1. **Subject Matter and Applicability of this License Agreement**

(1) The following provisions of this License Agreement constitute a legally binding contract that regulates the use of the **Licensed Product** that is defined under Sec. 2 below and is concluded between HiveMQ GmbH, headquartered at Address Landshut, Germany (registered: Landshut District Court (Amtsgericht) HRB 8906) (hereinafter "HiveMQ") and the company represented by you (hereinafter the "Licensee"). You hereby warrant and represent that you are duly and properly authorized to represent the Licensee in entering this Agreement.

(2) Licensee has concluded a contract relating to the Licensed Product with HiveMQ or an authorized reseller, (hereinafter the "**Customer-Agreement**") and which entitles him to enter into this License Agreement. As a condition for the granting of rights according to this License Agreement, an unmodified quote issued by HiveMQ which identifies the Licensed Product and the Licensee, and which contains regulations regarding the rights to use the Licensed Product (hereinafter the "**License Certificate**") must be attached to the Customer-Agreement. Any and all rights granted to Licensee by this License Agreement are restricted according to the stipulations of the License Certificate.

(3) Subject matter of this License Agreement is solely the intellectual property and granting of rights to use with regard to the Licensed Product. Further rights, obligations, warranties or support and maintenance services related to the Licensed Product are not subject to this License Agreement.

(4) By using the License Product, the Licensee declares its agreement to the validity of this License Agreement. If the agreement to the terms of this License Agreement is denied, no rights of use will be granted to the Licensed Product, and it shall not be used. In this case, the installation routine must be canceled, and the Licensed Product must be deleted immediately and permanently.

(5) Licensee will be provided with a license file by Reseller or by HiveMQ which will technically enable him to use the Licensed Product. Such license file may only be used after Licensee has entered into this EULA.

2. **Subject Matter of the License**

(1) The subject matter of this License Agreement is the HiveMQ Broker (in this context "**HiveMQ Broker**" refers to a software core of the "**HiveMQ Platform**", a software by means of which,
when installed on a server, data can be transmitted and exchanged between various devices over existing connections (hereinafter referred to as the “Licensed Software”) and all other copyrightable works including documentations and other accompanying materials which are identified in the License Certificate (hereinafter collectively referred to as the “Licensed Product”). The Licensed Product includes all works provided by HiveMQ within the framework of updates, upgrades, implementations, the customizing of the Licensed Software and also other adaptations and enhancements of said software.

(2) Any open-source licensed software elements which are provided by HiveMQ in connection with the Licensed Product and which are identified and listed as such in the file „licenses“ in the folder „third-party-licenses“ of the Licensed Software are not part of the Licensed Product. They are not subject to the provisions of this EULA but subject to the terms of the applicable open-source licenses.

(3) The acceptance conclusion of this License Agreement shall not result in a commitment on the part of HiveMQ towards the Licensee with respect to certain functionalities or compatibilities or the suitability of the Subject of the License for a particular purpose.

3. Intellectual property, confidentiality

As a condition of the rights of use granted to Licensee under this Agreement, Licensee acknowledges and agrees that HiveMQ shall be entitled to all intellectual proprietary rights in the Licensed Product, including copyrights, trademark rights, company name rights or other marks and expertise, if available. The Licensee agrees not to assert or file against HiveMQ or any of its current or future direct or indirect licensees or sub-licensees, distributors and/or resellers any claim or right that attacks or infringes or otherwise limits intellectual property rights of HiveMQ in the Licensed Product, nor allow or in any way support third parties in asserting or filing such claims or rights for the term of this License Agreement.

4. Granting of Rights to Use

HiveMQ hereby grants to Licensee the right to use the Licensed Product according to the following stipulations. If the License Certificate contains further restrictions, the rights of use are additionally restricted as indicated therein:

(1) All rights of use that are granted for the Licensed Product and are limited in time to the duration of the subscription period as defined in the License Certificate (hereinafter referred to as "Subscription Period"). The start and end of the Subscription Period are determined by the calendar dates specified in the License Certificate; however, the Subscription Period does not start prior to the conclusion of this License Agreement between HiveMQ and the Licensee (condition for the granting of rights of use).

If no Subscription Period is specified in the License Certificate, the rights of use are granted for a License Period of 1 (one) year from the conclusion of this License Agreement. Perpetual rights of use are granted only if this is expressly indicated in the License Certificate.
(2) Unless a different scope of use is expressly specified in the License Certificate, the Licensee shall be granted the right to duplicate, load, display, run, transmit and store the Licensed Product, limited to the following scope of use (hereinafter referred to as "Contractual Use"):

a. The use shall be limited to the utilization according to the specifications in the License Certificate and HiveMQ's Product Sheet and the Documentation.

b. The use of the Licensed Product is limited to the manner and subject to the permitted use cases described in the License Certificate. By way of example, the License Certificate may set forth the permitted use for non-production purposes only (see below), for number of CPU and/or Clusters ("Cluster" is a collection of HiveMQ nodes that are configured to act as a single HiveMQ Broker towards customers), with which the Licensed Software may be used and/or the maximum number of concurrent connections managed by the HiveMQ Platform and/or the locations at which the software may be used.

c. Moreover, the use shall be limited to the utilization according to any possible further specifications described in the applicable License Certificate.

HiveMQ reserves the right (but is under no obligation) to restrict the use of Licensed Products to Contractual Use by means of technical measures that prevent any use outside the Contractual Use.

(3) Where the Licensed Software is subject to a Non-production License, it may ONLY be used by the Licensee for testing purposes within its own business environment and must not be used on production systems or with production data. The Licensed Item is expressly not meant for any production or live-system use and HiveMQ shall not be liable for any damages arising out of or in connection with such use.

(4) With respect to further rights of use, the following shall apply:

a. Copying of the Licensed Product is only permitted to the extent required for the Contractual Use. The Licensee is permitted to create backup copies of the Licensed Product and parts thereof insofar necessary for the Contractual Use. Backup copies on removable storage media shall be designated as such and shall be marked with a copyright mark. The Licensee shall keep record of the copies of the Licensed Product that he creates on storage media in accordance with this License Agreement and shall, on request, give HiveMQ information on such and grant access to such.

b. Only the Licensee shall be entitled to use the Licensed Product.

c. The right to change/amend and the right to decompilation are not granted except were necessarily required by mandatory provisions of the German Copyright Act (UrhG).

d. Publication or reworking of the Licensed Product is not permitted. No rights are granted for types of use not known at the conclusion of this License Agreement.
5. **Obligation of the Licensee to Disclose Information, Right to Conduct Audits**

(1) On request, the Licensee shall inform HiveMQ about the type, scope and number of copies of the Licensed Product created. If the Licensee is permitted to grant sub-licenses, the obligation to disclose information also includes the disclosure of the sublicensee and the aforesaid usage parameters on the sublicensee side.

(2) Furthermore, HiveMQ may conduct audits on the Licensee's business premises to verify the use of the Licensed Product in compliance with the License Agreement. Such audits shall be performed during normal business hours by appointment after sufficient advance notice in order to impair Licensee's operations as little as possible. The Licensee may make the performance of audits conditional upon the signature of a non-disclosure agreement with regard to any

(5) Copyright notices, serial numbers and other distinguishing marks serving to identify the Licensed Product or parts thereof shall not be removed nor shall they be modified.

(6) The Licensee is not authorized to grant sub-licenses for Licensed Product or parts of it except in the cases defined below:

a. The Licensee is permitted to sub-license the Licensed Software to (i) hosting/service providers and/or to (ii) Affiliates by way of a direct mandate insofar as this takes place for the operation of the Licensed Software on servers in an external data center for the sole purpose of the Contractual Use of the Licensed Product by the Licensee. These sub-licenses shall not exceed the rights of use granted to the Licensee under consideration of the limitation to the Contractual Use and the other restrictions (especially in terms of time and scope).

b. For technical reasons, it is not possible for the Licensee to create separate license files or to receive separate license files from HiveMQ for his sub-licensees. Affiliates within the meaning of this provision, are entities in which the Licensee holds more than 50% of the shares and voting rights for the period in which the Licensee holds at least the aforementioned shares and voting rights.

(7) The Licensee is not permitted to make the Licensed Software available to any third parties against payment or free of charge, also not by way of application service providing or software as a service.

(8) If the Licensed Software is fully replaced by a new software version and the Licensee starts using the new version, the right to use the replaced software version shall expire, provided that the new version is compatible.

(9) If the License Certificate contains any restrictions as to the use of the Licensed Product which exceed the restrictions stated in this License Agreement, the rights granted to the Licensee hereunder are restricted accordingly.

(10) HiveMQ grants all rights to use the Licensed Product subject to the condition of the conclusion of this License Agreement and the compliance with its provisions on the part of the Licensee.
confidential information that may become known to the auditors, which go beyond the use of the Licensed Product.

(3) If license infringements of the Licensee with respect to the Licensed Product are identified within the scope of audits, the Licensee shall reimburse HiveMQ for reasonable costs of the audits.

6. **Warranty, indemnification**

   (1) HiveMQ warrants to the Licensee that the contractual use of the Licensed Product by the Licensee will not infringe any third-party rights. The warranty period, if applicable by law, is 1 (one) year from the statutory start of the limitation period. If a claim for damages is based on intent, gross negligence or injury to life, body or health or on the German Product Liability Act (ProdHaftG), the statutory warranty period shall apply.

   (2) In the case of a warranty breach, HiveMQ will – at its own discretion, which shall be exercised in such a way that the Licensee does not suffer any unacceptable disadvantages – at his own expense either obtain a right to use the Licensed Product according to the terms and conditions of this License Agreement for the Licensee or, in accordance with the agreed specifications, modify the Licensed Product that infringes rights in such a way that it no longer infringes any rights.

   (3) If claims are asserted against the Licensee by third parties due to a culpable breach of HiveMQ of its warranty obligations pursuant to the aforementioned subsection (1), HiveMQ shall indemnify the Licensee against such claims provided that the Licensee informs HiveMQ without delay upon receipt of the notification concerning the claim of a third party and gives HiveMQ a copy of every notification or other action that forms the basis for such a claim. If the Licensee breaches the aforesaid obligations, HiveMQ shall be relieved of its indemnification obligation to the extent that the possibility of defense and/or damage mitigation is materially impaired or prevented due to the Licensee’s neglect.

   (4) HiveMQ will, in particular, not compensate the Licensee

      a) if the infringement claim is based on improper or unauthorised use of the Licensed Product or if the Licensee uses a version of the Licensed Product that has been replaced by a new version that has been made available to the Licensee insofar as the infringement claim could have been avoided by using an up-to-date version;

      b) for any amount of a settlement or compromise concerning a claim that has been agreed without the written approval of HiveMQ.

7. **General limitation of liability**

   HiveMQ shall be liable exclusively according to the following regulations, no matter what the legal basis may be.

   (1) HiveMQ shall only be liable for intent and gross negligence. In the event of slight negligence, HiveMQ shall be liable only in the case of a breach of a material contractual obligation whose fulfillment is essential to the due performance of the License Agreement and on whose fulfillment the Licensee may always rely (cardinal obligation). In this context, HiveMQ shall be liable only for foreseeable damage whose occurrence must typically be expected. This also
applies to lost profit and unrealised savings. No liability will be accepted for other remote consequential damage. The limitation of liability of HiveMQ shall not apply in the event of injury to life, body and/or health and in the case of liability under the German Product Liability Act (ProdHaftG).

(2) HiveMQ shall not be liable for any events of force majeure that make the contractual performance impossible, even if such events merely impair the due performance of the contract to a significant extent or hinder it temporarily. Force majeure comprises all circumstances that are independent from the will and influence of the parties, such as terror attacks, embargo, confiscation, natural disasters, epidemics, strike, official orders or other serious and unforeseeable circumstances for which the parties are not responsible. In this context, a circumstance will be regarded as force majeure only if it occurs after the conclusion of the License Agreement.

(3) Moreover, HiveMQ shall not be liable for malfunction and loss of quality of the data transfer on the Internet for which HiveMQ is not responsible and that impairs or prevents the use of the Licensed Product.

(4) Insofar as the liability of HiveMQ is excluded or limited, this shall also apply to the personal liability of its employees, other staff members, representatives and agents.

8. Transfer of rights, assignment

(1) HiveMQ shall grant rights under this Agreement solely to the Licensee. HiveMQ shall be under no obligation of performance for any third parties.

(2) Transfer or assignment of rights or obligations under this License Agreement by the Licensee is subject to the express prior approval of HiveMQ in text and electronic form. HiveMQ may transfer or assign its rights and obligations under this License Agreement to a company affiliated with HiveMQ within the meaning of Sec. 15 German Stock Corporation Act.

9. Term, termination of the License Agreement

(1) This License Agreement shall be valid for the duration of the rights to use granted to the Licensee.

(2) Upon expiration or termination of this License Agreement, the Licensee shall promptly discontinue any and all use of the Licensed Product and shall permanently delete the Licensed Product and all copies from all his storage media. On request, the deletion shall be confirmed to HiveMQ in writing.

(3) The Parties shall be entitled to terminate this License Agreement for good cause. From the perspective of HiveMQ, good cause shall be deemed to exist in particular if the Licensee violates intellectual property rights of HiveMQ by using the Licensed Product or parts thereof beyond the extent permitted under this License Agreement.

10. Applicable Law, Place of Jurisdiction

(1) This License Agreement including all provisions of the License Certificate to which this License Agreement refers shall be governed by German law, excluding the UN Convention on the

6
International Sale of Goods. The foregoing shall apply irrespective of the law applicable to the Customer-Agreement.

(2) As far as legally permitted, the courts at the registered office of HiveMQ (currently Landshut, Germany) shall have exclusive jurisdictional competence over any disputes between the Parties arising from or in connection with this License Agreement.

11. Miscellaneous, final provisions

(1) The Parties agree that a material breach of this License Agreement that is detrimental to HiveMQ's intellectual property rights to the Licensed Item would cause a loss that could not be adequately settled by means of the payment of financial damages alone and that therefore, HiveMQ shall be entitled to due compensation in addition to all legal remedies it is entitled to under this Agreement or according to law.

(2) HiveMQ's failure to enforce a provision of this License Agreement shall not be construed as a waiver of the future performance of this provision or any other provision.

(3) Both parties shall comply with all regulations applicable to the provision and use of the Licensed Product, including without limitation laws related to data privacy and the protection of trade secrets.

(4) The terms and conditions of the Licensee shall not apply to the contractual relationship between the parties. If the Licensee makes reference to its own contract terms when accepting this License Agreement, no contract will be deemed concluded with regard to such contract terms even if HiveMQ does not expressly reject them.

(5) Should individual provisions of this License Agreement be fully or partially invalid or unenforceable or become invalid or unenforceable, this shall not affect the validity of the other provisions. Instead, the Parties shall endeavor to agree a substitute regulation that comes as close as possible to the effects of the invalid or unenforceable regulation in a legally permissible and economic way. The aforesaid provisions shall also apply in case regulations should turn out to have gaps.

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