CYGILANT, INC.
MASTER SERVICES AGREEMENT (CLICK-THROUGH)

PLEASE READ THE TERMS AND CONDITIONS OF THIS MASTER SERVICES AGREEMENT (THE "AGREEMENT") CAREFULLY BEFORE PROCEEDING TO USE THE CYGILANT, INC. AND ITS AFFILIATES ("CYGILANT") SERVICES.

THIS AGREEMENT REPRESENTS THE ENTIRE AGREEMENT WITH RESPECT TO THE SERVICES, INCLUDING ANY EVALUATION OR FREE TRIAL WITH RESPECT TO SUCH SERVICES, BETWEEN CUSTOMER AND CYGILANT.

CYGILANT HAS DEVELOPED AND OWNS OR HAS THE RIGHT TO LICENSE THE SERVICES. THE SERVICES ARE COPYRIGHTED, PATENTED OR PROTECTED BY TRADE SECRET LAW AND THEIR USE IS LICENSED (NOT SOLD) TO YOU (EITHER AS AN INDIVIDUAL, CORPORATION, OR OTHER ENTITY) AS A "CUSTOMER." BY USING THE SERVICES OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR ACKNOWLEDGING "I ACCEPT", CUSTOMER ACCEPTS AND AGREES TO 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 AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF CUSTOMER DOES NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, CUSTOMER SHOULD NOT USE THE SERVICES.

TERMS AND CONDITIONS

1. **DEFINITIONS.** As used in this Agreement:
1.1. **Affiliates** means any entity that directly or indirectly controls, is controlled by, or under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity.
1.2. **Authorized Use** means use of the Services in the manner specified in the Documentation.
1.3. **Co-Managed Services** means the products and services set forth in the applicable Order Form and in the Cygilant Co-Managed Services description document.
1.4. **Content** means information obtained by Cygilant from Cygilant content licensors or publicly available sources and provided to Customer pursuant to an Order Form, as more fully described in the Documentation.
1.5. **Documentation** means any specification and use documentation made available by Cygilant to its customers generally with regard to the Services.
1.6. **Evaluation Services** means Services licensed to Customer by Cygilant and delivered solely for evaluation by Customer under this Agreement. Special terms applicable to Evaluation Services are set forth in this Agreement.
1.7. **Customer Data** means electronic data and information submitted by Customer to Cygilant or collected and processed by or for Customer using the Services. Unless otherwise specifically agreed in writing by the parties, Customer Data may be processed and/or hosted by Cygilant or its authorized third-party service providers in the United States, Europe or other locations around the world pursuant to applicable law and regulations.
1.8. **Managed Node** means any Cygilant-supported device, application, server workstation, IP Address or networked device from which Cygilant collects and/or receives any form of data.

1.9.   Managed Services means the products and services that are provided to Customer by Cygilant pursuant to a "cloud" based model or at Customer's facility, as elected by Customer. The Managed Services may include one or more of the following: consultation by Cygilant technical staff; security monitoring and incident notification as a service ("SMaaS"); security process guidance; management and configuration of Cygilant and/or Third Party Software or technology, Log Management as a service ("LMaaS"), SIEM as a service, and/or any new service that maybe introduced or offered by Cygilant in the future as described in the Documentation and/or on the then-current Cygilant website.

1.10.   Order Form means a purchase order or other ordering document received by Cygilant from Customer or an authorized Cygilant Reseller on behalf of Customer specifying the type of Services to be provided hereunder that is entered into between Customer and Cygilant, including any addenda and supplements thereto.

1.11.   Resellers mean entities that are authorized by Cygilant to resell Cygilant Services.

1.12.   Services mean, collectively, Co-Managed Services and Managed Services.

1.13.   Third Party Software means computer software owned by third parties, licensed to Cygilant, and redistributed by Cygilant to its customers as part of the Services. Third Party Software is provided to Customer pursuant to applicable Third Party Software terms and conditions as set forth in Section 10 of this Agreement.

1.14.   User means an end user who is authorized by Customer to use the Services and to whom Customer (or Cygilant at Customer's request) has supplied a User identification and password. Users may include, for example, Customer's employees, consultants, contractors and agents and third parties with which Customer transacts business, who are bound by the terms of this Agreement.

2.   EVALUATION OF SERVICES. Cygilant may agree to allow Customer to evaluate the Services with respect to a limited number of nodes or IP addresses for a no charge evaluation of the Services for a designated evaluation period. Upon the expiration of such designated evaluation period, the Evaluation Services license shall automatically terminate. Cygilant shall have no obligation or responsibility to store or preserve any Customer Data upon the expiration of such designated evaluation period. Title to the Evaluation Services shall at all times remain with Cygilant.

Customer shall be responsible for the proper use and deployment of the Evaluation Services; use the Evaluation Services solely for the limited purpose of evaluating the Services; and, take appropriate action, by means of agreement, instruction or otherwise, with respect to its employees or other third parties permitted access to the Evaluation Services in furtherance of its permitted use to ensure that all of its obligations are satisfied.

CYGILANT DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE EVALUATION SERVICES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE.

3.   CYGILANT RESPONSIBILITIES.

3.1.   Provision of Managed Services. Cygilant will (a) make the Managed Services available to Customer pursuant to this Agreement and the applicable Order Forms, and (b) use commercially reasonable efforts to provide Managed Services as defined in the Documentation, except for: (i) planned downtime; and (ii) any unavailability caused by circumstances beyond Cygilant's reasonable control, including but not limited to, for example, Customer's network is down, Cygilant is not able to remotely connect to Customer networks, Customer's nodes or IP addresses under management fail to send data, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor

problem (other than one involving Cygilant employees), Internet service provider failure or delay, cloud service provider failure or delay, non-Cygilant application, or denial of service attack.

3.2.   Provision of Co-Managed Services. Cygilant will (a) make the Co-Managed Services available to Customer pursuant to this Agreement and the applicable Order Forms, and (b) use commercially reasonable efforts to provide Co-Managed Services as defined in the Documentation, except for: (i) planned downtime; and (ii) any unavailability caused by circumstances beyond Cygilant's reasonable control, including but not limited to, for example, Customer's network is down, Cygilant is not able to remotely connect to Customer networks, Customer's nodes or IP addresses under management fail to send data to Cygilant system, Co-Managed application that is licensed and managed by the Customer is down or fails to collect data needed by Cygilant to deliver Co-Managed services, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Cygilant employees), Internet service provider failure or delay, cloud service provider failure or delay, non-Cygilant application, or denial of service attack.

3.3.   Protection of Customer Data. Cygilant will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by Cygilant personnel except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by law, or (c) as Customer expressly permits in writing.

To the extent Customer's use of the Services includes the processing of Customer Data by Cygilant that are subject to the General Data Protection Regulation (EU) 2016/679 ("GDPR"), such data processing by Cygilant as data processor complies with the requirements of the aforementioned regulation and any personal data transfer out of the European Union, the European Economic Area, the United Kingdom, and Switzerland shall be governed by the Standard Contractual Clauses, unless the Customer has opted out of those clauses. Where Customer's use of the Services includes the processing of California Consumer's Personal Information by Cygilant that are subject to the California Consumer Protection Act of 2018, and its implementing regulations, as amended or superseded from time to time ("CCPA"), such data processing by Cygilant as a "service provider" complies with the requirements of the CCPA. Cygilant shall process personal data and personal information on behalf of and in accordance with Customer's instructions consistent with this Agreement and as necessary to provide the Services and will reasonably cooperate with Customer in its efforts to respond to requests by data subjects and/or California Consumers to exercise their rights under the GDPR or CCPA and to otherwise comply with the GDPR or CCPA.

3.4.   Cygilant Personnel. Cygilant will be responsible for the performance of Cygilant personnel (including Cygilant employees and contractors) and their compliance with Cygilant obligations under this Agreement, except as otherwise specified herein.

4.   USE OF CO-MANAGED SERVICES.

4.1.   Subscriptions and Subscription Term. Unless otherwise provided in the applicable Order Form, (a) Co-Managed Services are purchased as subscriptions for the designated subscription term as set forth in the applicable Order Form, (b) subscription for new or additional Co-Managed Services may be added at any time.

4.2.   Usage Limits. Co-Managed Services shall be subject to the usage limits set forth in the Cygilant Co-Managed Services description document.

4.3.   Customer Responsibilities. Customer shall cooperate with and assist the Cygilant Services Team in the performance of the Co-Managed Services, and will provide the resources necessary for the Services Team's performance hereunder as specified. Customer shall provide a list of authorized contact information (including name, phone, email, etc.) for both business hours and after hours. Customer shall

appoint a contact designated to work with the Services Team for all aspects, including escalations, related to the Co-Managed Service(s) that will have authority to act on behalf of Customer.

Customer shall provide Cygilant with volume or node or number of IP license changes to the Co-Managed Application and Cygilant shall have the right from time to time upon prior written notice to audit Customer's use of the Co-Managed Services to confirm that such use complies with the applicable Co-Managed Services purchase order(s).

5.   USE OF MANAGED SERVICES.

5.1.   Subscriptions and Subscription Term. Unless otherwise provided in the applicable Order Form, (a) Managed Services are purchased as subscriptions for the designated subscription term as set forth in the applicable Order Form, (b) subscription for new or additional Managed Services may be added at any time.

5.2.   Usage Limits. Managed Services pursuant to a "cloud" based model or at Customer's designated facility, as elected by Customer, are subject to usage limits, including, for example, the quantities specified in Order Forms. Unless otherwise specified, (a) a quantity in an Order Form refers to Managed Nodes and the Managed Services may not be used to manage more than that number of Managed Nodes, (b) the Order Form shall specify the type of service(s) purchased and the terms for each service offering, and (c) the Order Form shall specify the quantity ordered for each type of Managed Services purchased. If Customer exceeds a contractual usage limit or exceeds Cygilant's then-current usage limits, Cygilant will work with Customer to seek to reduce Customer's usage so that it conforms to that limit. If, notwithstanding Cygilant's best efforts, Customer is unable or unwilling to abide by a contractual usage limit, Customer will execute an Order Form for additional quantities of the applicable Managed Services promptly upon Cygilant's request, and/or pay any invoice for excess usage in accordance with this Agreement. Cygilant may, at its sole option, modify usage limits. For a "cloud" based model, Customer shall purchase from Cygilant a "Cloud Server", conditioned on the number of applicable nodes and Cygilant designated "cloud data storage", conditioned upon the applicable file size, in addition to the Managed Services. If the total data storage exceeds the amount purchased, Cygilant will invoice the Customer for the overage and work with the Customer to help them move to the next tier of storage for an additional fee.

5.3.   Customer Responsibilities. Customer will (a) be responsible for its' compliance with this Agreement, (b) use commercially reasonable efforts to prevent unauthorized access to or use of Managed Services, and notify Cygilant promptly upon discovery of any such unauthorized access or use, (c) use Managed Services only in accordance with the Documentation and applicable laws and government regulations. Customer shall not disclose any Confidential Information of Cygilant to any competitor of Cygilant. Customer will comply with any Customer responsibilities or assistance obligations with respect to implementing the Managed Services as set forth in the applicable Cygilant Documentation. Customer shall configure the nodes or IP addresses and network in order to send data to Cygilant application that resides on Customer designated location or in the Cloud. Customer, not more than once per calendar quarter, may download applicable data from the cloud to Customer's network at Cygilant's then-current applicable fee.

6.   USAGE RESTRICTIONS.

Subject to the terms and conditions of this Agreement, Cygilant hereby grants to Customer a limited, nonexclusive, non-sublicenseable and non-transferable license, on a subscription basis as set forth in the applicable Order Form, under Cygilant's intellectual property rights to install, and if applicable evaluate, the Services solely for Authorized Uses. The Services include proprietary information owned by Cygilant or its third party licensors and the Services and the Documentation are provided to Customer solely under license and not for sale. Cygilant and its third party licensors will continue to own their respective interests

and intellectual property rights in the Services and will be entitled to terminate this Agreement upon any breach by Customer of this Agreement.

Cygilant reserves the right to make changes to any Services whenever such changes, (a) are required for safety, (b) facilitate performance in accordance with specifications, or (c) represent substitutions and modifications in accordance with applicable Services performance specifications, provided however that such changes shall not impede Customer's Authorized Use of any Services.

Customer shall not itself, or through any affiliate, agent, or third party: (a) decompile, disassemble, or otherwise reverse engineer any Services, or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of any Services by any means whatsoever, except to the extent applicable laws specifically prohibit such restrictions, (b) modify, adapt, translate, or create derivative works based upon any Services (c) transfer, lease, loan, sublicense, sell, resell for profit, distribute, or otherwise grant any rights in any Services in any form to any other party, unless as an authorized reseller or authorized provider of Cygilant pursuant to a written agreement with Cygilant, (d) use any Services on a commercial time-sharing, rental, or service bureau basis, or in any manner or for any purpose other than an Authorized Use; or (e) disclose to any third party any underlying ideas or algorithms, performance information, test results or analyses learned by Customer or created by or for Customer (including, without limitation, benchmarks) relating to any Services. Customer shall only have the rights with respect to the Services expressly set forth in this Agreement; all other rights are expressly reserved to Cygilant and its licensors.

Customer acknowledges that the Services, and all trade secret, copyright, patent, trademark, trade name, and other intellectual and proprietary rights in the Services, are and at all times shall remain the valuable property of Cygilant and its licensors, or their respective successors or assigns. Customer agrees that nothing contained in this Agreement shall be construed as granting or conferring by implication, estoppel, or otherwise, any license or right under any patent, trademark, copyright, or other proprietary right, whether now existing or hereafter obtained, and no such license or other right shall arise from this Agreement or from any acts or omissions in connection with the execution of this Agreement or the performance of the obligations of the parties.

Customer agrees (a) not to alter, remove, or conceal any copyright, trademark, trade name, or other proprietary marking that may appear on or in the Services, and (b) that Customer is responsible for itself obtaining any additional software, hardware, or technologies not provided by Cygilant under this Agreement and required to access the Services, including but not limited to communications devices and Internet access services.

Customer consents to the operation of the Services' communications features.

Customer agrees to promptly notify Cygilant of any violation of any of the terms of this Agreement by Customer or others of which it becomes aware.

6.1.   Removal of Content and Non-Cygilant Applications. If Cygilant is required by a licensor to remove Content, or receive information that Content provided to Customer may violate applicable law or third-party rights, Cygilant may so notify Customer and in such event Customer will promptly remove such Content from Customer's systems. If Cygilant receives information that a non-Cygilant application may violate applicable law or third-party rights, Cygilant may so notify Customer and in such event Customer will promptly disable such non-Cygilant application or modify the non-Cygilant application to resolve the potential violation. If Customer does not take required action in accordance with the above, Cygilant may disable the applicable Content, Services and/or non-Cygilant application until the potential violation is resolved.

7. PROPRIETARY RIGHTS AND LICENSES.

7.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, Cygilant and Cygilant's licensors reserve all of Cygilant's right, title and interest in and to the Services, including all of Cygilant's related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

7.2. License by Customer to Host Customer Data and Applications. Customer grants to Cygilant and Cygilant's Affiliates a worldwide, limited- term license to host, copy, transmit, analyze and display Customer Data as necessary for Cygilant to provide the Services in accordance with this Agreement.

7.3. License by Customer to Use Feedback. Customer grants to Cygilant and Cygilant's Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Users relating to the operation of the Services.

7.4. Federal Government End Use Provisions. If applicable, Cygilant provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data - Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation).If a government agency has a need for rights not granted under these terms, it must negotiate with Cygilant to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

8. ORDERS. Customer will pay all fees with respect to the Services as defined herein as well as any other items specified in the Order Form. Except as otherwise specified herein or in an Order Form, (a) fees are based on Services purchased and not actual usage, (b) payment obligations are non-cancelable and fees paid are non-refundable, and (c) quantities purchased cannot be decreased during the relevant subscription term. Each Customer purchase order or alternative document reasonably acceptable to Cygilant shall reference this Agreement and specify the items, Services and configurations of Services being ordered, contract length, their prices and payment terms. The purchase and license of the Services and the provision of Services shall be governed by the terms of this Agreement. Any preprinted provisions of Customer's purchase orders or other terms that conflict with the terms of this Agreement shall not apply and the terms set forth in this Agreement shall control. Cygilant reserves the right to change its prices and related terms and conditions at any time without notice, provided that any such changes shall not affect orders already accepted.

9. PAYMENT. All payments with respect to the Services as defined herein as well as any other items shall be in U.S. Dollars unless noted otherwise in the Order Form and net thirty (30) days from the date of the Cygilant invoice. Amounts not paid within such thirty (30) day period shall bear interest at the rate of one and one-half percent (1.5%) per month or at the highest lawful rate, whichever is less, from the date such amount is due. Customer will reimburse Cygilant for all costs and expenses incurred, including attorneys' fees, in collecting any overdue amounts, including but without limitation to any amounts due under Section 14. Payment terms may be revised by Cygilant at any time with prior written notice upon any adverse change in Customer's payment history or financial status. Cygilant shall have the right to cancel any Order Form placed or to refuse or delay delivery or performance or suspend any Services for failure of Customer to make any payments due Cygilant in accordance with the terms of this Agreement. Customer will pay all sums equal to taxes (including, without limitation, sales, withholding, value-added, and similar taxes) and any duties paid or payable, however designated, levied or based on amounts

payable to Cygilant under this Agreement, but exclusive of taxes based on Cygilant's net income, and will reimburse Cygilant for any such sum that Cygilant is required to collect or pay with respect to transactions under this Agreement. For any orders issued by Customer to Reseller, payment terms shall be as agreed between Customer and Reseller. CYGILANT shall have the right to cancel any order placed or to refuse or delay delivery or suspend any Services or terminate performance for failure of RESELLER to make any payments due CYGILANT under the terms of this Agreement or any reseller agreement.

Payment terms with respect to Services ordered from an authorized Cygilant Reseller shall be by and between Reseller and the End User.

10.   THIRD PARTY SOFTWARE. Cygilant will redistribute certain Third Party Software to Customer for Customer's use with the Services. As a condition of its use of the Third Party Software, Customer agrees to familiarize itself with, and to comply with and be responsible for observing, the conditions and restrictions required of software users by the owners of such Third Party Software as referenced at https://www.cygilant.com/cygilantpdf/Cygilant%20Third%20Party%20Software.pdf.

11.   DISCLAIMER. CYGILANT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. CYGILANT SPECIFICALLY DOES NOT WARRANT THAT: (I) THE SERVICES SHALL MEET ALL OF CUSTOMER'S REQUIREMENTS OR SHALL OPERATE IN ALL THE COMBINATIONS WHICH MAY BE SELECTED FOR USE BY CUSTOMER, (II) THE OPERATION OF THE SERVICES SHALL BE ERROR-FREE OR UNINTERRUPTED, (III) ALL ERRORS OR DEFECTS IN THE SERVICES SHALL BE CORRECTED, OR (IV) ANY SECURITY MECHANISMS IMPLEMENTED BY THE SERVICES WILL NOT HAVE INHERENT LIMITATIONS.   SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THAT THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMER. THIS WARRANTY GIVES CUSTOMER SPECIFIC LEGAL RIGHTS. CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

THE THIRD PARTY SOFTWARE AND ANY EVALUATION SERVICES ARE PROVIDED TO CUSTOMER "AS IS" WITHOUT WARRANTY OF ANY KIND BY CYGILANT, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, WHETHER MADE BY CYGILANT EMPLOYEES, A RESELLER OR OTHERWISE, SHALL BE DEEMED A WARRANTY BY CYGILANT FOR ANY PURPOSE OR GIVE RISE TO ANY LIABILITY OF CYGILANT WHATEVER UNLESS CONTAINED IN THIS AGREEMENT.

12.   INFRINGEMENT

12.1.   Indemnity by Cygilant. If a third party acting against Customer claims, threatens to claim, or obtains a judicial or administrative determination that Services, as defined herein, infringe its patent, copyright, or trade secret rights, Cygilant shall have the option, at its own expense and at its sole option, to (a) defend Customer at Cygilant's expense and pay all damages awarded by a court of competent jurisdiction, (b) obtain for Customer the right to continue using the infringing item, (c) replace the infringing item or modify it so that it shall become non-infringing with no substantial degradation, or (d) remove the infringing portion of the Services and refund the proportional fee that Customer paid for such portion, pro rata, or on a five-year straight-line depreciation basis, as applicable, provided that Customer shall promptly notify Cygilant in writing of the claim, and allow Cygilant to control, and cooperate with Cygilant in, the defense and any related settlement negotiations. In no event shall Cygilant's liability under this Section exceed the amount paid by Customer to Cygilant for any allegedly infringing Services.

12.2.   Exception. Notwithstanding the provisions of this Section, Cygilant shall have no obligation to Customer for any claim arising from the license or use of any Services (a) that have been modified by a

party other than Cygilant, (b) used to practice any process, or used in combination with other services not provided by Cygilant where such infringement would not have occurred but for such use in combination with such other services, (c) from failure of Customer to use updated Services provided by Cygilant for avoiding such infringement, (d) that are part of any Evaluation Services, or (e) that are Third Party Software. Cygilant shall not be bound by any settlement of any charge of infringement made without the prior written consent of Cygilant.

12.3. Indemnification by Customer. Customer shall indemnify and hold Cygilant harmless from any loss, cost, or expense in connection with any claim, suit, or proceeding brought against Cygilant or Customer insofar as it is based on a claim that the use of any Services infringed because they were modified or altered by parties other than by Cygilant, or because they were used in a manner for which they were not designed.

12.4. Limitation. THIS SECTION STATES THE ENTIRE LIABILITY OF CYGILANT AND ITS LICENSORS TO CUSTOMER AND ANY AND ALL THIRD PARTIES, WHETHER FOR DAMAGES OR OTHERWISE, FOR INFRINGEMENT OF ANY COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHT WITH RESPECT TO ANY SERVICES FURNISHED BY CYGILANT UNDER THIS AGREEMENT.

13. LIMITATION OF LIABILITY

13.1. Limitation. IT IS EXPRESSLY AGREED THAT EACH PARTY'S MAXIMUM LIABILITY FOR DAMAGES TO THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF LEGAL ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, SHALL IN NO EVENT EXCEED THE ACTUAL PAYMENTS RECEIVED BY CYGILANT OR THE RESELLER FOR THE SERVICES THAT CAUSED SUCH DAMAGE OR THAT ARE DIRECTLY RELATED TO THE CAUSE OF ACTION, EXCEPT THAT NO SUCH LIMITATION ON DAMAGES SHALL APPLY TO LOSSES DUE TO EITHER PARTY'S BREACH OF EACH PARTY'S CONFIDENTIALITY OBLIGATIONS, OR CUSTOMER'S VIOLATION OF CYGILANT'S INTELLECTUAL PROPERTY RIGHTS, OR CUSTOMER'S BREACH ANY OF THE LICENSES OR LICENSE RESTRICTIONS SET FORTH IN THIS AGREEMENT.

13.2. No Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE, OR LOSS OF DATA, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS, OR, IF REASONABLY FORESEEABLE, INCURRED BY THE OTHER PARTY OR CLAIMED AGAINST THE OTHER PARTY BY ANY OTHER PARTY, EXCEPT THAT NO SUCH LIMITATIONS ON CONSEQUENTIAL DAMAGES SHALL APPLY IN THE EVENT OF VIOLATION BY CUSTOMER OF CYGILANT'S INTELLECTUAL PROPERTY RIGHTS, OR BREACH BY EITHER PARTY OF ITS CONFIDENTIALITY OBLIGATIONS OR BREACH BY CUSTOMER OF ANY OF THE LICENSES OR LICENSE RESTRICTIONS CONTAINED IN THIS AGREEMENT. NEITHER PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM THE NEGLIGENCE OF A PARTY OR THAT OF ITS EMPLOYEES OR AGENTS OR IN RELATION TO ANY OTHER LIABILITY THAT MAY NOT BY APPLICABLE LAW BE EXCLUDED OR LIMITED IS EXCLUDED OR LIMITED, AND NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS AN ATTEMPT TO EXCLUDE OR LIMIT SUCH LIABILITY.

14. TERM; TERMINATION

14.1. Term. This Agreement shall be effective from the effective date set forth in the Order Form and shall continue in full force and effect for the subscription term set forth in the Order Form or until terminated as set forth elsewhere in this Agreement. Upon the expiration of the subscription term, such subscription term shall automatically renew for a subscription term equal to twelve (12) months at the then-current fees unless one party provides the other party with written notice of non-renewal not less than sixty (60) days prior to the expiration of the then-current term.

14.2. General. Upon any material breach or default of this Agreement by either party, the other party shall have the right to terminate this Agreement and any licenses granted under it effective on thirty (30)

days' prior written notice and a failure to cure such breach. This Agreement may also be terminated upon (a) bankruptcy, insolvency, or placing of the assets or the business of the other party in the hands of a receiver or trustee, (b) filing of a petition for bankruptcy or reorganization by or against the other party, (c) dissolution or liquidation of the other party, or (d) failure of Customer to pay any sum when due under or in connection with this Agreement. In the event of any termination of this Agreement by Cygilant for breach by Customer or any failure by Customer to comply with the non-renewal provisions of Section 14.1 (Term) of this Agreement, Cygilant shall have the right to accelerate all Services fees for the remainder of each subscription term and any renewal term. If, as a result of a material breach or default of this Agreement, including, but without limitation to non payment, this Agreement shall be terminated and Customer shall, upon the election of Cygilant, forthwith pay to Cygilant as damages, a sum equal to the amount by which End User or Customer would have paid in accordance with this Agreement for the remainder of the subscription term and/or any renewal term.

14.3.   Customer's Data Portability and Deletion. Upon request by Customer made within ninety (90) days prior to the effective date of termination or expiration of this Agreement, Cygilant will make Customer's Data available for Customer to export or download as provided in the Documentation for up to thirty (30) days after such termination or expiration at Cygilant's then current fees. After that thirty (30) day period, Cygilant will have no obligation to maintain or provide Customer's Data, and will thereafter delete or destroy all copies of Customer's Data in Cygilant's system or otherwise in Cygilant's possession or control as provided in the Documentation, unless legally prohibited.

14.4.   Consequences. In the event of termination of this Agreement for any reason, Customer shall promptly discontinue all use of the applicable Services and Documentation and delete/uninstall all Cygilant Software.

14.5.   Survival. Any expiration or termination of this Agreement shall not modify any right or obligation of a party hereto, which arose prior to such expiration or termination.

15.   GENERAL

15.1.   Notices. All notices required or permitted under this Agreement will be in writing and will be deemed given: (a) when delivered personally; (b) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (c) one (1) day after deposit with a commercial overnight carrier specifying next day delivery, with written verification of receipt. Such notice shall be sent as set forth below. If the communication (including, but not limited to, non-renewal of this Agreement or an alleged breach of any maintenance and support services provisions of this Agreement by Cygilant) is from Customer to Cygilant, it shall be addressed to "Attn: President." If the communication is from Cygilant to Customer, it shall be addressed to the Chief Executive Officer of Customer.

15.2.   Assignment. Customer may not assign, delegate or otherwise transfer this Agreement or any of its licenses, rights or duties under this Agreement, whether by operation of law or otherwise, without the prior written consent of Cygilant which shall not be unreasonably withheld or delayed. Any attempt to transfer or assign this Agreement without such written consent will be null and void. Cygilant may, without Customer's consent, assign monies due or becoming due to a bank or other financial institution. Cygilant may, without Customer's consent, assign this Agreement to any Affiliate or to a person or entity into which it has merged or which has otherwise succeeded to all or substantially all of its business and assets to which this Agreement pertains, by merger, reorganization or otherwise, and which has assumed in writing or by operation of law its obligations under this Agreement. The rights and liabilities of the parties hereto will bind and inure to the benefit of their respective successors, executors, and administrators, as the case may be.

15.3.   Waiver. The failure of either party to enforce in any one or more instances any of the terms and conditions of this Agreement shall not be construed as a waiver of future performance of any such term

or condition. Waiver of any term or condition shall only be deemed to have been made if expressed in writing by the party granting such waiver.

15.4.   Severability. If any provision of this Agreement shall be held by a court of law of competent jurisdiction to be illegal, invalid, or unenforceable, that provision shall be reformed, construed, and enforced to the maximum extent permissible and the remaining provisions shall remain in full force and effect.

15.5.   Governing Law and Jurisdiction. Unless otherwise specifically provided herein, this Agreement shall be governed by and construed under the laws of the Commonwealth of Massachusetts without regard to conflict of laws provisions. The federal and state courts sitting in Boston, Massachusetts shall have non-exclusive jurisdiction and venue to adjudicate any dispute arising out of this Agreement. Each party hereto expressly consents to the personal jurisdiction of the courts of Massachusetts and service of process being effected upon it by registered mail sent to the respective addresses referred to above. The United Nations Convention on Contracts for the International Sale of Goods does not apply. In the event the transaction as set forth on the applicable Order Form is by and between the Cygilant (UK) entity, then, that particular Order Form shall be governed by the laws of England and Wales.

15.6.   Entire Agreement.   This Agreement and any Exhibits, constitute the entire understanding between the parties, and supersede all prior discussions, representations, understandings or agreements (including any pre-existing nondisclosure agreement, except as to its surviving terms), whether oral or in writing, between the parties with respect to the subject matter of this Agreement. In the event of any conflict between the terms of this Agreement and terms other than quantity, price, and the like set forth in an accepted purchase order or Order Form, the terms of this Agreement shall prevail. Any modification or amendment to this Agreement must be in writing and signed by authorized representatives of both parties. Except as otherwise provided in this Agreement, any item or service furnished by Cygilant in furtherance of this Agreement, although not specifically identified in it or in a purchase order referencing this Agreement, shall nevertheless be covered by this Agreement unless specifically covered by some other written agreement executed by Customer and an authorized representative of Cygilant. The headings and captions used in this Agreement are for convenience only, and shall not affect the interpretation of the provisions of this Agreement.

15.7.   Export Control. Customer agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the United States Department of Commerce. Customer agrees to indemnify Cygilant, to the fullest extent permitted by law, from and against any fines or penalties that may arise as a result of Customer's breach of this provision. This export control Section shall survive termination of this Agreement.

15.8.   Use of Customer Name. Cygilant may use Customer's name or logo without Customer's prior written consent: (i) in any Cygilant customer lists; (ii) on Cygilant's web site; and (iii) in other Cygilant promotional materials.

15.9.   Independent Contractors.   The relationship of Cygilant and Customer established by this Agreement is that of independent contractors, and nothing contained in the Agreement will be construed to constitute the parties as partners, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking. For a period of two (2) years following the expiration or termination of this Agreement, Customer shall not directly or indirectly employ, solicit for employment or contract with any Cygilant personnel performing such Services for Customer under this Agreement.

15.10.   Confidential Information. Each party acknowledges that by reason of its relationship to the other party under the provisions of this Agreement it may have access to certain information and material concerning the other party's business, plans, customers, technology, and Services that are confidential and of substantial value to the disclosing party ("Confidential Information"), which value would be

impaired if such Confidential Information were disclosed to third parties. Each party agrees to maintain all Confidential Information received from the other, both orally and in writing, in confidence and agrees not to disclose or otherwise make available such Confidential Information to any third party without the prior written consent of the disclosing party. Each party further agrees to use the Confidential Information only for the purpose of performing this Agreement. No information shall be deemed confidential unless so marked if given in writing or, if given orally, identified as confidential orally prior to disclosure, except that Customer agrees that any information in whatever form relating to (a) the Documentation and the underlying ideas, algorithms, techniques, knowhow, design, functionality, operational methods or coding of the Services, including but not limited to any complete or partial source or object code versions, and (b) performance information, test results, algorithms, techniques, Services roadmap and knowhow or analyses created by or for Customer (including, without limitation, benchmarks) relating to the Services, shall be deemed Confidential Information of Cygilant regardless of the presence or absence of any confidential markings or identification. Customer agrees not to disclose any Confidential Information to any competitor of Cygilant.

The parties' obligations of non-disclosure under this Agreement shall not apply to information that: (a) is or becomes a matter of public knowledge through no fault of or action by the receiving party, (b) was rightfully in the receiving party's possession prior to disclosure by the disclosing party, (c) subsequent to disclosure, is rightfully obtained by the receiving party from a third party who is lawfully in possession of such Information without restriction, or (e) except as otherwise provided above, is independently developed by the receiving party without resort to Confidential Information.

Whenever requested by a disclosing party, a receiving party shall immediately return to the disclosing party all manifestations of the Confidential Information or, at the disclosing party's option, shall destroy all such Confidential Information as the disclosing party may designate. The receiving party's obligation of confidentiality shall survive this Agreement for a period of three (3) years from the date of its termination, and thereafter shall terminate and be of no further force or effect.

Each party acknowledges that any breach of any of its obligations with respect to the other party's Confidential Information hereunder may cause or threaten irreparable harm to such party. Accordingly, each party agrees that in such event each party shall be entitled to seek equitable relief to protect its interests, including but not limited to temporary restraining orders, preliminary and permanent injunctive relief, as well as money damages.

15.11. Professional Services. From time to time, Customer may retain Cygilant for the purpose of performing certain implementation, training, technical, consulting and/or other professional services (the "Professional Services") to Customer. In the event that Customer prepays for such Professional Services, Cygilant must perform such Professional Services within six (6) calendar months of the date of such prepayment or such prepayment shall be null and void and no credits shall be issued by Cygilant with respect to such prepayment.

15.12. Waiver of Trial By Jury. The End User or Customer hereby irrevocably waives any past, present or future right of trial by jury in any trial of any case or controversy which arises out of, or is in respect of, any relationship between CYGILANT and the End User or Customer, including, but without limitation to any dispute arising under this Agreement.