

# End User License Agreement

## 1. Grant of License;

1.1 *License. Affiliates and Managing Parties.* During the term of this Agreement, Tanium grants Customer a revocable, nontransferable, nonexclusive license to use the proprietary software in object code form and related proprietary components provided by Tanium to Customer in connection with this Agreement (the “**Licensed Software**”) in accordance with the Documentation for Customer’s internal use only during the applicable Licensed Term. The term “Licensed Software” will include Tanium’s then-current documentation made generally available by Tanium to its licensees for use of the Licensed Software, as updated from time-to-time by Tanium in its discretion (the “**Documentation**”), and any updates, bug fixes, and versions (collectively, “**Enhancements**”) made generally available by Tanium in connection with a Support Services entitlement or subscription-based license grant to use the Licensed Software (the “**License**”).

1.2 *License Metric.* The Licensed Software is licensed on a per Managed OS Instance basis. A “**Managed OS Instance**” means a physical or virtual hardware device where the Licensed Software can be installed, and where that device is capable of processing data. Managed OS Instances include any of the following types of computer devices: mobile/smart phone, diskless workstation, personal computer workstation, networked computer workstation, homeworker/teleworker, home-based system, file server, print server, e-mail server, internet gateway device, storage area network server, terminal servers, or portable workstation connected or connecting to a server or network. In the case of a virtual system, in addition to the virtual Managed OS Instances, the hypervisor is considered to be a single instance if Licensed Software is installed at the hypervisor level.

**Affiliates and Managing Parties.** The term “Affiliate” means an entity that is controlled by, controls, or is under common control of the Customer, where “control” means the ownership, in the case of a corporation, of more than fifty percent (50%) of the voting securities in such corporation or, in the case of any other entity, the ownership of a majority of the beneficial or voting interest of such entity. Customer may allow its Affiliate(s) to use the Licensed Software provided that (a) the Affiliate only uses the Licensed Software for Customer’s or Affiliate’s internal business purposes and up to the authorized number of Managed OS Instances in accordance with the terms and conditions of this Agreement and (b) Customer is responsible for and remains liable for the Affiliate’s use of the Licensed Software in compliance with the terms and conditions of this Agreement. If Customer enters into a contract with a third party that manages Customer’s information technology resources (“**Managing Party**”), Customer may allow its Managing Party to use Licensed Software, provided that (a) the Managing Party only uses the Licensed Software for Customer’s internal business purposes and not for the benefit of any third party or for the Managing Party, (b) the Managing Party agrees to comply with the terms and conditions of this Agreement, and (c) Customer is responsible for and remains liable for the Managing Party’s use of the Licensed Software in compliance with the terms and conditions of this Agreement.

1.3 *System Configuration.* Hardware and software requirements for proper installation and use of the Licensed Software are set forth in the relevant Documentation. Customer is solely responsible and fully liable for purchasing, providing, installing, and using all required equipment, networks, peripherals, third-party software and hardware, including, but not limited to, third-party software, scripts or other technologies that may interoperate and be used in conjunction with the Licensed Software, all of which are expressly excluded from all warranty, indemnity and support obligations described elsewhere in this Agreement.

## 2. Restrictions. Customer’s license to the Licensed Software is subject to the following license conditions and restrictions:

2.1 *Customer’s Benefit.* Customer must not use or permit the Licensed Software to be used in any manner, whether directly or indirectly, that would enable Customer’s personnel or any other person or entity to use the Licensed Software for anyone’s benefit other than Customer or its Affiliates. Customer must purchase each license it intends to use.

2.2 *Limitations on Copying and Distribution.* Customer must not copy or distribute the Licensed Software, whether directly or indirectly, except to the extent that copying is necessary to use the Licensed Software for the purposes set forth herein. Customer may make a single copy of the Licensed Software for backup and archival

purposes.

*2.3 Limitations on Reverse Engineering and Modification.* Except to the extent such a limitation is expressly prohibited by applicable law, Customer must not reverse engineer, decompile, disassemble, modify or create derivative works of the Licensed Software whether directly or indirectly.

*2.4 Sublicense, Rental and Third Party Use.* Except to the extent expressly permitted by this Agreement, Customer must not assign, sublicense, rent, timeshare, loan, lease or otherwise transfer the Licensed Software, or directly or indirectly permit any third party to use or copy the Licensed Software. Customer must not operate a service bureau or other similar service for the benefit of third parties using the Licensed Software.

*2.5 Proprietary Notices.* Customer must not remove any proprietary notices (e.g., copyright and trademark notices) from the Licensed Software. Customer must reproduce the copyright and all other proprietary notices displayed on the Licensed Software on each permitted back-up or archival copy.

*2.6 Use in Accordance with Documentation.* All use of the Licensed Software shall be in accordance with the Documentation and this Agreement.

*2.7 Use of the Licensed Software.* Customer shall be solely responsible and fully liable for its use of the Licensed Software, including, but not limited to, for ensuring that the use of the Licensed Software is in compliance with all applicable foreign, federal, state and local laws, rules, and regulations.

*2.8 Tanium's Intellectual Property.* Customer shall not use the Licensed Software or Tanium Confidential Information whether directly or indirectly to contest the validity of any Tanium intellectual property, including the Licensed Software.

*2.9 Competition.* Customer shall not use the Licensed Software or Tanium Confidential Information in a manner to compete with Tanium or to assist a third party in competing with Tanium, or for benchmarking or competitive analysis.

The Licensed Software is licensed to Customer, not sold. The Licensed Software, Documentation, and Services provided by Tanium contain material that is protected by United States copyright, trade secret law, and other intellectual property law, and by international treaty provisions. All rights not expressly granted to Customer under this Agreement are reserved by Tanium. All copyrights, patents, trade secrets, trademarks, service marks, trade names, moral rights, and other intellectual property and proprietary rights in the Licensed Software, Documentation, and Services provided by Tanium whether or not registered will remain the sole and exclusive property of Tanium or its licensors and suppliers, as applicable. Customer shall notify Tanium promptly upon learning of any attempt by anyone to misuse, misappropriate, copy, modify, derive, or reverse engineer any Licensed Software and Customer shall cooperate and assist Tanium in discovering, preventing, and recovering damages for any such misappropriation, copying, modification, derivation, or reverse engineering of the Licensed Software.

3. If Customer enters into a contract with a third party that manages Customer's information technology resources ("**Managing Party**"), Customer may allow its Managing Party to use the Licensed Software on Customer's Managed OS Instances, provided that (a) the Managing Party only uses the Licensed Software for Customer's internal business purposes and not for the benefit of any third party or for the Managing Party, (b) the Managing Party agrees to comply with the terms and conditions of this Agreement, and (c) Customer is responsible for and remains liable for the Managing Party's use of the Licensed Software in compliance with the terms and conditions of this Agreement. In addition, Customer shall ensure that its personnel comply with the terms of this Agreement.
  
4. **Term and Termination.** Unless otherwise agreed in a Schedule, the License(s) will commence upon the initial delivery of the license keys that allow Customer to download or access the Licensed Software ("**Delivery**") and will continue for the term of the applicable License(s) or until this Agreement is terminated as provided in this Section, whichever occurs first (the "**Licensed Term**"). When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Tanium shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief,

claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Upon any termination or expiration of this Agreement, the license granted in Section 1 (Grant of License) will automatically terminate and Customer will have no further right to possess or use the Licensed Software. Tanium reserves the right to seek all remedies available at law and in equity for Customer's material breach of this Agreement.

## 5. Fees and Expenses; Delivery and Taxes.

5.1 *Fees and Expenses.* Notwithstanding anything else to the contrary, if Customer orders from a Tanium authorized business partner ("**Reseller**"), final terms of the transaction (e.g., pricing, discounts, fees, payments, and taxes) are solely subject to the agreement between Customer and its Reseller of choice. This Agreement will govern Tanium's provision and Customer's license to the Licensed Software and Services whether Customer orders the Licensed Software and Services from Tanium or a Reseller. Unless Customer orders directly from a Reseller, Customer will pay the Licensed Software and Services fees directly to Tanium and Tanium will fulfill all orders. The parties will enter into a schedule(s) or purchase order(s) that describe the Licensed Software and/or Services to be acquired by Customer (each a "**Schedule**"). This Agreement applies to any Schedule that references this Agreement. When a purchase order will be utilized as a Schedule, the purchase order must reference and be made pursuant to this Agreement and the applicable Quote. Notwithstanding anything else to the contrary, any terms and conditions in the purchase order that conflict or are inconsistent with the current approved Tanium-provided quote issued to the Customer for the Licensed Software and Services in accordance with the GSA Schedule Contract and GSA Schedule Pricelist (the "**Quote**") or this Agreement will have no force or effect. The purchase order will not add or remove terms from the Quote or this Agreement. Tanium further reserves the right to expressly reject any purchase order that does not comport to the requirements of this Section.

Unless otherwise set forth in a Schedule: (a) fees for Licenses and Support Services will be billed, due, and payable fully in thirty (30) days after Customer's receipt of an invoice. Payments will be made by electronic transfer to a bank account designated by Tanium on the invoice in the amount of fees for the Licensed Software and Services ordered (less any applicable credits and deductions and plus any applicable shipping and other charges). The effective date of payment shall be the date on which the entire amount due is credited to Tanium's bank account or the instrument enabling immediate collection of the entire amount due is received. All payments not made by Customer when due will be subject to late charges of the maximum amount permitted under the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315.

5.2 *Taxes.* Tanium shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3. Taxes do not include any taxes payable by Tanium for its employees or for its net income.

All Licensed Software will be delivered and accessed electronically. In conjunction with the billing, collection and payment of any Taxes, Customer must provide Tanium with a physical address of the download site for the Licensed Software. This address will be used as the "shipped to address" on all invoices.

## 6. Services; Systems Information.

6.1 *Services.* The term "**Services**" means, collectively, the Support Services, training and any other services acquired by Customer from Tanium. If Customer has a current Support Services entitlement or License governed by this Agreement, then Tanium will provide Customer with the support and maintenance services described in Exhibit A (the "**Support Services**"). Once the relevant Support Services entitlement or License has expired, Customer has no further right to receive any Support Services. All Services are provided subject to the terms and conditions of this Agreement.

6.2 *Systems Information.* During the term of the Agreement, Customer may provide to Tanium or Tanium's Licensed Software and Services may collect information including, but not limited to, performance and analytics information relating to Customer's use of Tanium's products and services, metadata relating to Customer's networks and systems, device identifiers, network telemetry, endpoint telemetry, system configuration, and data generated through any of the foregoing (collectively, "**Systems Information**"). Customer agrees that Tanium may use Systems Information to provide Customer with technical support and to research, develop, and improve

Tanium's products and services, and, on an aggregated, anonymized basis, for marketing purposes (the "**Permitted Purpose**"). To the extent Systems Information constitutes Customer's Confidential Information, Systems Information will be held in confidence by Tanium in accordance with Section 10 (Confidentiality). For clarity, any data that is derived by Tanium from its use of the Systems Information for the Permitted Purpose, such that the Customer cannot be identified from the derived data, is not considered Customer's Confidential Information. Customer, rather than Tanium, determines which types of data, including Personal Data (as defined in the Data Processing Addendum), exists on its systems. To the extent that Tanium obtains Personal Data in connection with providing the Licensed Software and Services, Tanium will process such Personal Data pursuant to the Data Processing Addendum found at <http://www.tanium.com/dpa>. Because Customer's endpoint environment is unique in configurations and naming conventions, the Systems Information could potentially include Personal Data. Customer may redact, edit, or otherwise suppress any Systems Information, including Personal Data, prior to providing to Tanium for processing. To the extent any Systems Information includes Personal Data, Customer represents and warrants that it has made all necessary disclosures and has a lawful basis to share the Personal Data with Tanium for the Permitted Purpose. In addition, Tanium may process, use or disclose such Personal Data only: (i) in furtherance of its obligations pursuant to this Agreement; (ii) as required or permitted by law; (iii) as directed or instructed by Customer; or (iv) with prior informed consent of the data subject to whom the Personal Data pertains. As between Customer and Tanium, the foregoing states Tanium's entire obligation with respect to Personal Data.

7. **Limited Warranty; Disclaimer.** Tanium warrants that (i) for a period of ninety (90) days from the Effective Date, the Licensed Software will operate in substantial conformity with the Documentation; and (ii) it shall use commercially reasonable efforts to screen the Licensed Software prior to Delivery to Customer for viruses, Trojan horses, and other malicious code. The foregoing warranties are solely for the benefit of Customer and Customer shall have no authority to extend such warranty to any third party. The sole and exclusive remedy of Customer, and the sole and exclusive liability of Tanium, for breach of the foregoing warranties in this Section, shall be to repair or replace the non-conforming Licensed Software, or if repair or replacement would, in Tanium's opinion, be commercially unreasonable, then Tanium shall terminate the relevant licenses and refund to Customer the portion of prepaid license fees paid for such non-conforming Licensed Software. This warranty is contingent upon the proper installation and use of the Licensed Software as described in the Documentation and this Agreement; Tanium shall not be responsible for Customer's use of the Licensed Software if not operated in a manner recommended in the Documentation. Any modification to the Licensed Software by Customer or any third party or failure by Customer to implement any Enhancements to the Licensed Software may void Tanium's obligation to provide Support Services and Tanium's warranties under this Section. EXCEPT AS PROVIDED IN THIS SECTION, THE LICENSED SOFTWARE AND ALL SERVICES ARE PROVIDED ON AN "AS-AVAILABLE," "AS-IS" BASIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, TANIUM AND ITS LICENSORS AND SUPPLIERS DISCLAIM ALL OTHER WARRANTIES WITH RESPECT TO THE LICENSED SOFTWARE AND SERVICES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, QUIET ENJOYMENT, QUALITY OF INFORMATION, AND FITNESS FOR A PARTICULAR PURPOSE. TANIUM DOES NOT WARRANT THAT THE LICENSED SOFTWARE OR SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, OR WILL CAUSE CUSTOMER TO BE COMPLIANT WITH APPLICABLE LAW; THAT CUSTOMER'S USE OF THE LICENSED SOFTWARE OR SERVICES WILL SATISFY ANY STATUTORY OR REGULATORY OBLIGATIONS; THAT THE OPERATION OF THE LICENSED SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE; OR THAT ERRORS OR DEFECTS IN THE LICENSED SOFTWARE WILL BE CORRECTED. TANIUM DOES NOT MAKE ANY REPRESENTATION OR WARRANTY REGARDING THE PERFORMANCE OR RESULTS OF THE LICENSED SOFTWARE OR SERVICES. TANIUM DOES NOT PROVIDE WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCTS, SCRIPTS, CONTENT OR OTHER TECHNOLOGIES. NO ORAL OR WRITTEN INFORMATION OR ADVICE, INCLUDING, BUT NOT LIMITED TO, SUGGESTIONS, ROUTINES, SCRIPTS OR QUERIES, PROVIDED BY TANIUM SHALL CREATE ANY ADDITIONAL TANIUM WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF WARRANTIES OR TANIUM'S LIABILITY OR OBLIGATIONS UNDER THIS AGREEMENT. TANIUM HAS NO RESPONSIBILITY OR LIABILITY FOR ANY THIRD-PARTY PRODUCTS OR TECHNOLOGIES USED BY CUSTOMER WHETHER INDEPENDENTLY OR IN CONJUNCTION WITH THE LICENSED SOFTWARE. If applicable law affords Customer implied warranties, guarantees or conditions despite these

exclusions, those warranties will be limited to one (1) year from the Effective Date and Customer's remedies will be limited to the maximum extent allowed by Sections 7 (Limited Warranty; Disclaimer) and 9 (Limitation of Liability).

- 8. Indemnities.** If a third party claims that Customer's licensed use of the Licensed Software in compliance with the terms of this Agreement infringes a United States: (i) patent, (ii) copyright, or (iii) trade secret of that third party, Tanium, at its sole cost and expense, will have the right to intervene to defend Customer against any such claim, and indemnify Customer from any damages, liabilities, costs and expenses awarded by a court to the third party claiming infringement or set forth in a settlement agreed to by Tanium. The foregoing obligation of Tanium is contingent upon Customer promptly notifying Tanium in writing of such claim, permitting Tanium authority to control the defense or settlement of such claim, and providing Tanium reasonable assistance in connection therewith. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516. If a claim of infringement under this Section occurs, or if Tanium determines a claim is likely to occur, Tanium will have the right, in its sole discretion, to either: (i) procure for Customer the right or license to continue to use the Licensed Software; or (ii) modify the Licensed Software to make it non-infringing, without loss of material functionality. If either of these remedies is not reasonably available to Tanium, Tanium may, in its sole discretion, immediately terminate this Agreement and return the license fees paid by Customer for the infringing Licensed Software, prorated for use over the lesser of: (i) reserved (ii) the remaining unused Licensed Term. Notwithstanding the foregoing, Tanium shall have no obligation with respect to any claim of infringement that is based upon or arises out of (the "Excluded Claims"): (i) the use or combination of the Licensed Software with any third-party or Customer hardware, software, products, data or other materials; (ii) modification or alteration of the Licensed Software by anyone other than Tanium; (iii) Customer's failure to implement any fix or release that would have avoided the claim; (iv) Customer's use of the Licensed Software in excess of the rights granted in this Agreement; (v) any third-party components; or (vi) a business method or process that is inherent to Customer's business. The provisions of this Section state Customer's sole and exclusive remedy and the sole and exclusive obligations and liability of Tanium and its licensors and suppliers for any claim of intellectual property infringement arising out of or relating to the Licensed Software and/or this Agreement and are in lieu of any implied warranties of non-infringement, all of which are expressly disclaimed.
- 9. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL TANIUM OR ITS LICENSORS OR SUPPLIERS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR INDIRECT DAMAGES, WHICH THE PARTIES EXPRESSLY AGREE SHALL INCLUDE, WITHOUT LIMITATION AND REGARDLESS OF ITS LEGAL CATEGORIZATION, ANY DAMAGES FOR LOST PROFITS, LOST DATA AND BUSINESS INTERRUPTION, COMPUTER FAILURE AND MALFUNCTION, AND/OR COST OF REPLACEMENT GOODS AND SERVICES OR ANY OTHER DAMAGES ARISING OUT OF OR RELATED TO THE LICENSED SOFTWARE, SERVICES OR THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY ACTIONS OR ITEMS DISCLAIMED IN SECTION 7 (LIMITED WARRANTY; DISCLAIMER), EVEN IF TANIUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, THE MAXIMUM AGGREGATE LIABILITY OF TANIUM AND ITS LICENSORS AND SUPPLIERS UNDER THIS AGREEMENT FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT, OR OTHERWISE) SHALL BE LIMITED TO THE FEES PAID BY CUSTOMER FOR PURCHASE ORDER(S) GIVING RISE TO SUCH CLAIM. THE FOREGOING IS INTENDED TO BE AN AGGREGATE LIMIT, NOT PER INCIDENT. THE PARTIES ACKNOWLEDGE THAT ONLY CUSTOMER CAN IMPLEMENT BACK-UP PLANS AND SAFEGUARDS APPROPRIATE TO THEIR OWN NEEDS TO PROTECT THEMSELVES IF AN ERROR IN THE SOFTWARE CAUSES COMPUTER PROBLEMS AND RELATED DATA LOSSES. FOR THESE REASONS, CUSTOMER AGREES TO THE LIMITATIONS OF LIABILITY IN THIS SECTION AND ACKNOWLEDGES THAT WITHOUT CUSTOMER'S AGREEMENT TO THESE TERMS, THE FEE CHARGED FOR THE LICENSED SOFTWARE WOULD BE HIGHER. NO ACTION, REGARDLESS OF FORM, ARISING OUT

OF ANY OF THE TRANSACTIONS UNDER THIS AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN ONE (1) YEAR AFTER SUCH ACTION ACCRUED. IN THE EVENT TANIUM MAKES A REFUND PURSUANT TO AN EXPRESS REMEDY UNDER THIS AGREEMENT, ANY SUCH MONIES REFUNDED BY TANIUM WILL BE APPLIED TO THE MEASURE OF DAMAGES SUBSEQUENTLY AWARDED BY THE COURT, IF ANY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

**10. Confidentiality.** Each party agrees to hold the other party's (and that of its affiliates disclosed in connection with this Agreement) Confidential Information in confidence using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (at all time exercising at least a commercially reasonable degree of care in the protection of such Confidential Information), and not to make each other's Confidential Information available in any form to any third party (other than their authorized agents) or to use each other's Confidential Information for any purpose other than as specified in this Agreement (subject, in all cases, to the rights granted to Tanium in Section 11.2). Each party agrees to take all reasonable steps to ensure that Confidential Information of the other party is not disclosed, used or distributed by its employees, agents, or consultants in violation of the provisions of this Agreement. In addition, Customer must ensure that any Managing Party will hold Tanium's Confidential Information in confidence and otherwise comply with this Section. "**Confidential Information**" shall mean, with respect to a party hereto, all information or material disclosed or made available by one party or its affiliates to the other or its affiliates in connection with this Agreement which (i) gives that party some competitive business advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of that party; or (ii) from all the relevant circumstances should reasonably be assumed to be confidential. Confidential Information includes, but is not limited to, the Licensed Software. Each party's Confidential Information shall remain the sole and exclusive property of that party. Neither party shall have any obligation with respect to Confidential Information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of a receiving party; (ii) was previously known to the receiving party or rightly received by the receiving party from a third party without restrictions on disclosure; (iii) is independently developed by the receiving party without reliance upon or use of the disclosing party's Confidential Information; or (iv) is approved for release by the disclosing party in writing. Notwithstanding the foregoing, Customer acknowledges and agrees that Tanium may use Customer's Confidential Information internally at Tanium for sales/support analytics and training. In the event the parties previously executed a non-disclosure agreement related to Customer's prospective license of the Licensed Software or Services, the terms of this Section 10 (Confidentiality) will supersede such non-disclosure agreement from and after the Effective Date.

## **11. Evaluation Software and Feedback.**

**11.1 Evaluation Software.** This Section only applies to Licensed Software designated by Tanium as "**Evaluation Software**." Subject to Section 2 (Restrictions), Tanium grants to Customer a non-transferable, non-exclusive limited license to use the Evaluation Software for its internal evaluation and lab purposes only. The term of this license is for a period of thirty (30) days following Delivery of the Evaluation Software ("**Evaluation Period**"). Tanium may extend the Evaluation Period in writing at its discretion. Unless otherwise agreed in writing by Tanium, Customer agrees to use the Evaluation Software in a non-production environment. Customer bears the sole risk of using the Evaluation Software. **TANIUM PROVIDES THE EVALUATION SOFTWARE TO CUSTOMER "AS-IS" AND GIVES NO REPRESENTATION, WARRANTY, INDEMNITY, GUARANTEE OR CONDITION OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, TANIUM'S TOTAL AGGREGATE LIABILITY AND THAT OF ITS LICENSORS, SUPPLIERS, AND PARTNERS IS EXPRESSLY LIMITED TO FIVE HUNDRED DOLLARS (\$500) FOR ANY AND ALL DAMAGES REGARDLESS OF THE NATURE OF THE CLAIM OR THEORY OF LIABILITY.** Because the Evaluation Software is provided "AS-IS," Tanium may not provide Services for it. This Section supersedes any inconsistent term in the Agreement for purposes of the Evaluation Software.

**11.2 Feedback.** Customer may provide suggestions, comments, or other feedback (collectively, "**Feedback**") to Tanium with respect to its products and services, including the Licensed Software. Feedback is voluntary and Tanium is not required to hold it in confidence. Tanium may use Feedback for any purpose without obligation

of any kind. To the extent a license is required under Customer's intellectual property rights to make use of the Feedback, Customer hereby grants Tanium an irrevocable, non-exclusive, perpetual, royalty-free license to use the Feedback in connection with Tanium's business, including enhancement of the Licensed Software. Vendor acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.

**11.3 Beta Software.** If the Licensed Software released to Customer has been identified by Tanium as "**Beta Software**," then the provisions of Section 11.1 (Evaluation Software) will apply, in addition to this Section 11.3. Customer is under no obligation to use any Beta Software; doing so is in Customer's sole discretion. Because Beta Software can be at various stages of development, operation and use of the Beta Software may be unpredictable. Customer acknowledges and agrees that: (1) Beta Software has not been fully tested; (2) use or operation of Beta Software should not occur in a production environment; (3) Customer's use of Beta Software will be for purposes of evaluating and testing new functionality and providing Feedback to Tanium; and (4) Customer will inform its personnel regarding the nature of the Beta Software. In addition, Tanium has no obligation to Customer to (1) further develop or release the Beta Software or (2) provide Services for the Beta Software. If Tanium releases another version of the Beta Software, Customer will return or destroy all prior version(s) or release(s) of the Beta Software that it received from Tanium.

**12. Governing Law/Jurisdiction.** This Agreement will be governed by and construed in accordance with the Federal laws in force in the United States. This Agreement will not be governed by the conflict of laws rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. The Uniform Computer Information Transactions Act as enacted shall not apply.

**13. General.** This Agreement, together with the attached Data Processing Addendum, Schedules and any exhibits attached hereto, constitutes the entire understanding and agreement between Tanium and Customer with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written communications, including without limitation pre-printed terms and conditions on Customer's purchase order, with respect to the subject matter of this Agreement, all of which are merged in this Agreement. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by authorized representatives of both parties. In the event any provision of this Agreement is found invalid or unenforceable pursuant to judicial decree, the remainder of this Agreement shall remain valid and enforceable according to its terms. Any failure by Tanium to strictly enforce any provision of this Agreement will not operate as a waiver of that provision or any subsequent breach of that provision. All notices, demands, or consents given under this Agreement will be in writing to the address on Page 1 of this Agreement, "Attention Legal Department." Notices will be considered when delivered personally, or three (3) days after deposit in the mail (registered mail), or one (1) day after being sent by overnight courier. There are no intended or implied third-party beneficiaries of this Agreement. The following provisions shall survive any termination or expiration of this Agreement: Sections 2 (Restrictions), 4 (Term and Termination), 5.1 (Fees and Expenses; Delivery and Taxes), 6.2 (Systems Information), 9 (Limitation of Liability), 10 (Confidentiality), 11.2 (Feedback), 12 (Governing Law/Jurisdiction), 13 (General), 15 (U.S. Government Rights), 16 (Audit), 17 (Force Majeure), and Customer's indemnity obligations hereunder. Tanium may assign any of its rights or obligations hereunder as it deems necessary. **IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT ANY REMEDY HEREUNDER IS DETERMINED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, ALL LIMITATIONS OF LIABILITY AND EXCLUSIONS OF DAMAGES SET FORTH HEREIN SHALL REMAIN IN EFFECT.**

**14. Export.** Customer acknowledges that the Licensed Software is subject to the export control, economic sanctions, and import laws, regulations and requirements of the United States and other countries including European Union regulations. Without limiting the foregoing, Customer agrees that it will not export, re-export, or re-transfer the Licensed Software or Services in contravention of the foregoing, or provide the Licensed Software or Services to any person, in any jurisdiction, or to any user that would create a licensing requirement under U.S. Export control and economic sanctions laws, regulations and requirements without first obtaining any such license. Customer acknowledges that certain Licensed Software that contains encryption may be subject to export and/or import restrictions in other countries. Tanium will reasonably cooperate, in Tanium's discretion, in assisting Customer with respect to an application for any required export or import licenses and approvals; however, Customer acknowledges it is Customer's ultimate responsibility to comply with all export and import laws and that Tanium has no further responsibility after the initial sale to Customer within the original

country of sale. In addition to the other requirements of this Section, Customer shall be solely responsible for complying with the import laws and regulations and other relevant restrictions, if any, of any country into which Customer imports the Licensed Software or Services. Customer will not export or use any Licensed Software or Services in any country not supported by Tanium, including, but not limited to, embargoed and sanctioned countries as promulgated by the United States Government.

- 15. U.S. Government Rights.** The Licensed Software is commercial computer software as described in DFARS 252.227-7014(a) (1) and FAR 2.101. If acquired by or on behalf of any agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in FAR 12.212, Computer Software.
- 16. Audit.** During the term of this Agreement and for one (1) year thereafter, no more than once in any twelve (12) month period, Tanium may audit Customer's use of the Licensed Software ("**Audit**"). An Audit will generally consist of Customer providing a system-generated deployment report evidencing Customer's deployment of the Licensed Software. An Audit may also include the inspection and review of computers or servers on which the Licensed Software has been installed or hosted, and Customer's compliance with the terms of this Agreement. Tanium (or an auditor retained by Tanium) shall provide Customer at least five (5) days' advance notice of an Audit. Customer will reasonably cooperate with Tanium and any auditor retained by Tanium in the conduct of the Audit. Audits will be conducted during Customer's normal business hours and are subject to Government security requirements. The cost of the Audit shall be borne by Tanium. Customer will immediately remit payment for any Licensed Software deployed in excess of the Licensed Software licenses purchased by Customer under this Agreement.
- 17. Force Majeure.** Excusable delays shall be governed by FAR 52.212-4(f).

*[Signature Page Follows]*



Tanium and Customer have executed this Agreement to become effective as of the Effective Date.

**TANIUM INC.**

**CUSTOMER**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

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Title

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Date

\_\_\_\_\_  
Date

**Exhibit A**

**TANIUM SUPPORT SERVICES TERMS AND CONDITIONS**

**Tanium will provide Support Services to Customer according to the Agreement and Support Services Terms and Conditions set forth below. Capitalized terms not otherwise defined herein will have the meaning set forth in the Agreement.**

**1. Definitions.**

**“Error”** means a failure of the Licensed Software to perform in substantial accordance with the Documentation.

**“Error Correction”** or **“Correction”** means the use of reasonable commercial efforts to correct Errors.

**“Fix”** means the repair or replacement of object or executable code versions of Licensed Software to remedy an Error.

**“Previous Sequential Release”** means at any time the release of Licensed Software that has been replaced by the then-current release of the same Licensed Software. Notwithstanding anything else, a Previous Sequential Release will be supported by Tanium only for a period of three (3) months after release of the then-current release. For example, Tanium will support 1.0 for a period of three (3) months following release of 1.1.

“**Severity 1 Error**” means an Error that renders Licensed Software inoperative or causes Licensed Software to fail catastrophically.

“**Severity 2 Error**” means an Error that substantially degrades the performance of Licensed Software or materially restricts Customer’s use of the Licensed Software.

“**Severity 3 Error**” means an Error that causes only a minor impact on the performance of Licensed Software or Customer’s use of Licensed Software.

“**Support Services**” or “**Support**” means Tanium support services as described in Section 4 (Standard Support Services), Section 6 (Premium Support), and/or Section 7 (Premium Onsite Support and Enterprise Services Resources), as applicable.

“**Support Request**” means a Customer request made to Tanium in accordance these Support Services Terms and Conditions.

“**Telephone Support**” means technical support telephone assistance provided by Tanium to the Technical Support Contact concerning the installation and use of the then-current release of Licensed Software and the Previous Sequential Release.

“**Technical Support Contact**” means the person designated by Customer that may contact Tanium for support.

“**Workaround**” means a change in the procedures followed or data supplied by Customer to avoid an Error without substantially impairing Customer’s use of Licensed Software.

2. **Support Term: Renewal Fees. Unless otherwise set forth in a Schedule, the term of Support shall be one (1) year from the Support order date (the “Initial Support Term”). After the Initial Support Term, the Support may be renewed by both parties exercising an option, or a new purchase order, and all applicable fees shall be due at the commencement of each successive one (1) year period or other period specified in a Schedule (each a “Renewal Support Term”). The Initial Support Term and** any Renewal Support Terms, if any, are referred to collectively as the “**Support Term.**” Unless otherwise set forth in a Schedule, following the Initial Support Term, Tanium may change the fees for Support set forth above by providing Customer with thirty (30) days’ written notice in advance of the effective date of any change in such fees.

3. **Reserved.**

4. **Support Services.**

4.1. *General.* During the Support Term, Tanium shall provide Customer with (i) reasonable support for Customer’s Technical Support Contact(s), (ii) Error Correction, and (iii) Enhancements that Tanium in its sole discretion makes generally available to its other customers at no charge. Support Services are available Monday through Friday, 7 a.m. to 7 p.m. Pacific Standard Time, excluding Tanium holidays. Tanium will endeavor to work with Customer during Customer’s normal business hours in the time zone in which the Customer located. Customer may designate up to a maximum of two (2) Technical Support Contacts with Tanium’s standard Support Services. Tanium is only obligated to provide Support Services to Customer in countries supported by Tanium.

Customer may contact Tanium for support by:

- submitting a request via the Tanium Support Portal;
- emailing [support@tanium.com](mailto:support@tanium.com); or
- calling Telephone Support (1 510 900 9443).

4.2. Tanium will make commercially reasonable efforts to assist Customer with the installation and configuration of the Licensed Software, during the hours specified in Section 4.1 as part of Support Services, which will include, but not be limited to:

- Specifying hardware and software requirements; and
- Reviewing Tanium's pre-deployment and production deployment checklist(s), as applicable.

Customer will support remote delivery via teleconference or screen sharing application (e.g., WebEx). Customer will assign qualified technical administrators and project management personnel to perform hands-on installation and configuration tasks. Customer will make a good-faith effort to ensure timeliness of deployment and Customer will provision alternate physical or virtual server(s) to permit initial agent deployment, if necessary; and Customer will ensure server(s) are in one location. Unless otherwise agreed in writing, Customer will not provide Tanium with direct access to Customer's systems.

4.3. *Error Correction.* Tanium shall use commercially reasonable efforts to correct reproducible Errors reported by Customer in the current unmodified release of the Licensed Software, in accordance with the severity level reasonably assigned to such Error by Tanium:

**Severity 1 Error:** Tanium shall promptly commence the following procedures: (i) assign Tanium engineers to correct the Error; (ii) notify Tanium management that such Error has been reported and of steps being taken to correct such Error; (iii) provide Customer with periodic reports on the status of the corrections; and (iv) initiate work to provide Customer with a Workaround or Fix.

**Severity 2 Error:** Tanium shall exercise commercially reasonable efforts to include a Fix for the Error in the next regular Licensed Software maintenance update.

**Severity 3 Error:** Tanium may include a Fix for the Error in a later major release of the Licensed Software.

4.4. *Unsupported Failures.* If Tanium believes that a problem reported by Customer may not be due to an Error in the Licensed Software, Tanium will so notify Customer. If Customer informs Tanium that it does not wish the problem pursued at Customer's possible expense or if such determination requires effort more than Customer's instructions, Tanium may, at its sole discretion, elect not to investigate the problem without liability therefor.

4.5. *Exclusions.* Notwithstanding the foregoing, Tanium shall have no obligation to provide Support Services for: (i) altered, damaged or modified Licensed Software or any portion of the Licensed Software incorporated with or into other software; (ii) Licensed Software that is not the then-current release or Previous Sequential Release; (iii) Licensed Software issues caused by Customer's negligence, abuse or misapplication, Customer's use of Licensed Software other than as specified in the Documentation, or by other factors beyond the control of Tanium; or (iv) third-party products.

5. **Customer's Obligations.** Customer shall have the following obligations:

5.1. Customer will provide the location of its server(s) to Tanium.

5.2. All Support Requests shall be submitted by Customer to Tanium through Customer's Technical Support Contact(s). Customer may change its designation of Technical Support Contact(s) upon written notice to Tanium.

5.3. Customer shall provide Tanium with the personnel who have free and full access to the Licensed Software for purposes of rendering Support Services, including, where appropriate, dedicated modem access.

5.4. Customer is responsible for (1) preparing and maintaining their systems and facilities in accordance with the specifications of the appropriate suppliers, (2) securing all required permits, inspections, and licenses, (3) providing adequate personnel to assist Tanium in carrying out its duties under this Agreement, (4) installing any  
GSA

Fixes and Enhancements to the Licensed Software made generally available by Tanium, and (5) complying with all applicable state and federal laws.

5.5. Customer shall ensure the appropriate Customer personnel have been trained in the operation, support, and management of the Licensed Software.

5.6. Customer shall be solely responsible for maintaining all necessary backup and recovery procedures to prevent loss of its data.

5.7. Customer shall install and implement Fixes and Enhancements to the Licensed Software made generally available by Tanium within sixty (60) days of their general availability, unless a delay is mutually agreed upon in writing by the parties. Customer's failure to install and implement Fixes and Enhancements may result in Customer's inability to (1) receive future Fixes or Enhancements, or (2) achieve compatibility among the Licensed Software products made available by Tanium.

5.8. Customer shall obtain at Customer's expense the latest level of third-party technology as designated by Tanium.

6. **Premium Support.** If Customer purchases Tanium Premium Support ("TPS"), Tanium will provide an expanded support offering over the duration of the TPS Support Term that, in addition to Tanium's standard Support Services, includes:

6.1. *Priority Support Portal Notification* – Technical Account Manager ("TAM") management team copied on each Support Request submitted by Customer to ensure immediate escalation.

6.2. *Prioritization* – TAMs assigned to Customer will prioritize Support Requests submitted by Customer.

6.3. *Implementation Review and Advice* - TAMs assigned to Customer will be available to assist with the deployment and configuration of the Licensed Software and provide ongoing advice to the Customer.

6.4. *Remote Support* – TAMs assigned to the Customer will provide remote support.

6.5. *24-Hour Support* – For Severity 1 Error and Severity 2 Error Support Requests, 24-hour support is available via telephone, Support Portal or email.

6.6. *Technical Support Contacts* – Customer may designate up to a maximum of six (6) Technical Support Contacts with TPS.

6.7. *24-Hour Support Process.*

During normal business hours, support for Severity 1 Error and Severity 2 Error Support Requests following the guidelines specified in the relevant Standard Support Services and Premium Support Services sections. During off-business hours, Support is extended through TPS.

- Support Portal – Support Requests made through the Support Portal during off hours are automatically assigned to active TAMs. For appropriate escalation, Support Requests must be flagged as "Severity 1 Error" or "Severity 2 Error" and must be filed through a user account where the domain of the configured email matches a customer entitled to TPS. If the Support Request is not engaged or opened in a timely fashion, active TAM managers are automatically notified.
- Phone Support – Support Requests via telephone during off hours are sent to active TAMs. Only Support Requests that are verbally verified as "Severity 1 Error" or "Severity 2 Error" will be engaged and supported during off hours.

- Support Portal-Email Support – Support Requests via email to [support@tanium.com](mailto:support@tanium.com) cannot be escalated with the appropriate “Severity 1 Error” or “Severity 2 Error” classification. However, once submitted, the Technical Support Contact or reporter of the Support Request may enter the Support Portal and directly update the Support Request to include the “Severity 1 Error” or “Severity 2 Error” classification to engage in the 24-hour support process accordingly.

7. **Premium Onsite Support and Enterprise Services Resources.** If Customer purchases Premium Onsite Support Services or an Enterprise Support Services Resource, the terms and conditions of Appendix A will apply.

## Appendix A to Exhibit A

### Premium Onsite Support Services and Enterprise Support Services Resources

#### 1. Premium Onsite Support.

1.1 *General.* Tanium Premium Onsite Support may be obtained from Tanium at its then-current list price or a mutually negotiated price in accordance with the GSA Schedule Pricelist. Premium Onsite Support consists of a fixed number of onsite support visits to be provided by a qualified Tanium Technical Account Manager (“**TAM**”). Unless otherwise set forth in the Agreement or Schedule, each unit of Premium Onsite Support will entitle Customer to a maximum number of site visits during the relevant premium support term, the length of which is specified in the Agreement or Schedule (“**Premium Support Term**”). A site visit will generally be based on an eight (8) hour work day, during normal business hours, but a particular visit may vary based on the specific needs of the Customer that can reasonably be accomplished in a business work day. If Customer purchases Premium Onsite Support Services, Tanium will perform the support services for Customer in accordance with the following terms and conditions.

*During the site visits, the TAM may:*

- act as a primary Tanium console operator in a staff augmentation capacity for the Customer;
- help plan, communicate and monitor the status, health and challenges associated with installation and deployment of the Licensed Software in Customer’s environment;
- provide consolidated reporting of current deployment status to Tanium’s senior technical and sales leadership and designated Customer representatives;
- maintain ongoing technical relationships with Customer and provide weekly reporting to Tanium’s senior technical and sales leadership and designated Customer representatives;
- track all tickets, bugs, feature requests, improvement requests and ongoing communications regarding the Licensed Software within the customer’s environment;
- observe ongoing operations for potential problems and improvements; such observations will be brought to the attention of Tanium’s senior technical and sales leadership and designated Customer representatives; and
- independently undertake tuning and configuration of the Tanium system as well as provide more advanced technical support.

*The TAM will not and the Customer shall ensure that its personnel do not request that the TAM:*

- create custom content such as sensors, packages, and ‘Saved Questions’ for the Licensed Software;
- execute an action (e.g., deploying a patch) using the Licensed Software without the advance written review and approval by a designated Customer representative;
- use the Licensed Software to perform any incident response services;
- use any destructive content (e.g., file delete action) on behalf of the Customer; or

- act in a capacity to directly support the underlying operating system, hardware, network or other involved hardware or software on which the Tanium instance is running or dependent.

In addition, Tanium will designate a lead onsite TAM during the Premium Support Term (“**Lead OTAM**”) where Tanium and Customer agree that the level of support and/or necessary access and privileges require the TAM to be a named individual. The Lead OTAM will be the primary TAM supporting Customer during the Premium Support Term. Tanium and Customer will cooperate to select a Lead OTAM who will be eligible for all necessary access and privileges to perform the support services described herein. Customer acknowledges and agrees that the timeline for the Lead OTAM to on-board at Customer’s location is approximately sixty (60) to ninety (90) days from the order date (“**On-Boarding Period**”). During the On-Boarding Period, Tanium will assign an interim support resource, which may be an interim Lead OTAM or other available TAM, to facilitate the support services. In any event, site visits for all resources will be scheduled by phone, email, or through the Tanium’s TAM scheduling tool and in accordance with applicable Government security requirements. Customer may not be able to schedule a site visit for specific days due to paid-time-off, illness, holidays, training, vacations or meetings. Even on days when a TAM is not available for a site visit, Customer may obtain TAM support through interim resources using the TAM scheduling tool or through Tanium’s standard Technical Account Management procedures set forth in the Agreement. The interim TAM will support Customer until the Lead OTAM commences or returns, as applicable, or a new Lead OTAM is designated by Tanium.

TAMs will work with Customer to schedule site visits. Scheduling may be accomplished by planning visits one day at a time or by designating regular office hours on a recurring basis. If the Lead OTAM is unavailable or has not yet been designated, an interim lead or other TAM resource will conduct site visit(s). Customer bears the ultimate responsibility to schedule the TAM site visits. No refunds for Premium Onsite Support Services will be provided because Customer did not schedule visits or was unable to provide access, materials, credentials, escorts or anything else necessary to conduct the support services described herein during the Premium Support Term.

*1.2 Customer Responsibilities.* While Tanium endeavors to complete Support Services in a reasonable period of time, certain factors are beyond Tanium’s control, including force majeure events and delays caused by third parties and Customer. Tanium shall not be responsible for any delays or liabilities resulting from such factors. In addition to any Customer responsibilities set forth in the Agreement, to facilitate prompt and efficient completion of the Support Services, Customer and its personnel shall cooperate fully with Tanium and its personnel in all respects, including, without limitation, providing information as to Customer requirements, providing access to the equipment/hardware on which the Licensed Software is or will be installed, and providing access to all necessary information regarding Customer’s systems. Customer shall be responsible for making, at its own expense, any changes or additions to Customer’s current systems, software, and hardware that may be required to support operation of the Licensed Software. In addition, Customer is responsible for providing the TAM or Lead OTAM with all access, materials, credentials, escorts, or anything else necessary to conduct the Support Services described herein.

In addition, Customer will assign an action reviewer/approver to act in as the final Tanium Action Approver for all Tanium Actions submitted by the Lead OTAM who will have final approval authority for all actions issued in the Tanium console; and enable action approver within the Tanium console and enforce the use thereof.

*1.3 Scope and Progress Meeting.* Tanium and Customer will develop a mutually acceptable work plan for any services that are beyond the scope of Premium Onsite Support Services set forth above. Customer will appoint a senior-level technology professional to serve as a liaison with the Lead OTAM. Customer’s representative and the Lead OTAM will meet once a week to discuss the status and progress of all work related to the Premium Onsite Support Services.

*1.4 Remote Support.* Certain Support Services may be provided remotely via telephone or electronic communications. Customer agrees that Tanium resources may access Customer’s systems during the relevant Premium Support Term, using a defined standard virtual private network (VPN). If a network connection between Tanium and Customer’s systems is required for Tanium to perform the Support Services, Customer will provide such access as follows:

- Customer is responsible for ensuring that (i) its network and systems comply with specifications provided by Tanium; (ii) all components of Customer's Tanium environment are accessible through the VPN; and (iii) the VPN is installed in a timely manner for Tanium to perform the Support Services.
- Customer is responsible for acquiring and maintaining any equipment and performing any activities necessary to set-up and maintain network connectivity at and to Customer's Tanium environment.
- Customer will provide and maintain user accounts for, and access to, the VPN for the Tanium resources, including, but not limited to, Tanium's onsite and remote resources.
- Tanium is not responsible for network connection issues, problems or conditions arising from or related to network connections, such as bandwidth issues, excessive latency, network outages, and/or any other conditions that are caused by an internet service provider, or the network connection. If Customer's VPN client software and/or VPN infrastructure fails to allow Tanium access to perform Support Services, Customer agrees to pay for any increased costs resulting from such failure.

## 2. Enterprise Support Services Resources.

2.1 *General.* Tanium Enterprise Support Services Resources may be obtained from Tanium at its then-current list price or mutually negotiated price during the relevant Enterprise Support Services term, the length as specified in the Agreement or Schedule ("**ESR Support Term**"). The Enterprise Support Services Resource ("**ESR**") will be available to provide Enterprise Support Services for a specified period of time, as determined by Tanium, during the ESR Support Term, which may consist of remote and onsite support. If applicable, unless otherwise set forth in the Agreement or Schedule, Tanium and Customer will determine the number of site visits required during the ESR Support Term. A site visit will generally be based on an eight (8) hour work day, during normal business hours, but a particular visit may vary based on the specific needs of the Customer that can reasonably be accomplished in a business work day. If Customer purchases Tanium Enterprise Support Services, Tanium will provide an ESR to Customer in accordance with the following terms and conditions.

*The ESR may:*

- act as a primary Tanium console operator in a staff augmentation capacity for the Customer;
- help plan, communicate and monitor the status, health and challenges associated with installation and deployment of the Licensed Software in Customer's environment;
- provide consolidated reporting of current deployment status to Tanium's senior technical and sales leadership and designated Customer representatives;
- maintain ongoing technical relationships with Customer and provide weekly reporting to Tanium's senior technical and sales leadership and designated Customer representatives;
- track all tickets, bugs, feature requests, improvement requests and ongoing communications regarding the Licensed Software within the customer's environment; and
- observe ongoing operations for potential problems and improvements; such observations will be brought to the attention of Tanium's senior technical and sales leadership and designated Customer representatives.

*The ESR will not and the Customer shall ensure that its personnel do not request that an ESR:*

- create custom content such as sensors, packages, and 'Saved Questions' for the Licensed Software;
- execute an action (e.g., deploying a patch) using the Licensed Software without the advance written review and approval by a designated Customer representative;
- use the Licensed Software to perform any incident response services;
- use any destructive content (e.g., file delete action) on behalf of the Customer;
- act in a capacity to directly support the underlying operating system, hardware, network or other involved hardware or software on which the Tanium instance is running or dependent; or
- change any settings, undertake Tanium server or client tuning or conduct advanced troubleshooting without direct instruction from the assigned primary TAM or such delegate as assigned by said primary TAM.

Customer acknowledges and agrees that the timeline for the ESR to on-board at Customer's location is approximately thirty (30) to ninety (90) days from the order date ("**On-Boarding Period**"). During the On-Boarding Period, Tanium will assign an interim support resource, which may be the TAM, to facilitate the Enterprise Support Services until the parties agree upon the individual to be placed as the ESR. Tanium and Customer will work together in good faith to select the ESR. In the event Customer rejects the ESR candidate or delays in the selection of a reasonable candidate Tanium has offered for consideration, Tanium will assign an interim ESR. The ESR will work during normal business hours or as mutually agreed upon between Tanium and Customer. The ESR may be required to be out-of-the-office due to PTO, illness, holidays, training, vacations or meetings. During this time out-of-the-office, or should the ESR's employment with Tanium end, Tanium may provide to Customer an interim support resource that will support Customer until the ESR returns or a new ESR is designated by Tanium through the ESR Support Term. In all instances, an interim support resource will provide Enterprise Support Services remotely and may be a shared resource.

Customer acknowledges that any delay in the selection of an ESR candidate may: (1) result in Customer not being able to have its desired individual perform the Enterprise Support Services; (2) result in the use of an interim support resource; and (3) hinder the performance of the Enterprise Support Services as described herein. Customer also acknowledges that it might not be possible to retain a particular individual for the ESR Support Term. Customer will not receive any refunds or credits for any period in which an interim support resource is utilized.

*2.2 Customer Responsibilities.* While Tanium endeavors to complete Enterprise Support Services in a reasonable period of time, certain factors are beyond Tanium's control, including force majeure events and delays caused by third parties and Customer. Tanium shall not be responsible for any delays or liabilities resulting from such factors. In addition to any Customer responsibilities set forth in the Agreement, to facilitate prompt and efficient completion of the Enterprise Support Services, Customer and its personnel shall cooperate fully with Tanium and its personnel in all respects, including, without limitation, providing information as to Customer requirements, providing access to the equipment/hardware on which the Licensed Software is or will be installed, and providing access to all necessary information regarding Customer's systems. Customer shall be responsible for making, at its own expense, any changes or additions to Customer's current systems, software, and hardware that may be required to support operation of the Licensed Software. In addition, Customer is responsible for providing the ESR with all access, materials, credentials, escorts, or any other thing necessary to conduct the Support Services described herein.

In addition, Customer will assign an action reviewer/approver to act in as the final Tanium Action Approver for all Tanium Actions submitted by the ESR who will have final approval authority for all actions issued in the Tanium console; and enable action approver within the Tanium console and enforce the use thereof.

*2.3 Scope and Progress Meeting.* Tanium and Customer will develop a mutually acceptable work plan for any services that are beyond the scope of Enterprise Support Services set forth above. Customer will appoint a senior-level technology professional to serve as a liaison with the ESR. Customer's representative and the ESR will meet once a week to discuss the status and progress of all work related to the Enterprise Support Services.

*2.4 Remote Support.* Certain Support Services may be provided remotely via telephone or electronic communications. Customer agrees that Tanium resources may access Customer's systems during the relevant ESR Support Term, using a defined standard virtual private network (VPN). If a network connection between Tanium and Customer's systems is required for Tanium to perform the Enterprise Support Services, Customer will provide such access as follows:

- Customer is responsible for ensuring that (i) its network and systems comply with specifications provided by Tanium; (ii) all components of Customer's Tanium environment are accessible through the VPN; and (iii) the VPN is installed in a timely manner for Tanium to perform the Support Services.
- Customer is responsible for acquire and maintaining any equipment and performing any activities necessary to set-up and maintain network connectivity at and to Customer's Tanium environment.
- Customer will provide and maintain user accounts for, and access to, the VPN for the Tanium resources, including, but not limited to, Tanium's onsite and remote resources.



Tanium is not responsible for network connection issues, problems or conditions arising from or related to network connections, such as bandwidth issues, excessive latency, network outages, and/or any other conditions that are caused by an internet service provider, or the network connection. If Customer's VPN client software and/or VPN infrastructure fails to allow Tanium access to perform Support Services, Customer agrees to pay for any increased costs resulting from such failure.

## SOFTWARE LICENSE RIDER – U.S. GOVERNMENT

This Software License Rider (“Rider”) supersedes the commercial computer software End User License Agreement (“EULA”) which is included as “click-wrap” within the commercial computer software and/or included as an attachment to the EC America GSA Contract (“Agreement”). This Rider brings the EULA into compliance with the “Notice of Class Deviation to Commercial Supplier Agreement Terms Inconsistent with Federal Law,” 80 Fed. Reg. 15011 (March 20, 2015), and GSA Acquisition Letter MV-15-03, “Memorandum for the Acquisition Workforce: Class Deviation Addressing Commercial Supplier Agreement Terms that Conflict or Are Incompatible with Federal Law” (July 31, 2015). FAR 12.212(a) require the Government procure commercial computer software under the licenses customarily provided to the public except to the extent that those licenses are inconsistent with Federal law. The EULA is modified as follows:

**1. *Click-wrap.* No Government nor any Government authorized end user shall be deemed to have agreed to any clause by virtue of it appearing in the EULA, rather the EULA and this Software Rider are accepted by inclusion in the Agreement by an authorized official. If the EULA or any other third-party EULA is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause; such indemnity clause is deemed to be stricken from the EULA. The Government acknowledges that third party terms may apply but does not agree to be bound by them unless provided for review. Inclusion of these Third Party License Agreement(s) within release notes within the Licensed Software file is an acceptable presentation of the Third Party License Agreement(s), provided that the Third Party License Agreement(s) will not create any new monetary obligation upon the End User or diminish the End User's right to use the Licensed Software as set forth in the EULA where the End User is in compliance with the EULA. Any clause to the contrary is hereby deleted.**

***2. Applicability.*** The EULA and this Software License Rider is a part of the Agreement between Tanium and the U.S. Government for the acquisition of the supply or service that necessitates a license, except to the extent inconsistent with Federal law.

***3. End user.*** This Software License Rider and the EULA shall bind the ordering activity as end user but shall not operate to bind a Government employee or person acting on behalf of the Government in his or her personal capacity.

***4. Law and disputes.*** This Software License Rider and the EULA are governed by Federal law.

(a) Any language purporting to subject the U.S. Government to the laws of a U.S. state, U.S. territory, district, or municipality, or a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(b) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(c) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(d) Other disputes will be resolved through the Disputes Clause in the Agreement.

5. **Continued performance.** If the supplier or licensor believes the ordering activity to be in breach of the Agreement, it shall continue performance while pursuing rights under the Disputes Clause in the Agreement.

6. **Arbitration; equitable or injunctive relief.** In the event of a claim or dispute arising under or relating to the Agreement, (a) binding arbitration shall not be used unless specifically authorized by agency guidance, and (b) equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the U.S. Government only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

7. **Additional terms.**

**(a) This Software License Rider may unilaterally incorporate additional terms by reference. Terms may be included by reference using electronic means (e.g., via web links, click and accept, etc). Such terms shall be enforceable only to the extent that:**

(i) When included by reference using electronic means, the terms are readily available at referenced locations; and

(ii) Terms do not materially change Government obligations; and

(iii) Terms do not increase Government prices; and

(iv) Terms do not decrease overall level of service; and

(b) Terms do not limit any other Government rights addressed elsewhere in this contract. order of precedence clause of this contract notwithstanding, any software license terms unilaterally revised subsequent to award are not enforceable against the Government.

8. **No automatic renewals.** If any license or service tied to periodic payment is provided under the EULA (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express Government approval.

9. **Indemnification & Liability.** Any clause of the EULA requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. § 516. The Government shall not indemnify any entity. The Government agrees to pay for any loss, liability or expense, which arises out of or relates to the Government's acts or omissions with respect to its obligations hereunder, where a final determination of liability on the part of the Government is established by a court of law or where settlement has been agreed to by the Government agency with, where appropriate, coordination of the Department of Justice. This provision shall not be construed to limit the Government's rights, claims or defenses which arise as a matter of law or pursuant to any other provision of the Agreement.

10. **Audits.** Any clause of the Agreement permitting the commercial supplier or licensor to audit the end user's compliance with the Agreement is hereby amended as follows: (a) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying Government contract or order. (b) This charge, if disputed by the ordering activity, will be resolved through the Disputes clause at FAR 52.233-1; no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process; (c) Any audit requested by the Contractor will be performed at the Contractor's expense, without reimbursement by the Government and in accordance with Government security requirements.

11. **Taxes or surcharges.** Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the Government contract.

12. **Non-assignment.** The Agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval.

13. **Use of Government logos.** Notwithstanding any contrary provision contained in the Agreement, the vendor shall not be permitted to use U.S. Government logos for advertising or endorsement purposes, without obtaining the separate written consent of the Government.

14. **Right of entry.** No provision in the Agreement shall provide any Party the right of entry to any Government facility.

15. **Termination.** Termination, including termination for convenience of the government, may occur in accordance with the procedures described in Paragraph 4 of the Tanium EULA in the GSA Schedule Contract. Any terms of unilateral termination by Tanium are hereby deleted. Recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.