

SaaS Terms and Conditions (EULA)

BY CLICKING THE “I ACCEPT” BUTTON OR OTHERWISE ACCEPTING THIS AGREEMENT THROUGH AN ORDERING DOCUMENT THAT INCORPORATES THIS AGREEMENT (THE “ORDERING DOCUMENT”), YOU AGREE TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS HEREIN, YOU MUST SELECT THE “I DECLINE” BUTTON AND MAY NOT ACCESS THE PLATFORM OR USE THE APPLICATION AND SERVICES PROVIDED HEREIN.

SOFTWARE AS A SERVICE AGREEMENT

THIS Software as a Service License Agreement (the “Agreement”) is entered into as of the date that the Company accepts the Service Order submitted to Company by Licensee (the “Effective Date”), by and among and Cloudenablers, Inc., a Delaware corporation (“Company”), whose primary place of business is at 3600, 136th PL SE, Suite 300, Bellevue, WA 98006, and the company submitting the Service Order to order access to the Platform and to use the Application and the Services described herein (the “Licensee”). The Company and the Licensee are hereinafter sometimes referred to collectively as the “Parties” and individually as a “Party.”

WHEREAS, Company is a provider of its state-of-the-art application called CoreStack Cloud Governance Platform in two different editions namely Professional and Enterprise, and related Services to allow customers to effectively use, consume, operate and optimize cloud services that they receive from third parties and/or private clouds set-up on their own.

WHEREAS, Licensee desires to license the Platform from Company and use one of the editions of CoreStack Cloud Governance Platform, and Company desires to grant a license to the Platform and to enable the Licensee to use the chosen edition of the platform pursuant to the terms and conditions hereof.

WHEREAS, the Parties hereto fully intend that all of their activities hereunder are fully compliant with all applicable laws.

NOW THEREFORE, in consideration of the agreements contained below, the Parties hereby agree as follows:

1. **Definitions.** For purposes of this Agreement, the following terms will have the meanings ascribed to them below.
 1. **“Affiliate”** means any company the majority of whose voting shares is now or hereafter, owned or controlled, directly or indirectly, by a Party hereto, or by an entity which owns or controls a Party hereto, as applicable.

2. **“API”** means Application Programming Interface.
3. **“Application”** means the suite of integrated applications known as the CoreStack™ Cloud Governance Application or other applications, as more fully described in Exhibit A below.
4. **“Application Edition”** means the specific edition of CoreStack™ Cloud Governance Platform application namely Professional or Enterprise. The CoreStack™ Cloud Governance Platform application is being offered by the Company in two different editions under different pricing plans. Each application edition has different set of features and functions being offered and also are tied to different Company Service Levels, as more fully described in Exhibit A below.
5. **“Authorized User”** means any person that the Licensee allows (with Company’s prior written consent) to use the Application and the Platform, including employees, contractors, and agents of Licensee, who agree to comply with and be bound by the terms and conditions of this Agreement.
6. **“Company Service Level Agreement”** means the service level agreement defining the uptime and support availability for the Platform and Services as described in as Exhibit C below..
7. **“Company System”** means the software and hardware on or connected to the Platform operated on Company’s hosting servers or those of its hosting service provider intended to enable the Licensee to interact with the Platform and Application via the internet or other networking technologies.
8. **“Confidential Information”** means any information disclosed by one Party to the other, which, (i) if in written, graphic, machine readable or other tangible form is marked “Confidential” or “Proprietary” or which, if disclosed orally or by demonstration, is identified at the time of disclosure as confidential and reduced to a writing marked “Confidential” and delivered to the Receiving Party (as defined below) within thirty (30) days of such disclosure; or (ii) by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as confidential. Notwithstanding any failure to so identify them, all technology or proprietary information underlying the Platform and the Company System shall be deemed Confidential Information of Company, and the Licensee Data and the existence of this Agreement shall be deemed Confidential Information of Licensee.
9. **“Documentation”** means any documentation provided by Company for use with the Platform under this Agreement.
10. **“Fees”** means the fees charged to Licensee for the use of the Platform and the Applications and other Services, described in Exhibit A below, as set forth in Exhibit B, attached hereto.
11. **“Intellectual Property Rights”** means all rights in, to, or arising out of: (i) any U.S., international or foreign patent or any application therefore and any and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) inventions (whether patentable or not in any country), invention disclosures, improvements, trade secrets, proprietary information, know-how, technology and technical data; (iii) copyrights, copyright registrations, mask works, mask works registrations, applications, moral rights, trademarks, and rights of personality, privacy and likeness, whether arising by operation of law,

contract, license or otherwise; and (iv) any other similar or equivalent proprietary rights anywhere in the world.

12. **“Licensee Data”** means Licensee, Authorized User and other information provided to the Company by the Licensee or its Authorized Users.
13. **“Level of Services”** or **“Service Levels”** means the levels of services described in Exhibit C.
14. **“Marks”** means a Party’s corporate or trade name, trademark(s), logo(s), domain names or other identification of such Party.
15. **“Platform”** means the CoreStack™ Cloud Governance Platform, as more fully described in Exhibit A, attached hereto, including the interface created by Company where the Licensee and Authorized Users can standardize and automate IT processes through the Company’s unique Cloud as Code approach, providing unified framework to effectively operate and manage infrastructure, application and services, and all changes, corrections, bug fixes, enhancements, updates and other modifications thereto, whether made by or on behalf of Company, Licensee, or any third party.
16. **“Service Order”** or **“SO”** means the order form, sometimes referred to as the Ordering Document, approved by Company pursuant to which Licensee orders access to the Platform and use of the Application and the Services.
17. **“Services”** mean the services provide by the Company to the Licensee and Authorized Users in conjunction with the Platform as more fully described in Exhibit A, attached hereto.
18. **“Software”** means Company’s unique, proprietary CoreStack™ Cloud Governance software, and all changes, corrections, bug fixes, enhancements, updates and other modifications thereto, whether made by or on behalf of Company, Licensee, or any third party.
19. **“Start Date”** is the date that Licensee specifies on the Service Order for the Service to start. If Company accepts the Service Order, the Start Date will be the date specified on the Service Order.
20. **“Usage Data”** means all of the data that is generated as a result of the use of the Application by the Licensee and its Authorized Users. Usage Data is not included as part of the Publisher Data.

2. **Services**

1. **Services.** The Company shall provide the Services described in Exhibit A below at the Fees set forth in Exhibit B below, in accordance with the Company Service Level Agreement set forth in Exhibit C below.
2. **Level of Services** The Service Levels are described in Exhibit C below.
3. **Ownership of the Usage Data.** Notwithstanding anything the contrary herein, the Company shall own all of the Usage Data generated in connection with the use of the Application and the Platform by the Licensee and its Authorized Users. The Company may use, reproduce, revise, format, transmit in written or electronic format, sell, license sub-license or otherwise use the Usage Data for any purpose whatsoever provided that the Licensee and/or its Authorized Users are in no way identified if the Usage Data is provided to third parties.
4. **Service Orders.** From time to time, Company and Licensee may execute one or more service orders, substantially in the form attached hereto as Exhibit D below,

that describe the services that the Company will provide to Licensee (each an “SO”). Each SO will expressly refer to this Agreement, will form a part of this Agreement, and will be subject to the terms and conditions contained herein. An SO may be amended only by written agreement of the Company and the Licensee.

3. Responsibilities and Representations of Company.

1. Company will host and maintain the Platform on servers operated and maintained by or at the direction of Company. Company shall provide the Services under the terms and conditions of this Agreement as more fully described in Exhibit A, attached hereto. Company may in its sole discretion modify, enhance or update or otherwise change the Platform upon one day notice to the Licensee, provided there is no negative impact to Licensee’s usage of existing features and functionalities.
2. Company shall ensure availability of the Company System and provide technical support of the Company System in accordance with the Company Service Level Agreement as more fully described in Exhibit C, attached hereto. Company shall not be obligated to provide to the Licensee any new release of the Platform, or module thereof, or other software or services for which Company generally charges a separate fee.
3. Company shall provide Licensee with analysis and feedback as it relates to the use of the Platform by the Licensee and Authorized Users tracked through the Platform. [Licensee shall have access to such results and analysis from a dashboard made available through the Platform.
4. Company represents and warrants that (i) it has the legal right to enter into this Agreement and perform its obligations hereunder, and (ii) the performance of its obligations and the provision of the Platform and the delivery of the Application and Services to Licensee will not violate any applicable laws or regulations or cause a breach of any agreements between Company and any third parties. In the event of a breach by Company of the foregoing warranties, Licensee’s sole remedy is termination of this Agreement upon written notice to Company.
5. If Licensee (i) is located in Europe, (ii) has employees or Authorized Users, who are residents of Europe and will have access to the Services, (iii) allows a European resident to sign this Agreement on its behalf, or (iv) requires Company to give notice under this Agreement to a European resident, the following subsections will apply. For the purposes of this Agreement, “Applicable European Data Protection Laws” means Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Directive 2002/58/EC (as amended by Directive 2009/136/EC) concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), any national laws or regulations implementing the foregoing Directives, the General Data Protection Regulation (EU) 2016/679, and any amendments to or replacements for such laws and regulations **a.** If an Authorized User or employee of Licensee is a resident of Europe (collectively “European Resident”),

Company and Licensee agree to fully comply with the letter and spirit of Applicable European Data Protection Laws with respect to the transport, storing and processing of Personal Data of Customer and its employees and Authorized Users. **b.** The Parties agree that Licensee is the Controller, as defined in Applicable European Data Protection Laws, of the Personal Data and Company is the Processor, as defined in Applicable European Data Protection Laws, of the Personal Data of each European Resident. **c.** Company agrees to delete any Personal Data of Licensee or European Resident that it stores upon the request of Licensee.

d. Company agrees to allow Licensee, at Licensee's costs, to reasonably audit annually Company's books, records, and procedures with respect to its Applicable European Data Protection Laws compliance and processing of Personal Data of European Residents.

e. Company agrees to provide Licensee with copies of all Personal Data of Licensee's European Employees and Authorized Users that it stores and processes upon request of Licensee.

f. Company agrees to notify Licensee within 48 hours of its discovery of a security breach with respect to the Personal Data of Licensee or European Residents and to cooperate in good faith with Licensee with respect to such breach.

g. Company agrees to promptly notify Licensee of any request that it receives from a European Resident to delete their Personal Data.

h. Company shall inform all of its employees, consultants, and agents, (collectively "Employees") who process or have access to personal data of the confidential nature of such personal data. Company shall ensure that such Employees shall treat such personal data as confidential.

i. Company and Licensee agree to be bound by the Model Contractual Provisions with respect to the transport of Personal Data, as defined in the Applicable European Data Protection Laws for processing in the United States or elsewhere in the world outside of Europe.

j. Company shall implement security, technical and organisational measures protecting the physical and electronic security of Personal Data of Licensee and its European Residents meeting the highest of the standards in force in the cloud hosting industry.

k. Company shall fully cooperate Licensee to enable Licensee to comply with any exercise of rights by a European Resident under Applicable European Data Protection Laws with respect to their personal data. Such co-operation shall include (i) the provision of all information requested by Licensee within any

reasonable timescale specified by Licensee in each case, including full details and copies of any complaint, communication or request and any personal data it holds in relation to a European Resident; (ii) where applicable, providing such assistance as is reasonably requested by Licensee to enable Licensee to comply with the relevant request within the timescales prescribed by Applicable European Data Protection Laws; (iii) implementing any additional technical and organisational measures as may be reasonably required by Licensee to allow Licensee to respond effectively to relevant complaints, communications or requests; and (iv) taking such reasonable steps as are directed by Licensee to assist in the investigation, mitigation and remediation of each data breach, in order to enable Licensee to (a) perform a thorough investigation into the data breach, (b) formulate a response that meets the requirements of Applicable European Data Protection Laws and (c) take suitable further steps in respect of the data breach in order to meet any requirement under Applicable European Data Protection Laws.

l. The security measures must safeguard data integrity, access tracking, the permanent availability of the Personal Data of Licensee's European Residents. The confidentiality of the Personal Data will include: (i) identification and securing of premises (for example: locked access, restricted access requiring an authorisation and an authentication); (ii) electronic security (for example: penetration detection sensors, firewalls, authentication and archiving of data access, simulated incidents); (iii) data encryption in accordance with best practice in this field; (iv) secure exchanges of Personal Data, to prevent exploitation by an unauthorised third party; (v) audit logs of activity on the IT system: the logged information must be listed with a reasonable corresponding retention period for no longer than required to fulfill the Agreement unless otherwise required under applicable regulations); (vi) protection of IT environments using up-to-date antivirus software (virus programs and signatures); and (vii) implementation of control procedures checking security levels.

m. Company agrees not to: (i) directly or indirectly use the Personal Data of the European Residents, entrusted or made available to it for any purposes other than the provision of the Service and it acknowledges that the Personal Data will remain the property of the Licensee; (ii) except as set forth herein, directly or indirectly communicate or disclose the Personal Data of its European Residents, entrusted or made available to it by the Licensee, to any third party; and (iii) entrust the Personal Data or make it available to any employees, agents, or contractors, other than those involved in the performance of the Service.

n. Company agrees to take commercially reasonable actions to enable Licensee to fulfil its legal obligations ensuring compliance with the rights held by European Residents, including: (i) right of access: retrieval in a readable format of the Personal Data held by Company on any Data Subject, as defined in the Applicable European Data Protection Laws, as part of its relationship with the Licensee; (ii) right to rectification or deletion, for which a certificate of

compliance may be requested; (iii) right to data portability; and (iv) right to restriction of Processing.

o. Licensee may ask to receive the results and the corresponding action plans for the various tests performed, for example penetration testing, vulnerability scanning, security audits, etc, by Company, with respect to Company's protection and safeguarding of personal data of European Residents, which Company shall provide within 30 days of the request.

4. Responsibilities of and representations of Licensee.

1. The Licensee will cooperate in accurately providing the Company with the Licensee Data necessary for the Company to implement the Platform.
2. The Licensee will be responsible for obtaining and maintaining at the Licensee's expense all the necessary computer hardware, software, modems, connections to the Internet and other items required to access the Company System.
3. Licensee will provide as true, accurate, current and complete account information as commercially reasonable; and maintain and promptly update all account information to ensure same
4. Licensee acknowledges that access to the Platform is to be limited to Authorized Users, whom License has screened and authorized to have access to the Platform and to use the Application and the Services. Licensee acknowledges that the user names and passwords given to Authorized Users are confidential and need to be carefully controlled and safely kept. Licensee shall indemnify and hold Company harmless from any claim or damage asserted against Company resulting from use of such user names and passwords.
5. Licensee represents and warrants that (i) the performance of its obligations and use of the Platform and the Application by its Authorized Users will not violate any applicable laws, or regulations, including without limitation any and all laws and regulations regarding the transfer of personal information of residents of the United States of America outside the United States of America, or (ii) cause a breach of any agreements with any third parties or unreasonably interfere with the use by other customers of the Platform, the Application or the Company Services.
6. Licensee acknowledges that (i) Company does not monitor the content of the information passing through the Platform for purposes of verifying accuracy or legal compliance, and (ii) Licensee will use commercially reasonable efforts to ensure that the information it and its Authorized Users transmit thereby complies with all applicable laws and regulations, whether now in existence or hereafter enacted and in force.
7. In the event of any breach by Licensee of any of the foregoing representations or covenants, in addition to any other remedies available at law or in equity, Company will have the right to suspend immediately Licensee's access to the Platform or use of the Application or any Services if deemed reasonably necessary by Company to prevent any harm to Company and its business. Company will provide notice to Licensee and an opportunity to cure, if practicable, depending on the nature of the breach. Once cured, Company will

promptly restore Licensee's access to the Platform and use of the Application and the Services

8. Licensee covenants and agrees that its use of the Platform, Application and Services will be in a manner consistent with this Agreement and with all applicable laws and regulations, including trade secret, copyright, trademark, and export control laws. Without limiting the generality of the foregoing, Licensee shall not, nor shall it permit or assist others, (i) to abuse or fraudulently use the Platform, the Application or the Services; (ii) to process or permit to be processed the data of any third party that is not expressly authorized herein to access and use the Platform, the Application or the Services; and (iii) to attempt to copy, reverse-engineer, decompile, disassemble, create a derivative work from, or otherwise attempt to derive the source codes of any part of the Company Technology
5. **Right to Monitor.** Company will have the right to review and monitor all use of the Company System by Licensee and its Authorized Users to ensure compliance with all of the terms of the Documentation and this Agreement.
6. **License Grant.**
 1. **Grant.** Subject to the terms and conditions of this Agreement, Company grants to Licensee a limited, non-exclusive, non-transferable, worldwide license, without the right to sublicense, to use and permit Authorized Users to use the Platform in accordance with the terms and conditions of this Agreement during the term of this Agreement.
 2. **License Restrictions.** Licensee shall not, and will not permit any third party to: (i) use the Platform, Application or the Services except to the extent permitted in Section 6.1 and/or elsewhere herein; (ii) modify or create any derivative work of any part of the Platform; (iii) permit any third parties to use the Platform other than Authorized Users; or (iv) market, sublicense, publish, distribute, reproduce, assign, transfer, rent, lease or loan the Platform.
 3. **Reservation of Rights.** Company reserves all rights to the Platform not otherwise expressly granted in this Section 6.
 4. **Subscription License.** Unless otherwise agreed to in writing by Company, the license granted herein is a subscription license.
7. **License to Company.**
 1. **Limited Licensee Data License.** Subject to the terms and conditions of this Agreement, the Licensee hereby grants Company a limited, worldwide, non-transferable, non-exclusive, non-sublicensable, royalty-free license during the Term to use, reproduce, electronically distribute, transmit, have transmitted, perform, display, store, archive, and make derivative works of the Licensee Data solely in order to enable the Platform to use the Company System. Company shall have the right to aggregate and anonymize Licensee Data and to publish such aggregated and anonymized (non-personally identifiable) data. Company shall have no right to use the Licensee Data for any other purpose or share the Licensee Data with anyone other than the Licensee.
 2. **Limited Trademark License; Marketing Materials.** Licensee hereby grants Company a royalty-free, non-exclusive, non-transferable, non-sublicensable, limited term license to use Licensee's Marks solely for the purpose of aligning the appearance of the Platform to Licensee's branding and only as specifically

authorized by, and subject to any restrictions stated in, this Agreement. Such license shall be limited to the duration of this Agreement. During the Term of the Agreement, Company may include Licensee in any of Company's user lists and testimonials, solely for the purpose of identifying Licensee as a user of Company, provided that in each such case Licensee shall have given its prior written consent, which consent may be rescinded at any time in Licensee's sole discretion upon written notice to Company. Company shall not use any of Licensee's Marks in any manner that Licensee, in its sole discretion, deems to be an explicit or implicit endorsement of Company, or which is likely to cause confusion as to Licensee's relationship to Company's Services. Any such usage of the Licensee's Marks is permissible only with Licensee's prior written consent. Company's use of Licensee's Marks shall inure to the benefit of Licensee. Licensee and Company acknowledge that the provisions of this paragraph do not convey any right, title or ownership interest in Licensee's Marks to Company.

8. Payment; Taxes.

1. **Fees.** In consideration for the license granted by Company under this Agreement, Licensee shall pay Company the fees in the amount set forth in Exhibit B below (the "Fees") in accordance with the terms set forth therein and herein. The Fees are non-refundable except as expressly provided in this Agreement. The Fees may be increased up to 5% in any Renewal Term.
2. **Taxes.** Licensee shall, in addition to the other amounts payable under this Agreement, pay all applicable customs, duties, sales, use, value added or other taxes, federal, state or otherwise, however designated, which are levied or imposed by reason of the transactions contemplated by this Agreement, excluding only taxes based on Company's net income. Licensee agrees to indemnify, defend, and hold Company, its officers, directors, consultants, employees, successors and assigns harmless from all claims and liability arising from Licensee's failure to report or pay any such taxes, duties or assessments.
3. **Payment Terms.** All undisputed amounts payable to Company under this Agreement will be due within thirty (30) days from receipt of an invoice. Overdue payments will be subject to interest at the rate of 1.5% per month, or the maximum allowable under applicable law, whichever is less. No reimbursements shall be made for terminations mid-month for the remaining unused portion of the month except as expressly provided in this Agreement.

9. Ownership

1. **Licensee.** As between Licensee and Company, the Licensee shall retain all right, title and interest in and to the Licensee Data, Licensee's Marks and all Intellectual Property Rights therein. Nothing in this Agreement will confer on Company any right of ownership or interest in the Licensee Data, Licensee's Marks or the Intellectual Property rights therein.
2. **Company.** As between Licensee and Company, Company shall retain all right, title and interest in and to the Platform, the Company System, any changes, corrections, bug fixes, enhancements, customizations, updates and other modifications thereto, and all Intellectual Property Rights therein, and as between the parties all such rights shall vest in and be assigned to Company including any modifications, derivations, enhancements, compilations or changes to or from any

of the foregoing by or on behalf of Licensee in relation to Licensee's use of the Platform. Nothing in this Agreement will confer on Licensee any right of ownership or interest in the Platform, the Company System, or the Intellectual Property rights therein.

10. **Limited Platform Warranty.**

1. **Scope of Limited Warranty.** Company warrants to Licensee that during the Term, the Platform will perform substantially in accordance with the terms of Company's Documentation. The foregoing warranty shall not apply to performance issues of the Company System (i) caused by factors outside of Company's reasonable control; (ii) that result from any improper actions or inactions of Licensee or any third parties; or (iii) that result from Licensee's data structure, operating environment or equipment.
2. **Disclaimer of Any Other Warranties.** EXCEPT FOR THE EXPRESS, LIMITED WARRANTY PROVIDED IN THIS SECTION 10 OR ELSEWHERE IN THIS AGREEMENT, COMPANY MAKES NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE PLATFORM, THE COMPANY SYSTEM, OR ANY OTHER ACCOMPANYING MATERIAL PROVIDED HEREUNDER. COMPANY SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT, THOSE ARISING FROM A COURSE OF DEALING OR USAGE OR TRADE, AND OF UNINTERRUPTED OR ERROR-FREE SERVICE, AND ALL SUCH WARRANTIES ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE PLATFORM IS PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS.

11. . **Term; Termination.**

1. **Term.** Unless earlier terminated as provided in this Section 11, this Agreement will normally have an initial term of twelve months (the "Initial Term"), which shall commence as of the Start Date, and shall thereafter automatically renew at the then existing prices set forth on the Company's pricing page at <https://www.corestack.io> website for additional periods of twelve months unless Licensee provides written notice of its intention not to renew to the Company at least thirty days prior to expiration of the current term (any such renewal term a "Renewal Term," and together with the Initial Term, the "Term"). You may order Services for as low as one month. Please specify the length of the term on the Service Order.
2. **Termination.**
 1. **By Either Party.** This Agreement may be terminated by either Party upon delivery of written notice of termination to the other Party, as follows:
 - (a) Before the end of a month, effective on the last day of such month;
 - (b) if the other Party fails to perform or observe any material term or condition in this Agreement and fails to cure such breach within thirty days after receipt of written notice of such breach from the non-breaching Party; or
 - (c) if the other Party (i) makes a general assignment for the

benefit of creditors, (ii) admits in writing its inability to pay debts as they come due, (iii) voluntarily files a petition or similar document initiating any bankruptcy or reorganization proceeding, or (iv) involuntarily becomes the subject of a petition in bankruptcy or reorganization proceeding and such proceeding shall not have been dismissed or stayed within sixty days after such filing.

2. **Effect of Termination.** Upon termination of this Agreement, each Party shall promptly return, or at the other Party's request, destroy (and provide confirmation of such destruction signed by a legal officer), all Confidential Information of the other Party (including without limitation the Licensee Data and the Documentation). Sections 1, 6, 9, 10, 11.2.2, 12-15 and 16 (as applicable) shall survive termination of this Agreement for any reason. All other rights and obligations of the Parties under this Agreement shall expire upon termination of this Agreement, except that all payment obligations accrued hereunder prior to termination or expiration shall survive such termination.

12. . Confidentiality

1. **Nondisclosure.** Each Party (each a "Receiving Party") agrees that it (i) shall use and reproduce the Confidential Information of the other Party (the "Disclosing Party") only for purposes of exercising its rights and performing its obligations under this Agreement and only to the extent necessary for such purposes, (ii) shall restrict disclosure of such Confidential Information to the Receiving Party's employees, consultants, or advisors who have a bona fide need to know for such purposes, and (iii) shall not disclose such Confidential Information to any third party without the prior written approval of the Disclosing Party. The foregoing obligations shall be satisfied by the Receiving Party through the exercise of at least the same degree of care used to restrict disclosure and use of its own information of like importance, but not less than reasonable care. All third parties to whom the Receiving Party discloses Confidential Information must be bound in writing by obligations of confidentiality and non-use at least as protective of such information as this Agreement. Notwithstanding the foregoing, it shall not be a breach of this Agreement for the Receiving Party to disclose Confidential Information if compelled to do so under law, in a judicial or other governmental investigation or proceeding, provided that, to the extent permitted by law, the Receiving Party has given the Disclosing Party prior notice and reasonable assistance to permit the Disclosing Party a reasonable opportunity to object to and/or limit the judicial or governmental requirement to disclosure.
2. **Exceptions.** Notwithstanding anything to the contrary herein, neither Party shall be liable for using or disclosing information that such Party can prove: (i) was in the public domain at the time it was disclosed or has entered the public domain through no fault of the Receiving Party; (ii) was rightfully known to the Receiving Party, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (iii) is disclosed with the prior written approval of the Disclosing Party; (iv) was independently developed by the Receiving Party without any use of the Confidential Information, as demonstrated by files created at the time of such independent development; (v) becomes

rightfully known to the Receiving Party, without restriction, from a source other than the Disclosing Party without breach of this Agreement by the Receiving Party and otherwise not in violation of the Disclosing Party's rights; or (vi) is disclosed generally to third parties by the Disclosing Party without restrictions similar to those contained in this Agreement.

3. **Remedies.** The Receiving Party agrees that a breach of this Section 12 may result in immediate and irreparable harm to the Disclosing Party that money damages alone may be inadequate to compensate. Therefore, in the event of such a breach, the Disclosing Party will be entitled to seek equitable relief, including but not limited to a temporary restraining order, temporary injunction or permanent injunction without the posting of a bond or other security.

13. . **Limitation on Damages.**

1. EXCLUSION OF INCIDENTAL AND CONSEQUENTIAL DAMAGES. EXCEPT FOR GROSS NEGLIGENCE, WILFUL MISCONDUCT, BREACH OF SECTION 12 AND INDEMNIFICATION FOR THIRD-PARTY DAMAGES ARISING UNDER SECTION 14 OF THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH LIABILITY SOUNDS IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, WARRANTY, OR OTHERWISE.
2. MAXIMUM AGGREGATE LIABILITY EXCEPT FOR GROSS NEGLIGENCE, WILFUL MISCONDUCT, BREACH OF SECTION 12 AND INDEMNIFICATION LIABILITY ARISING UNDER SECTION 14 OF THIS AGREEMENT, THE MAXIMUM LIABILITY OF EITHER PARTY FOR ANY CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AMOUNT PAID OR TO BE PAID BY COMPANY FOR SERVICES PROVIDED UNDER THIS AGREEMENT IN THE TWELVE MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY. LICENSEE ACKNOWLEDGES THAT THE AMOUNTS PAYABLE HEREUNDER ARE BASED IN PART ON THESE LIMITATIONS. THE PARTIES AGREE THAT THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

14. . **Indemnification**

1. **Indemnification.** Each Party shall indemnify, defend and hold the other Party and its officers, directors, employees, agents, successors and assigns harmless from and against all third-party claims, suits, actions, damages, settlements, losses, liabilities, costs (including without limitation reasonable attorney's fees) and expenses resulting from or arising out of (a) any breach of this Agreement by such Party, (b) any negligence or willful misconduct with respect to the provision or use of the Company System by such Party, and (c) any claim that the Company System (as to Company), or the Licensee Data (as to Licensee) violates any applicable statute, regulation, or law, or infringes any intellectual property right or

other legal right of any third party (a “Claim”). This indemnity does not apply to, and Company will have no obligation to the Licensee for, any infringement or misappropriation claim that arises from (i) modifications to the Company System by anyone other than Company, (ii) modifications to the Company System based upon specifications furnished by the Licensee, (iii) Licensee’s use of the Company System other than as specified in this Agreement or in the applicable Documentation, (iv) use of the Company System in conjunction with third-party software, hardware or data other than that approved by Company, or (v) any combination of the foregoing. Licensee shall indemnify, defend and hold Company and its officers, directors, employees, agents, successors and assigns harmless from and against all third-party claims, suits, actions, damages, settlements, losses, liabilities, costs (including without limitation reasonable attorney’s fees) and expenses to the extent they arise from any Claim based on any of the factors in the foregoing sentence, and shall give Company all reasonable information and assistance regarding such claim.

2. **Notice of Claim.** The indemnified Party shall promptly notify the indemnifying Party in writing of any Claim; provided that the failure to provide such notice shall not relieve the indemnifying Party of its indemnification obligations hereunder except to the extent of any material prejudice directly resulting from such failure. The indemnifying Party shall bear full responsibility for, and shall have the right to solely control, the defense (including any settlements) of any Claim; provided, however, that (i) the indemnifying Party shall keep the indemnified Party informed of, and consult with the indemnified Party in connection with the progress of such litigation or settlement and (ii) the indemnifying Party shall not settle any such Claim in a manner that does not unconditionally release the indemnified Party without the indemnified Party’s written consent, not to be unreasonably withheld or delayed.
3. **Infringement.** In the event any portion of the Company System is held or believed by Company, or any portion of the Licensee Data or Licensee Marks are held or believed by the Licensee, to infringe or misappropriate Intellectual Property Rights of any third party (such portion to be deemed the “Infringing Materials”) in any place where the Company System is used or accessed, then in addition to any other rights in this Section 14, Company (where the Infringing Materials are the Company System) or Licensee (where the Infringing Materials are the Licensee Data or Licensee Marks) shall, at its sole expense and at its option: (i) obtain from such third party the right for the other Party to continue to use the Infringing Materials; or (ii) modify the Infringing Materials to avoid and eliminate such infringement or misappropriation, as the case may be; or (iii) upon mutual agreement with the other Party, remove and disable the Infringing Materials; or (iv) if none of the foregoing remedies is commercially feasible, terminate this Agreement, provided that in such case Company shall promptly refund to Licensee all unused License Subscription Fees paid by Licensee to Company.
4. **Sole Remedy.**
THIS SECTION 14 SETS FORTH EACH PARTY’S ENTIRE LIABILITY AND OBLIGATION, AND EACH PARTY’S SOLE REMEDY FOR ANY CLAIM

OF INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS.

15. Personal Information, Data Protection, and Security

1. **Personal Information.** The Parties acknowledge that in performing their obligations hereunder, Company may obtain from Licensee or have access to, or otherwise store, process or transmit, certain personally identifiable information of Licensee's Authorized Users. "Personally Identifiable Information" means an individual's identity and includes such individual's name or alias, residential or business address, financial account information, social security number, email addresses, passport number, driver's license number, taxpayer identification number and credit card numbers.
2. **Limited Use.** Company represents, warrants and covenants that at all times during the term of this Agreement, it will comply with its obligations under all applicable privacy, security and data protection laws, rules and regulations of any jurisdiction in the United States of America, and all then-current industry standards, guidelines and practices with respect to privacy, security and data protection, including the collection, processing, storage, protection and disclosure, of Personally Identifiable Information.
3. **Security Measures.** At all times it is in possession of Personally Identifiable Information, Company shall maintain a data security program, and will: (i) implement and maintain commercially reasonable security procedures and practices appropriate to the nature of the Personally Identifiable Information and take such other actions as are necessary to maintain conformance with industry standards of security and (ii) take reasonable measures to protect against any anticipated or actual threats or hazards to the security of the Personally Identifiable Information. In the event of a breach of Company security, Company shall promptly notify Licensee that a security breach has occurred. Company shall ensure that (a) to the extent shared environments exist with other businesses for all WANS, LANS, Network connections, dial-up connections, storage and distributed systems, that all access to Personally Identifiable Information is restricted by employee function and position to only those Company employees or contractors who are involved in the administration of the Services to Licensee described in this Agreement; (b) all system connected terminals are equipped with access control (password protection), time-out for non-use; and (c) if Personally Identifiable Information is to reside on any Company System, then standards and security practices must be resident, including host access control, personal computer access control and virus protection, and LAN access controls. Company shall take reasonable measures to secure and defend the Services location(s) against "hackers" and others who may seek to obtain access to Personally Identifiable Information without the consent of Licensee. Company shall periodically check log-files for potential areas where security could be breached. Company will maintain firewall protection and intrusion detection software.
4. **Requests for Personally Identifiable Information.** If Company receives any legal request or process in any form seeking disclosure of or if Company should be advised by counsel of any obligation to disclose Personally Identifiable Information, it will provide Licensee with prompt prior notice of such request or

advice so that Licensee may seek a protective order or pursue other appropriate remedies to protect the confidentiality of such Personally Identifiable Information. Company agrees to furnish only that portion of the information which is legally required to be furnished and, in consultation with Licensee, to use all reasonable efforts to assure that the Personally Identifiable Information is maintained in confidence by the party to whom it is furnished.

5. **Notification of Security Breach and Incident Response.** Company shall (a) promptly notify Licensee of any material unauthorized possession, security breach, use or knowledge, or attempted possession or use thereof ("Security Breach"), of the Personally Identifiable Information (or any system on which Personally Identifiable Information may be stored or maintained) by any person or entity which may become known to Company; (b) promptly furnish to Licensee full details of the unauthorized possession, use or knowledge, or attempted possession or use thereof, and use reasonable efforts to investigate any unauthorized possession, use or knowledge, or attempted possession or use thereof, of the applicable Personally Identifiable Information; (c) fully cooperate with Licensee in any litigation and investigation against third parties deemed necessary by such party to protect its proprietary rights; and (d) promptly take effective action to prevent a recurrence of any such unauthorized possession, use or knowledge of the Personally Identifiable Information. Company shall bear all reasonable and necessary costs and expense arising out of any Security Breach. Licensee shall also have the right to audit and investigate Company in the event of a Security Breach and Company shall fully cooperate

16. . **Miscellaneous**

1. **Assignment.** Neither Party may assign, sublicense, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without the consent of the other Party, assign this Agreement to an entity merging with, consolidating with, or purchasing substantially all its assets or stock, provided that the assignee shall assume all rights and obligations under this Agreement. Any permitted assignment of this Agreement shall be binding upon and enforceable by and against the Parties' successors and assigns, provided that any unauthorized assignment shall be null and void and constitute a breach of this Agreement.
2. **Entire Agreement.** This Agreement, any exhibits and amendments thereto, and any SOs constitute the entire agreement between the Parties and supersede all previous agreements, oral or written, with respect to the subject matter of this Agreement. This Agreement may not be amended without the prior written consent of both Parties.
3. **Restricted Rights.** If Licensee is an agency, department or entity of the United States Government ("Government"), Licensee agrees, that (i) use, reproduction, release, modification or disclosure of the Platform, or any part thereof, including technical data, is restricted in accordance with Federal Acquisition Regulation ("FAR") 12.212 for civilian agencies and Defense Federal Acquisition Regulation Supplement ("DFARS") 227.7202 for military agencies, (ii) the Platform is a commercial product, which was developed at private expense, and (iii) use of the

Platform by any Government agency, department or other agency of the Government is further restricted as set forth in this Agreement.

4. **Import and Export Requirements.** Licensee acknowledges and agrees that the Platform is subject to export control laws and regulations. Licensee may not download or otherwise export or re-export the Platform or any underlying information or technology except in full compliance with all applicable laws and regulations, in particular, but without limitation, United States export control laws. The Platform and applicable information or technology may be downloaded or otherwise exported or re-exported: (a) into, or to a national or resident of, any country to which the United States has embargoed goods; or (b) to anyone on the U.S. Treasury Department's list of specially designated nationals or the U.S. Commerce Department's list of prohibited countries or debarred or denied persons or entities. Licensee hereby agrees to the foregoing and warrants that Licensee is not located in, or under the control of, or a national or resident of any such country or on any such list.
5. **Force Majeure.** Except for payment obligations, if either Party is prevented from performing or is unable to perform any of its obligations under this Agreement due to causes beyond the reasonable control of the Party invoking this provision, including but not limited to acts of God, acts of civil or military authorities, riots or civil disobedience, wars, strikes or labor disputes (other than those limited to the affected Party) (each, a "Force Majeure Event"), such Party's performance shall be excused and the time for performance shall be extended accordingly provided that the Party immediately takes all reasonably necessary steps to resume full performance.
6. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the state of Washington without giving effect to its conflicts of law rules. Each of the Parties to this Agreement consents to the exclusive jurisdiction and venue of the state and federal courts of King County.
7. **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered by email to the address provided herein, in person (including by overnight courier) or three days after being mailed by registered or certified mail (postage prepaid, return receipt requested), and on the date the notice is sent when sent by verified facsimile, in each case to the respective Parties at the address first set forth hereto. Either Party may change its contact information by providing the other Party with notice of the change in accordance with this section.
8. **Relationship of Parties.** The Parties are independent contractors and will have no right to assume or create any obligation or responsibility on behalf of the other Party. Neither Party shall hold itself out as an agent of the other Party. This Agreement will not be construed to create or imply any partnership, agency, joint venture or formal business entity of any kind.
9. **Dispute Resolution; Binding Arbitration and Waiver of Trial by Jury.**
 1. **Negotiation.** In the event a dispute arises between Licensee and Company regarding the application or interpretation of any provision of this Agreement, the aggrieved Party shall promptly notify the other Party to this Agreement of the dispute. If the Parties fail to resolve the dispute

within ten business days after receipt of such notice, each Party shall, within five business days thereafter, escalate such dispute to a member of its senior management team.

2. Mediation. If a settlement is not achieved within ten (10) business days after a meeting between senior management representatives, then the Parties agree to attempt to resolve the dispute through mediation by submitting the dispute to mediation in accordance with the then current rules for mediation promulgated by the American Arbitration Association (“AAA”), including the Optional Rules for Emergency Measures of Protections which provide for injunctive relief and measures for the protection or conservation of property and disposition of perishable goods. The mediation proceedings shall be held in Seattle, Washington, and each Party shall bear its own expenses and an equal share of the expenses of the mediator and the fees of AAA. Such mediation will be held within thirty (30) business days of submission to AAA.
3. Binding Arbitration. If the dispute is not resolved by mediation, then the Parties agree to resolve the dispute by binding arbitration before one arbitrator administered in accordance with the Commercial Arbitration Rules of the AAA including the Optional Rules for Emergency Measures of Protections, which provide for injunctive relief and measures for the protection or conservation of property and disposition of perishable goods. Arbitration shall be held in the City of Seattle, Washington, or such other place as the Parties may agree and shall include an award of attorneys’ fees (and the amount of such fees) to the prevailing Party. The arbitration shall be held in front of a single arbitrator. The Parties shall agree on the selection of the arbitrator. Discovery shall be limited to one set of interrogatories, one set of request for admissions, and one set of requests for production of documents. In allowing discovery, the arbitrator shall be governed by the Federal Rules of Civil Procedure then in effect in defining the scope and direction of such discovery and the admissibility of evidence. The arbitrator shall be required to make written findings of fact and render written opinions of law. Subject to any limitations set forth herein above, any award of damages pursuant to such arbitration shall be included in a written decision signed by the arbitrator which shall state the reasons upon which the award was based, including all the elements involved in the calculation of any award of damages. The arbitrator’s award shall be final and binding, and judgment thereon may be entered in any court having jurisdiction over the party against which enforcement is sought; provided that any such award rendered by the arbitrator shall be strictly in conformance to and in accordance with the terms and conditions of this Agreement including, without limitation, the limitation of liability provisions contained herein. Other than those matters involving injunctive relief as a remedy or any action necessary to enforce the award of the arbitrator, the Parties agree that the provisions of this Section 16.9.3 are a complete defense to any suit, action or other proceedings instituted in any court or before any administrative tribunal with respect to any dispute or

controversy arising under or relating to this Agreement. Nothing in this Section 16.9.3 shall prevent either Party from exercising its rights to terminate this Agreement as specified herein. The Parties undertake and agree that all arbitral proceedings conducted under this Section 16.9.3 shall be kept confidential, and all information, documentation, and materials in whatever form disclosed in the course of such arbitral proceeding shall be used solely for the purpose of those proceedings.

4. Waiver of Court or Jury. Each Party hereto waives any rights to a trial by jury and/or trial by court under any applicable law it may have with respect any claim in connection with, arising out of or relating to this Agreement.
5. Survival. The provisions of this Section 16.9 shall survive the expiration or termination of this Agreement for any reason.
6. Opt Out. Licensee may opt out of the binding arbitration, as set forth in this Section 16.9, within thirty days of the date Licensee first accepted the terms and conditions of this Agreement by writing to the Chief Executive Officer of the Company at the principal place of business set forth in the preamble. In order to be effective, the person giving notice of the opt out must include the full name of the company, his/her full name, a certification that such person is authorized to give the opt out notice and a clear indication of the Licensee's intention to opt out of such binding arbitration.
10. **Severability.** If any provision of this Agreement is held invalid or unenforceable, it shall be replaced with the valid provision that most closely reflects the intent of the Parties and the remaining provisions of the Agreement will remain in full force and effect.
11. **Waiver.** No delay or failure by either Party to exercise any right or remedy under this Agreement will constitute a waiver of such right or remedy. All waivers must be in writing and signed by an authorized representative of the Party waiving its rights. A waiver by any Party of any breach or covenant shall not be construed as a waiver of any succeeding breach of any other covenant.
12. **Headings.** The headings of the articles and paragraphs contained in this Agreement are inserted for convenience and are not intended to be part of or to affect the interpretation of this Agreement.
13. **Construction; Advice of Counsel.** Both Parties acknowledge and agree that the Agreement has been jointly prepared and its provisions will not be construed more strictly against either Party as a result of its participation in such preparation. Each Party acknowledges and represents that, in executing this Agreement, it has had the opportunity to seek advice as to its legal rights from legal counsel and that the person signing on its behalf has read and understood all of the terms and provisions of this Agreement.

BY CLICKING THE "I ACCEPT" BUTTON OR OTHERWISE ACCEPTING THIS AGREEMENT THROUGH AN ORDERING DOCUMENT THAT INCORPORATES THIS AGREEMENT (THE "ORDERING DOCUMENT"), YOU AGREE TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF

YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS HEREIN, YOU MUST SELECT THE “I DECLINE” BUTTON AND MAY NOT ACCESS THE PLATFORM OR USE THE APPLICATION AND SERVICES PROVIDED HEREIN.

Exhibit A

DESCRIPTION OF THE PLATFORM, APPLICATION AND SERVICES

1. . Description of the Platform

The Platform is described on the Company’s Solutions page at <https://www.cloudenablers.com/corestack-cloud-governance-platform>. By placing a Service Order online with the Company, you are, among other things, ordering the Platform with the features and functions described thereat under the terms and conditions of the SAAS Agreement at the prices set forth on the Company’s Pricing web page at <http://cloud.corestack.io> or as agreed offline over email communication.

2. . Description of the Application

The Application(s) are described on the Company’s Solutions page at <https://www.cloudenablers.com/corestack-cloud-governance-platform>. By placing a Service Order online with the Company, you are, among other things, ordering the Application with the features and functions described thereat under the terms and conditions of the SAAS Agreement at the prices set forth on the Company’s Pricing web at <https://www.corestack.io> or as agreed offline over email communication.

EXHIBIT B

FEES AND CHARGES

1. . Implementation Fees

The Implementation Fees (if any) are set forth on the Company’s pricing page at <https://www.corestack.io> website. By placing a Service Order online with the Company, you agree to pay the prices set forth therein or as agreed offline over email communication.

2. . Platform Fees

The Platform Fees are set forth on the Company’s pricing page at <https://www.corestack.io> website. By placing a Service Order on line with the Company, you agree to pay the prices set forth therein.

Exhibit C

COMPANY SERVICE LEVEL AGREEMENT

1. **Standard Support.** Company shall provide Licensee email support which shall be available Monday through Friday, 9:00 a.m. to 5:00 p.m. Pacific Time, excluding holidays.
2. **Service Availability.** Company will use commercially reasonable efforts to maintain the availability of the Platform to the Licensee and Authorized Users as follows:

Service Category	Availability/Response Time
Monthly Availability The availability percentage does not include interruptions due to Scheduled Downtime or Force Majeure.	98.00% monthly
Scheduled Downtime	00:00 am – 1:30 am Pacific Time weekly on Sundays, or as Company otherwise notifies Licensee no less than twenty-four (24) hours in advance.
Unplanned Outages (other than for system emergency)	Maximum 30 minutes over a reference period of 1 month, excluding Force Majeure.
Unplanned Outages for system emergency	Maximum 1 hour over a reference period of 1 month, excluding Force Majeure. Company will promptly notify Licensee of any Unplanned Outage (whether or not for system emergency), including a description of the Unplanned Outage and the expected or estimated time until normal operations will resume.
Frequency of back-ups of User data and configuration data	One incremental back-up per day until 30 days after the end of an active event. Monthly back-up (end of month snapshot) will be retained for a year.
Average time for remedy of incidents Calculated as from opening until closing of a case.	< 6 hours for 90% of cases

1. **Exclusions.** Company shall have no liability for lack of availability due to: (1) outages caused by the failure of public network or communications components,

- (2) user errors, or (3) unauthorized use or misuse by Licensee or anyone using any of the Licensee passwords, provided that Company has taken industry standard steps to protect the Company Products from unauthorized access, intrusion, and disruption.
2. **Licensee Reporting.** Licensee shall report any unscheduled system downtime and any error, bug, or defect in the Company Products by writing to support@cloudenablers.com within a reasonable amount of time upon becoming aware or receiving notice of such system downtime, error, bug, or defect.
 3. **Sole Remedies for Failure to Meet the Service Availability Level Commitment.** For each calendar month in which Company has Uptime of: **(a)** less than 98% but above 90%, Company shall upon Licensee's request made within thirty (30) days of the end of the calendar month, provide Licensee with a written plan for improving Company's Service Availability to attain the 98% Service Availability and Company shall promptly implement such plan; **(b)** between 80% and 90%, Company shall, upon Licensee's request made within thirty days of the end of that calendar month, provide Licensee with a service credit in an amount equal to 25% of the monthly fees being paid by the Licensee and the action plan under subpart (a) above; or **(c)** less than 80%, Company shall, upon Licensee's request made within thirty days of the end of that calendar month, provide Licensee with a service credit in an amount equal to 50% of the monthly fees being paid by the Licensee and the action plan under subpart (a) above. Licensee may also terminate this Agreement upon thirty days' written notice (which notice must be given within sixty (60) days of the end of the calendar month in which the Service Availability was less than 90%).

Licensee shall not exercise the rights in this Section 2.3 without a reasonable basis or belief that the applicable Service Availability commitment was not satisfied. If Licensee believes that Company has failed to achieve an Uptime commitment in any given month, Company shall, promptly following Licensee's request, promptly provide a report that contains true and correct information detailing Company's actual Service Availability performance. **THIS SECTION 2.3 SETS FORTH LICENSEE'S SOLE AND EXCLUSIVE REMEDY, AND COMPANY'S ENTIRE LIABILITY, FOR ANY FAILURE TO MEET THE SERVICE AVAILABILITY COMMITMENT.**

3. . **Error Corrections and Updates.**

1. **Definitions****(a)** "Error" means a failure of the Product to conform to the documentation, resulting in the inability to use, or material restriction in the use of, the Product. **(b)** "Maintenance Release" (1.b) means a revision of the Products released by Company to its Licensees generally, to correct Errors in the Products or to maintain the operation of the Products in accordance with the documentation. **(c)** "Update" means either a Product modification or addition that, when made or added to the Product, corrects the Error, or a procedure or routine that, when observed in the regular operation of the Product, eliminates the practical adverse effect of the Error.
2. **Updates.** Company will make commercially reasonable efforts to provide an Update designed to solve or by-pass a reported Error. Company shall reasonably

determine the priority level of Errors, pursuant to the following protocols and take the following actions during the Licensee Support Center Hours.

3. **Errors. (a) Severity 1 Errors:** Company promptly initiates the following procedures: (1) assigns specialists to correct the Error on an expedited basis; (2) provides ongoing communication on the status of an Update; and (3) begins to provide a temporary workaround or fix. A Severity One Error means the (i) production system is severely impacted or completely shut down, or (ii) system operations or mission-critical Products are down. **(b) Severity 2 Errors** Company assigns a Company specialist to begin an Update, and provides additional, escalated procedures as reasonably determined necessary by Company Support Services staff. Company exercises commercially reasonable efforts to provide a workaround or include a fix for the Severity 2 Errors in the next Maintenance Release. A Severity Two Error means (i) the production system is functioning with limited capabilities, or (ii) is unstable with periodic interruptions, or (iii) mission critical Product, while not being affected, has experienced system interruptions. **(c) Severity 3 Errors:** Company may include an Update in the next Maintenance Release. A Severity Three Error means there (i) are errors in fully operational production systems, (ii) is a need to clarify procedures or information in documentation, or (iii) is a request for a product enhancement.
4. **Response Times.** Company will respond to Licensee reports of a problem based on the severity. Upon receipt of a request for support or report of a problem, Company will respond to Licensee with an assigned level of priority based on the response times shown in the following table.

Priority* Levels	Examples	Initial Response Time
<p>Priority One: Emergency A crisis has occurred – a system is down, a major operational function is unavailable or a critical interface has failed</p>	<p>Production system is down or crashing frequently A business critical operation cannot be performed</p>	< 2 hour
<p>Priority Two: Critical Any problem critical to Company success and requiring immediate resolution</p>	<p>Production system functioning with limited capabilities System unstable with periodic interruptions</p>	< 6 hours
<p>Priority Three: High Priority three situations include problems to be resolved as soon as possible. Most of these have acceptable workarounds, or the Product recovers by itself</p>	<p>Errors in production systems but still fully functional Malfunction in non-critical functions</p>	< 1 business day

Priority Four: Normal	Need clarification of procedures or information in documentation	< 2 business days
Priority four situations are technical questions or problems requiring resolution – many of which are of “how to” nature	Attributes or options do not operate as stated Product enhancement requests Documentation is incorrect	

5. * Severity 1 Errors, Severity 2 Errors, Severity 3 and Severity 4 Errors are equivalent to Priority One, Priority Two, Priority Three and Priority Four Levels.
6. **Maintenance Releases and Upgrades.** During the Term, Company shall make the Maintenance Releases available to Licensee if, as and when Company makes any such Maintenance Release generally available to its Licensees. If a question arises as to whether a product offering is an Upgrade or a new product or feature, Company’s opinion shall prevail, provided that Company treats the product offering consistently for its Licensees generally.
7. **Conditions for Providing Support.** Company’s obligation to provide Support Services is conditioned upon the following: (a) Licensee makes reasonable efforts to solve the problem after consulting with Company; and (b) Licensee provides Company with sufficient information and resources to correct the problem, as well as access to the personnel, hardware, and any additional systems involved in discovering the problem.
8. **Exclusions from Company’s Support Services.** Company is not obligated to provide Support Services in the following situations: (a) the problem is caused by Licensee’s negligence, hardware malfunction or other causes beyond the reasonable control of Company; (b) the problem is with third party software not licensed through Company; (c) the problem is with individual user’s desktop or browser software; or (d) Licensee has not paid License Subscription Fees under the Agreement when due.

EXHIBIT D

SERVICE ORDER

Name of Licensee: _____

Date of this Service Order: _____

Principal Place of Business of Licensee: _____

Name of Authorized Officer or Employee: _____

Authorized Representative’s mailing address: _____

Authorized Representative's Phone Number: _____

Authorized Representative's Email Address: _____

Tier: _____ * **

*Tier 1: up to 10 Nodes.

**Tier 2: up to 100 Nodes.

Agreed Price: _____

NOTE: Maximum number of Nodes is 100. If you need more than 100 Nodes, you should order our Enterprise Edition. Please email us at sales@cloudenablers.com.

Number of Nodes in this Service Order: _____ *

*Discount if order more than 10 Nodes.

Start Date: _____

Term of the Service Order _____ Months.* **

*If you commit for 12 months, you will get the last 2 months for free.

**You may order on a monthly basis but we recommend at least 12 months.

End Date: _____

I HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS OF THE SOFTWARE AS A SERVICE AGREEMENT (“SAAS AGREEMENT”) TO WHICH THIS SERVICE ORDER IS ATTACHED AND TO WHICH I WILL BE HYPERLINKED BEFORE I CAN PLACE THE SERVICE ORDER.

I, ON BEHALF OF LICENSEE, ACCEPT THE TERMS AND CONDITIONS OF THE SAAS AGREEMENT AND, ON BEHALF OF THE LICENSE, I AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF SUCH SAAS AGREEMENT.

I HEREBY REPRESENT THAT I AM AUTHORIZED TO PLACE THIS SERVICE ORDER AND TO BIND THE LICENSEE TO THE TERMS AND CONDITIONS OF THE SAAS AGREEMENT.

BY CLICKING THE ACCEPT BUTTON, I AM PLACING THE SERVICE ORDER AND ON BEHALF OF THE LICENSEE AND AGREEING TO ALL OF THE TERMS AND CONDITIONS OF THE SAAS AGREEMENT.

I AGREE THAT BY CLICKING THE ACCEPT BUTTON THAT I AM PLACING THE ABOVE -FILLED IN SERVICE ORDER AND AGREEING TO PAYING THE PRICES SET FORTH IN THE PRICING EXHIBIT TO THE SAAS AGREEMENT.

ONCE CONFIRMED, ALL PURCHASES ARE FINAL, NON-CANCELABLE AND NON-REFUNDABLE, EXCEPT AS SPECIFIED IN THE APPLICABLE CANCELLATION POLICY AND EXCHANGE POLICY SET FORTH BELOW.