Subscription and Services Agreement

This Subscription and Services Agreement ("**Agreement**") is entered into by the entity set forth on the signature page or on the Order Form in Appendix A of this Agreement ("**Custome**r") and HAProxy Technologies LLC, a Delaware limited liability company, located at 375 Totten Pond Road, Suite 302, Waltham, Massachusetts, 02451 ("**Company**"), or Company's Affiliate if set forth on the Order Form.

This Agreement is effective as of the date of Company's signature ("**Effective Date**").

Definitions

"**Affiliate**" means any company controlling, controlled by or under common control with a party, where "control" shall mean ownership, directly or indirectly, of the shares of a company representing fifty percent (50%) or more of the voting rights in this company.

"**Documentation**" means the documentation made available by Company with the Software, which may be modified from time to time.

"**Subscription**" means the subscription for Support and Software as set forth on the Order Form. Subscriptions may be modified from time to time in Company's sole discretion, provided that any modifications will not materially reduce the benefits provided by Subscriptions under an applicable Order Form.

"**Fees**" mean the fees described in each Order Form or SOW.

"**Order Form**" means the document, given in Appendix A, detailing the Subscriptions or Professional Services ordered.

"**Residuals**" means information that is retained in the unaided memories of Recipient's employees, agents, or contractors as permitted herein who have had access to Discloser's Confidential Information. Memory is unaided if the employee or contractor has not intentionally memorized the Confidential Information for the purpose of retaining and subsequently using or disclosing it.

"**Server**" means a single (i) physical machine; (ii) virtual machine; (iii) software container; or (iv) process executing one configuration.

"**Professional Services**" mean training and professional services purchased by Customer as set forth on an Order Form or SOW. Professional Services must be designated as "Professional Services" on an Order Form

"**Software**" means the software licensed or provided under this Agreement and all Updates that Company makes available during the Subscription Term.

"**SOW**" means the mutually agreed statement of work describing the Professional Services purchased by Customer.

"**Support**" means the technical and consultative support in the Subscription purchased by Customer as set forth on the Order Form.

"**Update**" means any new major or minor version of the Software made available by Company as part of Subscription during the Subscription Term.

1. **Scope.** Company will provide the applicable Subscriptions set forth on an Order Form. A description of Subscriptions offered by Company is available on the Company's website: www.haproxy.com. Subscriptions include Support for certain Software at the levels and in accordance with the descriptions set forth in the Order Form. Customer will not use the Software on or with any Servers that are not subject to a Subscription. If at any time during the Subscription Term, Customer increases the quantity of Servers on which the Software is installed or used, no later than

thirty (30) days after each such addition, Customer will notify Company and pay the applicable Fees beginning from the first date of such use.

2. Fees.

2.1   Customer will pay the fees set forth on the Order Form ("**Fees**"). All Fees are non-refundable, non-cancelable, and exclusive of applicable taxes. Unless otherwise set forth on an Order Form, Customer will pay Fees within thirty (30) days of the date of Company's invoice, without deduction or setoff. Company is entitled to charge Customer interest, at a rate equal to one and a half percent (1.5%) per month on any overdue or underpaid amounts.   If Customer fails to pay Fees in accordance with this Section 2, Company may suspend provision of the Subscriptions or Professional Services until such payment is received by Company. Customer's payment obligation will remain in effect during any such suspension. Unless otherwise set forth on an Order Form, Fees due in a Renewal Term will be Company's then-current fees for Subscriptions.

2.2   Customer will pay directly any taxes arising out of this Agreement, including applicable local, state, federal and international sales taxes, value added taxes, withholding taxes, and any other taxes or duties of any kind, but excluding taxes on Company's net income and all employer reporting and payment obligations with respect to Company's personnel. If any applicable law requires Customer to withhold amounts from any payments to Company under this Agreement, (a) Customer will effect such withholding, remit such amounts to the appropriate taxing authorities and promptly furnish Company with tax receipts evidencing the payments of such amounts and (b) the sum payable by Customer upon which the deduction or withholding is based will be increased to the extent necessary to ensure that, after such deduction or withholding, Company receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount Company would have received and retained absent the required deduction or withholding.

3. Subscription License.

3.1   For Software licensed under a commercial license, Company grants to Customer a limited, non-exclusive, non-transferable license during the Subscription Term to use and reproduce such Software on Servers for which Customer has purchased a Subscription solely in connection with Customer's internal operations.

3.2   All Servers on which the Software is installed must be covered by the same Subscription level. Upon termination or expiration of the Subscription, this Agreement and all licenses granted hereunder will terminate. Following such termination or expiration of the Subscription, upon request from Company, Customer will provide written confirmation to Company that it has: (a) removed or uninstalled the Software from all of its Servers which were licensed under a commercial license or (b) is using the Software pursuant to and in accordance with an open source license without use of Company's marks.

3.3   Customer will not and will not allow any third party to: (a) decompile, disassemble, translate, reverse engineer or otherwise attempt to derive source code from any encrypted or encoded portion of the Software, in whole or in part, nor will Customer use any mechanical, electronic or other method to trace, decompile, disassemble, or identify the source code of the Software or encourage or permit others to do so (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions), (b) sell, sublicense, rent, lease, distribute, market, or commercialize the Software for any purpose, including timesharing or service bureau purposes, (c) create, develop, license, install, use, or deploy any third party software or services to circumvent, enable, modify or provide access, permissions or rights which violate the technical restrictions of the Software, (d) remove any product identification, proprietary, copyright or other notices contained in the Software, (e) modify or create a derivative work of any encrypted or encoded portion of the Software, or any other portion of the Software, (f) publicly disseminate performance information or analysis including, without limitation benchmarking test results; (g) use the Software other than on Server; or (h) change any proprietary rights notices which appear in the Software or Documentation.

3.4   The Software may include individual open source software components, each of which has its own copyright and its own applicable license conditions. Open source software is licensed to Customer under the terms of the applicable open source license conditions and copyright notices that can be found in the licenses file, the Documentation or other materials accompanying the Software. In the event of a conflict between the licenses and restrictions set forth in this Section 3 and the terms of the open source license governing open source software, the terms of the open source software license will prevail.

4.   Professional Services.

4.1   Customer will provide Company with reasonable assistance to facilitate the scheduling and performance of the Professional Services. Customer will designate an engagement manager who will be authorized to give or obtain all information, decisions and approvals of such party relating to the Professional Services.

4.2   Professional Services will be deemed accepted when delivered unless otherwise set forth in the applicable Order Form or SOW. Any prepaid but unused Professional Services hours not used within the term specified on the applicable Order Form or SOW will expire.

4.3   Customer will reimburse Company for any expenses incurred by Company and pre-approved by Customer.

5.   Publicity and Confidentiality.

5.1   Company will be permitted to reference its relationship with Customer on its website, during discussions with analysts and reporters and in customer briefings and regulatory filings. Company will comply with Customer's publicly available trademark usage policies.

5.2   For purposes of this Agreement, the party disclosing Confidential Information is the "**Discloser**," and the party receiving Confidential Information is the "**Recipient**." Confidential Information means all information that is marked or identified as confidential or proprietary at the time of disclosure or that would be reasonably understood to be confidential based on the nature and circumstances surrounding disclosure.

5.3   Confidential Information excludes information that is: (a) known to Recipient without restriction before receipt from Discloser; (b) publicly available through no fault of Recipient; (c) rightfully received by Recipient from a third party without a duty of confidentiality; or (d) independently developed by Recipient. If Confidential Information is required to be produced by law, court order, or governmental authority, Recipient must (subject to legal prohibition) immediately notify Discloser and only disclose the information required. Recipient will use Discloser's Confidential Information only for the purposes provided and as directed by Discloser. Confidential Information may not be disclosed to any third party other than Recipient's employees and contractors that need to know such information and that are subject to obligations of confidentiality to Recipient no less restrictive than the terms set forth herein. At Discloser's request, all written, recorded, graphical, or other tangible Confidential Information, including copies, must be returned to Discloser or destroyed by Recipient. At the request of Discloser, Recipient will certify in writing that any Confidential Information not returned to Discloser has been destroyed. Recipient may use Residuals for any purpose, including use in the acquisition, development, manufacture, promotion, sale, or maintenance of products and services; provided that the foregoing does not represent a license under any intellectual property or proprietary rights of disclosing party.

6.   Intellectual Property.

6.1   Company will own all intellectual property and proprietary rights in the: (a) Software, Documentation, and related works, including but not limited to any modifications and derivative works of the foregoing; and (b) deliverables provided by Company as part of the Professional Services ("**Deliverables**"). Except for Deliverables related to open source software and unless otherwise specified on an Order Form or SOW, Company grants to Customer a nonexclusive, non-transferrable, royalty-free license to use Deliverables for Customer's internal purposes during the Subscription Term. Deliverables related to open source software will be made available in accordance with and pursuant to the open source license governing such software.

6.2   During the Subscription Term, Customer grants to Company a nonexclusive, non-transferable, royalty-free license to use Customer's materials provided by Customer to Company solely for the purpose of performing the Professional Services.

6.3   In the event that Customer provides Company with suggestions, enhancement requests, recommendations, proposals, documents, or other feedback (collectively, "Communications"), Customer grants Company a royalty-free, worldwide, transferable, sub-licenseable, irrevocable, perpetual license to use, modify, and distribute such Communications in any manner without compensation to Customer or attribution of any kind**.**

7.   Warranties and Disclaimers.

7.1   Company warrants that the Support and Professional Services will be performed in a professional and workmanlike manner consistent with applicable industry standards. If Customer believes there has been a breach of this warranty, Customer must notify Company in writing promptly following delivery of such Support or Professional Services stating in reasonable detail the nature of the alleged breach. As Company's sole obligation and Customer's exclusive remedy, Company will to correct or re-perform, at no additional charge, any non-conforming Support or Professional Services.

7.2   Customer represents and warrants that it and its use of the Subscription, Software, Support, and Professional Services will at all time comply with applicable laws.

7.3   EXCEPT AS PROVIDED IN SECTION 7.1, TO THE MAXIMUM EXTENT PROVIDED BY APPLICABLE LAWS, THE SOFTWARE, SUPPORT, AND PROFESSIONAL SERVICES INCLUDING ALL UPDATES, BUG FIXES, WORK AROUNDS, OR ERROR CORRECTIONS, ARE PROVIDED TO CUSTOMER "AS-IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INTEGRATION, NON-INFRINGEMENT, TITLE, PERFORMANCE, AND ACCURACY AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

8.   Limitation of Liability.

8.1   IN NO EVENT WILL COMPANY OR ITS AFFILIATES BE LIABLE UNDER THIS AGREEMENT FOR ANY INDIRECT, RELIANCE, PUNITIVE, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR INCIDENTAL DAMAGES OF ANY KIND AND HOWEVER CAUSED EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

8.2   COMPANY AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ON ACCOUNT OF PERFORMANCE OR NON- PERFORMANCE OF OBLIGATIONS, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), STATUTE OR OTHERWISE WILL BE LIMITED TO DIRECT DAMAGES AND WILL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID TO COMPANY PURSUANT TO THE ORDER FORM GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE TIME THE CLAIM AROSE.

8.3   THE PROVISIONS OF THIS SECTION 8 ALLOCATE RISKS UNDER THIS AGREEMENT BETWEEN CUSTOMER AND COMPANY.   COMPANY'S FEES FOR THE SUBSCRIPTIONS, SUPPORT AND PROFESSIONAL SERVICES REFLECT THIS ALLOCATION OF RISKS AND LIMITATION OF LIABILITY.

9.   Indemnification.

9.1   For Software licensed to Customer under a commercial license ("**Covered Software**"), Company will defend Customer against any third party claim brought against Customer claiming that such Covered Software as licensed under this Agreement infringes such third party's patent or copyright valid and enforceable in the United States and European

Union ("**Infringement Claim**") and indemnify Customer from the resulting costs and damages awarded by a court of competent jurisdiction against Customer to the third party making such Infringement Claim, provided that Customer gives Company: (a) prompt written notice of the Infringement Claim, (b) exclusive control over the defense and settlement of the Infringement Claim, and (c) reasonable cooperation in connection with the defense and settlement of the Infringement Claim. Customer may reasonably participate in the defense of the Infringement Claim at its own expense. Company will have no liability if the alleged infringement is based on: (i) combination of the Covered Software with other software, data or business process not provided with the Subscription, (ii) use for a purpose or in a manner for which the Covered Software was not designed, (iii) use of any older release of the Covered Software when use of a newer revision would have avoided the infringement, (iv) any modification of the Covered Software made by anyone other than Company, (v) any intellectual property right owned or licensed by Customer, excluding the Covered Software, (vi) Company's compliance with any materials, designs, specifications or instructions provided by Customer, (vii) Customer's claim or lawsuit against a third party, (viii) any open source software, or (ix) Customer's use of the Covered Software after Company notifies Customer to discontinue running it due to an Infringement Claim.

9.2   Should Covered Software become, or in Company's opinion be likely to become, the subject of such an Infringement Claim, Company will, at its option and expense, (a) procure for Customer the right to make continued use of the Covered Software, (b) replace or modify such so that it becomes non-infringing, or (c) request return of the Covered Software and, upon receipt thereof, the corresponding licenses are terminated and Company will refund any prepaid but unused Fees paid for the applicable Subscription.

9.3   THIS SECTION 9 STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND COMPANY'S ENTIRE LIABILITY FOR INFRINGEMENT CLAIMS.

10.   Term and Termination.

10.1   This Agreement will be in effect until all outstanding Order Forms have expired to been terminated in accordance with this Agreement. Each Order Form will be in effect for a period of one (1) year from the Effective Date (the "**Initial Term**") and will automatically renew for successive one (1) year periods (each a "**Renewal Term**" and together with the Initial Term, the "**Subscription Term**"). During the Subscription Term, Customer may purchase Subscriptions for additional Servers pursuant to an Order Form and such Subscriptions will be co-terminus with the then-current Subscription Term. Either party may elect not to renew an Order Form by providing the other party with no less than sixty (60) days' notice prior to the commencement of a Renewal Term. The expiration or termination of an Order Form or SOW will not terminate any other Order Form in effect. Either party may terminate this Agreement, Order Forms and SOWs with immediate effect: (a) in the event that the other party breaches this Agreement and does not cure such breach within thirty (30) days following of written notice of such breach, (b) in the event that the other party ceases business, becomes insolvent or bankrupt or if a receiver, examiner, administrator or administrative receiver is appointed over any part of that party's business or if anything analogous occurs in relation to that party under the laws of another jurisdiction, or (c) upon the institution by or against the other party of insolvency, receivership or bankruptcy proceedings in relation to such party.

10.2   Sections 2 and 5-9, 10.2, 10.3, and 11 will survive the expiration or termination of this Agreement.

10.3   During the Subscription Term and for one (1) year following termination or expiration of this Agreement (but no more than once in a calendar year), Company and its auditors may inspect Customer's records relating to its reproduction and use of the Software, Support and Subscription for the purposes of verifying Customer's compliance with this Agreement. Customer will cooperate fully with Company and its auditors in conducting audits and provide reasonable assistance. If an underpayment is discovered, Customer will promptly pay such amount and Customer will reimburse Company for the cost of the audit.

11.   General.

11.1   This Agreement and any dispute relating to, or arising out of this Agreement or its formation or termination or actions or omissions contemplated by this Agreement, will be governed by and in accordance with the laws of New York, without giving effect to the conflict of laws provisions. For all disputes arising out of this Agreement, the parties consent to the exclusive jurisdiction of the federal and state courts located in New York.

11.2   Unless otherwise specified in this Agreement, all notices will be in writing and will be mailed (via registered or certified mail, return receipt requested), delivered by a nationally recognized express courier service with the ability to track shipments, or personally delivered to the other party at the address set forth above (or at such other address as either party may designate in writing to the other party). All notices will be effective upon receipt.

11.3   This Agreement is binding on the parties to this Agreement, and nothing in this Agreement confers upon any other person or entity any right, benefit or remedy of any nature whatsoever.   This Agreement is assignable by either party only with the other party's prior written consent, which will not be unreasonably withheld. Notwithstanding the foregoing, either party may assign this Agreement to an Affiliate or as a result of a merger or a sale of all or substantially all of such party's assets or stock without the prior approval of the other party, provided that Customer's assignment may not increase the scope of an Order Form.

11.4   This Agreement, including any linked terms set forth herein, together with all Order Forms, is the parties' entire agreement relating to its subject and supersedes any prior or contemporaneous agreements on that subject. All amendments to this Agreement must be in writing, executed by both parties and expressly state that they are amending this Agreement. Notwithstanding the foregoing, Company may modify the Subscription and Support offering, provided that Company not materially reduce such Subscription and Support benefits during the then-current Subscription Term. Purchase orders will be for the sole purpose of defining quantities, prices and describing the Subscription, Support and Professional Services to be provided under this Agreement and to this extent only are incorporated as a part of this Agreement and all other terms in purchase orders are rejected.

11.5   Failure to enforce any provision of this Agreement will not constitute a waiver thereof. No waiver will be effective unless it is in writing and signed by the waiving party. If a party waives any right, power, or remedy, the waiver will not waive any successive or other right, power, or remedy the party may have under this Agreement. If any provision is found to be unenforceable, it and any related provisions will be interpreted to best accomplish the unenforceable provision's essential purpose.

11.6   Neither party will be liable for failures or delays in performance due to causes beyond its reasonable control, including, but not limited to, any act of God, fire, earthquake, flood, storm, natural disaster, accident, pandemic, labor unrest, civil disobedience, act of terrorism or act of government; however, the inability to meet financial obligations is expressly excluded.

11.7   During the term, Company will maintain at its own expense the following insurance coverage: (i) Commercial General Liability insurance, including contractual liability coverage, on an occurrence basis for bodily injury, death, property damage, products and completed operations, and personal and advertising injury, with coverage limits of not less than US$1,000,000 per occurrence, (ii) Workers' Compensation insurance as required by law, and (iii) Umbrella (Excess) Liability insurance on an occurrence basis, with coverage limits of not less than US$2,000,000 per occurrence.