

SPECIAL TERMS AND CONDITIONS OF PAESSLER AG FOR THE TEMPORARY ONLINE USE OF STANDARD SOFTWARE for USA

THIS PRTG NETWORK MONITOR INTERNET SERVICE LICENSE AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into 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 Licensee defined hereafter (hereafter also referred to as "Party" or, in the aggregate, as "Parties").

The Data Protection Agreement (Job Processing) Paessler PRTG Hosted Monitoring shall have supplemental application.

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

RECITALS

WHEREAS, Licensor is now and has been engaged in developing, maintaining, supporting and licensing its PRTG NETWORK MONITOR software products as both an on-premise and an internet based ("cloud") solution and desires to grant a license for the use of the cloud solution on a Server and the Remote Probes on Licensee's System (hereafter in the aggregate the "Software") on a subscription basis and the terms stated in this Agreement ("License"); and

WHEREAS, Licensee desires to use the Software and to obtain a License for its use;

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. Licensee: The person or entity who is a commercial
1/8, V.2020-11-25

end-user and agrees to these License terms in order to acquire a subscription license grant from the Licensor permitting the Licensee, including its personnel, to use the Software by accessing an internet service on the Server, managing an online account, and installing Remote Probes, and to utilize the Software documentation. Licensor's services are not addressed to individuals.

1.2. System: Physical computers and accessories, virtual systems, devices such as security cameras and routers. This definition is not exhaustive and the term System will include, as needed for deploying the Remote Probes, a suitable computing infrastructure for the installation of the Remote Probes component of the Software.

1.3. Server: A central monitoring unit on the internet provided by the Licensor and its subcontractors which is not installed on the premises of the Licensee that provides storage and processing facilities for the collection, monitoring, analysis and display of data, for interaction with the Remote Probes, for the transmission of notifications, for license administration, for webserver functionality and account features, and for downloading information such as documentation and guidance.

1.4. Remote Probes: Software installed on the Licensee's System that collects monitoring data and transmits them to the Server and that is a component of the Software.

1.5. Software: Unless individually limited to the computer program, Remote Probes, communications and services, Software means the computer program furnished by the Licensor on the Server, Remote Probes for installation on the System and all communications and services related to the use of the Software.

2. LICENSE SUBSCRIPTION GRANT, SCOPE, LIMITS, AND FEE

2.1. ACCEPTANCE: The Licensee accepts this Agreement by a click on the Subscription interface ("button") on the Licensor's website which grants access to account information provided by the Licensor; provided that the Licensee may reject the terms of this Agreement by not

accessing the Server and the cloud solution allocated to the Licensee by the Licensor or by refusing to subscribe to this Agreement before accepting the free trial of the Software offered by the Licensor. By accepting the terms of this Agreement, the Licensee acknowledges that it is properly authorized to accept these terms as a natural person or an authorized representative of a business or other legal entity, to be legally able to enter into this Agreement and to bind itself or such business or legal entity to this Agreement. The date on which the acceptance occurs shall be the Effective Date of this Agreement.

2.2. GRANT: In consideration of the Licensee's acceptance of the terms of this Agreement and the payment, if any as stated hereafter, required for the use of the Software, the Licensor grants Licensee a periodically paid-up, renewable, personal, non-exclusive, non-transferable, geographically unlimited (except for limitations specified by export controls, see Section 13 below) license to use the Software within the scope of the License valid only for the period of use provided in these terms. The Licensee acknowledges that the Software is licensed, not sold, and that its license permits use in accordance with the terms of this Agreement. The grant of the License includes the right to use any Software manual or Software documentation for end-users. Licensor reserves all rights of ownership and use not expressly granted to the Licensee in writing here. If, notwithstanding the foregoing the Licensee should grant access to its account, the System or the Server to any other person, the Licensee will be in violation of this Agreement and solely responsible for any actions taken by any such person.

2.3. SCOPE: GENERAL

The Software is protected domestically and internationally by copyright, other rights and treaties. All rights and privileges not expressly granted the Licensee by this Agreement and applicable law remain with the Licensor. The Licensor does not provide the Software to the Licensee for installation and instead provides access to the Software on the Server through internet communication systems which the Licensee needs and warrants to maintain at its end; provided that the Licensor will provide Software in the form of Remote Probes to the Licensee for on-premises installation by the Licensee.

The Licensee may:

2.3.1. to run the Software and operate it in order to enter, process, and extract data in line with this Agreement,

2.3.2. install the Remote Probes on its System;

2.3.2. load the Remote Probes into the random-access memory of its systems, and display and run the Remote Probes; 2.3.3. create backup copies of the Remote Probes to the extent necessary and to create backups of

the respective data media/medium on which the Remote Probe(s) is (are) installed (image);

2.3.4. perform an acceptance test to inform the Licensee of the quality of the Software for the Licensee's intended purposes, requirements and expectations;

2.3.5. upload (configuration) information to the Server;

2.3.6. download and save information from the Server: and

2.3.7. otherwise interact with the Software and the Server to use their functionalities.

2.3.8. use the Software (except any trial version provided by Licensor) to perform services for third parties.

Notwithstanding this grant, the Licensee may not, in particular, but without limiting Licensor's rights, otherwise distribute, duplicate or modify, decompile or reverse engineer the Software nor separate and repurpose components of the Software; remove copyright notices or license terms from the Software; translate the Software; sell, rent, lease, transfer or sublicense the Software or grant access to the Server; use the Software for illegal purposes or illegally interfere with the operation of the Server. The Licensee shall obtain the Licensor's prior express written permission for any wired or wireless public performance of the Software which Licensor may reasonably grant on commercial terms. In the event that the Licensee should desire to exceed the permitted scope of the License, it shall promptly notify the Licensor in order to obtain an appropriate accommodation which may involve an increase of the license fee.

2.4. FEE

No fee is payable during the trial phase. At any time during the trial phase, the Licensee may change to a paid subscription by making an election within its assigned online service account.

The Licensee shall pay the Licensor the applicable subscription fee for the use of the Software in advance, and in full without discount or rebate. Sales taxes, value added taxes, customs and other duties as well as currency conversion and digital transaction charges are the Licensee's responsibility. After the initial Term, the Licensee shall prepay the fee for any subsequent Term before the expiration of the then-current Term. The Licensor publishes the applicable fees on its website:

<https://my.prtg.com>

By purchasing the services on a subscription basis, Licensee agrees to the authorization of recurring payments. Payments will be made by the method and at the recurring intervals Licensee has agreed to, until the subscription for that service is terminated by either Party to this Agreement.

The fee paid is non-refundable. The Licensee may use the trial version of the Software to ascertain that the Software is suitable for the Licensee's purposes before paying the fee.

2.5. DELIVERY

The Licensee may obtain the Remote Probes components of the Software by download. The Licensor shall not be required to ship any part of the Software on tangible media to the Licensee. Each Party shall bear its own cost of its contribution to the transmission for download as well as access to the Server.

2.6. SUPPORT

The Licensor does not provide support or maintenance to the Licensee except as stated in this Agreement.

2.7. CORRECTION OF ERRORS AND DEFECTS

The Licensor does not, and the Licensee releases the Licensor from any expectation to, assume any responsibility, obligation or liability for errors and defects in the Software, the transmission of Remote Probes, and the Licensor's instructions for the installation of the Remote Probes or operation of the Software, in conformance with the Maryland Uniform Computer Information Transactions Act (§ 22-103 et seq. of the Annotated Code of Maryland) to its fullest extent, but the Licensor will provide the required statutory minimum correction in the event that a court or arbitral forum should apply other law.

2.8. SOFTWARE UPDATES AND UPGRADES

This Agreement will also govern any updates and/or upgrades to the Software that are made available by the Licensor to the Licensee on the Server or in the form of Remote Probes, unless such updates or upgrades are accompanied by a separate license agreement, in which case the terms of that license agreement will supersede this Agreement.

3. LICENSOR OBLIGATIONS

3.1. The Licensor shall perform the services under the terms of this Agreement within the scope defined in the Licensor's offer to the Licensee and as stated in the user documentation at <https://www.paessler.com/manuals/prtg>.

3.2. The Licensor shall continually improve and update the Software, including the Remote Probes, in a reasonable manner within its sole discretion to afford the Licensee access to the functionalities of the Software, and updates that include modifications shall be deemed to replace the prior version of the licensed Software under these terms. For the avoidance of doubt, this obligation does not include adaptation to changed operating conditions and technical and functional developments, such as changes to the IT environment, in particular changes to the hardware 3/8, V.2020-11-25

or the operating system, adaptation to the functional scope of competing products or creation of compatibility with new data formats.

3.3. The Licensor shall provide the Software on the Server, which may be the server of Licensor's subcontractor, for the Licensee's use on a pre-paid, temporary basis, at the service level agreed between the Parties.

3.4. The Licensor shall enable the Licensee to use the Software via the Licensee's internet data connection in order to achieve the objectives for which the Software is designed, to run the Software, to operate the Software for entry, processing and extraction of data, to download the documentation, and to duplicate data to a reasonable extent such as by printing the documentation or saving data on other media, as reasonably necessary and appropriate to achieve the objectives implemented by the Software.

3.5. The Licensor shall provide the Remote Probes for downloading and installation by Licensee on its suitable hardware within its System on an unlimited number of hardware units world-wide (except for blacklisted locations and entities under the export control terms in Section 13 of this Agreement), provided that the Licensee may not disseminate or display Remote Probes publicly or make them accessible to third parties unless permitted in writing by the Licensor.

3.6. The Licensor shall operate the Server for Licensee's use around the clock, subject to the minimum availability level defined at the Amazon EC2 Service Level Agreement (<https://aws.amazon.com/ec2/sla/>), incorporated herein by reference. At this time, the Licensor has subcontracted the Server to Amazon Web Service, Inc., and the Licensee agrees that the terms of that agreement shall apply to it (replacing the vendor with the Licensor and the user with the Licensee) and that any request for credit thereunder must be submitted to the Licensor and not to Amazon (and need not identify the EC2 instances or EBS volumes, nor produce request logs documenting claimed errors and outage.) Upon Licensee's request, the Licensor shall email or fax the then-applicable Amazon EC2 Service Level Agreement.

3.7. The Licensor shall operate the Server except for times of maintenance, such as the installation of a Software update, which exception shall be subject to these limitations:

3.7.1. To the extent that maintenance work is periodically recurring for technical reasons or can otherwise be planned by Licensor as preventive maintenance, such work will be provided at times when interruptions or restrictions typically have below-average adverse effects for the entire group of customers.

3.7.2. Unplanned maintenance work may be performed by

the Licensor at other times in order to maintain the operations of the Server or to ensure the security of the Server and user accounts and data. Generally, the Licensor strives to avoid any inconvenience of the Licensee and to avoid unplanned maintenance work.

3.7.3. The Licensor shall make reasonable efforts to addressing the cause of a disruption and restoring the Server in a timely manner.

3.8. The provisions set forth in sub-section 3.7 shall remain unaffected by the provisions set forth in sub-section 3.6.

3.9. Where the Licensee is able to select the time window for maintenance work using the Software, it is the Licensee's responsibility to enable maintenance in accordance with the contract.

3.10. It shall be the Licensee's responsibility to inform the Licensor in a timely manner about actions planned by the Licensee or with the Licensee's knowledge, which may have an impact on the quality of the services to be provided, in particular which may lead to increased system utilization.

3.11. The Licensor shall continue to develop the Software within its standard release stream, and it shall make available to the Licensee updates and new versions containing modifications and supplements of the Software including Remote Probes. Such updates and new versions, including those to user interfaces, dialog screens and documentation, shall always constitute the Software as defined in, and compliant with, this Agreement. The Licensor shall use its sole discretion in developing updates and new versions and represents that they will preserve the key functionality of the Software. The Licensor may also discontinue functional or display features that fall outside of the core and typical use of the Software, but the Licensee may notify the Licensor promptly if a change should adversely affect the Licensee's typical use of the Software, and may terminate this Agreement without prior notice and without further liability or obligation for either Party.

3.12. The Licensor shall provide maintenance to the Licensee 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 Licensee in writing (as defined below) at least one (1) year in advance of its intent, if any, to discontinue the maintenance of the Software..

4. LICENSEE OBLIGATIONS

4.1. The Licensee shall maintain a suitable and compatible System meeting the minimum technical requirements of the Software which the Licensor shall display on the internet for downloading and provide otherwise, if requested. The Licensor may reasonably modify the requirements by giving prior notice on its website. The

Licensee shall be responsible for informing itself of the technical requirements. Each of the Parties shall be responsible for its side of the communications infrastructure at its cost and does not warrant availability of communications other than as stated herein.

4.2. At its sole expense, the Licensee shall operate and maintain a suitable internet connection from its System to the Server and a browser compatible with the Software.

4.3. The Licensee shall reasonably notify the Licensor of future action which may adversely impact the quality of the service from the Server or the Software, such as – for illustration purposes only and not as a limitation – usage peaks triggered by the Licensee.

4.4. It is the Licensee's responsibility to safeguard/backup the installation files necessary for reinstallation of the Remote Probes and the corresponding license key, if applicable. The Licensee shall label any backup copies of the Remote Probes on portable data media as such and place an appropriate notice thereon.

4.5. The Licensee shall administer its use of the Software through the administrator module provided on the Server and its online PTRG user interface on the Server web portal. The Licensee shall use assigned credentials to access the portal.

4.6. The Licensee shall be responsible for ensuring by taking appropriate technical and organizational measures that only authorized persons receive access to its credentials and gain the ability to authorize additional users within its organization. The Licensee warrants not to disclose credentials to third parties or that persons within its organization make improper use of them.

4.7. In order to mitigate the potential for disruptions of any kind, the Licensor may request the Licensee's cooperation in setting the time window for maintenance, under the exceptions in 3.7 above, which request the Licensee shall not unreasonably refuse.

4.8. The Licensee shall promptly notify in writing the Licensor of any alleged infringement by the Software of the intellectual property rights of any third party.

4.9. The Licensee shall maintain current its contact information with the Licensor.

5. SUPPORT

5.1. The Licensor provides the Licensee with support limited to technical inquiries related to the Software, including the Remote Probes, via an online support ticket system.

5.2. To request support, the Licensee shall open a support ticket on the Licensor's online support ticket system which it may access through the Software or Licensor's website.

5.3. The Licensor shall provide support during normal

business hours on Mondays through Fridays from 9:00 am through 5:00 pm Central European Time, adjusted for summer time as applicable, except for December 24 and 31. The Licensor may structure and coordinate the provision of support and availability of its online support ticket system in its sole discretion.

5.4. The Licensor shall provide support on specific issues arising from the functions, operation and identified problems with the Software after the Licensee has reasonably attempted to resolve an issue in response to error messages from the Software or with the Software documentation.

5.5. The Licensor shall not be required to provide support in the following instances:

5.5.1. The Licensee fails to use the online support ticket system.

5.5.2. The Licensee fails to provide the Licensor with necessary information in a reasonably concise and clear manner and the form required to process a support request.

5.6. The provision of support does not affect any rights the Licensee may have under a warranty.

5.7. The Licensee may contract with the Licensor for extended support services but absent such contract, the Licensor shall not be required to provide extended services (such as extended service hours).

6. LIMITED WARRANTY

6.1. Licensor warrants that the transmission of the Software for a download from its Server is free from defects. Licensee's exclusive remedy under this limited warranty is a new download from Licensor's Server to replace the originally downloaded Software. In this case, Licensee must notify the Licensor within a period of thirty (30) calendar days from the date of the download ("Warranty Period").

6.2. EXCEPT AS PROVIDED ABOVE THE SOFTWARE AND THE SERVER, INCLUDING THE SERVICE THEREON, ARE 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.

6.3. THE LICENSOR DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE OR THE SERVER, INCLUDING THE SERVICE THEREON, WILL MEET THE LICENSEE'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

6.4. THE LICENSEE REPRESENTS AND WARRANTS TO BE A COMMERCIAL LICENSEE, NOT A CONSUMER LICENSEE, AND ASSUMES THE ENTIRE RISK AS TO THE QUALITY, 5/8, V.2020-11-25

PERFORMANCE AS WELL AS ERRORS AND DEFECTS OF THE SOFTWARE AND THE SERVER, INCLUDING THE SERVICE THEREON.

6.5. The Licensor advises the Licensee that the Software does not contain virus and other intentionally harmful hidden features including backdoors; however, the Software is able to store Licensee System data, and License version data on the Server for inspection by the Licensor.

7. LIMITATION OF LIABILITY

THIS AGREEMENT EXCLUDES EVERY 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 SERVER, THE REMOTE PROBES, THE PROVISION OF, OR FAILURE TO PROVIDE, REQUIRED SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE SOFTWARE, THE SERVER OR THE REMOTE PROBES, OR OTHERWISE ARISING OUT OF THE USE OF THE SOFTWARE, THE SERVER OR THE REMOTE PROBES OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF 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 UNDER THE TERMS OF THIS AGREEMENT, IF ANY, PROVIDED FURTHER THAT THE AMOUNT PAID SHALL BE LIMITED TO THE AMOUNT PAID FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT OR EVENTS GIVING RISE TO THE CLAIM FOR SUCH LIABILITY.

8. ERRORS OR DEFECTS IN THE SOFTWARE

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 Licensee should observe errors or defects in the Software. The Licensee may notify the Licensor of any error or defect in the Software not subject to the limitation

of warranties and liability in writing in a comprehensible and detailed form, indicating the information required for the identification of the error or defect and, in particular, indicating the steps in the working process that led to the occurrence of the error or defect, its impacts and the appearance of the error or defect. The Licensor shall determine whether an error or defect is not subject to limitation of warranties and liability; and if not so limited, the Licensor shall remediate the error or defect within reasonable time, provide a replacement, or instruct the Licensee on reasonable options for the installation or operation of the Software to avoid the impact, if any, of an error or defect; provided further that the Licensor may elect to terminate this Agreement and refund the fee paid by Licensee, 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. In the event of a defect in the title to the rights granted under the terms of this Agreement, the Licensor shall, within reasonable time and at its expense, provide the Licensee with a cure so that the Licensee may legally use the Software; the cure may include, without being limited to, options to replace the Software with other software that is reasonably acceptable to the Licensee; provided that the Licensee may rescind this Agreement for a refund of the fee paid to Licensor as its sole and exclusive remedy in the event that the Licensor cannot cure the defective title within reasonable time. In the event that the Licensee should intentionally or with gross negligence allege a non-verifiable defect or error in the Software, it shall reimburse the Licensor for the cost of the investigation in the alleged error or defect at reasonable commercial hourly rates.

9. INDEMNIFICATION

9.1 The Licensor, at its expense, shall defend, indemnify and hold harmless the Licensee 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 claim, action, demand or complaint brought against the Indemnified Party by a third party which results or arises from a third party asserting IP rights (e.g. ncopyright, trademark or patent rights) to the respective Software. The Indemnified Party shall notify the Licensor promptly of any such claim, action, demand or complaint and will give the Licensor full and complete authority (including settlement authority), and reasonable information and assistance for the defense.

9.2. The Licensee, 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 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) an IP infringement claim arising out of the Licensee's combination of the Software with the Licensee's System or offerings to third parties, where such claim would not have arisen but for the Licensee's combination. The Indemnified Party shall notify the Licensee promptly of any such claim, action, demand or complaint and will give the Licensee full and complete authority (including settlement authority), and reasonable information and assistance for the defense.

10. TERM

10.1. The Licensee using the Software on a trial basis may switch to the paid subscription at any time before the end of the trial phase.

10.2. Except as stated in subsection 11.1, the term of this Agreement shall begin on the date on which the Licensee accepts it and ends when the paid-for period ends and the Licensee has not renewed the term by payment of the fee for the following term ("Term").

11. TERMINATION

11.1. This Agreement remains effective from the Effective Date until terminated or expired. This Agreement shall renew automatically by pre-payment of the fee for an equal Term.

11.2 The trial phase is terminated upon the conversion by the Licensee to a subscription, or, in the absence of a notice of conversion to a subscription by the Licensee to Licensor, upon expiration of the trial phase..

11.2. The Licensee may terminate this Agreement by giving at least one day written notice to the Licensor before the end of the then-current Term. The Licensee may satisfy this requirement by clicking on the button labeled "Cancel Subscription" in the administrator interface of the Software on the Server.

11.3. This Agreement will terminate immediately and automatically without notice from the Licensor in the event that the Licensee should exceed its rights to use the Software as set forth in section 2 of this Agreement, provided that Licensor shall give Licensee electronic notice and a reasonable opportunity to cure in the event that the renewal of the Agreement by prepayment should fail for lack of funds or acceptance of a payment method by the payment service provider.

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

11.4.1. The Licensee 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 Licensee breaches any other material obligation and fails to cure such breach within ten (10) calendar days after Licensor has served written notice of such breach on Licensee.

11.5. Upon expiration or termination of the Agreement:

11.5.1. The Licensee's rights to use the Software shall cease and the license grant under section 2 of this Agreement expires.

11.5.2. The Licensee may no longer access the Server, use the Software, download its data or other information and shall destroy the Remote Probes immediately.

11.5.3. In addition, the Licensor may enforce any rights provided in law and in equity against Licensee for harm caused the Licensor or third parties by the Licensee, in particular for unlawfully exceeding the License grant or accessing the Server without a valid and fully paid-up license.

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

12. DATA PROTECTION AND PRIVACY, CONFIDENTIALITY

12.1. The Licensor advises the Licensee that its data protection and privacy policy is to follow to the strict laws of the European Union as the standards most favorable to the protection of privacy world-wide. Further information can be found in the Licensor's Privacy Policy (available in its current version at <https://www.paessler.com/company/privacypolicy>).

Actual and prospective Licensees 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 service as stated in this Agreement, and (2) provide the Licensee with notifications of updates and version information which feature the Licensee cannot disable. The Licensee acknowledges and agrees that the Licensor may access or disclose information about the Licensee 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 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; or (c) to protect the personal safety of the

Licensor's employees, customers, or the public.

12.2. The Licensee may not disclose to, or share with, third parties any custom addenda or amendments to this Agreement for a particular Licensee, if any.

13. EXPORT CONTROL LAWS

The Licensee 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 Licensee 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 Licensee represents and warrants that it is not on any of those lists or under the control of or an agent for an entity or anyone on those lists. The Licensor warrants that on the date of delivery of the Software to the Licensee: (i) Licensor has obtained all required export licenses, if any, for the delivery of the Software to the Licensee; (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 to the Licensee will not contravene any applicable export control regulations in the country of origin as well as U.S.-mandated export control lists.

The Licensee furthermore acknowledges that in all cases it is prohibited from exporting, re-exporting, selling/or passing on or disclosing the Software in all of the countries listed under the following internet address:

<https://www.paessler.com/company/terms/export-control>

Without liability to the Licensee and excluding any claim for a refund of the fee, the Licensor may revoke or suspend, without notice, the grant of License under Section 2 in the event that it should discover an installation or use of the Software in violation of this Section 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 a 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 Licensee 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 8/8, V.2020-11-25

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.

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.