1.1   "**Error**" means a failure in the Software to materially conform to the specifications described in the applicable product documentation ("**Documentation**").

1.2   "**Modified Code**" means any modification, addition and/or development of code scripts deviating from the predefined product code tree(s)/modules developed by VMware for production deployment or use. Modified Code excludes customizable Software options for which VMware offers Services on the applicable VMware price list.

1.3   "**Services Fees**" means the fees for Services specified in a corresponding VMware or reseller invoice.

1.4   "**Services Period**" means the period for which Customer has purchased the Services and any subsequent renewal periods and shall commence: (a) for Software Licenses for which Services are mandatory, on the date the applicable Software License Key(s) are made available for download, and (b) for Software Licenses for which Services are optional, on the date of purchase of the Services.

1.5   "**Severity**" is a measure of the relative impact an Error has on the use of the Software, as determined by VMware. The following Severity levels apply to all Software:

      (a)   "**Severity One**" means Customer's production server or other mission critical system(s) are down and no workaround is immediately available and (i) all or a substantial portion of Customer's mission critical data is at a significant risk of loss or corruption; (ii) Customer has had a substantial loss of service; or (iii) Customer's business operations have been severely disrupted.

      (b)   "**Severity Two**" means that major functionality is severely impaired such that (i) operations can continue in a restricted fashion, although long-term productivity might be adversely affected; (ii) a major milestone is at risk; ongoing and incremental installations are affected; or (iii) a temporary workaround is available.

      (c)   "**Severity Three**" means a partial, non-critical loss of functionality of the software such that: (i) the operation of some component(s) is impaired but allows the user to continue using the Software; or (ii) initial installation milestones are at minimal risk.

      (d)   "**Severity Four**" means (i) general usage questions and cosmetic issues, including errors in the Documentation, and (ii) cases opened via email for Zimbra Software.

1.6   "**Software**" means software offered on the VMware price list, and all components shipped with the Software, including Open Source components.

1.7   "**Subscription Services**" means the provision of Maintenance Releases, Minor Releases and Major Releases (each defined below), if any, to the Software, as well as corresponding Documentation, to Customer.

      (a)   "**Maintenance Release**" or "**Update**" means a generally available release of the Software that typically provides maintenance corrections or fixes only, designated by VMware by means of a change in the digit to the right of the second decimal point (e.g. Software 5.0 >> Software 5.0.1) or, for certain Software, by means of a change in the digit of the Update number (e.g. Software 5.0 Update 1).

      (b)   "**Minor Release**" means a generally available release of the Software that (i) introduces a limited amount of new features and functionality, and (ii) is designated by VMware by means of a change in the digit to the right of the decimal point (e.g., Software 5.0>>Software 5.1).

      (c)   "**Major Release,**" also known as an "**Upgrade,**" means a generally available release of the Software that (i) contains functional enhancements or extensions, and (ii) is designated by VMware by means of a change in the digit to the left of the first decimal point (e.g., Software 5.0 >> Software 6.0).

1.8   "**Technical Support**" means the provision of telephone or web-based technical assistance by VMware to Customer's technical contact(s) with respect to installation and Errors, at the corresponding Services level purchased by Customer.

1.9   "**Third Party Products**" means any software or hardware that (i) is manufactured by a party other than VMware and (ii)has not been incorporated into the Software.

2.   Service Terms.

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2.1 **Provision of Services.** Subject to the terms of this Agreement, VMware shall, during the Services Period, provide Customer with Services at the applicable Services level purchased.

2.2 **End of Availability.** VMware may, at its discretion, decide to retire Software and/or Services from time to time ("**End of Availability**"). VMware shall post notice of End of Availability, including the last date of general commercial availability of the affected Software and the timeline for discontinuing Services, at https://www.vmware.com/support/policies/lifecycle.html.   VMware shall have no obligation to provide Services for Software that is outside of the applicable Services life.

2.3 **Purchase Requirements.**

(a) Except as otherwise provided by VMware, Customer may purchase initial Services only for the most current, generally available release of the Software.

(b) Customer must purchase and/or renew Services at the same Services level for all of the Software in a given environment (e.g., Test, Development, QA, Production).

(c) Except as otherwise provided in the applicable price list, the minimum term for any Services offering is one (1) year.

(d) These Services Terms and Conditions will automatically update to VMware's then-current Services terms and conditions set forth at https://www.vmware.com/files/pdf/support/support_terms_conditions.pdfupon any renewal of Services.

2.4 **Exclusions.**

(a) Services do not cover problems caused by the following:

(i) accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure of electric power, air conditioning or humidity control; failure of rotation media not furnished by VMware; operation of the Software with other media not in accordance with the manufacturer's specifications; or causes other than ordinary use;

(ii) improper installation by Customer or use of the Software that deviates from any operating procedures as specified in the Documentation;

(iii)Third Party Products, other than the interface of the Software with the Third Party Products;

(iv) Modified Code;

(v) issues relating to Software offered as a Service ("SaaS");

(vi) any customized deliverables created by VMware specifically for Customer as part of consulting services; or

(viii); use of the Software with unsupported tools (e.g., Java Development Kit (JDK); Java Runtime Environment (JRE)), APIs, interfaces or data formats other than those included with the Software and supported as set forth in the Documentation; or

(vii)   any issue not covered by Technical Support.

Customer may request assistance from VMware for such problems, for an additional fee.

(b) If VMware suspects that a reported problem may be related to Modified Code, VMware, may, in its sole discretion, (i) request that the Modified Code be removed, and/or (ii) inform Customer that additional assistance may be obtained by Customer directly from various product discussion forums or by engaging VMware's consulting services group for an additional fee.

2.5 **Customer Responsibilities.** VMware's obligations regarding Services are subject to the following:

(a) Customer agrees to receive from VMware communications regarding Services via e-mail, telephone, and other formats, (such as communications concerning support coverage, Errors or other technical issues and the availability of new releases of the Software).

(b) Customer's technical contact shall cooperate to enable VMware to deliver the Services.

(c) Customer is solely responsible for the use of the Software by its personnel and shall properly train its personnel in the use and application of the Software.

(d) Customer shall promptly report to VMware all problems with the Software, and shall implement any corrective procedures provided by VMware reasonably promptly upon receipt of such request.

(e) Customer is solely responsible for protecting and backing up the data and information stored on the computers on which the Software is used, and should confirm that such data and information is protected and backed up in accordance with any internal or regulatory requirements as applicable before contacting VMware for Technical Support. VMware is not responsible for lost data or information in the event of errors or other malfunction of the Software or computers on which the Software is used.

(f) Customer will have dedicated resources available to work 24X7 on Severity One Errors.

3. **Services Offerings and Fees.**
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3.1   Services Fee Terms.

   (a)   Services Fees are payable on the Effective Date or, in the case of a renewal term, no later than the date of commencement of the applicable Services Period. Services Fees are non-refundable.

   (b)   If Customer renews or adds a Services offering that has a minimum term of one (1) year, Customer may elect to make Services for all or a portion of its Software licenses coterminous with the renewed or added Services. In such case, VMware will prorate the applicable Services Fees to extend the current Services Period to make it coterminous with such renewed or added Services.

   (c)   For Software that is licensed on a perpetual basis, if a Customer purchases Services after acquiring the Software licenses, or had elected not to renew Services and later wishes to re-enroll in the Services, Customer must move to the then-current Major Release of the Software and must pay: (i) the applicable Services Fees for the current Services Period; (ii) the amount of Services Fees that would have been paid for the period of time that Customer had not enrolled in the Services, and (iii) a twenty-percent (20%) reinstatement fee on the sum of the Services Fees in (i) and (ii).

   (d)   In cases where Customer purchases a license to migrate up from one edition of the Software to another (e.g., VMware vSphere Standard to VMware vSphere Enterprise Plus), any unused period of the Services Period on the original license will be converted and used to extend the Services Period for the newly purchased upgraded license.   This paragraph (d) shall not apply to enterprise license agreements.

   (e)   If Customer originally purchased Services from a VMware Authorized Service Provider and is now renewing only Technical Support through such VMware Authorized Service Provider, Customer may purchase Subscription Services separately on a renewal basis directly from VMware. The renewal fee for such Subscription Services shall be as set forth in the applicable price list. "**Authorized Service Provider**" means a third party that is authorized by VMware to provide first and/or second level Technical Support for the Software.

3.2   Advanced and Complimentary Offerings.

   (a)   Certain Services (e.g., Business Critical Support and Mission Critical Support) require that Customer also purchase a base level of support. See the applicable price list for details.

   (b)   VMware may offer complimentary Services, including VMware Complimentary Update Services for certain Software, as more fully described at the VMware Technical Support Services website. "**VMware Complimentary Update Services**" means the provision of Maintenance Releases and Minor Releases, if any, to Customer. This VMware Complimentary Update Service does not include the provision of any Major Releases.

   (c)   Services for Software made available under open source licenses may be subject to additional policies located at https://www.vmware.com/support/policies/opensource.html.

4. Miscellaneous Terms

4.1   Payment Terms. VMware will invoice Customer for Services promptly following Customer's purchase. All invoices issued hereunder by VMware are due and payable within thirty (30) days of the date of the invoice. By placing an order for Services, Customer represents that Customer is authorized pursuant to applicable laws and regulations to commit to payment prior to completion of the Services Period, as set forth herein. Services Fees are exclusive of any taxes, duties, or similar charges imposed by any government. Customer shall pay or reimburse VMware for all federal, state, dominion, provincial, or local sales, use, personal property, excise, value added, withholding or other taxes, fees, or duties relating to the transactions contemplated by this Agreement (other than taxes on the net income of VMware). Amounts not paid on time are subject to a late charge equal to the lesser of one and one-half percent (1.5%) per month or the maximum amount allowed by applicable law. If payment of any Services Fee is overdue, VMware may also suspend performance until such delinquency is corrected.

4.2   Limited Warranty. VMware warrants that the Services to be performed hereunder will be done in a workmanlike manner and shall conform to industry standards. Upon Customer providing VMware with a reasonably detailed written notice to cure within thirty (30) days of occurrence of the nonconformance, VMware will re-perform the Services to achieve commercially reasonable conformance with the above warranty. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY IS GIVEN EXPRESSLY AND IN PLACE OF ALL OTHER WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS REMEDY WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO NONCONFORMANCE OF SERVICES.

4.3   Termination. VMware may terminate this Agreement and all Services at any time if (1) it is discovered that Customer is currently in breach of its Software license restrictions, pursuant to Customer's Software license or (2) Customer is in material breach of this Agreement.

4.4   Data Protection. Customer acknowledges that correspondence and log files generated in conjunction with a request for Services may contain sensitive, confidential or personal information. Customer is solely responsible for taking the steps it considers necessary to protect such data, including obfuscating the logs or otherwise guarding such information prior to sending it to VMware.

4.5 Other. Customer may not assign or delegate this Agreement to any third party without the prior written consent of VMware. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws principles. The parties consent to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California. This Agreement constitutes the entire agreement of the parties with respect to the provision of the Services by VMware to Customer, and supersedes all prior written or oral communications, understandings and agreements. This Agreement may not be amended except in a written document signed by both parties. Any waiver of the provisions of this Agreement must be in writing

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to be effective. Except as expressly set forth herein, no terms of any purchase order or other business form that Customer may use will affect the obligations of the parties under this Agreement, and any such purchase order or other business form of Customer which contains additional or conflicting terms is hereby rejected by VMware. Customer agrees that purchase orders do not have to be signed to be valid and enforceable. If any provision of this Agreement is found to be invalid or unenforceable, the remaining terms will continue to be valid and enforceable to the fullest extent permitted by law. The version of the Technical Support Guide found at https://www.vmware.com/files/pdf/support/tech_support_guide.pdf and the policies located at https://www.vmware.com/support/policies/index/ are the governing versions of such documents/policies; any translation into other languages is for convenience only. VMware may update the Technical Support Guide and support policies periodically, without prior notice.IN WITNESS WHEREOF, Customer and VMware have caused this SnS Module to be signed by their duly authorized representatives.

VMWARE   **[CUSTOMER NAME]**

BY:_____   By:_____

PRINT NAME:_____   Print Name:_____

TITLE: _____   Title:_____

DATE:_____   Date: _____