Dynatrace and the Ordering Activity ("Customer" "End User" or "Ordering Activity") under GSA Schedule contracts in an Order Form that incorporates either by reference or attachment these terms and conditions (the "End-User Terms", and together with the Order Form, the "Agreement") agree as follows:

1. **DEFINITIONS**. The following terms have the meanings set forth below, unless otherwise indicated:

1.1. "Affiliate" means an entity that controls, is controlled by or is under common control with another entity, where "control" refers to ownership or the right to direct more than 50% of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority of another entity.

1.2. "Applicable Privacy Laws" means, in relation to any Personal Data that is processed in the provision of the Dynatrace Offerings, the applicable legislation on the protection of identifiable individuals, including where applicable the national/ statutes, decisions, guidelines, guidance notes and codes of practice issued from time to time by courts, data protection authorities and other applicable government authorities.

1.3. "Customer Data" means all data submitted, stored, posted, displayed, or otherwise transmitted by or on behalf of Customer in connection with the Products.

1.4. "Customer Hosted Software" means the software provided in machine-readable object code form to a Customer as identified in an Order Form, and if applicable, new releases, versions and updates to the foregoing provided as part of Support or during the Term. Customer Hosted Software may, in Dynatrace's discretion, be offered on a perpetual basis or on a subscription basis for a limited term.

1.5. "Deliverable" means all works of authorship, formulas, algorithms, databases, scripts, modifications, configurations, logos, symbols, designs, and other inventions (whether patentable or not) that Dynatrace authors, makes, conceives, reduces to practice, develops or otherwise creates, either alone or jointly with others, while performing Professional Services.

1.6. "Documentation" means the then-current technical and non-technical specifications for a Product contained in the user, system, specification, support and configuration documentation made generally available to Dynatrace customers at www.dynatrace.com, through customer portals and otherwise.

1.7. "Dynatrace Materials" means all documentation, materials, methodologies, processes, techniques, ideas, concepts, trade secrets, and know-how embodied in the Products, including Deliverables, or that Dynatrace may develop or supply in connection with the Products, Professional Services or Deliverables.

1.8. "Dynatrace Offerings" means the Products, Support and Professional Services.

1.9. "Dynatrace Properties" means the Products, Documentation, Deliverables, and Dynatrace Materials, including all copies, portions, extracts, selections, arrangements, compilations, adaptations, modifications and improvements thereof, and all derivative works; of any of the foregoing; this Agreement constitutes Customer's Contracting Officer consent to Dynatrace copyright per FAR 52.227-14(c)(1). Ownership of derivative works should be as set forth in the copyright statute, 17 USC 103, and the FAR clause at 52.227-14.

1.10. "Intellectual Property Rights" means (i) patents and patent rights, rights of priority, mask work rights, copyrights, moral rights, trade secrets, know-how and any other form of intellectual or industrial property rights; (ii) any other protected rights or assets and any licenses and permissions in connection therewith; (iii) trademarks, trade names, logos, service marks, designs and other designations of source; in each case (i), (ii) or (iii), recognized in any country or jurisdiction of the world, and whether or not registered or able to be registered and for the full period thereof, and all extensions and renewals thereof, and all applications for registration in connection with the foregoing.

1.11. "Open Source Software" means any open source, community, or other free code or libraries of any type, including, without limitation, any code which is generally made available on the internet without charge, such as, for illustrative purposes only, any code licensed under the GNU Affero General Public License (AGPL), GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Apache License, BSD licenses, or other licenses approved by the Open Source

Initiative.

1.12. "Order Form" means each negotiated Purchase Order or Dynatrace order form, product schedule, renewal quote or other order document signed by the duly authorized representatives of both parties, or Dynatrace quote which by its terms is accepted by the issuance of a purchase order by Customer or its authorized representative, which identifies the Product, Support and/or Professional Services ordered by Customer. An Order Form may include an SOW.

1.13. "Personal Data" means any information that by itself or in combination does or can identify a specific individual or as defined in the Applicable Privacy Laws.

1.14. Reserved.

1.15. "Products" means the Customer Hosted Software and SaaS Subscription.

1.16. "Professional Services" means any implementation, training, consulting, performance analysis or other professional services, provided by Dynatrace as set forth in an Order Form or in a SOW.

1.17. "Restricted Information" means any confidential or personal information that is protected by law and that requires the highest level of access control and security protection, whether in storage or in transit. Restricted Information includes, but is not limited to: electronic protected health information (ePHI as defined by the HIPAA and HITECH Acts), credit, debit or payment card information regulated by the payment card industry, information subject to the Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501-6505, and information classified as "special category data" (or similar term) under Applicable Privacy Laws.

1.18. "Statement of Work" or "SOW" means a written description of the Professional Services to be provided to Customer pursuant to the terms of the Agreement.

1.19. "SaaS Subscription" means the hosted services provided by or on behalf of Dynatrace to Customer pursuant to an Order Form, including the electronic reports, analyses, and statistical and performance related information generated by the SaaS Subscription.

1.20. "Support" means the Product updates and technical support services generally made available from time to time without charge to Dynatrace customers, or if applicable, to customers who have purchased premium Support or maintenance for Products licensed on a perpetual basis, as specified in the Dynatrace support policies.

1.21. "Term" means the period for Customer's access to the SaaS Subscription or use of the On-Premise Software (whether perpetual, limited or subscription) set forth in an Order Form.

1.22. "Subsidiary" means a subsidiary which is greater than fifty (50%) percent owned by a party.

1.23. "Users" means Customer or a Subsidiary's employees and Third-Party Users (as defined in Section 4), if applicable, for whom use and access has been purchased, or obtained for Evaluation.

2. **AGREEMENT; ORDER OF PRECEDENCE.** The Agreement governs the use by Customer and its Users of the Dynatrace Offerings. In the event of a conflict between an Order Form and the End-User Terms, the Order Form will take precedence..

3. **PARTNER TRANSACTIONS**. These Dynatrace End-User Terms (with the exception of terms relating to delivery of and payment for the Dynatrace Offering) govern the use of any Dynatrace Offering purchased by an end-user in a resale transaction authorized by Dynatrace (an "End-User"). Bythe GSA Schedule Contract holder and the Ordering Activity executing this agreement in writing, such End-User agrees to and is bound by these Dynatrace End-User Terms. Partners and federal government end-users acknowledge and agree that Dynatrace Offerings are "commercial items" as defined in Federal Acquisition Regulation (FAR) 2.101, and that any agreement between Dynatrace and Customer is a commercial-item contract governed by FAR 12.212 and FAR Clause 52.227-14.

4. **THIRD PARTY USERS.** Customer may designate its third-party contractor or vendor as a "User" (also referred to as "Third-Party User") as required to facilitate Customer's permitted use of the Products,

provided that use and access by any Third-Party User must be under obligation of non-disclosure consistent with Section 15 (Confidentiality), solely for Customer's or its Subsidiary's internal business operations and benefit, and otherwise subject to the terms of the Agreement. Customer accepts responsibility for the acts or omissions of such Third-Party Users as if they were its own

5. **LICENSE GRANT**. The license and use rights in the Product granted hereunder are subject to compliance by Customer and its Users with the Dynatrace End-User Terms and the applicable Order Form. Customer acknowledges and agrees that the right to use the Products is not subject to or contingent upon the delivery of any future modules, features, functionalities, upgrades or enhancements ("Future Products") or contingent on any comments by Dynatrace, whether oral or written, regarding Future Products.

5.1. **Customer Hosted Software**. Dynatrace grants Customer, during the Term, a limited, non-exclusive, non-transferable right and license (without the right to grant or authorize sublicenses) to install and use the Customer Hosted Software solely by Customer and its Users within the territory, scope, type of use and as otherwise set forth in the applicable Order Form and for which Customer has paid the applicable fees to process Customer Data for Customer's internal business purposes, in accordance with the Documentation and the Agreement. Customer may reproduce the Customer Hosted Software and Documentation as reasonably necessary to support its authorized use of the Customer Hosted Software, and for backup and archival purposes, provided such copies include the Dynatrace trademarks, trade names, logos, and notices present on the Customer Hosted Software and Documentation.

5.2. **SaaS Subscription**. Dynatrace grants Customer, during the Term, a limited, non-exclusive, non-transferable right for its Users to access and use the SaaS Subscription including, without limitation, the reports and statistical data generated for Customer through its use of the SaaS Subscription, solely by Customer and its Users within the territory, scope, type of use and as otherwise set forth in the applicable Order Form and for which Customer has paid the applicable fees to process Customer Data for Customer's internal business purposes, in accordance with the Documentation and the Agreement.

5.3. **Open Source Software**. Notwithstanding the foregoing license grants, these End-User Terms are not meant to change or supersede the terms of any Open Source Software license applicable to any portion of the Products. To the extent that the terms of any such license applicable to any portion of the Products conflict with the license grants set forth herein, the terms of such Open Source Software license will prevail. Dynatrace reports for open source components can be found here: https://www.dynatrace.com/company/trust-center/customers/reports/.

5.4. **Government Customer and End-User Rights.** For all United States Government Customers and End-Users, whether acquiring a license to the Products directly or indirectly, the terms of this standard commercial software license customarily provided to the public govern, as provided by FAR 12.212, , or other applicable laws and regulations. No other license to the Products is valid or enforceable unless (and solely to the extent) specifically agreed to in writing by Dynatrace.

6. **SUPPORT.** Dynatrace will provide Support for Products as specified in the relevant Order Form, subject to the payment of applicable fees set forth therein.

7. **PROFESSIONAL SERVICES.** This Section 7 (Professional Services) applies only to an Order Form that includes Professional Services.

7.1. **Statements of Work**. Dynatrace will provide the Professional Services identified in an Order Form, which may be further described in one or more SOWs, subject to these End-User Terms and the attached Professional Services Terms . Each SOW may include, without limitation: (i) a description of the scope and type of Professional Services; (ii) the location where the Professional Services will be performed; (iii) any Deliverables; (iv) the schedule for performance and delivery of Deliverables; and (v) additional fees, out of pocket expenses and payment terms applicable to the Professional Services. Dynatrace and Customer will cooperate to enable Dynatrace to perform the Professional Services according to the performance schedule and delivery terms in the SOW, if any, and Customer will perform any Customer obligations specified in the SOW. Dynatrace will not be liable to the extent its performance under a SOW is affected by Customer delay, failure to cooperate or to fulfill Customer obligations under the SOW.

7.2. **Deliverables**. Dynatrace retains all Intellectual Property Rights in the Deliverables and other works prepared by Dynatrace under the Agreement. Subject to Customer's compliance with the Agreement, Dynatrace hereby grants Customer a limited, non-exclusive, non-transferable, license to use and reproduce the Deliverables, solely for its internal business purposes with Customer's related use of the applicable Product. Notwithstanding any other provision of the Agreement, (i) nothing herein will be construed to assign or transfer any Intellectual Property Rights in the Dynatrace Materials used by Dynatrace to develop the Deliverables, and to the extent such Dynatrace Materials are delivered with or as part of the Deliverables, they are licensed, not assigned, to Customer, on the same terms as the Deliverables.

8. PRICING, INVOICES, AND PAYMENTS.

8.1. **Pricing and Invoicing**. Prices and invoice instructions for the Dynatrace Offerings are set forth in the applicable Order Form in accordance with the GSA Schedule Pricelist. Subscription fees and Support as a product may be invoiced in advance, to the extent set forth in the applicable Order Form. Additional charges will apply in the event Customer's usage of the Product exceeds the purchased consumption set forth in an Order Form for that Product.

8.2. **Payments.** Unless otherwise specified in an Order Form, Customer will pay GSA Schedule Contractor on behalf of Dynatrace the amounts set forth on any invoice issued pursuant to the Agreement in the specified currency within thirty (30) days of the receipt date of the invoice. Unless otherwise provided in an Order Form or SOW, Dynatrace may impose a late payment charge governed by the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations a 5 CFR 1315. Customer understands that one or more invoices may be issued under each Order Form, that multiple Order Forms may be executed under these End-User Terms, that Customer shall have no right to set-off, deduct from or reduce payments owed under any Order Form in respect of any claim against or obligation of Dynatrace whatsoever, and that Customer's obligation to pay for products or services ordered under one Order Form is separate from, and not contingent on delivery or performance of other products or services ordered under any other Order Form. In the event of a good faith dispute for payment on any invoice, Customer will notify Dynatrace in writing of the dispute and the parties will use commercially reasonable efforts to resolve such dispute. During any dispute under the Disputes Clause, vendor 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. Undisputed amounts remain payable as provided herein and in the relevant Order Form.

8.3. **Delivery**. Products are made available by electronic delivery. Products are deemed to be delivered and accepted on issuance of the license key or when electronic notice is sent that the purchased Products are available.

9. **TAXES AND DUTIES.** Dynatrace shall state separately on invoices any 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.

10. **RESTRICTIONS.** Customer will not, and will take commercially reasonable steps to ensure that its employees, agents, Users and Affiliates do not: (i) use the Dynatrace Properties in contravention of any applicable laws or government regulations, including, without limitation, applicable privacy laws or in violation of this Agreement; (ii) except and to the extent specifically permitted by applicable law, reverse engineer, decompile, disassemble or otherwise attempt to derive or gain access to the object code, source code or underlying ideas, methodologies or algorithms of the Dynatrace Properties; (iii) modify, adapt, translate, or create derivative works based on any element of the Dynatrace Properties; (iv) sublicense, rent, lease, distribute, publish, sell, resell, assign, or otherwise commercially exploit or transfer its rights to use any Product or Deliverable, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service; (v) use the Products or Deliverables for any purpose other than their intended purposes; (vi) introduce any malicious code or Open Source Software into any Product or Deliverable; (vii) disclose passwords, usernames, or other account information to any third party, except an authorized Third Party User; (viii) access or use any Product or Deliverable for competitive analysis or to design, create, offer or build a product or service that is competitive with or uses

ideas, features or functions similar to any Dynatrace product or service; or (ix) make the Products or any portion thereof available for public use or for use, access, display, searching or retrieval by, or on behalf of, any third party.

11. OWNERSHIP.

11.1. **General**. Customer acknowledges and agrees that this is not an agreement for custom development or "work for hire", and as such, Customer will not acquire any ownership rights in the Dynatrace Properties.

11.2. **Dynatrace Properties; Feedback**. As between Dynatrace and Customer, all right, title and interest in the Dynatrace Properties, and all suggestions, ideas and feedback proposed by Customer regarding the Dynatrace Properties, including all Intellectual Property Rights in each of the foregoing, belong to and are retained solely by Dynatrace or its licensors, as applicable. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the Ordering Activity shall receive unlimited rights to use such derivative works at no further cost. Customer hereby does and will irrevocably assign to Dynatrace all evaluations, ideas, feedback and suggestions made by Customer to Dynatrace regarding the Dynatrace Properties (collectively, "Feedback") and all Intellectual Property Rights in the Feedback. Dynatrace 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. **Customer Data**. As between Dynatrace and Customer, all right, title and interest in the Customer Data and all Intellectual Property Rights therein, belong to and are retained solely by Customer. Customer hereby grants to Dynatrace a limited, non-exclusive, royalty-free, worldwide license to use the Customer Data and perform all acts with respect to the Customer Data as may be necessary for Dynatrace to provide any Dynatrace Offerings to Customer, subject to compliance by Dynatrace with its confidentiality obligations under Section 16 (Confidentiality). Subject to Applicable Privacy Laws, Dynatrace may monitor and collect data resulting from the use of the Dynatrace Offerings by Customer. Customer agrees that such data (excluding Personal Data) will be used for license compliance, support, and to improve Dynatrace's current and future offerings, and may, if aggregated and not identifying Customer, also be used by Dynatrace for industry analysis, benchmarking and analytics.

12. WARRANTIES.

12.1. **Mutual Warranty.** Each party represents, warrants and covenants that: (i) it has the full power and authority to enter into this Agreement and to perform its obligations hereunder, without the need for any consents, approvals or immunities not yet obtained; and (ii) its acceptance of and performance under this Agreement will not breach any agreement with any third party or any obligation owed by it to any third party.

12.2. **Limited Warranties and Remedies**. The following limited warranties apply only to the extent that Customer has purchased the applicable Dynatrace Offering:

12.2.1. **Dynatrace Products**. Dynatrace warrants that the Products will operate substantially in compliance with the applicable Documentation for a period of ninety (90) days after notice of availability for download in the case of Customer Hosted Software, or during the Term in the case of SaaS Subscription, provided that the Products have been properly installed and always used as described in the applicable Documentation, and have not been modified or added to other than by Dynatrace. If the Product does not perform as warranted during the warranty period, Dynatrace will undertake, at its sole option and as Customer's exclusive remedy for breach of this warranty, to (i) correct the non-conformance, (ii) to replace the Customer Hosted Software, or (iii) if Dynatrace determines that it is not commercially reasonable or possible to correct a material non-conformity within a reasonable time from receipt of written notice from Customer detailing the warranty claim, the Order Form for the affected Product will be cancelled and Dynatrace will refund any unused prepaid fees for the affected Product.

12.2.2. **Professional Services**. Dynatrace will use commercially reasonable efforts to perform the Professional Services and deliver the Deliverables according to the specifications, if any, set forth

in the relevant Order Form and SOW. If Dynatrace fails to do so and Customer notifies Dynatrace within 30 days of the date the Professional Services were performed, Dynatrace will undertake at its sole option and as Customer's exclusive remedy for breach of this warranty, to (i) re-perform the non-conforming Professional Services, or (ii) if Dynatrace determines that re-performance is not commercially reasonable, the SOW for the affected Professional Services will be cancelled and Dynatrace will refund to Customer any pre-paid fees corresponding to the affected Professional Services.

12.2.3. **SaaS Subscription**. Customer acknowledges that factors such as changes by Customer to its monitoring profile, network issues, versions of Customer applications, corrupted, incomplete and/or interrupted data received by Dynatrace from Customer's site(s), or other technical limitations described in the Documentation may have a material impact on the accuracy, reliability, availability and/or timeliness of results, and Dynatrace shall not be responsible for any such factors beyond its reasonable control. Customer shall be responsible for all content or materials originating or transmitting from its Web site(s).

WARRANTY DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED ABOVE IN SECTION 12.1 AND 12.2, DYNATRACE DISCLAIMS ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. DYNATRACE DOES NOT WARRANT THAT: (A) THE USE OF ANY DYNATRACE PRODUCT OR DELIVERABLES WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; (B) THE PRODUCTS OR DELIVERABLES OR ANY INFORMATION OBTAINED THROUGH THE PRODUCTS OR DELIVERABLES WILL MEET CUSTOMER'S REQUIREMENTS OR EXPECTATIONS; (C) ANY STORED CUSTOMER DATA WILL BE ACCURATE OR RELIABLE; OR (D) THE PRODUCTS OR DELIVERABLES WILL BE UNINTERRUPTED, ERROR-FREE OR VIRUS-FREE, OR THAT ERRORS OR DEFECTS THEREIN WILL BE CORRECTED. DYNATRACE OFFERINGS MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. DYNATRACE IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS. IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 U.S.C. 7101-7109.

13. **DYNATRACE INDEMNITY.**

13.1. **IP Claims**. Dynatrace, at its expense, will have the right to intervene to defend Customer and its Affiliates and their respective officers, directors and employees (the "Customer Indemnified Parties") from and against all actions, proceedings, claims and demands by a third party (a "Third-Party Claim") alleging that the Product received by Customer under the applicable Order Form, as of the delivery date, infringe any copyright or misappropriate any trade secret and will pay all damages, costs and expenses, including attorneys' fees and costs (whether by settlement or final award) incurred by the Customer Indemnified Parties directly from any such Third-Party Claim. Notwithstanding anything to the contrary in this Agreement, the foregoing obligations will not apply with respect to a claim of infringement that arises out of (i) infringing or illegal Customer Data; (ii) use of the Dynatrace Product in combination with any software, hardware, network, technology or system not supplied by Dynatrace where the alleged infringement relates to such combination; (iii) any modification or alteration of the Product other than by Dynatrace; (iv) Customer's continued use of the Product after Dynatrace notifies Customer to discontinue use because of an infringement claim; (v) use of the Product other than as authorized under this Agreement; or (vi) failure to implement an update, upgrade or bug fix that Dynatrace has provided at no charge where such implementation may avoid infringement. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or suit brought against the U.S. pursuant to its

jurisdictional statute 28 U.S.C. § 516.

13.2. **Mitigation.** If any Third-Party Claim which Dynatrace is obligated to defend has occurred, or in Dynatrace's determination, is likely to occur, Dynatrace may, at its option (i) obtain for Customer the right to continue using the Product; (ii) replace or modify the Product so that it avoids such claim; or if such remedies are not reasonably available, terminate Customer's license for the infringing Product or Deliverable and provide Customer with a refund of any unused fees Customer prepaid to Dynatrace for the infringing Product or Deliverable, provided however that with respect to infringing Products which were licensed to Customer for a perpetual term, such refund is pro-rated equally over a thirty-six (36) month period from the date of delivery of such Product. If such termination materially affects Dynatrace's ability to meet its remaining obligations under the relevant Order Form then Dynatrace may, at its option and upon written notice, terminate the Order Form, in whole or in part.

13.3. **Procedures.** Dynatrace's obligations under this Section 13 are conditioned upon (i) being promptly notified in writing of any Third-Party Claim, (ii) having the right to control the defense and settlement of the Third-Party Claim, and (iii) the Customer Indemnified Parties providing all reasonable assistance (at Dynatrace's expense and reasonable request) in the defense of such Third-Party Claim. The Customer Indemnified Party may, at its own expense, engage separate counsel to advise it regarding a Third-Party Claim and to participate in the defense of the Third-Party Claim, subject to Dynatrace's right to control the defense and settlement.

13.4. **Sole Remedy**. THE TERMS OF THIS SECTION 13 STATE DYNATRACE'S ENTIRE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS BY ANY DYNATRACE PRODUCT, DELIVERABLE, OR OTHERWISE, AND CUSTOMER HEREBY EXPRESSLY WAIVES ANY OTHER LIABILITIES OR OBLIGATIONS OF DYNATRACE WITH RESPECT THERETO.

14. **RESERVED.**

15. **CONFIDENTIALITY.**

15.1. **Definition of Confidential Information**. "Confidential Information" means any and all non-public information disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party") in any form or medium, whether oral, written, graphical or electronic, pursuant to this Agreement, that is designated confidential or proprietary, or that a reasonable person should understand is confidential or proprietary. Confidential Information includes, but is not limited to:, products, know-how, trade secrets, whether or not patentable or copyrightable, security reports, specifications, customers, business plans, pricing information (excluding the GSA Schedule Pricelist and Purchase Order pricing), promotional and marketing activities, finances and other business affairs, Dynatrace Properties and anything else created or developed by Dynatrace in connection with this Agreement and the Dynatrace Offerings. Customer will not remove or destroy any proprietary markings or restrictive legends placed upon or contained in the Dynatrace Properties.

15.2. **Nondisclosure Obligations**. The Receiving Party will not use the Confidential Information of the Disclosing Party for any purpose other than as necessary to fulfill its obligations or to exercise its rights under this Agreement, and by Dynatrace to improve the Dynatrace Offerings (the "Purpose"). The Receiving Party will not disclose Confidential Information of the Disclosing Party to any third party; provided that the Receiving Party may disclose Confidential Information to its partners, officers, directors, employees, contractors, Affiliates, agents, advisors, or representatives ("Representatives") who need access to such Confidential Information for the Purpose and who are subject to written confidentiality obligations at least as stringent as the obligations set forth in this Section 15. Each party accepts responsibility for the actions of its Representatives and will protect the other party's Confidential Information in the same manner as it protects its own valuable confidential information, but with no less than reasonable care. The Receiving Party will promptly notify the Disclosing Party upon becoming aware of a breach or threatened breach hereunder and will cooperate with any reasonable request of the Disclosing Party in enforcing its rights.

15.3. **Exceptions to Confidential Information**. "Confidential Information" does not include information which:

(i) is known by the Receiving Party prior to receipt from the Disclosing Party, without any obligation of confidentiality; (ii) becomes known to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (iii) lawfully becomes publicly known or otherwise publicly available, except through a breach of this Agreement; or (iv) is independently developed by the Receiving Party without use of or access to the Disclosing Party's Confidential Information. The Receiving Party may disclose Confidential Information pursuant to the requirements of applicable law, legal process or government regulation, but only after it notifies the Disclosing party (if legally permissible) to enable the Disclosing party to seek a protective order or otherwise to contest such required disclosure, at the Disclosing Party's expense. Dynatrace recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by the vendor.

16. LIMITATION OF LIABILITY.

16.1. THE CUMULATIVE LIABILITY OF DYNATRACE AND ITS AFFILIATES OTHER THAN AS PROVIDED IN SECTION 13 (DYNATRACE INDEMNITY) WILL NOT EXCEED THE TOTAL PURCHASE ORDER PRICE PAID BY CUSTOMER FOR THE APPLICABLE DYNATRACE OFFERING AT THE TIME THE CLAIM ARISES.

16.2. DYNATRACE WILL NOT BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION, LOST PROFITS, LOSS OF DATA OR COST OF COVER, EVEN IF DYNATRACE KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

16.3. THE WAIVERS AND LIMITATIONS IN THIS SECTION 16 APPLY REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY ASSERTED, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, PRODUCT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, AND WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

16.4. DYNATRACE DOES NOT LIMIT OR EXCLUDE ITS LIABILITY FOR (A) DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE, (B) FRAUDULENT MISREPRESENTATION, OR (C) ANY OTHER LIABILITY TO THE EXTENT THAT SUCH LIABILITY CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.

17. TERM AND TERMINATION.

17.1. **End-User Terms**. The non-material terms and conditions of These End-User Terms may be updated from time to time by Dynatrace, provided that no such update or modification will apply to Order Forms previously executed between the parties. Any material updates to this agreement shall be presented to Ordering Activity for review and will not be effective unless and until both parties sign a written agreement updating these terms.

17.2. **Term of Order Form; SOW**. Each Order Form or SOW incorporating the Dynatrace End-User Terms begins on its effective date and, unless earlier terminated under Section 17.3, continues in effect through the Term set forth therein, or for SOWs, the Service Period as defined therein.

17.3. **Termination for Cause**. 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, Dynatrace 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.

17.4. **Other Termination.** In the event it becomes illegal for Dynatrace to perform any aspect(s) of this Agreement, then Dynatrace will be excused from performance or may terminate this Agreement to the extent necessary to comply with applicable laws, rules or regulations, without any liability for breach or termination.

17.5. **Effect of Termination or Expiration of Agreement**.

17.5.1. **Termination of Order Form; SOW**. On termination or expiration of an Order Form (other than the termination by Customer under Section 17.3 of an Order Form for Product licensed for a perpetual term), Customer's license or subscription to the Product purchased thereunder will terminate and Customer and Users will immediately cease to use SaaS Subscription and either uninstall or destroy the Customer Hosted Software. Upon request by Dynatrace, Customer will certify in writing to Dynatrace that all copies of such Customer Hosted Software are no longer in use. Dynatrace will make any remaining Customer Data stored in the SaaS Subscription available on request by Customer in the format in which it is stored in the SaaS Subscription for up to thirty-five (35) days following the effective date of termination. After such period, Dynatrace will have no obligation to maintain or provide any Customer Data and may thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control. For the avoidance of doubt, except in the case of termination following Customer's infringement of Products as provided in Section 17.3 above, termination of one Order Form will not terminate any other Order Form or other Agreement.

17.5.2. **Refund or Payment upon Termination for Cause**. If an Order Form or SOW is terminated in accordance with Section 17.3 (Termination for Cause), Dynatrace will refund Customer any unused prepaid fees for the Dynatrace Offering terminated.

18. **SURVIVAL.** The following provisions will survive expiration or termination of this Agreement: (i) any payment obligations of Customer hereunder; (ii) 8 (Pricing, Invoicing, and Payments), 9 (Taxes and Duties), 10 (Restrictions), 11 (Ownership), 13 (Dynatrace Indemnity), 14 (Customer Indemnity), 15 (Confidentiality), 16 (Limitation of Liability), 17 (Term and Termination), 25 (Notices), 26 (Governing Law), and (iii) any rights or obligations which are expressed to, or by their nature will, survive. The expiry or termination of this Agreement does not affect any rights which accrued before the date of expiry or termination.

19. **LICENSE COMPLIANCE**. Customer agrees that Dynatrace tracks and records usage of Customer's purchased consumption units, licenses, subscriptions and services. Customer will, without prejudice to other rights of Dynatrace, address any non-compliance identified by Dynatrace by promptly paying additional fees at Dynatrace's then-current list price in accordance with the GSA Schedule Pricelist, which may include reinstatement charges if applicable for lapsed Support contracts equal to the amount of fees had the Support contract not lapsed.

20. **INDEPENDENT CONTRACTORS.** The parties are independent contractors and will so represent themselves in all regards.

21. **FORCE MAJEURE.** Excusable delays shall be governed by FAR 52.212-4(f).

22. **ASSIGNMENT.** Neither party may transfer or assign this Agreement, in whole or in part, without the other's prior written consent. Notwithstanding the foregoing, Dynatrace may, without Customer's consent assign this Agreement or any Order Form or agreement incorporating these End-User Terms, to any of its Affiliates, or to an entity who acquires all or substantially all of its business or assets, or in connection with a change in control of Dynatrace (through merger, consolidation, reorganization, operation of law or otherwise). Any assignment in violation of this Section will be void *ab initio* and of no effect. Subject to the foregoing, this Agreement is binding upon, inures to the benefit of and is enforceable by the parties and their respective successors and assigns.

23. **COMPLIANCE WITH LAWS**.

23.1. Dynatrace will comply with all laws and regulations applicable to its provision of the Dynatrace Offering. However, Dynatrace is not responsible for compliance with any laws or regulations that apply to Customer or Customer's industry that are not otherwise applicable to Dynatrace. Dynatrace does not determine whether Customer Data includes information subject to any specific law or regulation. All Security Incidents are subject to the Security Incident notification terms of Section 24 below.

23.2. Customer must comply with all laws and regulations applicable to its use of the Dynatrace Offerings,

including laws related to privacy, data protection and confidentiality of communications. Customer is responsible for implementing and maintaining privacy protections and security measures for components that Customer provides or controls, and for determining whether the Products are appropriate for storage and processing of information subject to any specific law or regulation.

24.   DATA PROTECTION AND SECURITY.

24.1.   **General.**

24.1.1.   Data Security. Dynatrace has implemented and will maintain and follow appropriate technical and organizational measures intended to protect Personal Data against accidental, unauthorized or unlawful access, disclosure, damage, alteration, loss, or destruction. Notwithstanding the foregoing, Customer is responsible for its configuration of data privacy settings in the Products as described in the Documentation, its secure use of the Products, including securing its account authentication credentials, protecting the security of Personal Data when in transit to and from the SaaS Subscription or Dynatrace and taking any appropriate steps to securely encrypt or backup any Personal Data uploaded to the SaaS Subscription or otherwise provided to Dynatrace.

24.1.2.   If Dynatrace becomes aware of any unlawful access to any Personal Data stored on Dynatrace equipment or in a Dynatrace facility, or unauthorized access to such equipment or facilities resulting in loss, disclosure, or alteration of Personal Data (each a "Security Incident"), Dynatrace will notify Customer of the Security Incident without undue delay (provided that such notification may be delayed as required by a law enforcement agency) and take commercially reasonable steps to comply with its obligations under Applicable Privacy Laws pertaining to responding to a Security Incident. Dynatrace's obligation to report or respond to a Security Incident under this Section is not an acknowledgement by Dynatrace of any fault or liability with respect to the Security Incident. Customer must notify Dynatrace promptly about any possible misuse of its accounts or authentication credentials or any security incident related to the SaaS Subscription.

24.1.3.   Customer acknowledges that use of the Dynatrace Offerings does not require and is not intended for the collection, storage or other processing of Restricted Information; therefore, under no circumstances will Customer upload or otherwise provide to Dynatrace any Restricted Information. In the event that Restricted Information is inadvertently provided, Dynatrace will treat it in the same way as it treats Personal Data under this Agreement.

24.2.   **Data Processing Agreement.** To the extent Dynatrace processes any Personal Data on Customer's behalf that is subject to GDPR, the terms of the Data Processing Agreement located at https://assets.dynatrace.com/global/legal/Dynatrace-GDPR-Addendum-May-1-2018.pdf, which is incorporated by reference, shall apply. Nothing herein shall bind the Ordering Activity to any Data Processing Agreement terms unless the terms are provided for review and agreed to in writing by all parties. Ordering Activity shall not be bound by any obligations of the GDPR, but shall comply with Federal Privacy laws of the United States.

24.3.   **CCPA**. To the extent Dynatrace receives personal information on Customer's behalf that is subject to the CCPA, Dynatrace (i) certifies that it understands and will comply with its obligations as a service provider under the CCPA, and (ii) will not (a) sell such personal information or (b) retain, use, or disclose such personal information other than for the specific business purpose of performing the services for Customer as contemplated under the Agreement or as otherwise permitted by the CCPA.

The terms used in this Section 24.3 have the meanings given under the CCPA.

25.   NOTICES. Either party may give notice by written communication, sent by first class postage prepaid mail or nationally recognized overnight delivery service, to the other party's address as specified in this Agreement. Customer may send notices to Dynatrace at 1601 Trapelo Road, Suite 116, Waltham, MA 02451, Attention: General Counsel, with a copy to legalnotices@dynatrace.com. Dynatrace may send notices to Customer at the address set forth at the top of the Order Form incorporating these Terms. Either party may from time to time change its address for notices under this Section by giving the other party

notice of the change in accordance with this Section.

26. **CUSTOMER REFERENCE.** Customer agrees that Dynatrace may reference the Customer as a Dynatrace customer, subject to Customer's trademark and logo usage guidelines provided by Customer, and that occasionally, after Customer review, Dynatrace may issue a press release and case study. Dynatrace acknowledges that the ability to use this Agreement in advertising is limited by GSAR 552.203-71.

27. **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the Federal laws of the United States. The parties agree that the 1980 United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

28. **EXPORT CONTROLS.** Customer agrees to comply with applicable U.S. Government, EU and UN export and re-export laws, regulations and requirements. Customer further certifies that it will not export or re-export any software that may be subject to such laws, regulations and requirements, to any location, or to any end-user, or for any end-use, without first obtaining any export license, permit or other approval that may be required. Without limiting the foregoing, Customer specifically agrees that it will not export or re-export any software subject to export and re-export laws to (1) any Group E country listed in SUPPLEMENT NO. 1 TO PART 740 – COUNTRY GROUPS and the Crimea Region of Ukraine or (2) any company, entity or person listed as a party of concern found here http://2016.export.gov/ecr/eg_main_023148.asp, or (3) for any end-use related to the development, production or use of nuclear, chemical or biological weapons or missiles.

29. **ANTI-CORRUPTION.** The parties agree to:

    (a)   comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption;

    (b)   not engage in any activity, practice or conduct which would constitute an offence under applicable laws, statutes and regulations relating to anti-bribery and anti-corruption;

    (c)   have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, to ensure compliance with these laws and will enforce them where appropriate;

    (d)   promptly report to the other party any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Agreement; immediately notify the other party in writing if a foreign public official becomes an officer or employee of the party or acquires a direct or indirect interest in the party;

    (e)   for the purpose of this Section 29 (Anti-Corruption), the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with applicable laws, statutes and regulations relating to anti-bribery and anti-corruption. For the purposes of this Section 29 (Anti-Corruption), a person associated with a party includes any subcontractor of the party.

30. **MISCELLANEOUS.** This Agreement together with the underlying GSA Schedule Contract, Schedule Pricelist, and Order Form(s) sets forth the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersedes any other agreements, discussions, proposals, representations or warranties, written or oral, with respect to the subject matter hereof. Each party acknowledges that it has participated in negotiating this Agreement and agrees that contractual ambiguities are not to be construed in favor of or against any party based on its role in drafting this Agreement. Performance of any obligation required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party. Failure or delay by either party in exercising any right or remedy will not constitute a waiver. If any provision of this Agreement will be declared invalid, the entire Agreement will not fail on its account, and that provision will be severed, with the balance of this Agreement continuing in full force and effect. This Agreement may only be amended in writing signed by both parties. In the event of a conflict between this Agreement and a Negotiated Purchase Order, the Order Form shall prevail.

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EXHIBIT A
Professional Services Terms

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1. **Definitions**.

   Terms not otherwise defined herein have the meanings given in the End-User Terms.

   "**Business Day**" is a day that is not a Saturday, Sunday, local statutory holiday or any additional holiday that Dynatrace gives its employees, either in the location where the Professional Services are provided or in the location of the Dynatrace employee ("Consultant") performing the Professional Services. For any engagement for managed services with a dedicated Consultant, the scheduled vacation time of the Consultant is also excluded.
   "**Business Hours**" means 8 hours completed on Business Days between the hours of 08:00 and 18:00 in the time zone where the Professional Services are being performed.
   "**Service Period**" is, unless otherwise specified in the SOW, the period from the start date to the end date of the Professional Services specified on the Order Form.

2. **Professional Services**. Dynatrace will use commercially reasonable efforts to provide the Professional Services specified in the SOW, subject to payment by Customer of all applicable fees. Dynatrace is obligated to provide only the Professional Services specified in the SOW only during the Service Period. At the end of the Service Period, any unused Professional Services are forfeited or, if invoiced in arrears, deemed used and payable.

3. **Scheduling**. Customer may reschedule Professional Services upon Dynatrace's receipt of written notice from Customer. However, Customer will be responsible for all out of pocket expenses incurred by Dynatrace as a result, including non-refundable travel or hotel cancellation fees or penalties, without regard to any limitation on liability or expense reimbursement in accordance with the Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable when the FTR/JTR allows. If Dynatrace receives Customer's written notice to reschedule less than five (5) Business Days before the scheduled start date for the Professional Services, Dynatrace reserves the right to charge a late cancellation fee in accordance with FTR/JTR regulations. This is in recognition that late cancellation does not afford Dynatrace a commercially reasonable opportunity to reallocate its resources.

4. **Fees, Invoicing and Taxes**.

   a. **Fees, Invoicing and Payment**. Customer will pay Dynatrace for the Professional Services in the amount or at the rates specified in the applicable SOW or Order Form in accordance with the GSA Schedule Pricelist, in accordance with the invoicing and payment terms set forth in the Agreement. Charges for expense reimbursement will be invoiced monthly in arrears. Invoiced amounts are due and payable net 30 days from the invoice receipt date, unless otherwise agreed. Dynatrace does not

require a timesheet to be signed by the Customer prior to invoicing. However, Dynatrace will provide an unsigned timesheet to support the invoice on request.

    b. **Incidental Expenses**. Customer will reimburse Dynatrace for all reasonable travel expenses in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and funded under the applicable ordering document. Dynatrace will supply Customer with reasonable supporting documentation on request. This clause will not apply if the Order Form includes a specific line item setting forth the value or points for expenses incurred while providing the Professional Services. All other relocation, travel and expenses for Guardian Consultant Services are included in fees paid as long as the Guardian Services Consultant is required to be on-site at the Customer's primary location where the Guardian Services Consultant is required to perform the Professional Services ("Primary Location"). If Customer wishes to have a Guardian Services Consultant travel outside the Primary Location, Customer is responsible for Incidental Expenses in accordance with this Section 4(b).

    c. **Payment with Flexpoints**. If Customer uses pre-purchased Flexpoints as the means of payment, the required number of Flexpoints will be deducted from Customer's balance on delivery of the Professional Services. Flexpoints must be redeemed in the Minimum Increments specified in the SOW. A 50% uplift in Flexpoints applies to all Professional Services scheduled outside Business Hours. Unused Flexpoints expire at the end of the Service Period. Estimates in a SOW of the number of Flexpoints required for a particular Professional Services engagement represents a good faith estimate for Customer's budgeting and Dynatrace's resource scheduling purposes.

5. **Customer Responsibilities; Delay**. Customer's technical, application, and business personnel are required to participate in the project to ensure successful completion. Customer will identify a single point of contact for the Dynatrace Consultant(s). Customer will identify the subject matter experts and other appropriate personnel to be involved in the performance of an SOW.

The parties acknowledge and agree that any fixed price project is dependent upon Customer's compliance with the obligations as specified in the Agreement. Failure by Customer to provide Dynatrace with the contemplated equipment, data, resources, access, personnel or the like reasonably requested by Dynatrace ("Customer Delay") may prevent or postpone Dynatrace's performance hereunder. In all such circumstances, Dynatrace's obligations will, to the extent so hindered by the Customer Delay, be permissibly delayed or excused. If Customer requires extension of the Service Period as the result of a Customer Delay, such extension shall be subject to additional fees and expenses.

6. **Non-Solicitation**. During the Service Period and for twelve (12) months thereafter, Customer agrees to the extent permitted by law that it will not, directly or indirectly, solicit for employment or employ any Dynatrace employee who is identified by Customer as a result of or in connection with the Professional Services; provided, however, that (i) non-directed newspaper or internet help wanted advertisements and search firm engagements shall not be considered solicitations hereunder, and (ii) the restrictions of this clause shall not apply with respect to Dynatrace employees that initiate contact with Customer. .

7. **Change Control**. Either party may request a modification to any material provision of the SOW on written request. Any requested variances from the terms within the SOW, including but not limited to additional Deliverables, timing changes or changes to scope, must be specified in a Change Request Form mutually agreed and executed by authorized parties of both Customer and Dynatrace. On receipt of a requested change, Dynatrace will estimate the financial and schedule impacts, if any, and the parties will review these

estimates to determine whether the requested changes are mutually acceptable. The terms reflected in an executed Change Request Form will supersede any conflicting provisions in the SOW.

8. **Personnel**. Dynatrace will determine the personnel assigned to perform the Professional Services. Customer may request in writing, with specific legal reasons stated, the replacement of Dynatrace personnel or Contractors that Customer reasonably believes are not adequately performing the Professional Services.

9. **Miscellaneous.** Unless otherwise expressly agreed in writing by the parties:

   a. The Professional Services will be performed by Dynatrace based on the Customer environment as it exists as of the execution of the SOW.
   b. The Professional Services will be performed during Business Hours.
   c. Certain aspects of the Professional Services may require restarting application components in the monitored environment. Customer is responsible for ensuring that the restart complies with its change control process and maintenance policies.
   d. Customer will ensure that all required hardware and software is on-site and available to the Consultant(s) at the start of the Professional Service engagement. Customer will enable system and physical security access as needed for Dynatrace personnel. Resources required but not accessible to Consultant(s) may impact duration of the engagement and Deliverables. Adequate workspace and/or training facilities shall be provided by Customer for the Consultant(s) as required.
   e. The SOW and the Deliverables constitute Confidential Information of Dynatrace, subject to the Confidentiality provisions of the Agreement.
   f. Customer shall not, without Dynatrace's prior written consent (i) copy or distribute Dynatrace's training materials except solely for Customer's internal use; (ii) use Dynatrace's trademarks, trade names, or other designations in any promotion or publication; or (ii) use recording equipment in training sessions.