



END USER LICENSE AGREEMENT

THIS IS A LEGAL AGREEMENT BETWEEN IGNEOUS SYSTEMS, INC. (“**IGNEOUS**”) AND YOU (“**YOU**” OR “**CUSTOMER**”). THIS AGREEMENT (THE “**AGREEMENT**”) GOVERNS CUSTOMER’S USE, INCLUDING ANY FREE TRIAL USE, OF IGNEOUS’ SUBSCRIPTION-BASED MANAGED SERVICE (THE “**SERVICES**”), INCLUDING ANY IGNEOUS SOFTWARE THAT IS PROVIDED WITHOUT HARDWARE FOR USE ON CUSTOMER’S HARDWARE INCLUDING VIRTUAL MACHINE SOFTWARE OR ENDPOINT SOLUTIONS (“**SOFTWARE**”).

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX OR BUTTON INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS 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 AND ITS AFFILIATES TO THIS AGREEMENT, IN WHICH CASE THE TERM “**YOU**” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES. THERE SHALL BE NO FORCE OR EFFECT TO ANY DIFFERENT TERMS OF ANY RELATED PURCHASE ORDER OR SIMILAR FORM EVEN IF EXECUTED BY THE PARTIES AFTER THE DATE HEREOF.

1. LICENSE GRANT AND RESTRICTIONS

1.1 Software License Grant. Subject to the terms and conditions of this Agreement, Igneous grants to Customer a non-exclusive license to use the Services identified on the applicable purchase order or signed order form (as applicable, the “**Order**”), in accordance with its published specifications. The Services are solely for Customer’s internal business purposes unless otherwise agreed to with Igneous in a separate written agreement. All other rights in the Services are expressly reserved by Igneous. The Services may incorporate certain third-party software, which requires notices and/or additional terms and conditions. Such required third party software notices and/or additional terms and conditions are available from Igneous upon written request and are made a part of and incorporated by reference into this license. The protections given to Igneous under this license also apply to the suppliers of such third-party software, who are intended third-party beneficiaries of this Agreement. Customer agrees and acknowledges that its license hereunder is not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Igneous regarding future functionality or features.

1.2 Limited Right to Use Services. Customer will (a) be responsible for its users’ compliance with this Agreement, (b) be responsible for the accuracy, quality and legality of all Enhancement Data (as defined in Section 7.2), (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Igneous promptly of any such unauthorized access or use, (d) use the Services only in accordance with the documentation and applicable laws and government regulations, and (e) comply with the terms of service or use of any third-party applications with which You use any Services.

1.3 License Restrictions. Customer shall maintain the Services in strict confidence and shall not: (a) except with Igneous’ prior written consent, sell, resell, distribute, transfer, publish, disclose, lend, or sublicense the Services, or make the functionality of the Services available to any other party (excluding contractors or other third parties providing IT services to Customer) through any means, including, without limitation, a time-share, lease, or application service provider or managed service provider environment; (b) modify, translate or create derivative works based on the Software, in whole or in part, or permit or authorize a third party to do so; (c) disassemble, decompile, reverse compile, reverse engineer or otherwise attempt to derive the source code of the Software, in whole or in part, or permit or authorize a third party to do so, except to the extent such activities are expressly permitted by applicable law in the



jurisdiction of use notwithstanding this prohibition; or (d) interfere with or disrupt the integrity or performance of the Software or third-party data contained therein.

1.4 Suspension or Termination of Access. Igneous may suspend or terminate Customer's access to the Services at any time: (a) if Igneous determines that use of the Services by Customer: (i) reasonably presents a security or intellectual property integrity risk to the Services; (ii) is damaging to, or degrading of, Igneous' network integrity or may adversely impact the Services or the systems or content of any other Igneous customer; (iii) may subject Igneous or its Affiliates (as defined in Section 1.5 below) to legal liability to third parties; (iv) may be fraudulent; or (v) if Igneous reasonably believes that Customer is in breach of Section 8.2 or if required to comply with any law, regulation, court order or other governmental request or order which requires immediate action. If Igneous suspends access to the Services, Customer will: (x) remain responsible for all fees and charges incurred through the date of suspension, (y) remain responsible for any applicable fees and charges for any Services to which Customer continues to have access, as well as applicable data storage fees and charges, and fees for in-process tasks completed after the date of suspension, and (z) no longer be entitled to any service credits under any applicable service level agreements for any period of suspension. Igneous will not erase any content as a result of the suspension and, if the account is not terminated for cause, will promptly restore such access after the event giving rise to the suspension has been resolved to Igneous' reasonable satisfaction. If the suspension culminates in termination of Services, the process of termination will be governed by the terms of Section 3 below.

1.5 Affiliates. If Customer orders the Services for use by any Customer Affiliate (defined below), Customer shall: (a) provide each such Customer Affiliate with a copy of this Agreement; (b) ensure that each such Customer Affiliate complies with the terms and conditions therein; and (c) be responsible for any breach of these terms and conditions by any such Customer Affiliate. For purposes of this Agreement, "Affiliate" means any entity that Controls, is Controlled by, or is under common Control with Customer or Igneous, as applicable, where "Control" means ownership, directly or indirectly, of 50% or more of the voting interest of Customer or Igneous, as applicable.

2. OWNERSHIP. The Software and Services are licensed, not sold. Igneous and its suppliers, as applicable, retain all right, title, interest and ownership of (a) the Software and Services, including copyrights, patents, trade secret rights, trademarks and any other intellectual property rights therein; (b) all improvements, enhancements or modifications thereto, (c) any software, applications, inventions or other technology developed in connection with support; and (d) intellectual property rights related to any of the foregoing. Customer shall not delete or in any manner alter the copyright, trademark, or other proprietary rights notices or markings that appear on the Software and Services or related documentation as delivered to Customer.

3. TERM; TERMINATION; AND EFFECT OF TERMINATION. This Agreement is effective until terminated. Subject to earlier termination as provided below, this Agreement is for the Initial Subscription Term (or the free trial period, where applicable) as specified in the applicable Order and shall be automatically renewed for additional periods of the same duration as the Initial Subscription Term (collectively, the "Term"), unless either party requests termination in writing prior to the end of the then-current term. Notwithstanding any other term of this Section 3, any free trial evaluation of the Services may be terminated at any time by Igneous at its sole discretion. In addition to any other remedies it may have, either party may also terminate this Agreement upon 30 days' notice (or upon 10 days' notice in the case of nonpayment), if the other party materially breaches, and fails to cure during such notice period, any of the terms or conditions of this Agreement. In particular, Igneous may terminate this Agreement for cause: (i) if Igneous' relationship with a third-party partner which provides software or other technology Igneous uses to provide the Services expires, terminates or requires Igneous to change the way Igneous provides the software or other technology as part of the Services, (ii) if Igneous reasonably believes providing the Services could create a substantial economic or technical burden or material security or intellectual property integrity risk for Igneous, (iii) if Customer materially breaches this Agreement or any



other license or use-related obligations with respect to the Services, or (iv) in order to comply with the law or requests from governmental entities. In order to terminate for cause pursuant to this Section 3, Igneous must provide Customer 30 days prior written notice except in the case of a material security or intellectual property integrity risk for Igneous or a willful breach of the Agreement. Customer will pay in full for the Services up to and including the last day on which access to the Services is provided. Upon any termination, (a) Customer shall cease to use the Services, which will be shut off by Igneous; (b) for those Igneous Services where applicable (as determined in Igneous' sole discretion), Igneous will make all Customer Data (as defined in Section 7.2 below) available to Customer for electronic retrieval and migration for a maximum period of 30 days (the "**Migration Period**") and Customer Data stored on Igneous-owned hardware or Services will be deleted within 30 days of termination or 30 days after the Migration Period, whichever is later; (c) visibility of the Services will remain so long as Customer does not cut off communication with the Igneous Cloud Console (in case of such shutoff or restriction of access by the Igneous Cloud Console, Customer acknowledges and accepts that the Services' time-bound security features may be triggered thereby and render the Services useless); and (d) Igneous will provide Customer support during the Migration Period. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

4. WARRANTY AND DISCLAIMERS.

Igneous shall use reasonable efforts consistent with prevailing industry standards and the terms of Exhibit A (Support Terms) to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform any implementation services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Igneous or by third-party providers, or because of other causes beyond Igneous' reasonable control, but Igneous shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, IGNEOUS DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND IGNEOUS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

5. LIMITATION OF LIABILITY.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, (A) IN NO EVENT SHALL IGNEOUS OR ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS) BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING BUT NOT LIMITED TO LOSS OF USE, DATA, BUSINESS OR PROFITS, OR FOR THE COST OF PROCURING SUBSTITUTE PRODUCTS, SERVICES OR OTHER GOODS), ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY AND WHETHER OR NOT IGNEOUS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS; AND (B) IN NO EVENT SHALL IGNEOUS' TOTAL LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, FROM ALL CLAIMS OR CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY, EXCEED THE TOTAL PAYMENTS ACTUALLY MADE TO IGNEOUS FOR THE APPLICABLE SERVICES DURING THE TWELVE (12) MONTH PERIOD PRIOR TO ANY SUCH CLAIM OR CAUSE OF ACTION. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO LIABILITY ARISING FROM DEATH OR BODILY INJURY, OR TO CLAIMS UNDER SECTION 1.3 (LICENSE RESTRICTIONS) OR SECTION 6 (INDEMNIFICATION) OR ARISING FROM WILLFUL MISCONDUCT OR GROSS NEGLIGENCE. Customer agrees that the foregoing limitations of liability constitute a material inducement for Igneous to enter into this Agreement and that the fees charged to Customer would be substantially higher without such limitations.



6. INDEMNIFICATION.

6.1 Indemnification and Procedure. Igneous will defend, at its expense, any third-party action or suit brought against Customer alleging that any Services provided to Customer hereunder infringe or misappropriate the third party's patent, copyright, trademark, or trade secret (a "**Claim**"), and Igneous will pay any damages awarded in final judgment against Customer or agreed to in settlement by Igneous that are attributable to any such Claim; provided that Customer: (i) promptly notifies Igneous in writing of the Claim; (ii) gives Igneous sole control of the defense and settlement of the Claim; and (iii) gives Igneous, at Igneous' expense, all information and assistance reasonably requested for the defense and settlement of the Claim. Igneous will not be bound by any settlement or compromise that Customer enters into without Igneous' prior written consent.

6.2 Remedy. If the Services become, or in Igneous' opinion are likely to become, the subject of a Claim, then Igneous may, at its sole option and expense: (i) procure for Customer the right to continue using the Services; (ii) replace or modify the Services to avoid the Claim; or (iii) if options (i) and (ii) cannot be accomplished despite Igneous' reasonable efforts, then Igneous may terminate Customer's subscription for Services and furnish to Customer a pro-rated refund of any prepaid fees corresponding to the unused portion of the then-current term.

6.3 Exceptions. Igneous' obligations under this section shall not apply to the extent any Claim results from or is based on (a) modifications to the Software made by a party other than Igneous or its designee; (b) the combination, operation, or use of the Software with hardware or software not supplied by Igneous, if a Claim would not have occurred but for such combination, operation or use; (c) failure to use the most recent version or release of the Software; (d) Igneous' compliance with Customer's explicit or written designs, specifications or instructions; or (e) use of the Software that is not in accordance with Igneous' published specifications.

THE FOREGOING TERMS STATE IGNEOUS' SOLE AND EXCLUSIVE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIMS OF INTELLECTUAL PROPERTY INFRINGEMENT OR MISAPPROPRIATION.

7. CONFIDENTIALITY; CUSTOMER DATA.

7.1 Confidentiality. During the term of this Agreement, each party agrees that (a) Confidential Information (as defined below) will be used only in furtherance of this Agreement; (b) it will use the same degree of care it uses to protect its own confidential information, but in no event less than reasonable care; and (c) Confidential Information may be disclosed only to employees, agents and contractors with a need to know, and to its auditors and legal counsel, in each case, who are under a written obligation to keep such information confidential using standards of confidentiality not less restrictive than those required by this Agreement. "**Confidential Information**" means any information designated as confidential orally or in writing by either party, or any information that the receiving party knows, or has reason to know, is confidential or proprietary based upon its treatment by the disclosing party. This Agreement imposes no obligation with respect to information which: (1) is a part of or enters into the public domain; (2) was already in the receiving party's possession prior to the date of disclosure other than by breach of this Agreement; (3) is rightfully received from a third party without any duty of confidentiality; (4) is independently developed without reference to the Confidential Information of the disclosing party.

7.2 Data Collection and Usage. "**Customer Data**" means data and information submitted to the Services by Customer or its users. Customer Data may include personally-identifiable, sensitive, and/or confidential data and information. Igneous will transfer, store, and process Customer Data in accordance with Igneous' [privacy policy](#). Igneous utilizes industry-standard practices and policies to maintain administrative, physical and technical safeguards for the protection and security of Customer Data. Customer (a) warrants that it owns all right, title and interest, or possesses sufficient license rights, in and



to the Customer Data as may be necessary to permit the use contemplated under this Agreement, and (b) agrees that Igneous may engage sub-processors with at least the same level protections as provided by Igneous hereunder. Customer has a right to inspect any such Customer Data to review Igneous' handling of it with reasonable prior written notice to Igneous. Igneous will also collect machine data generated by the Software, which is used by Igneous to operate and manage the Software, or to debug the Software (collectively, "**Telemetry Data**"), which definition specifically excludes any Customer Data and Customer metadata that is written to the Software. Customer acknowledges that Igneous may collect and use Customer's and its users' Services usage history, statistics and Telemetry Data (collectively, "**Enhancement Data**") for Igneous' internal analytical purposes related to its provision of Services, including to monitor, improve, enhance, and perform issue mitigation with respect to, the Services and the Software. Enhancement Data will be collected electronically and automatically. Enhancement Data include, but are not limited to, the amount of data scanned and moved, performance characteristics, and administrative user actions. Igneous may make information derived from its analysis of Enhancement Data publicly available on an aggregated and anonymized basis, provided that such information does not contain any Customer Data. For the sake of clarity, aggregated and anonymized data is not Confidential Information of Customer.

7.3 Data Exportation. Customer agrees and acknowledges that (a) subject to Customer's right to inspect any such data with prior written notice to Igneous, Customer Data and Telemetry Data may be exported from the Software to the Igneous cloud in order to ensure proper operation of the Software and delivery of the Services; and (b) it will ensure that such data is able to be transmitted to Igneous in a timely manner as required to maintain the uptime and usability of the Software. Customer agrees that Igneous and its sub-processors may transfer, store, and process Customer Data in locations other than Customer's country to the extent needed to provide the Services. All such transfers shall comply with the security and privacy provisions outlined herein.

8. GENERAL.

8.1 Governing Law. This Agreement shall be governed by the laws of the State of Washington without regard to its conflict of laws provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

8.2 Compliance with Laws; Export Control. Customer shall be solely responsible for its compliance with, and agrees to comply with, all applicable laws in connection with its use of the Services. Customer further agrees that it will not engage in any illegal activity in any relevant jurisdiction, and acknowledges that Igneous reserves the right to notify its customers or appropriate law enforcement in the event of such illegal activity. Customer agrees to comply fully with the U.S. Export Administration Regulations, and any other export laws, restrictions, and regulations to ensure that the Services and any technical data related thereto are not exported or re-exported directly or indirectly in violation of, or used for any purposes prohibited by such laws and regulations.

8.3 Force Majeure. Igneous shall not be liable for any losses arising out of the delay or interruption of its performance of obligations under the Agreement due to any act of God, act of governmental authority, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Igneous employees or agents), Internet service provider failures or delays, or denial of service attacks, unplanned system downtime, or any other cause beyond Igneous' reasonable control.

8.4 Cumulative Remedies. Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies will be without prejudice to any other remedies under this Agreement or otherwise.

8.5 Notices. All notices shall be in writing and delivered by overnight delivery service or by certified mail sent to the address published on the respective parties' websites (attention: Legal Department), or by electronic mail, and in each instance will be deemed given upon receipt.



8.6 Waiver and Severability. The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by authorized representatives of both parties. If any provision of this Agreement is held to be unenforceable or invalid, that provision will be enforced to the maximum extent possible and the other provisions will remain in full force and effect.

8.7 Modification to Terms; Entire Agreement. To the maximum extent permitted and enforceable under applicable law, Igneous reserves the right to modify the terms and conditions of this Agreement at any time by written notice to Customer. If Customer does not consent to any such changes, Customer must notify Igneous in writing within thirty (30) days after receipt of notice of the change, in which case Customer shall be deemed to have terminated this Agreement effective as of the date of such notice and shall be entitled to a pro-rated refund of any prepaid fees corresponding to the unused portion of the then-current term. Continued use of the Services after such 30-day period shall constitute Customer's consent to such changes. This Agreement, together with the applicable Order(s), constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings and communications between the parties with respect to the subject matter hereof. Any boilerplate terms or conditions contained in Customer's Order or other Customer-transmitted document purporting to bind the parties that are inconsistent with or in addition to the terms and conditions of this Agreement are hereby rejected by Igneous and will be deemed null.

8.8 Subscription through Channel Partners.

- a. Applicability.** This Section 8.8 only applies if Customer is subscribing for Services through an authorized Igneous channel partner or cloud service provider partner (each, a "**Channel Partner**"). If Customer is uncertain as to the applicability of this section to its subscription for Services, Customer should contact Igneous for further information.
- b. Channel Partners.** If Customer ordered the Services through a Channel Partner, then this Agreement is not exclusive of any rights Customer obtains under the Channel Partner order form or sale agreement (either, a "**Channel Partner Sale Agreement**"); however, if there is any conflict between the provisions of this Agreement and the Channel Partner Sale Agreement, then the provisions of this Agreement prevail. If a Channel Partner has granted Customer any rights that Igneous does not also directly grant to Customer in this Agreement, or that conflict with this Agreement, then Customer's sole recourse with respect to such rights is against the Channel Partner.
- c. Term and Renewal.** If Customer ordered the Services through a Channel Partner, Customer's subscription to the Services will commence, expire, renew and terminate in accordance with the terms of the Channel Partner Sale Agreement.
- d. Fees and Payment.** If Customer ordered the Services through a Channel Partner, then Customer's billing and payment rights and obligations are governed by the Channel Partner Sale Agreement. However, if the Channel Partner through whom Customer ordered the Services fails to pay Igneous any amounts due in connection with Customer's use of the Services, then Igneous may suspend or terminate Customer's rights to use the Services without liability, upon written notice to Customer (email to suffice). Customer agrees that Customer's remedy in the event of such suspension or termination is solely against the Channel Partner.

8.9 U.S. Government Customers. This section applies to United States Government Customers only and does not apply to any other customers. The Software and its documentation are "commercial computer software" and "commercial computer software documentation," respectively; as such terms are used in FAR 12.212 and DFARS 227.7202. If the Software and its documentation are being acquired by or on behalf of the U.S. Government, then, as provided in FAR 12.212 and DFARS 227.7202-1 through



227.7202-4, as applicable, the U.S. Government's rights in the Software and its documentation shall be as specified in this Agreement.

8.10 Open Source Software. The Services may contain or be provided with components subject to the terms and conditions of open source software licenses ("**Open Source Software**"). A list of Open Source Software can be found at <http://igneous.io/thirdparty-software.html>. Nothing in this Agreement limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of any applicable end user license for such Open Source Software; however, the license to the Software in Section 1.1 includes the right to use the Open Source Software included in the Software in the same manner and to the same extent as the Software.

8.11 Feedback. You agree (a) to provide Feedback (as defined below) regarding your experience with any free trial version of the Services in a form reasonably requested by Igneous, including information necessary to enable Igneous to duplicate errors or problems that you may experience; (b) that all Feedback and testing results of any free trial version of the Services, including any intellectual property inherent therein, will be deemed Igneous' Confidential Information; (c) not to disclose such Feedback or testing results to any third party or use them for any purpose other than providing Feedback to Igneous; and (d) that Igneous may use your Feedback and testing results for any lawful purpose whatsoever, including product development purposes, so long as it does not disclose any of your Confidential Information. "**Feedback**" shall mean, collectively, any suggestions, enhancement requests, recommendations or comments related to the Services.

EXHIBIT A Support Terms

1. If the Software does not function substantially in accordance with its published documentation, Igneous must, at its option, either (i) modify the Software to conform to the documentation; or (ii) provide a commercially reasonable workaround solution. If neither of these options is commercially feasible, either party may terminate the relevant Order under this Agreement, in which case Igneous shall refund to Customer all fees pre-paid, if any, to Igneous under the relevant Order for any unused time remaining on its Term.

2. Igneous regularly updates the Software according to a schedule which shall apply to, and be for the benefit of, all Igneous customers. By subscribing to the Service, Customer agrees that all such Software updates will occur according to a schedule to be determined by Igneous in its commercially reasonable discretion, provided that Customer's benefit and enjoyment of the Software are not materially adversely impacted. The changes may also mean that Customer needs to upgrade its software or hardware in order to make efficient use of the Software. Igneous will provide Customer with advance notification in this case.