1. **Purpose; Relationship to Other Agreements.** This purchase order ("**PO**") is between the Red Hat entity issuing the PO ("**Red Hat**") and the supplier identified herein ("**Provider**") and covers the license and purchase, as the case may be, of software and tangible goods ("**Goods**") and/or services ("**Services**"). Provider accepts this PO in the language it is written in and, to the extent that any such right exists, waives its statutory right to a translation of the terms hereof into another language As used herein, Goods includes, to the extent applicable, any intellectual property or other work product, software, programs, computer code, documents or other items developed for Red Hat by Provider or its agents or subcontractors in connection with this PO ("**Deliverables**"). This PO is effective upon Provider commencing performance or the date of Provider's electronic acceptance or written acknowledgement of this PO, whichever is earliest. Any provision or condition which Provider includes in its acknowledgment of this PO (or any other Provider pre-printed form or click-through terms) shall not be binding upon Red Hat unless expressly agreed to in writing by an authorized representative of Red Hat. If this PO is deemed an acceptance by Red Hat of a Provider offer or counteroffer, then such acceptance is expressly conditioned on Provider's assent to all of the terms of this PO, including those that are in addition to, or different from, the terms of Provider's offer or counteroffer. The terms and conditions of this PO are the complete and binding agreement between Red Hat and Provider; provided, if the parties mutually executed an agreement ("**Agreement**") effective as of the date of this PO and the Agreement applies to the Services and/or Goods ordered under this PO, then the provisions of the Agreement shall supersede the terms of this PO.

2. **Payment; Invoices; Taxes.** Red Hat will pay the amounts as set forth in this PO. Except as otherwise specifically indicated by Red Hat, payments shall be made in United States dollars and are exclusive of applicable sales, use or similar taxes. Any such taxes shall be specifically listed and identified by Provider in the applicable invoice by tax jurisdiction and with a proper breakdown between taxable and non-taxable Services and Goods. Except for any amounts in dispute, all amounts owed by Red Hat shall be due and payable within sixty (60) days of Red Hat's receipt of an invoice. All invoices shall include the following information: Red Hat purchase order number, product number and description, sizes, quantities, unit prices and extended totals, and any other information specified in this PO. Red Hat is not obliged to pay any invoice not submitted in accordance with the terms of this PO. The payment of invoices shall not constitute an acceptance of the Services and/or Goods and shall be subject to offset commensurate with other amounts owed by Provider to Red Hat under this PO or the applicable Red Hat order and any errors, shortages, or defects in the Services and/or Goods. The parties acknowledge and agree that Red Hat has the right to withhold any applicable taxes from any payments due under this PO if required by any government authority. Without limiting the foregoing, Red Hat may withhold from any payments due for Services and/or Goods any applicable taxes incurred by Red Hat that result from providing such Services and/or Goods to Red Hat, a Red Hat subsidiary and/or affiliate. The parties shall work together in good faith to minimize any adverse tax consequences to each party as a result of cross-border transactions. Provider shall bear sole responsibility for all taxes, assessments or levies on its own income, leased or purchased property, equipment and software and any taxes that may be required or imposed by any federal, state, or local taxing authority.

1. 目的；与其他协议的关系。本采购订单（"**PO**"）由签发采购订单的红帽实体（"**红帽**"）与此处指定的供应商（"**提供商**"）签订，涵盖软件和有形货物（"**货物**"）和/或服务（"**服务**"）的许可和采购（视情况而定）。提供商按照PO书就的语言予以接受，并且如果相关权利存在，其放弃将此条款翻译成另一语言的法定权利。本文件所指"货物"在适用范围内包括由提供商或其代理或分包商为红帽所开发的与本采购订单相关的任何知识产权或其他工作产品、软件、程序、计算机代码、文档或其他项目（"**交付项目**"）。本 PO 自提供商开始履行或提供商电子接受或书面确认本 PO 之日起生效，以较早者为准。除非红帽的授权代表以书面形式明确同意，否则提供商在其对本 PO 的确认书中加入的任何条款或条件（或任何其他提供商预先打印的表单或点击进入条款）对红帽均不具有约束力。如果该PO被视为Red Hat接受提供商的要约或还价，则该等接受取决于提供商明确同意本PO的所有条款，包括除提供商的要约或还价之外的或与之不同的条款。本 PO 的条款和条件是红帽与提供商之间签署的完整且具有约束力的协议；但如果双方已共同签署一份自本 PO 之日起生效的协议（"**协议**"），且该协议适用于根据本 PO 订购的服务和/或货物，则该协议的条款应取代本 PO 的条款。

2. 付款；发票；税费。红帽将支付本 PO 中规定的金额。除红帽另有特别说明外，款项应以美元支付，且不包含适用的销售税、使用税或类似税费。提供商应根据税收管辖权在相关发票中明确列出和标识所有此等税费，并对应课税和非课税服务及货物进行适当分类。除存在争议的金额外，红帽的所有应付金额都须在红帽收到发票后的六十 (60) 天内到期并支付。所有发票均应包含以下信息：红帽采购订单号、产品编号和描述、尺寸、数量、单价和扩展总价，以及本 PO 规定的任何其他信息。红帽并无义务支付未按照本 PO 条款提交的任何发票。针对发票的付款不应构成对服务和/或货物的接受，而是应与提供商在本 PO 或相关红帽订单项下亏欠红帽的其他金额以及服务和/或货物中的任何错误、短缺或缺陷相应抵销。双方确认并同意，如果任何政府当局有此要求，则红帽有权从本 PO 项下的任何应付款项中扣除任何适用的税费。在不限制前述规定的情况下，红帽可以从任何应付的服务和/或货物款项中扣除红帽因向红帽、其子公司和/或关联公司提供此等服务和/或货物而产生的任何适用税费。双方应本着真诚的态度共同努力，尽量减少跨境交易给各方带来的任何税收方面的不利影响。提供商应自行承担与其自身收益、租赁或购买所得财产、设备和软件有关的所有税费、核定额或征收额，以及任何联邦、州或地方税务机关可能要求或征收的任何税费。

3. Shipping of Goods; Delivery Requirements for Software.

3.1 This <u>Section 3.1</u> applies to Provider's delivery of Goods other than software or Deliverables. Provider shall ship all Goods FCA (Incoterms 2020®). Provider shall assume risk of loss to the Goods until received by Red Hat in accordance with <u>Section 4 (Inspection; Acceptance)</u> at the ship-to address designated by Red Hat. Provider is responsible for all shipping fees, applicable tariffs, and other costs to ship Goods. Title to Goods will pass from Provider to Red Hat upon acceptance by Red Hat at the designated ship-to address, subject to <u>Section 4 (Inspection; Acceptance)</u>. Provider shall assume all responsibility to properly insure such Goods (including when the Goods are in transit) until and up to the time when title passes to Red Hat. Provider (a) shall provide the warranties and indemnities stated in this PO; and (b) hereby assigns and passes through and agrees to assign and pass through to Red Hat, any third-party manufacturers' and licensors' warranties and indemnities applicable to the Goods. Red Hat will not accept any COD shipment. All Goods shall be packaged, marked, labelled and otherwise prepared for shipment in a manner which is in accordance with good commercial practice, country of origin marking requirements and any regulations applicable to common carriers and designed to adequately prevent damage to the Goods during shipment. A commercial invoice with appropriate values, country(ies) of origin and descriptions that provide enough detail to verify the categorical classification of every product included in the shipment shall be provided. Packing list(s) shall be enclosed with all shipments of Goods that indicate the content therein. Red Hat will not be responsible for any handling charges related to packing, wrapping, bags, containers, reels, or other costs (including insurance costs prior to title to the Goods passing to Red Hat), unless specifically stated herein. Provider shall (x) make best efforts to comply with applicable supply chain security recommendations issued by applicable governments and industry standards organizations, and (y) provide to Red Hat or its agent, promptly on request, any information or documentation required by Red Hat to comply with applicable import and export laws, regulations or administrative requirements.

3.2 This <u>Section 3.2</u> applies to Provider's delivery of software Goods. Provider will deliver or make available to Red Hat, no later than the start date of the license term set out in the applicable Red Hat order or purchase order and in electronic form only, all software Goods, license keys, access or activation information, and all related documentation, user manuals and other relevant specifications published by Provider ("**Documentation**"). Provider will deliver or make available to Red Hat all updates, upgrades, enhancements and fixes to the software Goods, along with any Documentation updates, in electronic form only and no later than the date each such update, upgrade, enhancement or fix is made commercially available to Provider's other customers.

4. Inspection; Acceptance. Services and/or Goods shall be provided in accordance with the specifications and terms of this PO. All Services and/or Goods are subject to Red Hat's inspection, at Red Hat's discretion, however the parties agree that Red Hat is not obliged to perform such inspection and evaluation. If any Services and/or Goods fail to conform to this PO, Provider will, promptly following Red Hat's notice thereof, replace or correct, at Provider's expense, such nonconforming Services and/or Goods. If, after Red Hat's request, Provider fails to promptly replace or correct any nonconforming Services and/or Goods, Red Hat may, at its sole discretion and without prejudice to any other remedies available to Red Hat, (a) direct

3. 货物运输；软件的交付要求。

3.1 本<u>第 3.1 条</u>适用于提供商的货物交付（软件或交付项目除外）。提供商应采用 FCA (Incoterms 2020®) 装运所有货物。在红帽按照<u>第 4 条（检验；验收）</u>于红帽指定的收货地址收到货物前，货物损失风险均应由提供商应承担。提供商需承担所有运费、适用关税和运输货物产生的其他费用。根据<u>第 4 条（检验；验收）</u>的规定，自红帽在指定收货地址验收货物后，货物所有权应从提供商转移到红帽。在货物所有权转移给红帽之前，提供商应全权负责为此等货物（包括运输途中的货物）提供适当的保险。提供商 (a) 应提供本 PO 中所规定的保证和赔偿；并 (b) 特此将适用于货物的任何第三方制造商和许可方的保证和赔偿转让并传递给红帽，并同意将此等保证和赔偿转让并传递给红帽。红帽不接受采用 COD 进行的任何装运。所有货物的包装、标记、标签和其他装运准备均应符合良好商业惯例、原产国标记要求和适用于普通承运人的任何规定，并且应设计为能够充分防止货物在装运期间受到损坏。此外，还应提供包含适当价值、原产国和说明的商业发票，此等发票应载有充分的详细信息，以便核实装运所含的每种产品的分类。所有装运的货物还应随附注明装运内容的装箱单。除非在本文件中作出特别说明，否则红帽将不负责与打包、包装、袋子、容器、卷轴有关的任何手续费或其他费用（包括将货物所有权转移给红帽之前的保险费）。供应商应 (x) 尽最大努力遵守适用的政府和行业标准组织发布的相关供应链安全建议；并 (y) 应要求及时向红帽或其代理提供红帽为遵守适用的进出口法律、法规或行政要求所需的任何信息或文件。

3.2 本<u>第 3.2 条</u>适用于提供商的软件货物交付。提供商将在不迟于相关红帽订单或采购订单所规定的许可期限的开始日期（仅以电子形式）向红帽交付或提供所有软件货物、许可密钥、访问或激活信息，以及所有相关文件、用户手册和提供商发布的其他相关规范（"**文件**"）。提供商将仅以电子形式向红帽交付或提供软件货物的所有更新、升级、增强和修复及任何文件更新，且此等提供不应迟于每个此等更新、升级、增强或修复以商业方式提供给提供商其他客户的日期。

4. 检验；验收。服务和/或货物均应按照本 PO 中的规范和条款提供。所有服务和/或货物均须接受红帽的检验（由红帽自行决定），但双方同意红帽并无义务执行此等检验和评估。如果任何服务和/或货物不符合本 PO，提供商在收到红帽的通知后及时更换或纠正此等不合格服务和/或货物，相关费用由提供商承担。如果提供商在红帽提出请求后未能及时更换或纠正任何不合格服务和/或货物，红帽可在不影响红帽可获得的任何其他补救的情况下自行决定 (a) 以书面形式要求提供商退还红帽就该等服务和/或货物所支付的全部费用，提供商应在收到红帽发出的通知后十五 (15) 天内退还此等费用；(b) 聘请第三方重新执行、修理、更换或以其他方式补救不合格服务和/或货物（视具体情况

Provider in writing to refund all fees paid by Red Hat with respect to such Services and/or Goods, which fees Provider shall refund within fifteen (15) days of Red Hat's notice, (b) at Provider's cost and expense, engage third parties to re-perform, repair, replace or otherwise remedy the nonconforming Services and/or Goods (as the case may be), (c) terminate this PO for Provider's default, upon which Provider will promptly refund any amounts paid by Red Hat for such nonconforming Services and/or Goods, or (d) accept such nonconforming Services and/or Goods, subject to a reduction in price commensurate with the nonconformity.

5. Warranties.

5.1 General. Provider represents and warrants that: (a) it has full power and authority to enter into this PO and to perform its obligations hereunder; (b) there is no matter or dispute pending or threatened against Provider that would adversely affect its ability to fulfill its obligations under this PO; (c) the entering into and the performance of this PO does not violate the terms and conditions of any other agreement or contract or any legal obligation; and (d) it will comply with applicable laws and regulations, including, without limitation, all applicable export control and import laws and regulations (whether in the United States of America, European Union or otherwise).

5.2 Services; Goods. Provider represents and warrants that (a) the Goods and Services will be provided in accordance with industry standards and all applicable law, including, without limitation, all applicable export control and import laws and regulations (whether in the United States of America, European Union or otherwise); (b) Goods will be transferred with good and marketable title, free and clear of liens and other encumbrances; (c) Provider has the right to grant the assignments and licenses with respect to the Goods without the need of any consents; (d) it shall perform the Services in a good and workmanlike manner by skilled and qualified personnel in accordance with industry standards and this PO; (e) the Goods and Services shall be free of defects in material and workmanship and shall conform to the terms and conditions of this PO; (f) any software and hardware supplied will conform with the relevant software and/or hardware documentation, user manuals and other relevant specifications published by Provider, licensor, and manufacturer, as applicable; (g) the Goods and Services will not infringe or misappropriate any copyright, trade secret, trademark, license, patent or other intellectual property right of any third party; and (h) the Goods do not contain any malicious or hidden mechanisms or code that may damage or corrupt the Goods or Red Hat property, or otherwise adversely impact Red Hat, its customers and/or other third parties. In the event Provider breaches any warranty set forth herein, at Red Hat's sole discretion and without prejudice to any other remedies available to Red Hat, Red Hat may at its option (w) direct Provider in writing to refund all fees paid by Red Hat with respect to such Goods and/or Services, which fees Provider shall refund within fifteen (15) days of Red Hat's notice, (x) at Provider's cost and expense, engage third parties to re-perform, repair or replace or otherwise remedy the nonconforming Goods and/or Services (as the case may be), (y) terminate this PO (in whole or part) in accordance with Section 7 (Termination), and/or (z) waive the nonconformity, subject to a reduction in price commensurate with the nonconformity.

6. Intellectual Property Rights

6.1 Existing IP. Each party retains all right, title and interest in and to their respective Existing IP. Provider agrees to identify any Existing IP contained in a Deliverable in this PO or otherwise in writing and in advance to Red Hat. For purposes of this PO, the term "**Existing IP**" means all worldwide intellectual property rights in any and all technology, know how, software, data, ideas, formula, processes, charts, Confidential Information and any other materials or information that are (a) owned or

而定），相关费用和开支由提供商承担；(c) 因提供商违约而终止本 PO，此时提供商应及时向红帽退还其为该等不合格服务和/或货物所支付的任何款项；或 (d) 接受该等不合格服务和/或货物，但须根据不合格品的情况相应降低价格。

5. 担保。

5.1 一般条款。提供商声明并保证：(a) 其拥有订立本 PO 并履行其在本 PO 项下义务的全部权力和权限；(b)针对提供商的会对其履行本 PO 项下义务的能力不存在产生不利影响的任何未决或威胁事项或争议；(c) 本 PO 的订立和履行不违反任何其他协议或合同的条款和条件或任何法律义务；以及 (d) 将遵守适用的法律和法规，包括但不限于所有适用的出口管制及进口法律和法规（无论是美利坚合众国、欧盟还是其他国家/地区的法律）。

5.2 服务；货物。提供商声明并保证 (a) 货物和服务将根据行业标准和所有适用法律提供，包括但不限于所有适用的出口管制及进口法律和法规（无论是美利坚合众国、欧盟还是其他国家/地区的法律）；(b) 货物被转移时应具有完好和适于销售的所有权，且不受留置权和其他产权负担的限制；(c) 提供商有权授予与货物有关的转让和许可而无需征求任何同意；(d) 其应安排熟练的合格人员按照行业标准和本 PO 以良好专业的方式提供服务；(e) 货物和服务应无材料和工艺缺陷，并符合本 PO 的条款和条件；(f) 所提供的全部软件和硬件将符合相关软件和/或硬件文件、用户手册以及提供商、许可方和制造商发布的其他相关规范（如适用）；(g) 货物和服务不会侵犯或盗用任何第三方的任何版权、商业秘密、商标、许可、专利或其他知识产权；以及 (h) 货物不包含可能损坏或毁坏货物或红帽财产，或以其他方式对红帽、其客户和/或其他第三方造成不利影响的任何恶意或隐藏机制或代码。如果提供商违反本文件中规定的任何担保，红帽可在不影响红帽可获得的任何其他补救的情况下自行决定选择以下任意一项：(w) 以书面形式要求提供商退还红帽就该等货物和/或服务所支付的全部费用，提供商应在收到红帽发出的通知后十五 (15) 天内退还此等费用；(x) 聘请第三方重新执行、修理、更换或以其他方式补救不合格货物和/或服务（视具体情况而定），相关费用和开支由提供商承担；(y) 根据第 7 条（终止）终止本 PO（全部或部分）；和/或 (z) 放弃不合格品，但须根据不合格品的情况相应降低价格。

6. 知识产权

6.1 现有 IP。各方保留对其各自现有 IP 的所有权利、所有权和权益。提供商同意确认或以其他书面形式提前向红帽确认本 PO 中交付项目所含有的任何现有 IP。就本 PO 而言，术语"**现有 IP**"指 (a) 自生效日期起由任何一方拥有或控制；或 (b) 由任何一方在本 PO 范围之外开发的任何和所有技术、专有技术、软件、数据、创意、配方、工艺、图表、机密信息和任何其他材料或信息在全球范围内的所有知识产权。

controlled by either party as of the Effective Date, or (b) developed by either party outside the scope of this PO.

6.2 Ownership and License Rights.

(a) Subject to the other provisions of this <u>Section 6.2</u>, Provider hereby grants to Red Hat a worldwide, irrevocable, nonexclusive, transferable, perpetual, paid-up and royalty-free license to use applicable software or other intellectual property provided as, or as part of, any Services and/or Goods.

(b) All rights, title, interests and intellectual property of any kind (including patents, copyrights, and trade secrets) in and to Deliverables, excluding any Provider Existing IP therein, shall belong solely and exclusively to Red Hat, and Provider hereby assigns and agrees to assign such intellectual property (excluding Provider Existing IP) to Red Hat.

(c) To the extent any Provider Existing IP is included in, or as part of, any Deliverable, Provider hereby grants Red Hat a non-exclusive, irrevocable, perpetual, world-wide, royalty free, transferable, sublicensable right to make, use, sell, offer for sale, import, modify, support, operate, copy, distribute, make available, perform, publish, and display the Provider Existing IP in connection with Red Hat's use of such Deliverable.

(d) In the event the Deliverables include any third party intellectual property, Provider shall procure for Red Hat the same rights with respect to such third party intellectual property as are set out for Provider Existing IP in <u>Section 6.2(c)</u> and shall assign such rights to Red Hat on terms acceptable to Red Hat.

(e) Unless otherwise set forth in the applicable order or purchase order, any software Goods may be accessed and used by an unlimited number of concurrent users, on an unlimited number of computers, servers, systems, networks and/or other environments or equipment, and/or at an unlimited number of sites in any geographic territories, and such software Goods may be accessed and used on, and transferred between, any computers, servers, systems, networks and other environments and equipment owned, leased, controlled or otherwise used by Red Hat or its affiliates. Software Goods may be copied, accessed and used in development environments, testing environments, backup environments and disaster recovery environments (in addition to production environments).

6.3 Works for Hire; Further Assurances. Subject to <u>Section 6.2 (Ownership and License Rights)</u>, (a) Deliverables shall be deemed works made for hire under applicable copyright laws, and (b) to the extent Red Hat does not receive all rights, title, and interest in and to any Deliverable, Provider hereby assigns and agrees to assign to Red Hat all rights, title, and interest in and to such Deliverables and at no cost to Red Hat. Provider will promptly execute any documents and otherwise provide assistance as reasonably requested by Red Hat in its effort to obtain and enforce patents, copyrights, rights in mask works, trade secret rights, and other legal protections related to any Deliverable. Provider irrevocably waives all moral rights in, and all other intellectual property rights to, all Deliverables. Provider shall have no license or other rights to use the Deliverables, except as reasonably necessary to perform its obligations under this PO and the applicable Red Hat order. Provider agrees: (x) to assist Red Hat in every reasonable way requested by Red Hat, at Provider's expense, to protect and defend all intellectual property rights and statutory rights in and to the Deliverables that Red Hat deems appropriate; and (y) to treat all Deliverables as Confidential Information (as defined below). Provider irrevocably agrees not to directly or indirectly contest the ownership rights of Red Hat regarding the Deliverables. Provider agrees to include and enforce appropriate provisions in all agreements with employees, independent contractors, and subcontractors to ensure the exclusivity of Red Hat's ownership of Deliverables and the protection of Confidential Information in accordance with this PO.

6.2 所有权和许可权。

(a) 根据本第 6.2 条的其他规定,提供商特此授予红帽全球范围内、不可撤销、非专有、可转让、永久性的付费且免版税的许可,以便红帽使用作为任何服务和/或货物或其中一部分提供的适用软件或其他知识产权。

(b) 交付项目所包含或享有的所有权利、所有权、权益和任何类型的知识产权(包括专利、版权和商业秘密)应完全归红帽专有(提供商在其中享有的任何现有 IP 除外),提供商特此转让并同意向红帽转让此等知识产权(提供商的现有 IP 除外)。

(c) 如果提供商的任何现有 IP 包含在任何交付项目中或作为交付项目的一部分提供,提供商特此授予红帽非专有、不可撤销、永久性、全球范围内、免版税、可转让且可分售许可的权利,以制作、使用、销售、标价出售、导入、修改、支持、操作、复制、分发、提供、执行、发布和展示与红帽使用此等交付项目有关的提供商现有 IP。

(d) 如果交付项目包括任何第三方知识产权,提供商应为红帽获取与第 6.2(c) 条规定的提供商现有 IP 相同的有关第三方知识产权的权利,并应按照红帽可接受的条款将此等权利转让给红帽。

(e) 除非适用的订单或采购订单另有规定,任何软件货物均可由不限数量的并发用户在不限数量的计算机、服务器、系统、网络和/或其他环境或设备上,和/或在任何地理区域中不限数量的站点上访问和使用,并且此等软件货物可在由红帽或其关联公司拥有、租赁、控制或以其他方式使用的任何计算机、服务器、系统、网络和其他环境和设备上访问和使用,并可在此等计算机、服务器、系统、网络和其他环境和设备之间转进行移。软件货物可在开发环境、测试环境、备份环境和灾难复原环境(生产环境除外)中被复制、访问和使用。

6.3 职务作品;进一步保证。根据第 6.2 条(所有权和许可权),(a) 交付项目应被视为根据适用的版权法为履行职务而制作的作品;和 (b) 如果红帽未获得任何交付项目所包含和享有的所有权利、所有权和权益,则提供商特此向红帽转让并同意向红帽转让此等交付项目所包含和享有的所有权利、所有权和权益,且不向红帽收取任何费用。提供商应及时执行任何文件,并应红帽的合理要求以其他方式提供协助,以获得和执行与任何交付项目相关的专利、版权、掩膜作品权利、商业秘密权利和其他法律保护。提供商不可撤销地放弃对所有交付项目的所有精神权利和所有其他知识产权。提供商不具有使用交付项目的许可权或其他权利,对履行其在本 PO 和相关红帽订单项下的义务而言合理且必要的情况除外。提供商同意:(x) 按照红帽要求的一切合理方式协助红帽保护和捍卫红帽认为适当的交付项目含有和享有的所有知识产权和法定权利,相关费用由提供商承担;和 (y) 将所有交付项目视为机密信息(定义见下文)。提供商不可撤销地同意不直接或间接对红帽就交付项目享有的所有权提出异议。提供商同意在与员工、独立承包商和分包商的所有协议中纳入并执行适当条款,以确保红帽对交付项目所有权的专有权,并确保根据本 PO 保护机密信息。

7. **Termination.** Notwithstanding anything to the contrary, Red Hat may immediately terminate this PO, in whole or in part, at any time and without incurring any penalty in the event that Provider is in material breach of this PO or upon Red Hat's receipt of a notice from Provider under Section 11 (Miscellaneous) in connection with a Force Majeure Event. Further, Red Hat may immediately terminate this PO, in whole or in part, without cause. Termination is effective upon written notice. If Red Hat terminates for any reason, its only obligation or liability is to pay for Goods accepted by Red Hat and/or Services properly performed by Provider to Red Hat's reasonable satisfaction, prior to the effective date of termination, and Provider will promptly refund Red Hat any prepaid fees under this PO that correspond to any Services or Goods that have not been accepted by Red Hat or provided to Red Hat's reasonable satisfaction.

8. **Limitation of Liability.**

8.1 **CAP ON DAMAGES.** SUBJECT TO SECTION 8.3 (EXCLUSIONS), IN NO EVENT SHALL THE TOTAL CUMULATIVE LIABILITY HEREUNDER EXCEED: (A) WITH RESPECT TO RED HAT, THE AMOUNTS PAID AND PAYABLE TO PROVIDER UNDER THIS PO; OR (B) WITH RESPECT TO PROVIDER, THE GREATER OF TWO (2) TIMES THE AMOUNTS PAID AND PAYABLE TO PROVIDER UNDER THIS PO AND ONE MILLION DOLLARS ($1,000,000 USD). THE FOREGOING LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED UNDER LAW.

8.2 **DISCLAIMER OF CERTAIN DAMAGES.** SUBJECT TO SECTION 8.3 (EXCLUSIONS), IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, AND/OR FOR ANY DAMAGES FOR LOST PROFITS, MALFUNCTIONS, DELAYS, LOST SAVINGS, LOSS OF BUSINESS, ANTICIPATORY PROFITS, BUSINESS INTERRUPTIONS, OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED UNDER LAW. FURTHER, IN NO EVENT SHALL RED HAT BE LIABLE FOR ANY THIRD PARTY CLAIMS.

8.3 **EXCLUSIONS.** THE LIMITATIONS SET FORTH IN SECTIONS 8.1 (CAP ON DAMAGES) AND 8.2 (DISCLAIMER OF CERTAIN DAMAGES) SHALL NOT APPLY TO ANY OF THE FOLLOWING: (A) BODILY INJURY OR DAMAGE TO TANGIBLE PERSONAL PROPERTY DIRECTLY CAUSED BY A PARTY'S NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT; (B) PROVIDER'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 (INSURANCE; INDEMNITY); (C) EITHER PARTY'S BREACH OF SECTION 10.1 (CONFIDENTIALITY); (D) PROVIDER'S BREACH OF SECTION 10.2 (DATA SECURITY); (E) DAMAGES RELATED TO OR ARISING OUT OF ANY SECURITY BREACH (AS DEFINED BELOW) AND/OR LOSS OF DATA; OR (F) ANY CLAIM RELATING TO SECTION 6 (INTELLECTUAL PROPERTY RIGHTS).

9. **Insurance; Indemnity.** Provider shall put in place and maintain, at its own cost and expense, appropriate and sufficient insurance with a reputable insurance company to cover the activities of Provider contemplated under this PO. For the avoidance of doubt, the availability of insurance or applicable deductibles will not limit Provider's liability, or relieve Provider of any liability or financial responsibility, under this PO or the applicable Red Hat order. Upon request, Provider will provide Red Hat with certificates of insurance for all insurance coverage. Provider will indemnify and hold harmless Red Hat from any and all liability, losses, costs, damages or expenses, including reasonable attorney's fees and costs, resulting from or arising out of third party demands or claims against Red Hat relating to any of Provider's actions including, but not limited to,

---

7. 终止。尽管有任何相反规定，但如果提供商严重违反本 PO 或红帽收到提供商根据第 11 条（其他）发出的与不可抗力事件有关的通知，红帽可随时立即终止本 PO 的全部或部分内容，且无需为此支付任何罚款。此外，红帽还可立即无故终止本 PO 的全部或部分内容。终止将在发出书面通知后生效。如果红帽因任何原因终止本 PO，其唯一的义务或责任是就其在终止生效日期之前已接受的货物和/或提供商已适当履行的使其合理满意的服务支付相应的费用，并且提供商应及时向红帽退还本 PO 项下与红帽未接受或未向红帽提供令其合理满意的任何服务或货物相对应的任何预付费用。

8. 责任限制。

8.1 损害赔偿上限。根据第 8.3 条（除外责任），本 PO 项下的累计责任总额在任何情况下均不得超过：(A) 就红帽而言，本 PO 项下已支付和应支付给提供商的金额；或 (B) 就提供商而言，本 PO 项下已支付和应支付给提供商之金额的两 (2) 倍和一百万美元 ($1,000,000 USD)，以较高者为准。前述限制应在法律允许的最大范围内适用。

8.2 某些损害赔偿的免责声明。根据第 8.3 条（除外责任），任何一方在任何情况下都不应对任何特殊、间接、后果性、附带性、惩罚性或惩戒性损害和/或利润损失、故障、延误、储蓄损失、业务损失、预期利润、业务中断或其他方面的任何损害负责，即使另一方已被告知可能发生此等损害亦是如此。前述限制应在法律允许的最大范围内适用。此外，红帽在任何情况下均不对任何第三方索赔负责。

8.3 除外责任。第 8.1 条（损害赔偿上限）和第 8.2 条（某些损害赔偿的免责声明）所规定的限制不适用于下列情况：(A) 因一方的疏忽、欺诈或故意不当行为而直接造成的人身伤害或个人有形财产损害；(B) 提供商根据第 9 条（保险；赔偿）所承担的赔偿义务；(C) 任何一方违反第 10.1 条（保密）；(D) 提供商违反第 10.2 条（数据安全）；(E) 与任何安全漏洞（定义见下文）有关或由此产生的损害和/或数据丢失；或 (F) 与第 6 条（知识产权）有关的任何索赔。

9. 保险；赔偿。提供商应当自费向声誉良好的保险公司购买并一直保留适当、足够的保险，以涵盖提供商在本 PO 项下计划进行的活动。为免存疑，提供保险或相关免赔额不会限制提供商的责任，也不会免除提供商在本 PO 或相关红帽订单项下的任何法律责任或财务责任。如果红帽提出要求，提供商应向红帽提供所有保险范围的保险凭证。如果第三方提出与提供商的任何行为为（包括但不限于本 PO 的实施或不实施）有关的要求或主张，提供商应赔偿所有的债务、损失、成本、损害或开销，包括因此引起的合理的代理律师费和成本，使红帽公司免受损失。在不限制前述规定的情况下，如果红帽被禁止或被威胁禁止使用本 PO 项下提供的任何服务或货物，则红帽应自行决定：(a) 为红帽取得以本 PO 所预期的方式继续使用服务或货物的权利；或 (b) 更换或修改服务或货物，以此确保红帽的使用不具侵权性，但该

performance or non-performance under this PO. Without limiting the foregoing, if Red Hat's use of any Services or Goods furnished under this PO is enjoined or threatened to be enjoined, Provider shall, at Red Hat's discretion: (a) procure for Red Hat the right to continue using the Services or Goods in the manner contemplated by this PO; or (b) replace or modify the Services or Goods so that Red Hat's use becomes non-infringing, provided that such replacement or modification is functionally equivalent to the original and all specifications continue to be met. Any modified or replacement Services or Goods will be subject to the indemnity obligations set forth herein.

10. Confidentiality; Data Security.

10.1 Confidentiality. Both parties agree that (a) Confidential Information of the other party will be used only as reasonably necessary to perform its obligations under this PO and in the case of Red Hat, as necessary to exercise its rights under this PO; (b) each party will use the same degree of care to protect the other party's Confidential Information that it utilizes to protect its own confidential information of a similar nature, but in no event less than reasonable care; (c) the Confidential Information of the other party may be disclosed only to employees, agents, affiliates and contractors and to its auditors and legal counsel, in each case, who have a need to know such information and are under a written (or other professional) obligation to keep the information confidential using standards of confidentiality no less restrictive than those required by this PO, and (d) the recipient shall immediately notify the disclosing party of any actual or suspected loss or unauthorized use, disclosure of or access to the disclosing party's Confidential Information, and shall promptly take all steps reasonably requested by the disclosing party to limit, stop or otherwise prevent such loss or unauthorized use, disclosure or access. "**Confidential Information**" means all information disclosed by either Red Hat or Provider to the other party during the term of this PO that: (w) is marked as "confidential" or with a similar marking, (x) is clearly identified as confidential at the time of disclosure, if disclosed orally, (y) is of a nature that the recipient knows is confidential to the discloser or should reasonably be expected to know is confidential (e.g., business plans, financial projections, customer lists, etc.), or (z) contains any Personal Data (as defined below). Confidential Information will not include information which: (i) is or later becomes generally available to the public without breach of this PO (provided that any Personal Data disclosed by Red Hat will not be subject to this exception); (ii) is known to or possessed by the recipient at the time of disclosure by the disclosing party as reasonably demonstrated by contemporaneous documentation; (iii) is independently developed by the recipient without use of the Confidential Information of the discloser as reasonably demonstrated by contemporaneous documentation; (iv) becomes lawfully known or available to the recipient without restriction from a source having the lawful right to disclose the information; or (v) is software code in either object code or source code form that is licensed under an open source license. The recipient will not be prohibited from complying with disclosure mandated by applicable law if (I), where not legally prohibited, it gives the disclosing party advance notice of the disclosure requirement in order to permit the disclosing party a reasonable opportunity to object to the required disclosure and seek a protective order or other appropriate remedy, (II) it reasonably cooperates with the disclosing party (at the disclosing party's expense) in any such efforts and (III) it only discloses so much Confidential Information as is strictly necessary to comply with the applicable law. Within ten (10) business days after the expiration or termination of this PO, Provider shall provide written certification to Red Hat that it has securely destroyed or returned Red Hat's Confidential Information (including any materials incorporating, referencing or based on Red Hat's Confidential Information) and any material that Red Hat provided or made available to Provider (regardless of whether such material is subject to intellectual property protection). If the disclosing party believes the recipient (or an employee, agent, affiliate, contractor, auditor or legal counsel of the recipient) has breached (or might breach)

等更换或修改在功能上应与原始服务或货物相当，并能继续满足所有规范。任何修改或更换后的服务或货物将受本文件所规定的赔偿义务的约束。

10. 保密；数据安全。

10.1 保密。 双方同意：(a) 仅可在合理必要的情况下将另一方的机密信息用于履行其在本 PO 下的义务，而对于红帽而言，其仅可在必要情况下将另一方的机密信息用于行使其在本 PO 项下的权利；(b) 各方在保护另一方的机密信息时，将采取与保护其自身类似性质的机密信息所采用的同等程度的保护措施，但在任何情况下均不应少于合理的注意义务；(c) 另一方的机密信息仅可披露给需要了解此等信息的员工、代理、关联公司、承包商及其审计师和法律顾问（视情况而定），此等各方应负有将此等信息视为机密的书面（或其他职业）义务并且所采用的保密标准不应低于本 PO 所规定的保密标准；以及 (d) 接收方应立即将任何实际或疑似丢失，或未经授权使用、披露或访问披露方之机密信息的情况告知披露方，并应及时采取披露方合理要求的所有措施限制、停止或以其他方式防止此等丢失或未经授权的使用、披露或访问。"**机密信息**"指红帽或提供商在本 PO 生效期间向另一方披露的满足以下任意条件的所有信息：(w) 被标记为"机密"或具有类似标记；(x) 在披露时被明确认定为机密（如果是口头披露）；(y) 接收方知道此等信息属于披露方的机密信息，或合理预期接收方应知道此等信息属于机密信息（例如，业务计划、财务预测、客户名单等）；或 (z) 包含任何个人数据（定义见下文）。机密信息不包括：(i) 已为公众普遍获悉或日后在不违反本 PO 的情况下被公众获悉的信息（但红帽披露的任何个人数据将不受此例外的限制）；(ii) 接收方在披露方披露时已经知道或拥有的信息，且相关情况可由同期文件合理证明；(iii) 在不使用披露方机密信息的情况下由接收方独立开发的信息，且相关情况可由同期文件合理证明；(iv) 变得可被接收方合法获知或使用的信息，且该信息不受拥有披露信息之合法权利的来源的限制；或 (v) 根据开源许可证被授予许可的目标代码或源代码形式的软件代码。在以下情况下，接收方可按照适用法律的强制规定进行披露：(I) 在法律不禁止的情况下，接收方将披露要求提前通知披露方，以使披露方有合理的机会反对所要求的披露，并寻求保护令或其他适当的补救；(II) 接收方在任何此等努力中与披露方进行合理的合作（费用由披露方承担）；以及 (III) 接收方只披露为遵守适用法律所严格需要的机密信息。在本 PO 到期或终止后十 (10) 个工作日内，提供商应向红帽提供其已安全销毁或归还红帽机密信息（包括任何包含、引用或基于红帽机密信息的材料）和红帽提供或交付给提供商的任何材料（无论此等材料是否受知识产权保护）的书面证明。如果披露方认为接收方（或接收方的员工、代理、关联公司、承包商、审计师或法律顾问）违反了（或可能违反）本第 10.1 条，披露方可在法律赋予的其他权利及补救之外，寻求禁令以阻止未经授权的使用或披露。

this Section 10.1, the disclosing party may seek an injunction, in addition to other rights and remedies available at law, to stop the unauthorized use or disclosure.

10.2 Data Security. As used herein, "**Personal Data**" means any information relating to a natural person who can be identified, directly or indirectly, in particular by referencing an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person, or other information pursuant to an applicable law or regulation. Provider represents and warrants that its use and processing of Personal Data will comply with all applicable laws, including, without limitation, applicable data protection laws, and it will not engage in any activity related to Personal Data that would place Red Hat in violation of or otherwise cause Red Hat to violate any applicable law or regulation. Provider shall process Personal Data solely as necessary to perform its obligations under this PO, and Provider understands that it is prohibited from retaining, using or disclosing Personal Data for any other purpose. Provider will implement and maintain a program for detecting and managing actual, threatened or suspected accidental or unlawful destruction, loss, alteration and disclosure of, and unauthorized access to, Personal Data (any such event, a "**Security Breach**"). In the event of a Security Breach, or in the event that Provider suspects a Security Breach, Provider will (a) promptly notify Red Hat by telephone or in person, with a follow-up in writing forthwith, (b) promptly take action to prevent any further Security Breach (including any further effects of the existing or suspected Security Breach), (c) cooperate with Red Hat and law enforcement agencies, where applicable, to investigate and resolve the Security Breach, including without limitation by providing reasonable assistance to Red Hat in notifying all third parties who require notification, and (d) provide, where required and directed by Red Hat, monitoring services at Provider's cost. Provider will give Red Hat prompt access to such records related to a Security Breach as Red Hat may reasonably request; provided Provider will not be required to provide Red Hat with records belonging to, or compromising the security of, Provider's other customers.

11. **Miscellaneous.** Provider is solely responsible for the supervision, direction, control and compensation of its personnel and contractors, and Red Hat assumes no liability or responsibility for Provider personnel or contractors. While performing Services at Red Hat's designated sites, Provider and its personnel and contractors shall comply with all relevant Red Hat policies and procedures while at such sites, including policies and procedures regarding occupational health and safety, security and privacy. Provider will (and will cause its agents and subcontractors to) abide by the standards set forth in Red Hat's Supplier Code of Conduct, available at https://www.redhat.com/en/about/code-of-conduct (including any successor site). No amendment or modification to this PO shall be valid unless set forth in writing and signed by authorized representatives of both parties. No waiver of any term or condition is valid unless made in writing and signed by authorized representatives of both parties, and will be limited to the specific situation for which it is given. This PO is assignable by either party only with the other party's prior written consent, which will not be unreasonably withheld or delayed; provided that Red Hat may assign this PO to an affiliate and either party may assign this PO to a successor or acquirer pursuant to a merger or sale of all or substantially all of such party's assets, without such prior written consent. Provider will maintain accurate and legible records in English regarding the Services and/or Goods provided hereunder during the term of this PO and for a period of not less than six (6) years thereafter or for such period prescribed by applicable law or regulation. During the foregoing period, Red Hat shall have the right to conduct, during the normal business hours of Provider, an audit of such records to verify Provider's compliance with the requirements of this PO. Each of Red Hat and Provider will be responsible for its own costs and expenses in connection with any such audit; provided

10.2 数据安全。本文件所指"**个人数据**"是指与自然人有关且可直接或间接识别其身份（特别是可根据姓名、身份证号、位置数据、在线识别符）的信息，或与此等自然人的身体、生理、遗传、精神、经济、文化或社会身份所特有的一项或多项因素有关的任何信息，或适用法律或法规所规定的其他信息。提供商声明并保证其将按照所有适用法律（包括但不限于适用的数据保护法）使用和处理个人数据，并且其不会参加与个人数据有关且会导致红帽违反或以其他方式导致红帽违反任何适用法律或法规的任何活动。提供商应仅在履行其在本 PO 项下的义务且有必要时处理个人数据，并且提供商明白其不得出于任何其他目的的保留、使用或披露个人数据。提供商将制定并维护相关程序以检测和管理个人数据遭到的实际、威胁、疑似、意外或非法的破坏、丢失、更改、披露和未经授权的访问（任何此等事件均称为"**安全漏洞**"）。如果出现安全漏洞或者提供商怀疑存在安全漏洞，提供商应 (a) 及时通过电话或当面将此事告知红帽，并立即以书面形式跟进此事；(b) 及时采取措施防止出现任何进一步的安全漏洞（包括现有或疑似安全漏洞的任何进一步影响）；(c) 与红帽和执法机构合作（如适用）调查和解决安全漏洞，包括但不限于向红帽提供合理协助及向需要通知的所有第三方发送通知；和 (d) 提供监控服务（如红帽有此要求和指示），相关费用由提供商承担。提供商将向红帽提供及时访问此等安全漏洞相关记录的权限（如红帽有此合理要求）；但提供商无需向红帽提供归提供商其他客户所有或会损害提供商其他客户安全的记录。

11. **其余事项。**提供商全权负责监督、指导、控制和补偿其人员和承包商，而红帽对提供商的人员或承包商不承担任何义务或责任。当提供商及其人员和承包商在红帽的指定场所提供服务时，其应遵守红帽针对此等场所的所有相关政策和程序，包括与职业健康和安全、安保和隐私有关的政策和程序。提供商将（并将促使其代理和分包商）遵守红帽在《供应商行为准则》中规定的标准，该准则可在 https://www.redhat.com/en/about/code-of-conduct （包括任何后续网站）中查阅。除非以书面形式提出并经双方授权代表签署，否则对本 PO 作出的任何修改或修订均属无效。除非以书面形式声明并经双方授权代表签署，否则对任何条款或条件的放弃均属无效，并且此等放弃仅适用于所提出的特定情况。任何一方仅可在获取另一方的事先书面同意后才能转让本 PO，而且另一方不得无故拒绝或延迟同意；但红帽可将本 PO 转让给关联公司，并且任何一方均无需获取此等事先书面同意，即可通过合并或出售该方的全部或几乎全部资产将本 PO 转让给继任者或收购方。提供商应在本 PO 的有效期内以及此后至少六 (6) 年或适用法律或法规所规定的此等期限内，保留与本 PO 条款下提供的服务和/或货物有关的准确清晰的英文记录。在上述时期内，红帽应有权在提供商的正常营业时间内对此等记录进行审计，以核实提供商是否遵循本 PO 的要求。红帽和提供商应自行承担与任何此等审计有关的成本和开支；但如果此等审计显示提供商未能在任何重大方面遵守本 PO，则提供商将向红帽支付其在开展审计期间所发生的全部合理成本及开支。提供商将遵守所有适用的法律和法规，包括美国《海外反腐败法》和英国《反贿赂法》等所有适用的反腐败法律和法规，并且提供商不会从事可能导致红帽违反任何法律或法规的行为。提供商声明并保证，其任何高管、董事或董事会（或类似治理机构）成员或此等人员各自的任何直系亲属（"直系亲属"）均不是政府官员或公职人员，并且如果任何此等个人或其

that if the audit reveals that Provider has failed to comply in any material respect with this PO, Provider will pay all reasonable costs and expenses incurred by Red Hat in conducting the audit. Provider will comply with all applicable laws and regulations, including all applicable anti-corruption laws and regulations, such as the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act, and will not engage in conduct that would cause Red Hat to violate any law or regulation. Provider represents and warrants that neither any of its officers, directors or board (or similar governing body) members nor any of their respective immediate family ("Immediate Family") is a government or public official and that if any of such individuals or their respective Immediate Family becomes a government or public official, Provider will immediately notify Red Hat in writing in accordance with the terms of this PO. Neither party will be liable for any failure or delay in performing any of its obligations under this PO due to any cause, event or circumstance beyond the affected party's reasonable control that renders its performance under this PO impossible, including, without limitation, acts of God; fire; casualty; flood; war; epidemic, pandemic or other similar outbreak; quarantine; embargo or other governmental act (including compliance therewith); earthquake; terrorist act; destruction of production facilities; riot or insurrection (any such cause, event or circumstance, a "**Force Majeure Event**"); underlined provided that (a) the party that is unable to perform, or delayed in performing, its obligations due to a Force Majeure Event shall provide prompt written notice of such expected failure or delay to the other party (including reasonable information with respect thereto), together with a reasonably detailed plan of remediation, and (b) if Provider is the affected party, (i) upon Red Hat's request, Provider will refund any prepaid fees corresponding to the affected Provider obligations or, at Red Hat's option, Red Hat may offset any such prepaid fees against any other amounts owing or to be owed to Provider under this PO, (ii) Red Hat may offset any reasonable costs or expenses it incurs in connection with such failure or delay of Provider against any amounts owing or to be owed to Provider under this PO and (iii) no Force Majeure Event shall relieve Provider from implementation of and performance under its business continuity plan(s). Provider maintains, and will maintain during the term of its performance, a business continuity plan or plans designed to (x) mitigate the risks of any Force Majeure Event to ongoing Services or the provision of Goods, (y) limit the effects of any Force Majeure Event on ongoing Services or the provision of Goods and (z) address, without limitation, the areas of epidemic, pandemic or similar outbreak planning and cyber security events. For Services and/or Goods provided to Red Hat in the United States, this PO will be governed by and construed in accordance with the laws of the State of New York without giving effect to conflicts of law provisions or the United Nations Convention on Contracts for the International Sale of Goods, and the parties consent to the exclusive jurisdiction of the federal courts located in New York County, New York if the federal courts have subject matter jurisdiction or otherwise of the state courts of New York County, New York, and each party irrevocably consents to the personal jurisdiction of such courts and waives all objections to this venue. For all other Services and/or Goods provided to Red Hat, this PO will be governed by and subject to the laws, jurisdiction, and venue   (to which each party irrevocably submits, underlined provided that Red Hat may bring any claim for injunctive relief or other equitable remedy under this PO in any court or before any administrative or arbitral body of competent jurisdiction), as noted in Table 1 below. The parties shall be deemed for all purposes to be independent contractors. Each party will be solely responsible for payment of applicable taxes, deductions or other payments and benefits for its personnel. Notices must be in writing, and will be deemed given when delivered by hand or five (5) days after being sent using a method that provides for positive confirmation of delivery to the respective addresses indicated in the applicable Red Hat order; underlined provided that any notice from Provider to Red Hat includes a copy sent to: Red Hat, Inc., Attention: General Counsel, 100 E. Davie St, Raleigh, North Carolina 27601; Email: legal-notices@redhat.com. No right or license, express or implied, is granted in this PO for the use of any Red Hat, Red Hat affiliate,

各自的直系亲属成为政府官员或公职人员，提供商将根据本 PO 的条款立即以书面形式将此事告知红帽。如果任何一方因超出其合理控制范围的任何原因、事件或情况而导致其无法履行其在本 PO 项下的任何义务，进而导致受影响方未能履行或延迟履行其在本 PO 项下的任何义务，则该方无需就此承担任何责任，此等情况包括但不限于天灾、火灾、人员伤亡、洪水、战争、流行病和大流行病或其他类似疫情、隔离、禁运或其他政府行为（包括遵守各项规定）、地震、恐怖主义行为、生产设施遭到破坏、暴乱或叛乱（任何此等原因、事件或情况均称为"**不可抗力事件**"）；但 (a) 因不可抗力事件而无法履行或延迟履行其义务的一方应及时向另一方发出有关此等预期无法履行或延迟履行义务的书面通知（包括与之有关的合理信息）和合理详尽的补救计划；以及 (b) 如果受影响的一方为提供商，则 (i) 提供商应按照红帽的要求退还与受影响的提供商义务相对应的所有预付费用，红帽也可用任何此等预付费用抵销其在本 PO 项下亏欠或应欠提供商的任何其他款项（由红帽自行选择）；(ii) 红帽可使用其因提供商未能履行或延迟履行义务而发生的任何合理成本或开支，抵销其在本 PO 项下亏欠或应欠提供商的任何款项；以及 (iii) 任何不可抗力事件均不得免除提供商实施和履行其业务连续性计划的责任。提供商应维护并将在其履行义务期间内维护一项或多项业务连续性计划，以 (x) 降低任何不可抗力事件对正在提供的服务或货物所造成的风险；(y) 限制任何不可抗力事件对正在提供的服务或货物的影响；以及 (z) 应对（不限于）流行病、大流行病或类似疫情和网络安全事件等情况。对于在美国向红帽提供的服务和/或货物，本 PO 将受纽约州法律的管辖并根据此等法律进行诠释，但不受法律冲突条款或《联合国国际货物销售合同公约》的约束，并且如果联邦法院拥有纽约州纽约郡州法院的属事管辖权或其他管辖权，则双方同意位于纽约州纽约郡的联邦法院的专属管辖权，且各方不可撤销地同意此等法院的属人管辖权，并放弃对此审判地点的任何异议。对于向红帽提供的所有其他服务和/或货物，本 PO 将受下表 1 所示的（只要红帽可以在任何法院或在具有管辖权的任何行政或仲裁机构面前，根据本PO提出禁制令救济或其他补救措施的要求，各方均应对此作出不可撤消服从的）法律、司法管辖区和审判地点管辖。在任何情况下，双方均应被视为独立合同人。各方将各自负责支付相关税费、扣除额或其他款项及其人员的福利。通知必须采用书面形式，如果通过专人递送，则在交付时就将视为已送达，如果采用要求肯定性交付确认的方法，则在发送通知后的五 (5) 天后视为已送达；但提供商在向红帽发出任何通知时，还须将一份副本寄送至：Red Hat, Inc., Attention: General Counsel, 100 E. Davie St, Raleigh, North Carolina 27601；电子邮件：legal-notices@redhat.com。在提供商的客户名单、广告中或以任何方式使用红帽、红帽关联公司或第三方的任何品牌名称、服务或商标，并不会以明示或暗示的方式授予本 PO 中的任何权利或许可。在可能的情况下，本 PO 中的每个条款都将被解释为在适用法律下有效且具有效力，但如果发现本 PO 中的任何条款违反法律，则该条款将独立于本 PO 中的其它条款并被忽略，而试图在可能的范围内实现被分离条款所证实的双方意图的新条款将被视为已添加至本 PO。本 PO 中使用的标题不具有法律效力。未经红帽事先书面同意，提供商不得雇用与服务和/或货物有关的任何代理或分包商。作为红帽提供同意的条件，提供商应确保推荐的任何此等分包商以书面形式同意履行提供商在本 PO 项下的所有义务，并接受本 PO 的约束。提供商仍应对其分包商的履约情况负责（并与红帽保持单点联系），其程度应与提供商的履约情况相同。如果本 PO 中的条款要求在本 PO 终止或期满后继续履行或适用于本 PO 终止或期满后可能发生的事件，则此等条款将在本 PO 终止或期满后继续有效。为免存疑，与责任限制、知识产权、保密和数据安全有关的所有赔偿义务和条款都将视为在本 PO 终止或期满后继续有效。

or third party trade names, services, or trademarks on Provider's client lists, in advertising or in any manner. Whenever possible, each provision of this PO will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this PO is found to violate a law, it will be severed from the rest of the PO and ignored and a new provision deemed added to this PO to accomplish to the extent possible, the intent of the parties as evidenced by the provision so severed. The headings used in this PO have no legal effect. Provider shall not employ any agent or subcontractor in connection with the Services and/or Goods without Red Hat's prior written consent. As a condition to Red Hat's consent, Provider shall cause any such proposed subcontractor to agree in writing to perform, and be bound by, all of Provider's obligations under this PO. Provider shall remain responsible, and Red Hat's sole point of contact, for the performance of its subcontractors to the same extent as if they were performed by Provider. The provisions of this PO which, by their terms, require performance after the termination or expiration or have application to events that may occur after the termination or expiration of this PO, will survive the termination or expiration of this PO. For the avoidance of doubt, all indemnity obligations and provisions related to limitation of liability, intellectual property rights, confidentiality and data security will be deemed to survive the termination or expiration of this PO.

Table 1

Jurisdiction	Governing Law	Venue
Asia Pacific		
Australia	*State of New South Wales, Australia*	*State or federal courts of New South Wales, Australia*
China	*People's Republic of China*	*Arbitration at the China International Economic and Trade Arbitration Commission ("**CIETAC**") in Beijing and in accordance with the CIETAC Arbitration Rules then in force. The language of arbitration will be English.*
Hong Kong	*Hong Kong SAR*	*Arbitration at the Hong Kong International Arbitration Centre in Hong Kong and in accordance with UNCITRAL Arbitration Rules then in force. The language of arbitration will be English.*
India	*Republic of India*	*Arbitration in Mumbai and in accordance with the Arbitration and Conciliation Act 1996 (laws of India). The language of arbitration will be English.*
Japan	*Japan*	*District Court of first instance located in Tokyo. The language of arbitration will be English*
Kingdom of Thailand	*Kingdom of Thailand*	*Arbitration at the Singapore International Arbitration Centre ("SIAC") in Singapore and in accordance with the Arbitration Rules of SIAC then in force. The*

表 1

司法管辖区	管辖法律	审判地点
亚洲及太平洋地区		
澳大利亚	*澳大利亚新南威尔士州*	*澳大利亚新南威尔士州法院或联邦法院*
中国	*中华人民共和国*	*位于北京的中国国际经济贸易仲裁委员会（"**CIETAC**"）根据当时有效的 CIETAC 仲裁规则进行仲裁。仲裁的语言为英语。*
香港	*香港特别行政区*	*位于香港的香港国际仲裁中心根据当时有效的 UNCITRAL 仲裁规则进行仲裁。仲裁的语言为英语。*
印度	*印度共和国*	*根据 1996 年《仲裁和调解法》（印度法律）在孟买进行仲裁。仲裁的语言为英语。*
日本	*日本*	*位于东京的地方初审法院。仲裁的语言为英语。*
泰王国	*泰王国*	*位于新加坡的新加坡国际仲裁中心（"**SIAC**"）根据当时有效的 SIAC 仲裁规则进行仲裁。仲裁的语言为英语。*

		language of arbitration will be English.	韩国	韩国	*位于新加坡的 SIAC 按照当时有效的 SIAC 仲裁规则进行仲裁。仲裁的语言为英语。*
Korea	*Korea*	*Arbitration at the SIAC in Singapore and in accordance with the Arbitration Rules of SIAC then in force. The language of arbitration will be English.*			
Malaysia	*Malaysia*	*Arbitration at the SIAC in Singapore and in accordance with the Arbitration Rules of SIAC then in force. The language of arbitration will be English.*	马来西亚	马来西亚	*位于新加坡的 SIAC 按照当时有效的 SIAC 仲裁规则进行仲裁。仲裁的语言为英语。*
New Zealand	*New Zealand*	*Courts of New Zealand*	新西兰	新西兰	*新西兰法院*
Republic of Indonesia	*Republic of Indonesia*	*Arbitration at the SIAC in Singapore and in accordance with the Arbitration Rules of SIAC then in force. The language of arbitration will be English.*	印度尼西亚共和国	印度尼西亚共和国	*位于新加坡的 SIAC 按照当时有效的 SIAC 仲裁规则进行仲裁。仲裁的语言为英语。*
Republic of Philippines	*Republic of Philippines*	*Arbitration at the SIAC in Singapore and in accordance with the Arbitration Rules of SIAC then in force. The language of arbitration will be English.*	菲律宾共和国	菲律宾共和国	*位于新加坡的 SIAC 按照当时有效的 SIAC 仲裁规则进行仲裁。仲裁的语言为英语。*
Other Asia Pacific jurisdiction	*Republic of Singapore*	*Arbitration at the SIAC in Singapore and in accordance with the Arbitration Rules of SIAC then in force. The language of arbitration will be English.*	其他亚太司法管辖区	新加坡共和国	*位于新加坡的 SIAC 根据当时有效的SIAC仲裁规则进行仲裁。仲裁的语言为英语。*
Europe, Middle East and Africa			***欧洲、中东和非洲***		
Europe, Middle East and Africa	*England and Wales*	*Courts of England and Wales*	*欧洲、中东和非洲*	*英格兰和威尔士*	*英格兰和威尔士法院*
Latin America			***拉丁美洲***		
Argentina	*Argentina*	*Courts of Autonomous City of Buenos Aires, Argentina*	*阿根廷*	*阿根廷*	*阿根廷布宜诺斯艾利斯自治市法院*
Brazil	Brazil	Courts of Sao Paulo, State of Sao Paulo, Brazil	*巴西*	*巴西*	*巴西圣保罗州圣保罗法院*
Chile	*Chile*	*Courts of Santiago, Chile*	*智利*	*智利*	*智利圣地亚哥法院*
Colombia	*Colombia*	*Courts of Bogota, Colombia*	*哥伦比亚*	*哥伦比亚*	*哥伦比亚波哥大法院*
Mexico	*Mexico*	*Courts of Mexico City, Mexico*	*墨西哥*	*墨西哥*	*墨西哥墨西哥城法院*
Peru	*Peru*	*Courts of Lima, Peru*	*秘鲁*	*秘鲁*	*秘鲁利马法院*
Other Latin American jurisdiction	*United States and of the State of New York*	*State or federal courts located in New York County, New York, USA*	*其他拉丁美洲司法管辖区*	*美国和纽约州*	*位于美国纽约州纽约县的州或联邦法院*