SPECIAL TERMS AND CONDITIONS OF PAESSLER AG FOR MAINTENANCE OF STANDARD SOFTWARE for USA

THIS MAINTENANCE AGREEMENT (hereinafter referred to as the "Agreement") is made and entered by and between Paessler AG, a corporation duly organized and existing under the laws of Germany, with its principal office at Thurn-und-Taxis-Strasse 14, 90411 Nuremberg, Germany (hereinafter referred to as "Licensor"), and the Customer defined hereafter (hereafter also referred to as "Party" or, in the aggregate, as "Parties").

The following Terms and Conditions only apply for US American costumers.

RECITALS

WHEREAS, Licensor is now and has been engaged in developing, licensing, maintaining and supporting its PRTG NETWORK MONITOR software products (hereafter the "Software") and desires to provide maintenance services to the Customer in support of the use of the Software on the terms stated in this Agreement; and

WHEREAS, Customer is a licensee in good standing of the Software and desires to obtain maintenance services from the Licensor in support of its use of the Software;

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and whose value and sufficiency as consideration exchanged between the Parties is acknowledged, it is agreed between the Parties as follows:

1. DEFINITIONS

The following terms shall have the following meanings in this Agreement:

1.1. Customer: The person or entity who is a licensee of the Software in good standing and agrees to the terms of this Agreement.

1.2. License: The PRTG Network Monitor license granted by the Licensor to the Customer for the license type "Commercial Edition."

1.3. Term: The period beginning with the deployment by Licensor of the license key for the Software to the Customer by way of a download link, provided the Customer has prepaid to Licensor the applicable

maintenance fee under this Agreement, and ending, unless otherwise stated, at the end of the contracted maintenance period (e.g. one, two or three years) and the Customer remains in good standing under the terms of this Agreement and of the PRTG Network Monitor License Agreement. The period may begin without deployment of a license key in the event that the Customer extends or renews the maintenance agreement, in which case the period begins upon the end of the initial or previous Term, and the renewal or extension shall be deemed as a new agreement of the initial agreement without intervening lapse, and the legally-lapsed agreement shall be considered reinstated as if there was no lapse. The Term is contingent on the Customer's maintaining its good standing under the PRTG Network Monitor license; a material default by the Customer under the license terms causing a premature termination will automatically shorten the Term without eligibility for a partial or apportioned refund.

1.4. Maintenance Fee: The prepayment by the Customer of the compensation for Licensor's services under this Agreement which the Licensor waives for the first calendar year after the Customer's initial purchase of a license to the Software.

1.5. Software: Software is the software defined in the PRTG Network Monitor License Agreement and included updates of, upgrades of, improvements to, and replacements to, the then-most current version.

2. MAINTENANCE FEE

The Customer shall prepay to the Licensor the applicable maintenance fee, the amount of which is zero in the first year of the purchase of the Commercial License defined in the PRTG Network Monitor License Agreement, and for subsequent years is published on the Licensor's website.

In the event of an expiration, or of a termination for cause or material default by the Customer, of the PRTG Network Monitor License Agreement, the period of the Term will automatically expire on the effective date of such expiration or termination of the license and Customer's prepayment shall neither be apportioned between the Parties nor refunded, as the prepayment is internally

allocated by the Licensor, among other things, to the staging of services for the Customer.

3. MAINTENANCE SERVICES

3.1. The Licensor shall provide the following services upon Customer's request which may be submitted to Licensor only through Licensor's online ticket system:

3.1.1. The Licensor shall provide maintenance of the entirety of Software licensed by the Customer. The Licensor does not agree to provide maintenance to only a part of Customer's licensed Software.

3.1.2. The Licensor shall provide maintenance of the Software to the extent the Customer has installed all available updates and upgrades of the Software. The Licensor shall not be required to provide maintenance for non-current Software installations.

3.1.3. The Licensor shall continue to develop, and make available to the Customer, updates and upgrades of the Software within its standard release stream. Its continued development relates to all aspects, features and functionality of the Software, including, without limitation, the user interface, dialogs and documentation. The Licensor shall exercise its reasonable sole discretion in such development which shall be guided by preserving and enhancing the core functions of the Software, provided that the removal of functions and features is agreed to fall within the range of reasonable development, for instance and illustration, the removal of outdated or outmoded features and functions.

3.1.4. The Licensor shall provide maintenance services to the Customer within the life cycle of the Software and Licensor's release strategy which it may adopt and implement at its sole discretion. The Licensor shall notify the Customer in writing (as defined below) at least one (1) year in advance of its intent, if any, to terminate the maintenance of the Software.

3.1.5. The Licensor shall provide maintenance services with reasonable promptness after its receipt of a ticket from the Customer during standard business hours and excluding December 24 and December 31. The standard business hours are 9:00 a.m. through 5:00 p.m. Central European Time with adjustment for summer time. The Licensor shall reasonably and in its sole discretion plan for the provision of maintenance services.

3.1.6. The Licensor shall make available its online support ticket system for access by the Customer through the Software or a web browser. As browsers are known to change their features and functionalities, the Customer shall be responsible for the use of a browser compatible with the online support ticket system.

3.1.7. The Licensor shall provide maintenance only for Software that is properly installed in accordance with the setup and installation guidance published at

https://www.de.paessler.com/prtg/requirements.

3.1.8. The Licensor shall provide the Customer with download information and download links for the then-current version of the Software developed within its then-standard release stream. The Customer must accept the then-current or then-updated license terms for new versions of the Software.

3.1.9. The Licensor shall support the Customer in response to specific issues relating to functionality, functions, usage and potential issue in and of the Software (for instance faulty functions resulting from user action) but not issues relating to the Customer's hardware, software and communications environment which the Customer is expected to resolve in response to the messages triggered by the Software, the user documentation or general IT knowledge.

3.1.10. The Licensor shall provide third level support to resellers, if any, who act as the Customer's primary provider of first through third level support for the Software.

3.2. Excluded Services

3.2.1. Services provided under a warranty arising under the PRTG Network Monitor License Agreement or by law, if any, are excluded from the scope of services under this Agreement. This Agreement does not affect the Customer's rights under the Software license governing errors and defects, and it does not impose new obligations on the Licensor with respect to the same; further, their remediation is not within the scope of Licensor's obligations under this Agreement.

3.2.2. Maintenance under this Agreement does not include the provision by the Licensor, or reinstallation by the Customer, of prior versions of the licensed Software.

3.2.3. The Licensor shall be under no obligation to provide maintenance services unless (a) the Customer has opened a ticket, see section 3.1.6, and (b) the Customer has provided the Licensor with all information reasonably necessary and documented for maintenance, including additional information that the Licensor may request from the Customer.

4. MAINTENANCE BY LICENSOR OR THIRD PARTY

The Licensor shall provide maintenance services under the terms of this Agreement or, to the extent of third level support when the Customer maintains a maintenance agreement with a third-party provider (e.g. resellers, managed service providers), provided such third party excepts certain support from its agreement and permits Licensor to provide such support.

5. ENHANCED SERVICES

The Licensor shall not be required to provide enhanced services, such as support outside of regular business hours

defined herein, or higher service levels, such as expedited response and defect management, unless the Parties have agreed to such services and compensation therefor (see section 2).

6. DUTIES OF CUSTOMER

Without limiting the above, the Customer shall be required, at its expense, to cooperate with the Licensor by maintaining a computer system with an environment suitable for the operation of the Software (including hardware, third-party software and internet connectivity), to maintain current its contact information with the Licensor, to safeguard, by way of backup or otherwise, its data and other computer system and the Software and its license key before installing a Software update; and to promptly notify in writing the Licensor of any infringement by the Software of the rights of any third party.

7. LIMITED WARRANTY

7.1. Licensor warrants that its maintenance services will be free from defects in workmanship under normal use for a period of thirty (30) calendar days from the date of delivery ("Warranty Period"). Customer's exclusive remedy under this limited warranty is the correction of maintenance services, or a download from Licensor's server to replace the originally downloaded Software and assistance in installing it. To receive warranty services or replacement Software, the Customer must notify the Licensor within the Warranty Period through the ticket system (see 3.2.3.)

7.2. EXCEPT AS PROVIDED ABOVE THE SERVICES ARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7.3. THE LICENSOR DOES NOT WARRANT THAT THE MAINTENANCE SERVICES WILL MEET THE CUSTOMER`S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

7.4. THE CUSTOMER REPRESENTS AND WARRANTS TO BE A COMMERCIAL CUSTOMER, NOT A CONSUMER-TYPE CUSTOMER, AND ASSUMES THE ENTIRE RISK AS TO THE QUALITY, PERFORMANCE AS WELL AS ERRORS AND DEFECTS OF THE SOFTWARE AND THE SERVICES.

The Licensor represents and warrants to the Customer that the Software transmitted from its server does not contain virus and other intentionally harmful hidden features including backdoors and that its maintenance personnel will not install such functions; however the Licensor advises the Customer, that the Software is able to automatically transmit Customer data about its computer system, License key data and License version data to the Licensor as described in Section 2, Section 5 and elsewhere

in this Agreement, and Licensor's maintenance personnel will gain access to it in the normal course of providing maintenance.

8. LIMITATION OF LIABILITY

THIS AGREEMENT EXCLUDES EVERY AND ALL INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. IN NO EVENT SHALL THE LICENSOR BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER – INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING— TO THE FULLEST EXTENT PERMITTED BY LAW--THE DUTIES OF GOOD FAITH AND FAIR DEALING, OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER -- ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF, OR INABILITY TO USE, THE SOFTWARE, THE PROVISION OF, OR FAILURE TO PROVIDE, REQUIRED SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE SOFTWARE OR OTHERWISE ARISING OUT OF THE USE OF THE SOFTWARE, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, PRODUCT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY BY THE LICENSOR, AND EVEN IF THE LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE LICENSOR´S CUMULATIVE AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT PAID FOR THE THEN-IN-EFFECT SINGLE TERM OF THE MAINTENANCE AGREEMENT, IF ANY (THEN-IN-EFFECT SINGLE TERM MEANING THE TERM DURING WHICH THE MAINTENANCE SERVICES WERE PROVIDED THAT CAUSE LIABILITY.)

9. DEFECTIVE MAINTENANCE

Subject to the terms of this Agreement governing warranties and limitation of liabilities, the following terms shall govern procedures and remedies in the event that the Licensor should provide defective maintenance services. The Customer may notify the Licensor of any defective maintenance services not subject to the limitation of warranties and liability in writing, and the Licensor shall determine whether an error or defect is not subject to such limitations; if not so limited, the Licensor shall remediate the error or defect within reasonable time, provide replacement services, or instruct the Customer on reasonable options to avoid the impact, if any, of an error or defect; provided further that the Licensor may elect to refund the maintenance fee paid by Customer , which shall be the sole and exclusive remedy in the event that the

Licensor's other effort should fail or should appear futile to the Licensor; such refund being subject to the last sentence of 8. In the event that the Customer should intentionally or with gross negligence allege a non-verifiable defect or error, it shall reimburse the Licensor for the cost of the investigation in the alleged defect or error at reasonable commercial hourly rates.

10. INDEMNIFICATION

The Customer, at its expense, shall defend, indemnify and hold harmless the Licensor and its officers, directors, employees, shareholders, agents, and successors (each an "Indemnified Party") from and against any and all damages, costs, and expenses, including reasonable attorneys' fees, incurred in connection with any third party claim, action, demand or complaint brought against the Indemnified Party by a third party which results or arises from: (i) a breach or alleged breach of any representation or warranty set forth under this Agreement; (ii) a copyright infringement claim arising out of the Customer's combination of the Software with the Customer's System or offerings to third parties, where such claim would not have arisen but for the Customer's combination, regardless of the contribution of the Licensor when providing maintenance services. The Licensor or an Indemnified Party shall notify the Customer promptly of any such claim, action, demand or complaint and will give the Customer full and complete authority (including settlement authority), and reasonable information and assistance for the defense.

11. TERMINATION

11.1. This Agreement remains effective until terminated or until the Term expires. In the event of expiration or termination, the Parties may reinstate the Agreement as stated in Section 1.3, but not after a termination pursuant to subsections 3 and 4 below. Subsection 5 shall apply notwithstanding the option of reinstatement of this Agreement.

11.2. The Customer may terminate this Maintenance Agreement by giving at least thirty (30) days written notice to the Licensor.

11.3. This Agreement will terminate immediately and automatically without notice from the Licensor in the event that the Customer should exceed its rights to use the Software as set forth in section 2 of the PRTG Network Monitor License Agreement.

11.4. The Licensor may terminate the Agreement for cause and by giving at least thirty (30) days written notice to the Customer. Termination for Cause shall include, but not be limited to any of the following:

11.4.1. The Customer ceases to do business, becomes insolvent, files or has filed against it a petition of any chapter of the United States Bankruptcy Code and such petition has not been dismissed within forty-five (45) calendar days of its institution.

11.4.2. The Customer breaches any other material obligation of the License or this Agreement and fails to cure such breach within ten (10) calendar days after Licensor has served written notice of such breach on the Customer.

11.5. Upon termination of the Agreement:

11.5.1. The Customer`s rights to use the online ticket system (see 3.2.3) shall cease and the license grant under section 2 of the PRTG Network Monitor License Agreement expires.

11.5.2. The Licensor may destroy the Customer's data on the online ticket system and all copies immediately.

11.5.3. In addition, Licensor may enforce any rights provided in law and in equity against Customer for harm caused the Licensor or third parties by the Customer.

11.6. All terms of this Agreement that by their nature survive termination, including, but not limited to, limited warranties, limitation of liability, indemnification, general terms, and Licensor's proprietary rights, shall survive termination.

12. DATA PROTECTION AND PRIVACY, CONFIDENTIALITY

12.1. The Licensor informs the Customer that its data protection and privacy policy is to follow to the strict laws of the European Community as the standards most favorable to the protection of privacy world-wide. Current and prospective Customer in Nevada, Delaware and California are advised that the Licensor will collect, retain or delete personally identifiable information, of names, addresses, IP addresses, telephone numbers, email addresses only to the extent required to (1) enable the License key provision as stated in this Agreement, (2) provide the Customer with notifications of updates and version information which feature the Customer cannot disable, and (3) retain information related to the provision of maintenance services for future use in relation to the Customer's current or future maintenance requirements. The Customer acknowledges and agrees that the Licensor may access or disclose information about the Customer or any other information or data collected, stored or processed on the Licensor's servers, if required to do so by law or in the good-faith belief supported by evidence that such action is necessary to: (a) comply with any law, regulation, legal process or lawful governmental requests; (b) protect the rights or property of the Licensor or its customers, including the enforcement of its agreements or policies governing use of the Software; (c) provide the maintenance services; or (d) act on a good faith belief supported by evidence that such access or disclosure is necessary to protect the personal safety of the Licensor's employees, customers, or the public.

12.2. The Customer may not disclose to, or share with, third parties any License key obtained from the Licensor nor any custom addenda or amendments to this Agreement for a particular Customer, if any.

13. Export Control Laws

The Customer must comply with all applicable domestic and international export and import control laws and regulations in its use and distribution of the Software, including its documentation, and, in particular, must not export or re-export the Software without all required United States and foreign government licenses. These laws include restrictions on destinations, end users, and end use. Without limitation, the Customer warrants that it will not transfer the Software without U.S. government permission to anyone on U.S. government exclusion lists (see the Commerce Department's compliance list at http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern.) The Customer represents and warrants that it is not on any of those lists or under the control of or an agent for anyone on those lists or the entities listed above. The Licensor warrants that on the date of delivery of the Software to the Customer and on the effective date of this Agreement: (i) Licensor has obtained all required export licenses for the delivery of the Software to the Customer and provision of maintenance services to the Customer; (ii) the Export Control Classification, if any, for the Software is correct and complies with all applicable export control regulations; and (iii) delivery of the Software and provision of maintenance services to the Customer will not contravene any applicable export control regulations in the country of origin as well as U.S.-mandated export control lists.

Without liability to the Customer and excluding any claim for a refund of the maintenance fee, the Licensor may revoke or suspend, without notice, the maintenance services under this Agreement in the event that it should discover an installation or use of the Software in violation of this Section 13 or by a person or entity on the Office of Foreign Asset Control's Specially Designated Nationals and Blocked Persons List.

14. GENERAL TERMS

14.1. Assignment: Except in connection with merger, acquisition or sale of all or substantially all of a Party's stock or assets, neither Party may delegate, assign or transfer this Agreement or the rights or duties hereunder, and any attempt to do so, without the other Party's express prior written consent, shall be void.

14.2. Notices: All notices permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery, courier, or by registered mail, return receipt requested, and shall be deemed given upon personal delivery or seven (7) days after deposit in the mail, provided further that email may be used if the delivery or receipt is evidenced by a return receipt or express acknowledgment, and provided further that SMS or text messages shall be deemed insufficient to meet any notice requirement. Notices shall be sent to the Parties at the last-known addresses or such other address as either party may designate for itself in writing.

14.3. Governing Law and Forum: This Agreement shall be governed in all respects by the laws of the United States of America and the State of Maryland as applied to contracts entered into between residents of Maryland and performed entirely within the State of Maryland and without regard to the conflicts of laws principles thereof. Arbitration (as specified in section 14.4) is a condition precedent to litigation. Any and all disputes arising under this Agreement shall be brought exclusively in the Superior Court of the District of Columbia or the United States District Court for the District of Columbia. The Superior Court of the District of Columbia and the United States District Court for the District of Columbia shall each have exclusive jurisdiction over disputes under this Agreement, and none other. Each Party consents to the personal jurisdiction of the above courts. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

14.4. Disputes: Any dispute or claim arising out of or related to this Agreement shall be resolved by binding arbitration, rather than in court. The arbitration will be governed by the Commercial Arbitration Rules (the "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. The arbitration shall be heard by three arbitrators appointed in accordance with the AAA Rules. The arbitration shall be in the English language and seated in the District of Columbia. Both Parties agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated, or representative action. If for any reason a claim proceeds in court rather than in arbitration, both Parties waive any right to a jury trial. Both Licensor and Licensee may each bring suit in court to enjoin infringement or other misuse of intellectual property rights. This arbitration provision shall survive termination of this Agreement.

14.5. Attorneys' Fees: In the event any proceeding or lawsuit is brought by the Customer or the Licensor in connection with, or related to, this Agreement, each of the Parties' shall bear its own costs, including but not limited to court costs, expert witness fees and attorneys' fees, including costs and fees on appeal.

14.6. Waiver: The failure of either Party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either Party of a breach of any provision hereof be taken or held to be

a waiver of the provision itself.

14.7. Severability: In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

14.8. Headings: The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Agreement.

14.9. Government End Users: Licensor represents that the Software is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212.

14.10. Force Majeure: Neither Party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such Party.

14.11. No Agency: Nothing contained herein shall be construed as creating any agency, employment relationship, agency or other form of joint enterprise between the Parties, and the Parties represent and understand to act as independent contractors.

14.12. Entire Agreement: This Agreement constitutes the entire agreement between the Parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both Parties.