

# Subscription Agreement

This subscription license agreement (“the Subscription Agreement”), is entered into by and between

you

(either an individual person or a single legal entity, hereinafter “Customer”)

**(“Customer”)**

and

ironArray S.L.  
Tirant lo Blanc n 6 pta 4  
12100 Castelló de la Plana  
Spain

**(“ironArray”)**

each a **“Party”** and together the **“Parties”**.

## Preamble

ironArray S.L. is an independent software development company and has developed the ironArray library’ (as further defined below).

The Customer wishes to subscribe to certain edition(s) of the ‘ironArray library’ as identified in Annex 1. The

Parties hereby agree as follows:

## 1 Subject Matter

This Subscription Agreement governs Customer’s subscription to certain editions of the Product and related support services as identified in this Subscription Agreement and Annex 1 specifically.

## 2 Definitions

“Affiliate” means, with respect to an entity, any other entity that, directly or indirectly, Controls, is Controlled by, or is under common Control with such entity from time to time but only for so long as such Control exists. “Control” and its grammatical variants for the purpose of this definition means, (i) a general partnership interest in a partnership, (ii) the beneficial ownership of a majority of the outstanding equity entitled to vote for directors, or (iii) the power to direct or cause the direction of the management and policies of such entity whether by contract or otherwise.

“Annex” means an annex to this Subscription Agreement. The following Annex is hereby included by reference and forms an integral part of this Subscription Agreement:

- (i) Annex 1 – Price List.
- (ii) Annex 2 – System Requirements.
- (iii) Annex 3 – ironArray Support Terms.

“Customer’s Use Rights” means the limited use rights ironArray grants to Customer with regard to the Product as specified in section 5.

“Confidential Information” means any and all technical and non-technical information, documents, records and/or data provided, disclosed, or made available by one Party (“Disclosing Party”) or its agents to the other (“Receiving Party”) or any of its personnel, whether before, on, or after the date of this Subscription Agreement, which includes, without limitation, all information, which the Disclosing Party at the time of disclosure has designated to be confidential or which, given its nature and circumstances of disclosure, ought to reasonably be considered confidential. Information is not considered Confidential Information in the event the information in question: (i) is approved for public release by written agreement of the Disclosing Party; (ii) is already rightfully known to the Receiving Party free of any restriction at the time it is obtained from the Disclosing Party; (iii) is subsequently disclosed to the Receiving Party lawfully by a third party without imposing any restrictions whatsoever; (iv) is or becomes public knowledge without fault of the Receiving Party; or (v) is developed independently by the Receiving Party without referring to Confidential Information belonging to the Disclosing Party.

“Defect” means a deviation of the Product from the specifications as set out in the Documentation.

“Developer” License means the license Customer is required to subscribe to for each developer in Customer’s organization who will use the Product in order to develop software for Customer (be it internal applications or applications that will be distributed to Customer’s end clients).

“Documentation” means all published specification materials, technical documentation, software and/or service description related to the Product, such as product descriptions, customer manuals, acceptable use policies (if any), and instructions together with any updates and/or revisions that ironArray might provide from time to time. The distribution package of the product does not include Documentation. The current version of the Documentation is available under <https://www.ironarray.io/docs/html>.

“Effective Date” means the date on which this Subscription Agreement becomes effective. The Effective date is the date when the Supplier sends out the credentials to access the repository to download the Product.

“Initial Term” means the initial term of this Subscription Agreement as specified in section 16.2. The Initial Term shall per default be twelve (12) months.

“Force Majeure” shall have the meaning specified in section 14.3.

“IronArray Distribution Partner” means a third party which is authorized by ironArray to distribute the Product and, as the case may be, provide certain services related to the Product directly to Customer.

“ironArray Support Terms” means the then-current support terms with regard to the Product that ironArray does officially communicate and publish. The ironArray Support Terms are an integral part of this Subscription Agreement and the version current as per the Effective Date is attached to this Subscription Agreement as Annex 3. The current version of the ironArray Support Terms is also available under <https://www.ironarray.io/support>.

“Major Release” means a new release of the Product which is not limited to a revision of certain Defects, but which does contain and introduce major new functionality, user features, interfaces and developer APIs. A Major Release is identified by the first digit in the sequence of the version number, i.e. 1.y, 2.y

“Minor Release” means a new release of the Product which is merely reserved for fixing security vulnerabilities and addressing Defects and, if at all, only to a limited extent contains functional changes (including new functional, architectural and/or interface elements) without altering the existing functionality, architecture and/or public interfaces in material respects. A Minor Release is identified by the second digit in the sequence of the version number, i.e. x.2, x.3, x.4.

“New Release” means a Major, Minor, and/or a Patch Release of the Product.

“Official Price List” means the then-current list of per Developer License and other prices for the Product and related services that ironArray does officially communicate and publish. The Official Price List is an integral part of this Subscription Agreement and the version current as per the Effective Date is attached to this Subscription Agreement as Annex 1. The current version of the Official Price List is also available under <https://www.ironarray.io/pricing>.

“Patch Release” means a new version of the Product with the remedy of one or several Defects. Patch Releases are identified by the third digit in the sequence of the version number, i.e. x.y.1, x.y.2.

“Product” shall mean the “ironArray library” written and supported by ironArray, which is based on a “C kernel” as a building block for high-level language wrappers. Specifically, ironArray ships a Python wrapper in the form of a “Python wheel” for the Platforms specified in Annex 2. Upon customer request, ironArray can deliver the library routines and headers of the “C kernel” for the supported platforms. For the purpose of this Subscription Agreement, “Product” shall mean the software edition(s) Customer wishes to subscribe to, which edition(s) is/are identified in Annex 1 and all and any New Releases, which Customer is eligible to receive during the Subscription Term.

“Renewal Term” – means a term of twelve (12) months for which this Subscription Agreement does automatically renew upon expiry of the Initial Term or any preceding Renewal Term, provided however that this Subscription Agreement has not been terminated.

“Subscription Agreement” means this license subscription agreement and all its Annexes, which are to be considered an integral part of this agreement.

“Subscription Fee” means the recurring fees the Customer will pay to ironArray for using the Product during the Subscription Term and receiving Standard Support from ironArray.

“Subscription Term” means the total period of time this Subscription Agreement remains effective (Initial Term plus any Renewal Term(s)).

“Standard Support” shall have the meaning specified in section 8.

“System Requirements” means the minimum system requirements Customer needs to fulfill in order to properly operate the Product. The System Requirements are an integral part of this Subscription Agreement and the version current as per the Effective Date is attached to this Subscription Agreement as Annex 2. The current version of the System Requirements is also available under <https://www.ironarray.io/support>.

## 3 Product

### 3.1

The features and specifications of the Product are documented and described in the Documentation. The System Requirements contain the minimum system requirements for the proper operation of the Product.

### 3.2

Customer hereby acknowledges and agrees that due to the constant and on-going development and enhancement of the Product and related service offerings provided by ironArray now or in the future, ironArray may at its sole discretion at any point in time change, update and modify the Product and its features and functionalities, change or modify the ironArray Support Terms, the Documentation and System Requirements (for New Releases) in relation to the Product, and/or discontinue the distribution, subscription or availability of certain parts, modules, editions of or the entire Product.

## 4 Intellectual Property Rights

### 4.1

The Customer hereby acknowledges that the Product is subject to intellectual property rights which are and shall remain in their entirety with ironArray, its Affiliates and/or its suppliers (if and to the extent third party components are integrated). Unauthorized copying, use or modification of any portion of the Product, or violation of the terms of this Subscription Agreement will give ironArray the right to terminate the Subscription Agreement immediately, without Customer having any right to compensation, and may be subject to legal prosecution.

### 4.2

Customer hereby acknowledges that parts of the Product may contain open source software and/or third party software. Customer agrees to review any documentation that accompanies the Product or is identified in the Documentation in order to determine which portions of the Product are open source software and/or third party software and are licensed under a specific open source software license and/or proprietary license.

To the extent any such license requires that ironArray provides Customer the rights to copy, modify, distribute or otherwise use any open source software that are inconsistent with the limited rights granted to Customer in this Subscription Agreement, then such rights in the applicable open source software license and/or proprietary third party license shall take precedence over the rights and restrictions granted in this Subscription Agreement, but solely with respect to such open source software and/or the relevant third party software.

Customer does acknowledge that any open source software license and/or identified third party license is solely between Customer and the applicable licensor. Customer agrees to comply with the terms of all applicable open source software and/or third party licenses. Copyrights or other intellectual property rights to such opensource software or third party software are held by the copyright holders indicated in the copyright notices in the corresponding source files and/or, as the case may be, an appendix to this Subscription Agreement.

### 4.3

All rights to trademarks, brand names, logos and other words and symbols that serve to identify either of the Parties and/or its products and/or services remain with such Party. Either Party shall only be entitled to use any such trademarks, brand names, logos and other words and symbols of the other Party if and to the extent permitted by this Subscription Agreement.

## 5 Customer's Use Rights

### 5.1 General

Customer's Rights with regard to the Product are, unless specified otherwise in this Subscription Agreement, non-transferable and may not be sublicensed or used for the benefit of third parties other than Customer's Affiliates, always provided that Customer has subscribed to a sufficient number of Developer Licenses or an Enterprise License to fully cover such business.

The license granted by ironArray will also cover any New Release ironArray made available to the Customer under this Subscription Agreement.

### 5.2 Developers Subscription

For the duration of the Subscription Term, ironArray grants to the Customer a worldwide, non-exclusive, non-transferable, non-sublicensable, revocable, limited license to use the Product solely for its and its Affiliates' internal business purposes and as specified in the Documentation during the Subscription Term. The Customer's Use Rights are limited to the number of Developer Licenses (which license metric may be subject to adjustment during the Subscription Term if Customer is to add further Developer Licenses) and are subject to further restrictions and Customer's obligations as specified in this Subscription Agreement. Developer License means that Customer will require a license for each developer within Customer's organization who is intended to use the Product, i.e. the license is on a named user basis and not floating or concurrent.

Hence, a single Developer License may, also on a timely limited basis, not be used or shared by more than one of Customer's developers. However, the subscription to a Developer License may permanently be re-assigned and shifted to another individual.

### **5.3 Enterprise Subscription**

If Customer elects to subscribe to an Enterprise Subscription, the license of section 5.2. shall apply, although an unlimited number of Developer Licenses is included in Customer's Subscription, it being understood though that the Enterprise Subscription only covers Developer Licenses in Customer's own organization – Developer Licenses used by Customer's Affiliates are not covered by such Enterprise Subscription and would require separate license subscriptions.

### **5.4 No Distribution Right**

Under the licenses specified under sections 5.2 and 5.3, Customer is authorized to use the Product to develop software products (build/compile) and use the Product in a runtime environment for Customer's and its Affiliates' internal benefit. However, Customer shall not be permitted: (i) to in whatever form distribute and/or make the Product, any part thereof (except open source components whose licenses allow it) or any artefacts or functionality derived therefrom available to third parties, including when embedded, integrated or otherwise combined or packaged with the software or SaaS-application Customer has developed by using the Product; and (ii) to distribute the Product (or any part thereof) as a standalone product and/or as a service-bureau, Software-as-a-Service or similar offering.

## **6 License Compliance**

### **6.1**

During the Subscription Term, ironArray shall have the right to once per calendar year request from Customer a self-certification regarding Customer's use of the Product and compliance with the terms of this Subscription Agreement, which certification shall be delivered by Customer within a reasonable period of time upon ironArray's request.

### **6.2**

ironArray shall have the right to, upon receipt of a self-certification (as specified in section 0) and reasonable prior written notice to Customer, audit Customer's use of the Product and compliance with this Subscription Agreement if so deemed necessary in ironArray's sole discretion. Customer shall at its expense give reasonable assistance and access to the necessary information, Customer's premises and systems, it being provided that such audit procedure shall not unreasonably interfere with Customer's business operations. ironArray reserves the right to carry out any such audit procedure by mandating an external audit firm.

### **6.3**

If the self-certification or an audit procedure reveals that Customer is not sufficiently licensed, ironArray shall be entitled to adjust the number of Developer Licenses accordingly, effective as per the date such additional seats have been used by Customer and invoice Customer for such usage. If an audit procedure as specified in section 6.2 reveals a license incompliance, Customer shall bear ironArray reasonable internal and external costs related to such procedure.

## 7 Customer's General Obligations

Customer:

- (i) will in general take all actions, preparations and/or precautions which can reasonably be expected from Customer in order to enable ironArray to meet its obligations under this Subscription Agreement – this will include (but not be limited to) the Customer being responsible for and preparing all information, data and necessary access to such information or data as may be required by ironArray;
- (ii) will use the Product in accordance with this Subscription Agreement, which includes the Documentation and the System Requirements;
- (iii) will not rent, lease, license, lend, pledge, or directly or indirectly transfer or assign or distribute the Product or the access thereto to any third party or to access all or any part of the Product to build a competing product or service, unless otherwise agreed in writing between ironArray and Customer;
- (iv) will not modify, copy, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any portion of the Product in any form or media or by any means, unless permitted by this Subscription Agreement or as otherwise expressly permitted by ironArray in advance and in writing;
- (v) will not attempt to reverse compile or engineer, disassemble or otherwise reduce or extract to human-readable code for all or any part of the Product;
- (vi) avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure implemented by ironArray or any of ironArray's providers or any other third party to protect the Product;
- (vii) encourage or enable any other individual or entity to do any of the foregoing sections (ii), (iii), (iv), (v) and (vi).
- (viii) will be responsible for the initial installation of the Product;
- (ix) will, in accordance with the ironArray Support Terms, use all reasonable endeavors to immediately and adequately report any Defect in such manner, that such Defect can reasonably be reproduced and analyzed by ironArray support team;
- (x) will grant to ironArray's support team adequate remote access to the Program operated on Customer's infrastructure, or if no such remote access is available, reasonable access to office spaces and working places equipped to provide support services on-site;
- (xi) will install and use the latest Major or Minor Releases within one year after such Minor or Major Release has been officially issued by ironArray;
- (xii) will install and use the latest Patch Releases as soon as reasonably possible after such Patch Release has been officially issued by ironArray.

## 8 Standard Support

### 8.1

Standard Support with regard to the Product is included in Customer's Subscriptions. ironArray shall provide support to Customer with regard to the Product as specified in the ironArray Support Terms and shall seek to resolve or circumvent any Defect as specified in section 11.4. If ironArray's testing and examination reveal that the alleged Defect in the Product does not qualify as warranty case (as specified in section 11.2), ironArray shall be entitled to charge its efforts to Customer on a time and material basis at the service rates specified in ironArray's Official Price List.

If a certain Defect does not materially impair Customer's use of the Product, ironArray reserves the right to either deliver a preliminary work-around, Patch Release or similar solution and/or to solve such issue in the nextMinor Release delivered to or made accessible to Customer.

ironArray will not be responsible for fixing Defects pertaining to components of the Product that are owned by third parties (such as, but not limited to, open source components).

## **8.2**

Standard Support does include upgrade protection, i.e. Customer shall be entitled to periodically receive or download from ironArray any New Releases of the Product once such New Releases have been made officially available by ironArray to its entire client base.

# **9 Other ironArray Services**

## **9.1 Installation Support**

Upon Customer's request and if so specified in Annex 1, Customer may order from ironArray installation support with regard to the Product.

## **9.2 Additional Services**

ironArray may provide additional services to Customer in relation to the operation of the Product (such as consulting services), which services shall be subject to separate contractual arrangements between the Parties.

# **10 Subscription and other Fees**

## **10.1**

Customer shall pay to ironArray or, as the case may be, to an ironArray Distribution Partner the Subscription Fee specified in Annex 1 (as modified during the Subscription Term along the terms specified in section 10.6). The Subscription Fee is calculated (i) on the basis of the applicable fee per Distribution Licenses as per ironArray's Official Price List (per single seat or per team, which includes a certain number of Developer Licenses at a discounted rate); or (ii) as Enterprise Subscription as per ironArray's Official Price List.

## **10.2**

The Subscription Fees shall be invoiced to Customer in advance for the whole of the Initial Term or any Renewal Term. The Subscription Fee shall become due for payment within thirty (30) days as from the invoice date - if Customer fails to pay any amount invoiced and not subject to a good faith dispute within that period of time, Customer shall be considered in default without further payment reminder from ironArray.

## **10.3**

Other fees that may apply with regard to installation support or other add-on services to be provided by ironArray are specified in Annex 1.

## 10.4

The fees specified in Annex 1 do not include applicable VAT and other taxes.

## 10.5

Without due payment of the Subscription Fees, ironArray is not obliged to provide Customer with the Product and ironArray may, without liability, suspend Customer's access to services related to the Product (such as Standard Support) in case of non-payment of any undisputed amount of the Subscription Fees. ironArray's termination rights as per section 16.4 remain reserved.

## 10.6

Customer acknowledges and agrees that ironArray may, at its sole discretion and at any point in time, adjust the applicable Official Price List, which serve the basis for the initial and recurring calculation of Customer's Subscription Fees for the following Renewal Term. Any such modification will be communicated by ironArray at least three (3) months before it shall become effective. As from the date the modifications become effective, the so revised Official Price List will operate as the basis for recalculations of the Subscription Fee – however, any adjustment shall only become relevant for the calculation of the Subscription Fees for the subsequent Renewal Term and will not take effect on the then-current term.

# 11 Service and Product Warranty

## 11.1

ironArray undertakes to perform all services related to the Product (such as Standard Support) faithfully and with due care and in accordance with customary industry standards.

## 11.2

ironArray warrants that during the Subscription Term the Product will if and to the extent used in accordance with the then-applicable System Requirements perform in substantial conformance with the Documentation. However, ironArray shall not be liable under this warranty, (i) if its testing and examination disclose that the alleged Defect of the Product does not exist or was caused by Customer's or any third person's misuse, negligence, non-compliance with the System Requirements, improper installation or testing, unauthorized attempts to support, unauthorized access to user accounts, inappropriate use of access credentials by Customer's employees or any other users Customer has authorized, or any other cause beyond the range of the intended use and/or ironArray's reasonable control; (ii) if an alleged Defect of the Product was primarily caused by an error, bug, malfunction, defect or failure of other software and/or hardware used in conjunction with the Product, or by its interaction or use in conjunction with products, technology, software, hardware, equipment or systems not expressly identified in the Documentation and/or the System Requirements; (iii) for any Defect of the Product which is caused by Customer's breach of any provision of this Subscription Agreement, or use of the Product contrary to the Documentation, the System Requirements and/or other instructions issued or published by ironArray, and/or (iv) for any modification or alteration of the Product by any other party than ironArray or any of its subcontractors, agents or other authorized third parties; (v) for any component, software or other elements owned by third parties (such as open source components); and/or (vi) for a suspension due to Customer's non- or partial payment as per section 10.5.



### **11.3**

ironArray shall accept a warranty under this section 11 only to the extent it has in accordance with the Support Terms received a support ticket describing in sufficient detail the nature and impact of the Defect; and (ii) such Defect can reasonably be reproduced and investigated upon.

### **11.4**

ironArray's sole obligation hereunder shall be, in ironArray's discretion, to as part of Standard Support replace or otherwise circumvent any defective portion of the Product with any such portion which substantially conforms to ironArray's applicable Documentation.

### **11.5**

This section 11 states Customer's sole and exclusive rights and remedies, and ironArray's (including ironArray's Affiliates', Distribution Partners, employees', subcontractors, reseller, agents and/or other authorized third parties') entire obligations and liability, for any breach of warranty. Other than specified herein, the Product is provided "as is" and ironArray does not warrant its effectiveness, usefulness or reliability. Customer receives no warranties, whether oral, written, express or implied, statutory or otherwise, and ironArray, its Affiliates and/or its suppliers specifically disclaim any implied warranty of merchantability, satisfactory quality, compatibility with other software and/or devices, fitness for a particular purpose, freedom from errors and/or their equivalents.

ironArray makes no representations or warranties of any kind with respect to software or other elements owned by third parties (such as open source components) which, as the case may be, are regulated by the relevant licensor's terms and conditions.

## **12 Legal Warranty**

### **12.1**

ironArray represents and warrants that it has all necessary rights and full authority to enter into this Subscription Agreement and to perform its obligations under such arrangements without violating or infringing any third party intellectual property rights.

### **12.2**

Should a third party claim that its intellectual property rights are infringed through the Product, ironArray shall, at its own expense, defend or settle any suit or proceeding that is instituted against Customer shall pay all reasonable costs awarded therein against Customer or agreed upon in settlement by ironArray; provided that Customer (i) gives ironArray immediate notice in writing of any such suit, proceeding or threat thereof, (ii) permits ironArray sole control, through counsel of ironArray's choice, to defend and/or settle such suit and (iii) gives ironArray all the needed information, assistance and authority, at ironArray's expense, to enable ironArray to defend or settle such suit.

### **12.3**

The above provision shall not apply to and ironArray shall have no liability or obligation for any infringement arising from: (i) any modification, servicing or addition made to the Product by anyone other than ironArray or any of its Affiliates, Distribution Partners, employees, subcontractors, resellers, agents and/or other authorized third parties, (ii) the use of the Product as a part of or in combination with any devices, parts or software not

provided by ironArray in its Documentation or the System Requirements, (iii) the use of such Product to practice any method or process which does not occur wholly within the Product; (iv) the use of other Patch Releases than the most current Patch Release of the Product; and (v) any use of the Product outside the limited scope of this Subscription Agreement (vi) any component, software or other elements owned by third parties (such as open source components). The above exclusions apply to the extent that the infringement would have been avoided if Customer would not have acted in any manner as specified in subsections (i) to (v) above.

## **12.4**

In the event that the use of the Product subscribed to by the Customer becomes enjoined or, in ironArray's reasonable opinion is likely to become, the subject of a claim that it infringes the intellectual property rights of any third party, or in the event ironArray wishes to minimize its potential liability hereunder, ironArray may at its sole option and expense, either: (i) procure the right for the Customer to continue using the Product, (ii) replace or modify the Product or any part thereof such that it becomes non-infringing, or (iii) terminate Customer's rights and obligations with respect to the allegedly infringing part of the Product and refund to Customer the amount which Customer has paid for such part of the solution.

## **12.5**

This section 12 states ironArray's (including ironArray, its Affiliates, Distribution Partners, employees, subcontractors, resellers, agents and/or other authorized third parties) total responsibility and liability, and the Customer's sole remedy, for any actual or alleged infringement of any intellectual property right for the Product delivered hereunder or any part thereof and is in lieu of and replaces any and all other express, implied or statutory warranties or conditions regarding infringement.

## **12.6**

Customer shall indemnify, protect, defend and hold harmless ironArray, (including ironArray's Affiliates, Distribution Partners, employees, subcontractors, resellers, agents and/or other authorized third parties) from and against any and all claims, liabilities, losses, damages, injuries, demands, actions, causes of action, suits, proceedings, judgments and expenses, including without limitation, reasonable attorneys' fees, court costs and other legal expenses, arising from or in connection with Customer's breach of its obligations under this Subscription Agreement.

# **13 Customer Data and Data Protection**

## **13.1**

Unless otherwise agreed in writing, ironArray shall be entitled to rely on all data, information and materials provided by Customer without verifying the same, and Customer warrants and represents the accuracy, completeness and quality for any such item.

## **13.2**

Under this Agreement, the Parties do not need access to any information relating to employees, customers or other identified or identifiable persons in connection with this Subscription Agreement (hereinafter referred to as "Personal Data"). However, by reason of the subject matter of the Subscription Agreement, the Parties may accidentally have access to files and information systems containing Personal Data for which the other Party is responsible.

If either Party believes that it has accessed or otherwise received such Personal Data, including data of customers or employees of the other Party, it shall (i) promptly notify the affected party; and (ii) at its discretion, return or securely destroy such Personal Data.

### 13.3

The data of the signatories to this Subscription Agreement, as well as those of those other persons entrusted with the monitoring or execution of this Subscription Agreement, and the addresses listed in the heading, will be collected and processed, respectively, by both Parties for the following purposes:

- To carry out an adequate management of the contractual relationship with the entity in which he/she works or of which he/she is a representative.
- To maintain commercial contact with the entity in which he/she works or of which he/she is a representative.

The legal basis that legitimizes the processing of personal data is the legitimate interest in carrying out a proper management of customers and / or suppliers, through the processing of professional contact data of persons who provide services in them or who represent them, as well as the existence of a legal or contractual relationship.

The data will be processed for the duration of the contractual relationship between the Parties. Once the contractual relationship has ended, the data will be blocked for the period during which any liability may arise from the processing or from the contract. Once the legal limitation period has expired and these liabilities have expired, the data will be deleted.

Those affected have the right to access, rectify, delete, limit and oppose the processing of the data, as well as to exercise the other rights recognized in the current regulations on data protection, by contacting, respectively, the corresponding data controller at the following e-mail address:

On behalf of ironArray: [contact@ironarray.io](mailto:contact@ironarray.io).

On behalf of Customer: Customer's e-mail address (as provided by the customer).

They may also be brought to the attention of the competent data protection authority.

## 14 Liability

### 14.1

Irrespective of the legal grounds for such claim, neither ironArray nor its Affiliates shall, except as provided below, be liable to the Customer and/or its Affiliates for (i) for damages caused to the other Party as a result of slight negligence; (ii) any acts or omission and/or any act or omission by its auxiliary persons and/or subcontractors, agents or other authorized third parties; and (iii) any indirect or consequential, exemplary, punitive or special damages or other damages or losses of profit etc. of any kind whatsoever or for loss of or recovery of data, or any damages caused by corrupt or inadequate data, defects, viruses, poor data quality, omissions or inaccuracies in data arising out of or in connection with the Product.

### 14.2

The exclusions and limitations set forth above shall not apply:

- (i) to claims and/or losses based on death and/or personal injury;
- (ii) to claims and/or losses based on ironArray's gross negligence and/or willful misconduct;
- (iii) to claims and/or losses based on fraudulent misrepresentation;
- (iv) if and to the extent such limitation or exclusion is not permitted by applicable law.

### 14.3

Notwithstanding anything to the contrary in this Subscription Agreement or elsewhere, in no event whatsoever shall the cumulative liability of ironArray and its Affiliates or agents hereunder exceed the total amount of all fees paid to ironArray hereunder during the 12-month period immediately preceding the event giving rise to such liability.

## **14.4**

Neither Party shall be liable nor be deemed in default for any delay and/or failure in performance of its obligations under this Subscription Agreement to the extent such failure and/or delay is the result of causes that are not foreseeable, beyond its reasonable control and without negligence of the Party with respect to whose obligations such delay and/or failure in performance has occurred ("Force Majeure"), provided that the non-performing and/or delayed Party could not have prevented the failure or delay in performance of its obligations by using reasonable precautions.

The Party affected by an event of Force Majeure, upon giving prompt notice to the other Party, shall be excused from performance of its obligations under this Subscription Agreement on a day-to-day basis only to the extent of such prevention, restriction or interference and provided that the Party so affected shall use its commercially reasonable efforts to avoid or remove such cause of non- or late performance and to minimize the consequences thereof and both Parties shall resume performance hereunder forthwith upon removal of such cause.

## **15 Confidentiality**

### **15.1**

Each Party shall keep Confidential Information of the disclosing Party in strict confidence and shall safeguard such Confidential Information from unauthorized disclosure, reproduction or use no less rigorously than the stricter of the standards that would apply to its own Confidential Information of similar nature and the standards required by applicable law and regulatory requirements. Particularly, Customer shall maintain the confidentiality of the technical details of the Product using a reasonable degree of care to prevent unauthorized use, dissemination or disclosure of the Product and its operation.

### **15.2**

Both Parties agree not to disclose Confidential Information to any third parties without either Party's prior written consent. However, both Parties shall be entitled to on a "need-to-know" basis share Confidential Information with its employees, subcontractors, agents and/or other authorized third parties to the extent such entities or individuals need to know such information in connection with this Subscription Agreement.

### **15.3**

Notwithstanding section 15.2, each Party may make available Confidential Information to a third party, provided such third party is subject to confidentiality obligations at least as stringent as those applicable to the Parties hereunder and for the purpose and to the extent necessary (i) for the performance of the receiving Party's rights and obligations under this Subscription Agreement; or (ii) to permit a third party to perform legal, accounting or audit services for or in relation to a Party in assessing its business operations.

Each employee or agent of the Receiving Party with access to the Confidential Information shall execute a document that binds said employee or agent to the same level of confidentiality contained herein.

### **15.4**

A Party may disclose the Confidential Information of the other Party to the extent, but only to the extent, required by law, regulation, rule, act, order, or request of any court, governmental authority or agency, self-regulatory organization or exchange, including but not limited to any subpoena, civil investigative demand, or discovery request or demand, provided such Party gives the other Party (to the extent not prohibited from doing so) prompt written notice and cooperation in seeking to limit the disclosure to the greatest extent possible,

consistent with the legal obligations of the Party required to disclose the Confidential Information, and in obtaining confidential treatment for such information, if available.

## 15.5

Each Party shall immediately notify the other Party if it becomes aware of

- (i) any potential disclosure, access to or use of any Confidential Information in breach of this Subscription Agreement;
- (ii) any unauthorized intrusion into systems containing Confidential Information; and
- (iii) any disclosure of any Confidential Information where the purpose of such disclosure does not have any apparent correlation with the execution of this Subscription Agreement.

Both Parties will give reasonable assistance to the other in order to prevent such breach of confidentiality and/or limit the consequences thereof.

## 15.6

The confidentiality obligations specified in this section 15 will continue to apply even after termination or expiration of this Subscription Agreement.

# 16 Term and Termination

## 16.1 Subscription Term

This Subscription Agreement enters into force at the Effective Date and will continue in effect for an Initial Term of twelve (12) months, unless terminated in accordance with section 16.4.

## 16.2 Automatic Renewal

Upon expiry of an Initial Term or, as the case may be, upon expiry of a preceding Renewal Term, this Subscription Agreement shall automatically renew for a Renewal Term of additional twelve (12) months unless terminated as specified in sections 16.3 and 16.4.

## 16.3 Termination for Convenience

The Customer shall be entitled to terminate the Subscription Agreement within thirty (30) days as from the Effective Date and receive a full refund of the Subscription Fees already paid. Otherwise, during the Initial Term and/or any Renewal Term, either Party may terminate this Subscription Agreement effective as per the end of the Initial Term or the then-current Renewal Term by submitting a written termination notice (by e-mail) to the other Party prior to the expiry of the Initial Term or the then-current Renewal Term.

Customer shall be entitled to only declare a partial termination of the Subscription Agreement, for instance if Customer wishes to for the following Renewal Term decrease the number of Developer Licenses covered.

## 16.4 Termination for Cause

Notwithstanding any of the provisions of this Subscription Agreement, this Subscription Agreement may be terminated by either Party at any time and with immediate effect by issuing a written notice to the other Party

- (i) upon any material and persistent breach of this Subscription Agreement in such manner, that the

terminating Party may not reasonably be expected to continue to be bound to the Subscription Agreement, provided however that the Party in breach has failed to remedy such breach within a reasonable period of time after receipt of a written notice specifying the nature of the breach. A Party may refrain from granting a reasonable period of time for remedy if and to the extent such breach from an objective point of view is not reasonably to be considered capable of remedy;

- (ii) upon any breach of the license granted in section 5 or Customer's obligations in section 7 (ii), (iii), (iv), (v), (vi) and (vii).
- (iii) in the event of insolvency of the other Party as well as the initiation of bankruptcy proceedings, a moratorium on debt enforcement or similar proceedings (including rejection thereof due to lack of assets) against the other Party;
- (iv) if ironArray has unilaterally altered or modified either its Official Price List (as specified in section 10.6), the ironArray Support Terms, the System Requirements and/or the Product or any portion thereof (as specified in section 3.2) in disfavor of the Customer and in such manner, that Customer may not reasonably be expected to continue to be bound to this Subscription Agreement.

## **17 Consequences of Termination/Expiration of the Subscription Agreement**

### **17.1 Upon termination of this Subscription Agreement**

- (i) Customer's Use Rights cease to exist and Customer shall no longer make use and benefit from the Product, except that Customer shall remain entitled to for Customer's and its Affiliates' internal benefit use the Product in its latest release Customer has received under Standard Support in a runtime environment in conjunction with software that has been developed by using the Product, to which the license granted by this Subscription Agreement shall apply indefinitely;
- (ii) the Customer shall pay all amounts due as well as all open amounts provided for in this Subscription Agreement, plus related taxes and expenses within 30 days following the date of receipt of ironArray's final invoice;
- (iii) ironArray shall, in the event of a termination for cause by Customer prior of the end of the Initial Term or a Renewal Term, refund to Customer the unused portion of any pre-paid Subscription Fees.

## **17.2 Termination of this Subscription Agreement shall**

- (i) not prejudice or affect any right of action, remedy, or liability which shall have accrued prior to or as a consequence of such termination or expiration; and
- (ii) not affect the provisions of this Subscription Agreement which, given their nature, shall survive such termination (such as the provisions in sections 4.1 and 15).

## **18 Public Announcements**

### **18.1**

ironArray shall, upon prior consent from Customer, be entitled to (i) use Customer's name as a reference, be it orally or in any written publication no matter in what form or media (such as ironArray's customer reference lists on its website and sales presentations); (ii) use Customer to elaborate and publish a customer success story, customer interview or similar marketing vehicle.

### **18.2**

Customer shall upon its consent reasonably support ironArray's marketing initiatives as described above and shall have the opportunity to review and authorize any success story, customer interview or similar marketing vehicle elaborated by ironArray prior to its publication.

### **18.3**

For the sole purpose of the marketing initiatives described above, ironArray shall hereby be authorized to, during the Subscription Term, use Customer's trademarks, brand names, logos and other words and symbols, it being understood that any such use shall be in compliance with Customer's branding and similar guidelines communicated to ironArray in writing.

### **18.4**

Customer shall be entitled to publicly refer to the use of the Product and ironArray being one of Customer's suppliers. For this purpose, Customer shall hereby be authorized to, during the Subscription Term, use ironArray's name, trademarks, brand names, logos and other words and symbols, it being understood that any such use shall be in compliance with ironArray's branding and similar guidelines communicated to Customer in writing.

## **19 Miscellaneous**

### **19.1**

Nothing in this Subscription Agreement shall constitute or be deemed to constitute between the Parties a joint venture, partnership, employment relationship or staff loaning.

## 19.2

Customer shall not assign this Subscription Agreement or delegate any of its rights, duties or obligations thereunder without the prior written consent of ironArray. ironArray may assign this Subscription Agreement or its rights, interests and obligations thereunder to (i) Affiliates; and/or (ii) another party in connection with a merger with or acquisition by or sale of all of its assets. This Subscription Agreement shall be binding upon any successor in interest or title of the Parties.

## 19.3

ironArray is entitled to with regard to the fulfillment of its obligations under this Subscription Agreement contract with and use subcontractors, agents and other authorized third parties.

## 19.4

If Customer contracts with independent agents, ironArray does not make any representation or accepts no commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party service or product purchased or otherwise subscribed to by Customer. ironArray does not endorse or approve any third-party website nor the content of any of the third-party web-site made available via the Product.

## 19.5

Regardless of any disclosure made by Customer to ironArray of an ultimate destination of the Product and, notwithstanding anything contained in this Subscription Agreement to the contrary, Customer agrees to comply with all applicable local laws, regulations, and export requirements in connection with Customer's use of the Product as permitted by this Subscription Agreement.

## 19.6

Additions, modifications, supplements and/or amendments to this Subscription Agreement and/or any of its Annexes (including this section 19.6) cannot be made except if made in writing and if authorized by both Parties.

## 19.7

Notwithstanding section 19.6, ironArray shall be entitled to, upon prior notification to Customer but at its sole discretion unilaterally modify the ironArray Support Terms, the Documentation, the System Requirements and/or Product and related information or documentation (see section 3.2) and/or its Official Price List (see section 10.6).

## 19.8

At no time shall any failure or delay by either Party in enforcing any provisions, exercising any option, or requiring performance of any provisions, be construed to be a waiver of same.



## 19.9

All notifications of termination, adjustments, amendments and supplements regarding this Subscription Agreement must be sent to the addresses for notifications specified below:

If to ironArray:

ironArray S.L.  
Tirant lo Blanc n 6 pta 4  
12100 Castelló de la Plana  
Spain

or to the following E-Mail: [contact@ironarray.io](mailto:contact@ironarray.io)

If to Customer:

Customer's e-mail address (as provided by the customer)

Notifications sent to the proper addressee(s) shall be deemed to have been made as of the date of delivery as evidenced by a return receipt.

## 19.10

If any provision of this Subscription Agreement is for any reason held to be invalid, illegal or unenforceable, the remaining provisions shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a valid, legal and enforceable provision that to the highest extent reasonably possible achieves the original intention of the Parties. This section shall apply accordingly if the Subscription Agreement is silent on an issue to be resolved.

## 20 Governing Law and Forum

### 20.1

This Subscription Agreement shall exclusively be governed and construed in accordance with the substantive laws of Spain, whereby (i) international conventions, including the United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980 (CISG) and/or (ii) standard conflict of law rules are hereby excluded from application to this Subscription Agreement.

### 20.2

The ordinary courts of Castelló de la Plana shall have exclusive jurisdiction with regard to all disputes arising from or in connection with this Subscription Agreement. The place of jurisdiction is Castelló de la Plana/Spain.

## Annex 1 – Price List

The available subscription models are listed as follows:

	<b>Developer</b>	<b>Team</b>	<b>Enterprise</b>
Price per year	1500 EUR	6000 EUR	- EUR
Included licenses	1	5	Unlimited
Each additional license	1500 EUR	1200 EUR	-
Included support hours	2	10	-

The current version of the Official Price List is also available under <https://www.ironarray.io/pricing>.

## Annex 2 – System requirements

### Supported Operating Systems

- Microsoft Windows Server 2016 or later
- Microsoft Windows 10 or later
- Ubuntu Linux 18.04 LTS or later
- RedHat Enterprise Linux 7 or later
- SUSE Enterprise Linux 12.3 or later
- Debian Linux 8 or later
- Apple OSX 10.14 or later

### Supported System Architectures

- Intel 64-bit
- AMD 64-bit

### Supported Python Versions

- Python 3.7 (64-bit)
- Python 3.8 (64-bit)
- Python 3.9 (64-bit) or later

The current version of the System Requirements is also available under <https://www.ironarray.io/support>.

## Annex 3 – ironArray Support Terms

### 1. SERVICE LOCATION

The activities included in the Support will be carried out in the premises that ironArray uses for its professional activity and through remote access to Customer's computers.

However, when the nature of the work requires it or due to exceptional technical circumstances, and with the approval of both Parties, the Support may be provided, temporarily, at the Customer's premises. In this case, the Customer must allow the personnel of ironArray to enter its premises.

The expenses incurred by the provision of the Support at the Customer's premises or at any location involving travel by ironArray team will be borne by the Customer, unless expressly agreed otherwise.

### 2. SUPPORT HOURS AND RESPONSE TIME

Response Time is the average time it will take for the customer to receive an initial response from ironArray relation to the notified incident or request made. This time does not imply the resolution of the incident.

	Developer	Team
Included support hours	2	10
Response time	Best effort	3 WD
Support hours	Best effort	BWH CET
Support language	English	English

**WD:** Working days (Monday to Friday)

**BWH CET:** Business Working Hours Central European Time – 9am to 5pm

ironArray will use commercially reasonable efforts to solve incidents. At the request of the Customer, ironArray will update the Customer about the resolution status until the incident is completely solved.

If ironArray fails to achieve Response Times, ironArray's performance shall not be deemed a breach of the Subscription Agreement as long as it complies with the representations and warranties established in the Subscription Agreement.

The current version of the Support Terms is also available under <https://www.ironarray.io/support>.