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1.2 “**Connector**” means a component of the Software that connects the Software to technologies and resources the Software manages.

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1.11 “**Software**” means the object or interpreted code of the computer software listed in the QOF, together with any fixes, updates or other software code relating to the foregoing that is provided to Licensee pursuant to Maintenance and Support and that is not subject to a separate license agreement.

1.12 “**Third Party Agent**” means a third party outsourcer providing information technology services for Licensee’s internal use, pursuant to a written contract

1.13 “**Server**” means any physical computer, hardware based device, virtual machine or cloud machine, whether host or guest, that is capable of running an operating system or hypervisor or serves as a software container that can run a virtualized instance of an operating system.

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4.2 Payment. Licensee shall pay the fees and charges set forth in the QOF in accordance with the terms therein. Unless otherwise set forth in the QOF, all fees are due within thirty (30) days of the date of each invoice. All fees are exclusive of any taxes, duties, or similar charges imposed by any government. Licensee shall pay or reimburse all federal, state, dominion, provincial, or local sales, use, personal property, excise, value added, withholding or other taxes, fees, or duties relating to the transactions contemplated by this Agreement. All amounts that are not paid when due shall be subject to a late charge equal to one and one-half percent (1.5%) per month, or, if less, the maximum amount allowed by applicable law. If payment of any fee is overdue, CloudBolt may also suspend performance until such delinquency is corrected.

5.0 AUDIT RIGHTS.

5.1 Records. For a period of two (2) years from the expiration or any earlier termination of this Agreement, Licensee agrees to maintain accurate records of the use of the Software sufficient to demonstrate Licensee's compliance with the terms of this Agreement and all QOFs.

5.2 Audit Rights. During the period in which the Licensee is obligated to maintain such records, CloudBolt, or its third party auditor, may, upon reasonable notice to Licensee, audit such records to verify that Licensee has: (a) used the Software solely in the manner authorized herein; (b) paid all applicable fees; and (c) otherwise complied with the terms of this Agreement and all QOFs. Audits will be conducted during

normal business hours and CloudBolt will use commercially reasonable efforts to minimize the disruption of Licensee's normal business activities. Licensee agrees to cooperate with CloudBolt and/or its third-party auditor and will promptly pay directly to CloudBolt any underpayments revealed by such audit. Licensee will promptly reimburse CloudBolt for all reasonable costs and expenses incurred by CloudBolt for such audit if: (i) such audit reveals an underpayment by Licensee of more than five percent (5%) of the fees payable by Licensee to CloudBolt for the period audited; or (ii) such audit reveals Licensee has materially failed to maintain accurate records of Licensee's use of the Software.

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6.0 MAINTENANCE AND SUPPORT.

6.1 M&S. Pricing and Start Date. Provided Licensee has paid the applicable fees and is not otherwise in default of this Agreement, Licensee is entitled to receive Maintenance & Support. Maintenance & Support will start upon CloudBolt's issuance of a License Key and remain in force for the duration of the License Type.

6.2 Reinstatement Fees. In the event that Maintenance and Support is not renewed, then upon the commencement of Maintenance and Support, a reinstatement fee will be assessed. The reinstatement fee is equal to: (a) all the back M&S fees that would have been due if M&S had not expired; (b) one year of M&S fees going forward; and (c) an activation charge. The activation charge will be calculated at twenty percent (20%) of the annual go forward M&S fee for the lapsed Software.

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9.0 LIMITATION OF LIABILITY.

9.1 Limitation of Liability. IN NO EVENT SHALL CLOUDBOLT BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES OF ANY KIND

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10.0 TERMINATION.

10.1 License Term. This Agreement shall commence on the date CloudBolt issues the first License Key to Licensee and shall continue for the duration of the License Type, unless terminated earlier as set forth in Section 10.2.

10.2 Termination for Breach. CloudBolt may terminate this Agreement in its entirety effective immediately upon written notice to Licensee if: (a) Licensee is in breach any provision in Section 2.0 or 3.0 and does not cure the breach within ten (10) days after receiving written notice thereof from CloudBolt; (b) Licensee fails to pay any portion of the fees under an applicable QOF within ten (10) days after receiving written notice from CloudBolt that payment is past due; (c) Licensee is in breach of any other provision of this Agreement and does not cure the breach within thirty (30) days after receiving written notice thereof from CloudBolt; or (d) Licensee commits a material breach that is not capable of being cured.

10.3 Termination for Insolvency. CloudBolt may terminate this Agreement in its entirety effective immediately upon written notice to Licensee if Licensee: (a) terminates or suspends its business; (b) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors; or becomes subject to any bankruptcy or insolvency proceeding or the control of a trustee, receiver or similar authority.

10.4 Effect of Termination. Licensee acknowledge and agree that that if CloudBolt has the right to terminate this Agreement, CloudBolt may do so remotely through the use of the License Key or by other means. In the event of termination of this Agreement, Licensee acknowledges and agrees that CloudBolt shall not be liable to Licensee because of such termination for compensation, reimbursement or damages on account of the loss of prospective profits or anticipated sales or on account of expenditures, inventory, investments, leases or commitments in connection with Licensee's business or goodwill. If CloudBolt terminates this Agreement under this Section 10: (a) all license rights to all Software granted to Licensee under this Agreement will immediately cease to exist; and (b) Licensee must promptly discontinue all use of all Software, and (destroy all copies of the Software and all License Key(s)) and return, or if requested by CloudBolt, destroy, any related CloudBolt Confidential Information in Licensee's possession or control and certify in writing to CloudBolt that Licensee has fully complied with these requirements. Sections 1 (Definitions), 2.4 (Open Source Software), 3.0 (Restrictions; Ownership), 5.1 (Records), 5.2 (Audit Rights), 7.2 (Disclaimer of Warranties), 9.0 (Limitation of Liability), 10.0 (Termination), 11.0 (Confidential Information) and 12.0 (Miscellaneous) will any survive termination of this Agreement.

11.0 CONFIDENTIAL INFORMATION. "*Confidential Information*" shall mean the terms of this Agreement, the Software, the Documentation and all technical and other business information of CloudBolt that are marked as confidential in writing or, if disclosed orally, is identified as confidential at the time of disclosure or is of an inherently confidential nature such that a reasonable person would know the

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12.0 MISCELLANEOUS.

12.1 Force Majeure. Neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquakes, fire and explosions, but the inability to meet financial obligations is expressly excluded. In addition, Licensee is aware that: (a) the Software is based on a portfolio of third party technology products, industry standards and/or official standards; and (b) the hypervisors, server automation software, hardware, framework software and storage and network software that the abstraction layer of the Software that connects to; are constantly evolving and changing or may be even be succeeded by yet unknown new products or techniques. Therefore performance interruptions or incompatibilities due to such cause(s) are excluded from any liability of CloudBolt to Licensee and are a form of force majeure.

12.2 Waiver. Any waiver of the provisions of this Agreement or any agreement related to this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or agreement related to this Agreement, or its rights or remedies at any time will not be construed nor deemed to be a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.

12.3 Applicable Law and Jurisdiction. This agreement will be governed by and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflict of laws. The parties acknowledge and agree that this Agreement shall be construed and enforced without regard to the United Nations Convention on the International Sale of Goods.

12.4 Severability. If any term, condition, or provision in this Agreement or Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties will endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

12.5 Independent Parties. The parties will at all times be independent parties and will present themselves to all other parties as such. Nothing in this Agreement will be construed to make either party, and each party agrees that it is not an agent, employee, franchisee, joint venture or legal representative of the other party.

Each party hereto is an independent contractor. A party does not have, and shall not represent itself to have, any authority to bind the other party or act on its behalf.

12.6 Compliance with Laws; Export Control; Government Regulations. Each party shall comply with all laws applicable to the actions contemplated by this Agreement. Licensee acknowledges that the Software is of United States origin, is provided subject to the U.S. Export Administration Regulations, may be subject to the export control laws of the applicable territory, and that diversion contrary to applicable export control laws is prohibited. Licensee represents that: (a) it is not, and is not acting on behalf of: (i) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (ii) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (b) it will not permit the Software to be used for, any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons. The Software and accompanying documentation are deemed to be “commercial computer software” and “commercial computer software documentation”, respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying or disclosing of the Software and documentation by the U.S. Government shall be governed solely by the terms and conditions of this Agreement.

12.7 Notices. Any notices required or permitted under the terms of this Agreement or required by law will (unless otherwise provided) be in writing and will be delivered in person, or send by registered mail or fax to the respective contact persons indicated in the QOF, as may be updated from time to time upon notification by one party to the other party. Any such notice will be considered to have been given at the time of actual delivery in person or, if sent by fax, at the time mentioned on the transmission result report, or within five (5) days after it was mailed in the manner specified above.

12.8 Equitable Relief. Licensee acknowledges that a breach of Section 2.0, 3.0 or 11.0 will cause CloudBolt irreparable damage, for which the award of damages would not be adequate compensation and therefore Licensee agrees that CloudBolt is entitled to obtain prompt injunctive relief to enjoin Licensee from any and all acts in violation of those provisions without the necessity of posting a bond or other security. Such injunctive relief remedy shall be cumulative and not exclusive and CloudBolt may seek any other relief available at law or in equity.

12.9 High Risk Activities. The Software is not fault-tolerant and is not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage (“High Risk Activities”). Accordingly, CloudBolt and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities. Licensee assumes all risk of loss or damage for use of the Software in High Risk Activities.

12.10 Feedback. In connection with M&S, the CloudBolt knowledge base, community forum(s) or Licensee’s use of the Software, Licensee may provide suggestions, enhancement requests, recommendations or other feedback (“**Feedback**”). Licensee hereby grants to CloudBolt a non-exclusive, transferable, sublicensable, world-wide, perpetual, royalty-free, irrevocable license to reproduce, create derivative works from, distribute, perform, display and otherwise use Feedback (including, but not limited to, incorporating it into the Software) and without any confidentiality obligation in any manner whatsoever.

12.11 Assignment. This Agreement may not be assigned, subcontracted or transferred by Licensee, in whole or in part, whether voluntary, by operation of contract, law or otherwise, without the prior written consent of CloudBolt. Any attempted assignment or transfer in violation of the foregoing will be null and void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

12.12 Third Party Rights. Other than as expressly set out in this Agreement, this Agreement does not create any rights for any person who is not a party to it, and no person who is not a party to this Agreement may enforce any of its terms or rely on any exclusion or limitation contained in it.

12.13 Entire Agreement, Order of Precedence. This Agreement (including all Quote/Order Forms, which are incorporated herein by reference), constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior and contemporaneous oral or written communications between the parties relating in any way to the subject matter hereof. No terms or conditions of any purchase order, acknowledgement or other business form that Licensee may use in connection with the acquisition or licensing of the Software and related services will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of CloudBolt to object to such terms, provisions or conditions. In the event of a conflict between the terms of this Agreement and a QOF, this Agreement shall prevail unless the QOF expressly states the provisions in this Agreement over which it will preside. Notwithstanding the foregoing, if there is a separate signed agreement between Licensee and CloudBolt governing Licensee's use of the Software the order of precedence shall be: (a) the signed agreement; (b) this Agreement; and (c) the QOFs.