

# Centrify End User Software License and Services Agreement

THIS END USER SOFTWARE LICENSE AND SERVICES AGREEMENT (this “Agreement”) constitutes a legal agreement between you (either an individual or a legal entity that will use the product and that you represent as an employee or authorized agent) (“Customer”) and Centrify Corporation, a Delaware corporation (“Centrify”), with respect to the Cloud Service or Customer Managed Software identified below. By installing, copying, downloading or otherwise accessing the Cloud Service or Customer Managed Software, Customer agrees to be bound by the terms of this Agreement. If Customer does not agree to the terms of this Agreement, Centrify is unwilling to grant Customer any rights to use the Cloud Service or Customer Managed Software. In such event, Customer may not use the Cloud Service or Customer Managed Software, and Customer should, as applicable, promptly cease use of the Cloud Service or destroy all copies of Customer Managed Software and accompanying Documentation, or notify Centrify to obtain instructions on return of the unused Customer Managed Software in accordance with its return policies.

The terms and conditions set forth in this Agreement and in any Schedule issued under this Agreement shall control in the event that there are different, inconsistent or additional terms set forth in any other purchase order submitted by Customer or invoice issued by Centrify. The terms and conditions of any Schedule shall incorporate the terms and conditions of this Agreement and shall have precedence over any conflicting terms and conditions contained in this Agreement.

## 1. DEFINITIONS

**1.1 “Affiliate”** means any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a party to this Agreement, by way of majority voting stock ownership or the ability to otherwise direct or cause the direction of the management and policies of such party. Customer shall notify Centrify in writing of the identity of its Affiliates and shall be jointly and severally liable for such Affiliate’s performance of its obligations under this Agreement.

**1.2 “Centrify”** means Centrify Corporation, a Delaware corporation, or a subsidiary of Centrify Corporation that provides the Cloud Service, Customer Managed Software or Consulting Services to Customer under this Agreement, as the context requires.

**1.3 “Claim”** shall have the meaning given to such term in Section 5.1.

**1.4 “Cloud Service”** means any on-line software service operated by Centrify and accessible to Customer via the internet, specified on a Schedule.

**1.5 “Cloud Service Addendum”** means the Cloud Service Addendum attached hereto as Exhibit A, initially as in effect on the Effective Date and as such document may be modified from time to time thereafter in accordance with its terms.

**1.6 “Compute Hour”** means access to the Cloud Service or use of Customer Managed Software on a compute service instance for a period of one hour. Any partial hour will be rounded up to the next full hour.

**1.7 “Confidential Information”** shall have the meaning given to such term in Section 10.1.

**1.8 “Consulting Fees”** means the fees charged Customer by Centrify for Consulting Services.

**1.9 “Consulting Materials”** shall have the meaning given to such term in Section 3.1.

**1.10 “Consulting Services”** means installation, consulting, implementation or training services, if any, provided to Customer by Centrify or its representative under this Agreement.

**1.11 “Customer Managed Platform”** means the hardware and software platforms (e.g., servers, database server systems, clustering technology and network-attached file systems) that are necessary to operate the Customer Managed Software, as expressly set forth in the Documentation.

**1.12 “Customer Managed Software”** means the Centrify software products and modules (including all copies made by Customer in accordance Section 2.1), specified on a Schedule, and any Updates provided to Customer by Centrify, in each case in its machine-readable object code form (unless otherwise expressly set forth on an applicable Schedule).

**1.13 “Delivery Date”** means the date on which the license keys for the Customer Managed Software or notification of the start of the Cloud Service ordered under a Schedule is electronically sent by Centrify to the Customer.

**1.14 “Distributor”** means any independent value added distributor (VAD) authorized by Centrifry to distribute Centrifry software and/or services to Resellers only, unless otherwise provided for in the applicable distribution agreement.

**1.15 “Documentation”** means Centrifry’s end user documentation made generally available by Centrifry for use with the Customer Managed Software or Cloud Service, whether published on-line or provided in hard copy. Documentation shall include any updated Documentation that Centrifry provides with Updates.

**1.16 “Jump Start Service”** means a set of pre-packaged services offered by Centrifry that includes training, on-site fixed deliverables and travel costs for a fixed price. The details of these offerings will be provided in a Statement of Work, if applicable.

**1.17 “License Fee”** means the fee charged to Customer by Centrifry for each Perpetual Use License which shall not include the fees for Technical Support or Maintenance. Customer shall pay a separate Maintenance Fee for Technical Support and Maintenance for each Maintenance Period Customer chooses to purchase. If Customer obtains the Customer Managed Software from a Reseller, Customer may pay the License Fee to the Reseller and not to Centrifry directly.

**1.18 “Maintenance”** means the provision of Updates (i) with each subscription to Customer Managed Software and (ii) for each Perpetual Use License for which the Customer has paid the applicable Maintenance Fee, subject to the Product and System Support Lifecycle Policies posted at <https://www.centrifry.com/support/customer-support-portal/policies/product-lifecycle/>.

**1.19 “Maintenance Fee”** means the annual fee charged to Customer by Centrifry for Technical Support and Maintenance of a single Perpetual Use License.

**1.20 “Maintenance Period”** means any period during the term of this Agreement during which Centrifry makes Technical Support and Maintenance available for Perpetual Use Licenses. The first Maintenance Period commences on the Delivery Date, and each additional Maintenance Period commences on the anniversary date of such Delivery Date. Each Maintenance Period shall have a term of one year, unless otherwise set forth in an applicable schedule.

**1.21 “Perpetual Use License”** means a license to Customer Managed Software granted to Customer pursuant to Section 2.1 of this Agreement for which the license term, as set forth in an applicable Schedule, is perpetual.

**1.22 “Project Authorization”** shall have the meaning given to such term in Section 3.1.

**1.23 “Reseller”** means any independent value added reseller (VAR) authorized by Centrifry to distribute Centrifry software and/or services to Customer.

**1.24 “Schedule”** means any addendum, exhibit, quote, schedule or Statement of Work to this Agreement in a form approved by Centrifry.

**1.25 “Statement of Work”** shall have the meaning given to such term in Section 3.1.

**1.26 “Subscription Fee”** means the fee charged to Customer by Centrifry for (i) the Cloud Service (including Technical Support) and (ii) each copy of Customer Managed Software purchased (including Technical Support and Maintenance) either for the Subscription Term or for the number of Compute Hours purchased. If Customer obtains the Customer Managed Software from a Reseller, Customer may pay the Subscription Fee to the Reseller and not to Centrifry directly.

**1.27 “Subscription Term”** means the period during which Customer is subscribed to Cloud Service and or Customer Managed Software as set forth on an applicable Schedule.

**1.28 “System”** shall have the meaning given to such term in Section 2.1.1.

**1.29 “Technical Support”** means the services provided by Centrifry or its representative (with each subscription and, subject to the Maintenance Fee, for Perpetual Use Licenses) at the level set forth on an applicable Schedule under the Centrifry Technical Support Policy posted at <https://www.centrifry.com/resources/dsh-en-centrifry-technical-support-plans-and-policies/> as such document may be modified from time to time hereafter, subject to the Product and System Support Lifecycle Policies posted at <https://www.centrifry.com/support/customer-support-portal/policies/product-lifecycle/>.

**1.30 “Third Party Software”** means any software that is not owned by Centrifry that is identified in the Documentation or on [www.centrifry.com](http://www.centrifry.com) and related Centrifry websites and user portals.

**1.31 “Update”** means any revision, adaptation, enhancement or new version of the Customer Managed Software.

**1.32 “User”** means an employee, contractor, client or customer of Customer to whom Customer provides access to the Customer Managed Software or the Cloud Service, the number or other limitations of which are set forth on an applicable Schedule.

**1.33 “User Account”** means electronic credentials a User uses to access to the Customer Managed Software or the Cloud Service.

## **2. SUBSCRIPTION & LICENSE**

**2.1 Customer Managed Software.** Subject to the terms and conditions of this Agreement and payment of the applicable Subscription Fee or License Fee (as the case may be), Centrifry grants Customer a worldwide, non-exclusive, non-transferable license, without the right to sublicense and (except as otherwise provided on a Schedule) solely for its own business operations, (i) to use the Customer Managed Software to manage the number of systems for which Customer has subscribed or purchased licenses (as the case may be), and have the number of Users for which Customer has subscribed or purchased licenses (as the case may be) use the Customer Managed Software in accordance with the terms of the Documentation and this Agreement; and (ii) to install and deploy the Customer Managed Software or to have third parties do so for Customer. The term of such license shall be either (i) the Subscription Term, (ii) the number of Compute Hours purchased by Customer, or (iii) perpetual in the case of Perpetual Use Licenses. Customer may reproduce the Customer Managed Software and Documentation only as necessary to use the Customer Managed Software as licensed above and to make a reasonable number of copies for back-up and archival purposes. Customer shall ensure that each copy contains all titles, trademarks, and copyright and restricted rights notices as in the original. Transfers within a like-for-like system are permitted for Customer Managed Software purchased on a per-system basis, meaning Customer Managed Software deployed on a server may be moved to another server, and Customer Managed Software deployed on a workstation may be moved to another workstation. User substitution is permitted for Customer Managed Software purchased on a per-User basis, meaning if Customer terminates access for one User, it may provide access to another User. Customer shall implement all commercially reasonable measures to ensure that its Users comply with the restrictions and limitations of this Agreement.

**2.1.1. Procurement and Maintenance of System.** Customer is responsible for procuring, installing and maintaining the Supported Platform, together with the provision of any other necessary hardware or software required for its proper operation (collectively the “System”), and for providing a suitable operating environment in accordance with the guidelines specified by the suppliers or manufacturers of the components of the System. Centrifry is not responsible for the installation, sizing, configuration, performance or other operation of the System, and Customer shall look solely to the suppliers or manufacturers of the components of the System with respect to such matters. Customer acknowledges that Updates to the Customer Managed Software may require upgrades to certain components of the System, as set forth in the Documentation for such Updates, in order to ensure optimum performance, and that Customer is solely responsible for obtaining such software and hardware upgrades.

**2.1.2. Technical Support and Maintenance for Perpetual Use Licenses.** In consideration of Customer’s payment of the applicable Maintenance Fee (as set forth in a Schedule) and subject to the terms and conditions of this Agreement, for so long as Centrifry provides Technical Support and Maintenance for the Customer Managed Software, Centrifry will make Technical Support and Maintenance available to Customer for Perpetual Use Licenses. Customer is required to purchase Technical Support and Maintenance for the initial Maintenance Period for Perpetual Use Licenses, and may opt to purchase Technical Support and Maintenance for subsequent Maintenance Periods, provided that Technical Support and Maintenance is purchased for each and every Perpetual Use License purchased by Customer. Such right to purchase Technical Support and Maintenance shall not be transferable by Customer except to Affiliates. Unless Customer notifies Centrifry of its desire to terminate Technical Support and Maintenance for its Perpetual Use Licenses at least thirty (30) days prior to the end of the initial term or any renewal term, and so long as Centrifry provides Technical Support and Maintenance for the Customer Managed Software, Technical Support and Maintenance will be renewed for an additional Maintenance Period upon expiration of the current Maintenance Period. Centrifry will send a quote to Customer for the applicable Maintenance Fee at least ninety (90) days in advance of the upcoming renewal Maintenance Period, and shall not be liable to provide Technical Support and Maintenance during any period in which Customer is not current on payment of the applicable Maintenance Fee. Centrifry reserves the right to alter its standard Technical Support and Maintenance offerings from time to time, but will not reduce the level of Technical Support and Maintenance for which a Maintenance Fee has been paid. Any such changes will be communicated to Customer if the Customer chooses to opt-in to receive such maintenance updates. In the event of a lapse of Technical Support and Maintenance for a Perpetual Use License, Customer may purchase Technical Support and Maintenance by executing the applicable Schedule and paying the corresponding Maintenance Fee, including any reactivation fee as outlined in the table below. Centrifry reserves the right to refuse to provide Technical Support and Maintenance for all of Customer’s Perpetual Use Licenses in the event Customer fails to pay the applicable Maintenance Fee as to any one of its Perpetual

Use Licenses.

Period of Time Lapsed	Reactivation Fee
0-6 Months	25% of Annual Maintenance Fee previously due
6-12 Months	50% of Annual Maintenance Fee previously due
Over 12 Months	100% of Annual Maintenance Fee previously due

**2.1.3. iOS App Use.** To the extent the Customer is using the Customer Managed Software for iOS app use, the terms of this paragraph shall apply. Customer acknowledges that this Agreement is between Customer and Centrifly only and not with Apple. All terms of the App Store remain in effect. Customer may use the licensed application on any iPhone, iPad or iPod touch that Customer owns or controls and as permitted by the usage rules set forth in the App Store Terms of Service. Centrifly and Customer acknowledge and agree that Apple and Apple's subsidiaries are third party beneficiaries of this Agreement, and that, upon Customer's acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against the end-user as a third party beneficiary thereof.

**2.2 Cloud Service.** Subject to the terms and conditions of this Agreement and the Cloud Service Addendum and Customer's payment of the applicable Subscription Fee, Centrifly grants Customer a worldwide, non-exclusive, non-transferable right, without the right to sublicense and (except as otherwise provided on a Schedule) solely for its own business operations to use the Cloud Service to manage the number of systems for which Customer has subscribed, and have the number of Users for which the Customer has subscribed use the Cloud Service in accordance with the terms of the Documentation and this Agreement. The term of such license shall be the Subscription Term or the number of Compute Hours purchased by Customer.

**2.2.1. SAP Online Marketplaces.** The terms of this paragraph shall apply to Cloud Service purchased on SAP Online Marketplaces. Centrifly and Customer acknowledge that Centrifly is solely responsible for providing the Cloud Service and Technical Support services as set forth herein and SAP has no obligation to furnish any such services to Customer. To the maximum extent permitted by applicable law, SAP will have no warranty obligation to Customer with respect to the Cloud Service and any claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to the warranties set forth in this Agreement shall be Centrifly's sole responsibility. Centrifly and Customer acknowledge that Centrifly, not SAP, is responsible for addressing any claims of Customer or any third party relating to the Cloud Service or Customer's possession and/or use of the Cloud Service. In the event of any third party claim that the Cloud Service infringes the third party's intellectual property rights, Centrifly and Customer acknowledge that Centrifly, not SAP, will be solely responsible for the investigation, defense, settlement and discharge of any such infringement claim subject to Section 5 of this Agreement. Centrifly and Customer acknowledge and agree that SAP and SAP's subsidiaries are third party beneficiaries of this Agreement and that upon Customer's acceptance of the terms and conditions of this Agreement, SAP will have the right (and will be deemed to have accepted the right) to enforce the Agreement against Customer as a third party beneficiary thereof.

**2.3 Express Use License.** In the event that the Customer Managed Software or Cloud Service is licensed only for "Express Use", the terms of this paragraph shall apply. Centrifly hereby grants Customer a personal, nonexclusive, nontransferable license, without right of sublicense, to install, use and execute the Customer Managed Software on up to two hundred (200) physical and/or virtual UNIX or Linux servers and workstations total. Education and non-profit customers may use and execute the Customer Managed Software on up to four hundred (400) physical and/or virtual UNIX or Linux servers and workstations total. This license to use the Customer Managed Software or Cloud Service commences on receipt, download or other acquisition of the Customer Managed Software or Cloud Service. The Customer Managed Software or Cloud Service licensed for Express Use may include disabled features that require additional fees and conditions to use. The Customer Managed Software or Cloud Service may employ a restriction mechanism, which restricts the program to a limited working time, a specific set of features and/or a specific number of users or systems. This restriction mechanism and the manner in which it enforces the restriction is maintained in confidence by Centrifly as a trade secret, and Customer may not publish, disclose or reveal it. Customer agrees not to do anything to circumvent or defeat the restriction mechanism. Notwithstanding anything to the contrary in this Agreement, Sections 5 (Intellectual Property Indemnity), 7.1 (Customer Managed Software and Cloud Service Warranty), 7.2 (Consulting Services Warranty) and 11 (Insurance) shall not apply to Express Use Software Licenses.

**2.4 Evaluation Use License.** In the event that the Customer Managed Software or Cloud Service is licensed only for evaluation use, the terms of this paragraph shall apply. Centrifry hereby grants Customer a personal, nonexclusive, nontransferable license, without right of sublicense, to install, use and execute the Customer Managed Software or Cloud Service. This license to use the Customer Managed Software or Cloud Service commences on installation of the Customer Managed Software or use of the Cloud Service and, unless Customer and Centrifry agree to a different period, will terminate after a period of thirty (30) days (the "Evaluation Period"). Customer may use the Customer Managed Software or Cloud Service for an unlimited number of users and systems during the Evaluation Period. Customer Managed Software or Cloud Service licensed for Evaluation Use will automatically disable itself at the end of the Evaluation Period, as it employs a restriction mechanism, which restricts the program to a limited working time. This restriction mechanism and the manner in which it enforces the restriction is maintained in confidence by Centrifry as a trade secret, and Customer may not publish, disclose or reveal it. Customer agrees not to do anything to circumvent or defeat the restriction mechanism. Notwithstanding anything to the contrary in this Agreement, Sections 5 (Intellectual Property Indemnity), 7.1 (Customer Managed Software and Cloud Service Warranty), 7.3 (Consulting Services Warranty) and 11 (Insurance) shall not apply to Evaluation Use Licenses.

**2.5 Restrictions.** The rights granted in Section 2.1 through 2.4 are subject to the following restrictions: (i) Customer shall not reverse engineer, disassemble, decompile or otherwise attempt to derive the source code of the Customer Managed Software or Cloud Service, except and only to the extent that it is expressly permitted by applicable law notwithstanding this limitation; (ii) Customer shall not sublicense or use the Customer Managed Software or Cloud Service for commercial time-sharing, rental, outsourcing, application or managed service provision, or service bureau use, or to train persons other than Users, unless previously agreed to in writing by Centrifry; (iii) Customer may not remove any patent, trademark, copyright, trade secret or other proprietary notices or labels on the Customer Managed Software, Cloud Service or Documentation, (iv) Customer shall not disclose the results of any performance, functional or other evaluation or benchmarking of the Customer Managed Software or Cloud Service to any third party without the prior written permission of Centrifry; (v) Customer may not use the Customer Managed Software or Cloud Service if Customer is a competitor of Centrifry; (vi) Customer shall not modify or create any derivative works of the Customer Managed Software, Cloud Service or Documentation; and (vii) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Cloud Service or the data contained therein. In addition, Customer shall not deploy the Centrifry Auditing and Monitoring Service in any virtual or gateway-based (i.e., jump box) architecture unless Customer has purchased a subscription or license for all computers or devices (physical or virtual) that are audited by the gateway-based solution, as well as a separate subscription or license for the gateway-based solution itself. In the event that any Third Party Software is required for Customer's use of the Customer Managed Software or Cloud Service, i.e., GoogleMaps for location services, Customer will comply with the terms of use applicable to such Third Party Software. In particular, Customer agrees to be bound by the [Google Maps/Google Earth Additional Terms of Service](#) (including the [Google Privacy Policy](#)).

**2.6 Retention of Rights.** Centrifry reserves all rights not expressly granted to Customer in this Agreement. Without limiting the generality of the foregoing, Customer acknowledges and agrees (i) that Centrifry and its third party licensors retain all rights, title and interest in and to the Customer Managed Software, Cloud Service and Documentation and (ii) that it does not acquire any rights, express or implied, in or to the foregoing, except as specifically set forth in this Agreement. Any new features, functionality, corrections or enhancements for the Customer Managed Software or Cloud Service suggested by Customer shall be free from any confidentiality restrictions that might otherwise be imposed upon Centrifry pursuant to Section 10, and may be incorporated into the Customer Managed Software or Cloud Service by Centrifry. Customer acknowledges that the Customer Managed Software or Cloud Service incorporating any such new features, functionality, corrections or enhancements shall be the sole and exclusive property of Centrifry.

## **2.7 Usage Certification.**

**2.7.1. Customer Managed Software Usage.** The Customer Managed Software includes a function that allows Customer to run a report to show the number of copies of the Customer Managed Software used by Customer. Centrifry may request a copy of the report on a semi-annual basis to verify compliance with this Agreement, and Customer shall provide Centrifry with the report when requested. If the report reveals that Customer has deployed more copies of the Customer Managed Software than the Customer has subscribed for or licensed on a perpetual use basis, Centrifry shall invoice and Customer shall promptly pay to Centrifry the Subscription Fee or License Fee (as the case may be) for the additional copies deployed. Centrifry reserves the right to refuse to provide Technical Support and Maintenance for the Customer Managed Software in the event Customer fails to (i) provide Centrifry with the report within ten (10) business days when requested or (ii) pay to Centrifry the applicable Subscription Fee or License Fee (as the case may be) for additional copies deployed.

**2.7.2. Compute Hour Usage.** The Customer Managed Software and Cloud Service include functionality that



allows Customer to run a report to show the number of Compute Hours used by Customer during a specified period of time. If Customer has subscribed for Compute Hours, Customer will either permit the Customer Managed Software or Cloud Service to automatically send a Compute Hour usage report or provide Centrifry with a Compute Hour usage report within fifteen (15) business days of the end of each calendar quarter. If the report reveals that Customer has used more Compute Hours than Customer has subscribed for, Centrifry shall invoice Customer for the excess Compute Hours used. Any Compute Hours not used within one (1) year of the date ordered will automatically expire and are forfeited by Customer.

### 3. CONSULTING SERVICES

**3.1 Consulting Services.** From time to time, Customer may request, through provision of an executed project authorization in the form required by Centrifry, that Centrifry, or its duly authorized representative perform Consulting Services (a "Statement of Work" or "Quotation" or, each and collectively, "Project Authorization"). Centrifry shall have no obligation to perform Consulting Services until and unless it accepts a Project Authorization. Customer shall be responsible for providing Centrifry's representatives with access to qualified Customer employees and Customer-controlled software and hardware, and safe access to Customer's premises, each as required to allow Centrifry to perform the Consulting Services. Centrifry's representatives will comply with reasonable written rules and regulations of Customer with respect to Customer's premises, provided that such rules and regulations are provided to Centrifry prior to commencement of the Consulting Services. All materials and information used or generated by Centrifry in the performance of Consulting Services ("Consulting Materials"), and all intellectual property rights therein, shall be the property of Centrifry. Centrifry grants to Customer a perpetual, worldwide, non-exclusive, non-transferable license, without the right to sublicense and solely for its own business operations, to use and have Users use the Consulting Materials provided to Customer under this Agreement, subject to all of the provisions of this Agreement governing Customer Managed Software and Documentation, as applicable, and any applicable Schedules. The rights to any of Customer's preexisting proprietary business information, or results of any compilation thereof, which are used in or result from Consulting Services and Consulting Materials, shall remain the sole property of Customer.

**3.2 Cancellation.** If any Consulting Services engagement is cancelled by Customer less than three (3) weeks before the scheduled start date for such Consulting Services, Customer agrees to pay the Consulting Fees that would have been properly invoiced by Centrifry had Customer not cancelled such engagement incurred up to the date Centrifry is able to redeploy the resources that had been allocated to Customer, and also agrees to pay any reasonable travel cancellation fees, expenses or penalties incurred by Centrifry that Centrifry cannot avoid due to Customer's cancellation. For an engagement of multiple weeks, such obligation to pay applies only to the Consulting Fees for each week for which the cancellation notice is less than three (3) weeks. In the event that Centrifry notifies Customer of Customer's failure to perform any of its obligations under a Statement of Work, which failure shall have prevented Centrifry from meeting any deadline, such deadline shall be extended by an amount of time equal to the length of such failure to perform on the part of Customer. Centrifry shall have the right to charge Customer at Centrifry's then applicable daily rates to the extent that such delays cause Centrifry to provide additional services or to spend additional time on the project. In the case of extended delays as to which Customer provides reasonable advance written notice regarding the expected duration of the delay, Centrifry shall make a good faith effort to redeploy its resources to other projects to mitigate such additional charges. Centrifry shall have the right to rely upon all decisions and approvals of Customer's representatives.

### 4. TERM AND TERMINATION

**4.1 Term.** The term of this Agreement shall commence on the Effective Date and shall continue until terminated in accordance with the provisions of this Section 4. Upon expiration or termination of the then-current Subscription Term, Customer's subscription will be automatically renewed for an additional year unless Customer notifies Centrifry of its desire to terminate its subscription at least thirty (30) days prior to the end of the then-current Subscription Term, subject to payment of the Subscription Fee due for such renewed subscription.

**4.2 Termination by Customer for Convenience.** Customer may terminate any subscription, any Perpetual Use License, any Schedule, any Project Authorization or this Agreement in its entirety, at any time upon written notice to Centrifry.

**4.3 Termination by Either Party for Material Breach.** Either party may terminate this Agreement upon written notice if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days following receipt of written notice describing the breach.

**4.4 Termination by Either Party for Insolvency or Bankruptcy.** Either party may terminate this Agreement by written notice to the other party if the other party becomes insolvent; applies for or consents to the appointment of a trustee, receiver or other custodian; makes a general assignment for the benefit of its creditors; initiates any

bankruptcy, debt arrangements, or other case or proceeding under any bankruptcy or insolvency law; or becomes subject to any dissolution or liquidation proceedings acquiesced to by such party or not dismissed after sixty (60) days.

**4.5 Effect of Termination.** Except as otherwise set forth herein, termination of this Agreement, any subscription, any Schedule or any Project Authorization shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve Customer of its obligation to pay all fees that have accrued or are otherwise owed by Customer under any Schedule. The parties' rights and obligations under Sections 2.5 (Restrictions), 2.6 (Retention of Rights), 2.7 (Usage Certification), 4.5 (Effect of Termination), 4.6 (Handling of Software and Confidential Information Upon Termination), 7.3 (Disclaimers), 8 (Limitation of Liability), 9 (Payment), 10 (Nondisclosure) and 12 (Miscellaneous), as well as any obligation to pay fees accrued prior to termination, shall survive termination of this Agreement. Unless this Agreement is terminated by Customer under Section 4.3, and except as provided in Sections 5.2, 7.1 and 7.2 or in the Cloud Service Addendum, no refund shall be due from Centrifry for any unused prepaid fees.

**4.6 Handling of Software and Confidential Information Upon Termination.** Upon termination of this Agreement, any subscription, any Schedule or any Project Authorization, Customer shall (i) cease using the applicable Customer Managed Software, Cloud Service, Documentation and related Confidential Information of Centrifry, and (ii) certify to Centrifry within thirty (30) days after termination that Customer has destroyed, or has returned to Centrifry, the Customer Managed Software, Documentation, related Confidential Information of Centrifry, and all copies thereof, whether or not modified or merged into other materials. Following termination of this Agreement, and subject to the Cloud Service Addendum, each party will return or destroy the other party's Confidential Information and within thirty (30) days following the other party's written request, the other party shall certify to the requesting party that it has destroyed or returned to the requesting party all Confidential Information of the requesting party, and all copies thereof, whether or not modified or merged into other materials.

## **5. INTELLECTUAL PROPERTY INDEMNITY**

**5.1 Generally.** Centrifry will defend, indemnify and hold Customer harmless against any claim brought by a third party to the extent it alleges that the Customer Managed Software or the Cloud Service directly infringes any United States patent, copyright or trademark, or misappropriates any trade secret, of that third party (a "Claim"), and will pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Customer by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Centrifry arising out of such Claim; provided that: (i) Customer gives Centrifry prompt written notice upon learning of a Claim or potential Claim; (ii) Centrifry may assume sole control of the defense of such Claim and all related settlement negotiations; and (iii) Customer reasonably cooperates with Centrifry, at Centrifry's request and expense, in the defense or settlement of the Claim, including the provision of all assistance, information and authority reasonably requested by Centrifry. In no event shall Centrifry enter into any settlement or agree to any disposition, without the prior written consent of the Customer, that contains an admission of liability or wrongdoing on the part of the Customer, or otherwise prejudices the rights of the Customer. Notwithstanding the foregoing, Centrifry shall have no liability for any claim of infringement based on (a) the use of a superseded or altered release of the Customer Managed Software if the infringement would have been avoided by the use of a current unaltered release of the Customer Managed Software, (b) the modification of the Customer Managed Software or Cloud Service by anyone other than Centrifry or its agents, (c) the use of the Customer Managed Software or Cloud Service other than in accordance with the Documentation and this Agreement, (d) the combination of the Customer Managed Software or Cloud Service with other software or hardware not provided by Centrifry, where the combination causes the infringement and not the Customer Managed Software or Cloud Service standing alone, or (e) subscriptions or licenses for no fee, including an Express Use, trial, beta or evaluation license agreement.

**5.2 Additional Remedies.** If the Customer Managed Software or Cloud Service, or any material portion thereof, is held by a court of competent jurisdiction to infringe, or if Centrifry believes that the Customer Managed Software or Cloud Service may be subject to a Claim or held to infringe, Centrifry shall in its commercially reasonable judgment and at its expense (a) replace or modify the Customer Managed Software or Cloud Service so as to be non-infringing, provided that the replacement software or service contains substantially similar functionality; or (b) obtain for Customer the rights to continue using the Customer Managed Software or Cloud Service; or (c) if non-infringing software or the rights to use the Customer Managed Software or Cloud Service cannot be obtained upon commercially reasonable terms, terminate the then-current subscription. Upon any such termination of the then-current subscription, Centrifry shall refund any prepaid and unused amounts paid for the then-current subscription and/or applicable Perpetual Use Licenses. Upon any such termination of Perpetual Use Licenses, provided that Customer returns the applicable Customer Managed Software to Centrifry or certifies its destruction, Centrifry shall refund a pro-rated portion of the License Fee paid for such Perpetual Use Licenses, depreciated on a five-year straight-line basis, and the unused portion of any prepaid Maintenance Fees that directly relate to such Perpetual Use Licenses for the year in

which such remedy is exercised. This Section 5.2 shall not apply to subscriptions or licenses for no fee, including an Express Use, trial, beta or evaluation license agreement.

**5.3 Exclusive Remedy.** This Section 5 sets forth Customer's exclusive remedy, and Centrifry's entire liability, with respect to infringement or misappropriation of intellectual property rights of any kind arising out of this Agreement.

## **6. CUSTOMER INDEMNITY**

Customer shall defend, indemnify and hold Centrifry harmless against any claim brought by a third party, and shall pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Centrifry by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Customer, to the extent such claim arises out of any of the following: (a) Customer's use of the Customer Managed Software or Cloud Service other than as authorized under this Agreement; (b) the Customer Data (as defined in the Cloud Service Addendum); (c) Customer's violation of any applicable law, including but not limited to data protection and privacy laws; or (d) any alleged grossly negligent or willful acts or omissions of Customer which gave rise to such claim.

## **7. WARRANTIES AND REMEDIES**

### **7.1 Customer Managed Software and Cloud Service Warranty.**

**7.1.1** Centrifry warrants to Customer that, for a period of thirty (30) days from the Delivery Date, the Customer Managed Software will perform in material conformity with the functions described in the applicable Documentation when operated on the Supported Platform. Such warranty period shall not apply to subsequent subscriptions for software or services included in prior subscriptions, subsequent additional Perpetual Use Licenses for Customer Managed Software previously purchased and subscriptions and licenses for no fee. Centrifry will use commercially reasonable efforts to remedy any material non-conformity with respect to the Customer Managed Software that is discovered and made known to Centrifry by Customer during the period of the warranty.

**7.1.2** Centrifry warrants to Customer that, during the Subscription Term, the Cloud Service will perform in material conformity with the functions described in the applicable Documentation. Such warranty period shall not apply to subscriptions for no fee. Centrifry will use commercially reasonable efforts to remedy any material non-conformity with respect to Cloud Service at no additional charge to Customer.

**7.1.3** In the event Centrifry is unable to remedy the non-conformity and such non-conformity materially affects the functionality of the Customer Managed Software or Cloud Service, Customer may promptly terminate the applicable subscription or Perpetual Use Licenses (as the case may be) and return the applicable Customer Managed Software (and related license keys) to Centrifry. In the event Customer terminates its subscription or Perpetual Use Licenses pursuant to this Section 7.1, Customer will receive a refund of any prepaid and unused portion of the Subscription Fee or the applicable License Fee paid. The foregoing shall constitute the exclusive remedy of Customer, and Centrifry's entire liability, with respect to any breach of this Section 7.1.

**7.2 Consulting Services Warranty.** Centrifry warrants to Customer that the Consulting Services provided by Centrifry will be performed in a professional manner and in accordance with generally prevailing industry standards. Customer must give notice of any breach of this warranty within thirty (30) days from the date that the Consulting Services are completed, as provided in the Project Authorization applicable to the Consulting Services engagement. In such event, at Centrifry's option, Centrifry shall (a) use commercially reasonable efforts to re-perform the Consulting Services in a manner that conforms to the warranty, or (b) refund to Customer the fees paid by Customer to Centrifry for the nonconforming Consulting Services. The foregoing shall constitute the exclusive remedy of Customer, and Centrifry's entire liability, with respect to any breach of this Section 7.2.

**7.3 Disclaimers.** Centrifry does not warrant that (i) the Customer Managed Software or Cloud Service will meet Customer's requirements, (ii) the Customer Managed Software or Cloud Service will operate in combination with other hardware, software, systems or data not provided by Centrifry (except as expressly specified in the Documentation), (iii) the operation of the Customer Managed Software will be uninterrupted or error-free, (iv) the operation of the Cloud Service will be secure, timely, uninterrupted or error-free, or (v) all errors in the Customer Managed Software or Cloud Service will be corrected. THE WARRANTIES STATED IN THIS SECTION 7 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND QUALITY OF SERVICE. NO WARRANTIES SHALL ARISE UNDER THIS AGREEMENT FROM COURSE OF DEALING OR USAGE OF TRADE.



## 8. LIMITATION OF LIABILITY

IN NO EVENT WILL CENTRIFY OR ITS THIRD PARTY LICENSORS BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES BY CUSTOMER. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, DATA OR USE, INCURRED BY THE OTHER PARTY OR ANY THIRD PARTY UNDER THIS AGREEMENT, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The aggregate and cumulative liability of Centrifly and its third party licensors for damages under this Agreement shall not exceed the amount of fees paid by Customer under this Agreement during the twelve (12) month period prior to the date when a claim for damages is first made, and if such damages relate to particular software or services, such liability shall be limited to fees paid for the relevant software or services giving rise to the liability during the twelve (12) month period prior to the date when a claim for damages is first made, provided, however, that the limitation of liability in this Section 8 will not apply to (a) a breach of either party's intellectual property rights and (b) any damages awarded to a third party as a result of a claim for which either party is indemnified hereunder.

## 9. PAYMENT PROVISIONS

**9.1 Invoices.** Unless set forth on a Schedule, all payments of any fees under this Agreement, including Subscription Fees, License Fees, Maintenance Fees and Consulting Fees, shall be payable within thirty (30) days of the date of receipt of Centrifly's invoice. Customer agrees and acknowledges that the terms of credit extended to Customer or Affiliates are subject to the review of Centrifly's credit department and may be revised from time to time, effective immediately upon notice.

**9.2 Subscription Fees and License Fees.** Customer agrees to make the Subscription Fee and License Fee payments set forth in an applicable Schedule, which payments shall be nonrefundable and irrevocable, except as otherwise provided in this Agreement.

**9.3 Maintenance Fees.** Maintenance Fees shall be payable annually in advance of the Maintenance Period, unless otherwise set forth in an applicable Schedule, and shall be nonrefundable and irrevocable, except as otherwise provided in this Agreement.

**9.4 Consulting Fees.** Consulting Fees shall be invoiced in full upon receipt of an order for Consulting Services, unless otherwise provided in a Project Authorization or Schedule. Consulting Fees are non-refundable. Any unused Consulting Services days expire six (6) months from the date the Consulting Services were ordered, unless otherwise provided in a Project Authorization or Schedule.

**9.5 Taxes.** The fees specified in this Agreement do not include taxes, duties or fees. If Centrifly is required to pay or collect (i) sales, use, property, value-added, withholding or other taxes, (ii) any customs or other duties, or (iii) any import, warehouse or other fees, associated Customer's subscription or services provided under this Agreement or with respect to Customer's use of software or services, then such taxes, duties or fees shall be billed to and paid by Customer unless Customer provides Centrifly with a valid tax exemption certificate authorized by the appropriate taxing authority. If Customer is permitted to declare any such taxes, Customer shall declare and pay such taxes and Centrifly shall not be required to invoice Customer. This Section shall not apply to taxes based on Centrifly's net income or payroll taxes.

## 10. NONDISCLOSURE

**10.1 Confidential Information.** Each party may have access to information of the other party that is confidential and/or proprietary ("Confidential Information"). Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential (whether disclosed in writing, orally or by inspection of tangible objects). Centrifly's Confidential Information shall include, but not be limited to, the Customer Managed Software, Cloud Service, Documentation, formulas, methods, know how, processes, designs, new products, developmental work, marketing requirements, marketing plans, customer names, prospective customer names, the terms and pricing under this Agreement, and the results of any comparative or other benchmarking tests with respect to the Customer Managed Software or Cloud Service, in each case regardless of whether such information is identified as confidential. Confidential Information includes all information received from third parties that either party is obligated to treat as confidential and oral information that is identified by either party as confidential.

**10.2 Exceptions.** A party's Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii)

is lawfully disclosed to the other party by a third party without restriction on disclosure; or (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information. In addition, Section 10 will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required to by law or valid order of a court or other governmental authority; provided, however, that the responding party shall first have given notice to the other party to enable the disclosing party to seek a protective order or take other appropriate action.

**10.3 Restrictions.** Unless otherwise required by applicable law, the parties shall not make each other's Confidential Information available in any form to any third party (except third parties who are Users) or use each other's Confidential Information for any purpose other than as authorized under this Agreement. Each party shall take all commercially reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in breach of this Agreement. The receiving party shall notify the disclosing party immediately upon discovery of any unauthorized use or disclosure of Confidential Information by the receiving party, and will cooperate with the disclosing party in every reasonable way to help the disclosing party regain possession of the Confidential Information and prevent its further unauthorized use. Except as expressly stated in this Agreement, no license or intellectual property right to Confidential Information is granted due to the disclosure by either party to the other party, and each party retains ownership of its Confidential Information. The parties shall hold each other's Confidential Information in confidence both during the term of this Agreement and for a period of five (5) years after any termination of this Agreement. Each party acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this Section 10 and that such breach would cause irreparable harm to the non-breaching party; therefore, the non-breaching party shall be entitled to obtain immediate injunctive relief, in addition to whatever remedies it might have at law or under this Agreement.

## 11. INSURANCE

Centrify agrees at its own expense to secure and keep in full force and effect throughout the term of this Agreement the following insurance policies:

**11.1 Commercial General Liability.** Commercial General Liability Insurance written on an occurrence form to afford protection with limits not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) combined general aggregate, including coverage for bodily injury and/or death, premises/operations, products-completed operations, independent contractors, and broad form property damage;

**11.2 Workers Compensation Insurance.** Workers Compensation Insurance providing statutory benefits for service providers' officers, employees, and agents and Employer's Liability coverage with limits not less than One Million Dollars (\$1,000,000);

**11.3 Business Automobile Liability Insurance.** Business Automobile Liability Insurance including coverage for owned, non-owned, leased, or hired vehicles with limits not less than One Million Dollars (\$1,000,000) per accident combined single limit for bodily injury and property damage;

**11.4 Errors and Omissions/Professional Liability Insurance.** Errors and Omissions/Professional Liability Insurance including cyber liability, privacy and network security with limits not less than Five Million Dollars (\$5,000,000) each claim to cover professional acts, errors, or omissions arising out of the services performed under this Agreement; and

**11.5 Umbrella Liability.** Umbrella Liability with limits not less than Three Million Dollars (\$3,000,000) each claim and in the aggregate.

## 12. MISCELLANEOUS

**12.1 Governing Law.** This Agreement, and all matters arising out of or relating to this Agreement, shall be governed by the laws of the State of California, excluding its conflict of law provisions. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act are specifically excluded from application to this Agreement. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in the Northern District of California and the parties hereby irrevocably consent to the personal jurisdiction and venue therein. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement prevents either party from seeking injunctive relief in an appropriate or applicable forum.

**12.2 Notices.** All notices required to be sent under this Agreement shall be in writing and shall be deemed to have been given upon (i) the date sent by confirmed facsimile, (ii) on the date it was delivered by recognized overnight

courier or by hand delivery, or (iii) if by certified mail return receipt requested, on the date received, to the addresses set forth above and to the attention of the signatories of this Agreement and the relevant Schedule, or to such other address or individual as the parties may specify from time to time by written notice to the other party.

**12.3 Assignment.** Neither party shall sell, lease, assign or otherwise transfer this Agreement or any rights or obligations under this Agreement in whole or in part, and any such attempted assignment shall be void and of no effect without the advance written consent of the other party, such consent not to be unreasonably withheld or delayed; provided, however, that such consent shall not be required if either party assigns this Agreement to an Affiliate or in connection with and to the extent related to a merger, acquisition, any and all forms of divestment and investment, including consolidation, transfer of a line of business or corporate reorganization (whether or not assignor is the surviving entity), or sale of all or substantially all of its assets, unless the Affiliate or surviving entity (in the case of an assignment by Customer) is a competitor of Centrifly. Customer shall provide advance written notice of any permitted assignment under this Section 12.3. Subject to the foregoing consent requirement, Customer may transfer any subscription or license to any Affiliate without requirement of any relocation, transfer or assignment fee by Centrifly. Notwithstanding the foregoing, Centrifly reserves the right to impose different credit terms on any successor in interest, including an Affiliate. Any permitted assignee will assume all obligations and rights of its assignor under this Agreement (or related to the assigned portion in case of a partial assignment).

**12.4 Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

**12.5 Waiver.** The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. Except for actions for nonpayment or breach of Centrifly's proprietary rights in the Customer Managed Software, Documentation or Cloud Service, no action, regardless of form, arising out of this Agreement may be brought by either party more than one year after the cause of action has accrued.

**12.6 Force Majeure.** Each party shall be excused from performance for any period during which, and to the extent that, it or its subcontractor(s) is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, communication line failures and power failures, etc.

**12.7 Successors and Assigns; Third Party Beneficiaries.** All provisions of the Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the respective successors and permitted assigns of Centrifly and Customer. Except as expressly provided in this Agreement, there are no third party beneficiaries of any of the warranties, rights or benefits of this Agreement.

**12.8 Legal and Export Compliance.** Customer shall comply fully with all international and U.S. laws and regulations that apply to the Customer Managed Software, Cloud Service and Documentation and to Customer's use thereof, including but not limited to the U.S. Export Administration Regulations and other end-user, end-use and destination restrictions issued by U.S. and other governments. Without limiting the generality of the foregoing, Customer expressly agrees that it shall not, and its representatives shall not, directly or indirectly, export, re-export, divert, or transfer the Customer Managed Software, Cloud Service or Documentation or any direct product or portion thereof, including via remote access, (i) to any country or region so restricted by the U.S. economic sanctions or export controls, including but not limited to applicable regulations of the U.S. Commerce Department, the U.S. Treasury Department, and the U.S. Department of State, to any person or entity controlled by any such country or region, or to any national or resident of any such country or region, other than nationals who are lawfully admitted permanent residents of countries not subject to such restrictions, (ii) to any person or entity on the U.S. Treasury Department's Specially Designated Nationals and Blocked Persons List, (iii) to any person or entity on the U.S. Commerce Department's Denied Persons List, or (iv) to any person or entity to which sale is prohibited under the Enhanced Proliferation Control Initiative ("EPCI"). Centrifly shall be entitled to take all actions it deems necessary to ensure compliance with this Section, including but not limited to developing internal compliance practices such as performing checks and implementing use restrictions with respect to the Customer Managed Software, Cloud Service and Documentation. Customer agrees to the foregoing and represents that Customer is not located in, under the control of, a national or resident of any such country or region, on any such list, or subject to prohibition under EPCI.

**12.9 U.S. Government License Rights.** The Customer Managed Software and Documentation covered by this Subscription Agreement are "Commercial Item(s)," consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as these terms are defined in 48 C.F.R. §2.101 and used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, if such Customer Managed Software or Documentation are being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), such Commercial Computer Software and Commercial Computer

Software Documentation are being licensed to U.S. Government end-users for use by such government, or to any such US Government prime contractors or subcontractors for use by such prime contractors or subcontractors in the performance of work under a US Government prime contract or subcontract or for any other use, (a) only as Commercial Items and (b) with only those rights customarily provided to the public and as are granted to all other, non-government-related, end-users, as such commercial license rights are delineated in the terms and conditions of this Agreement. All rights relating to unpublished materials are hereby reserved under the copyright laws of the United States.

**12.10 Relationship Between the Parties.** Nothing in this Agreement shall be construed to create a partnership, joint venture, employment or agency relationship between the parties.

**12.11 Entire Agreement.** This Agreement, together with the attached exhibit, and any Schedule referring to this Agreement, each of which is incorporated by reference, constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement and such exhibit and Schedules. This Agreement applies to all versions of the Customer Managed Software already installed or used by Customer, including prior versions of Customer Managed Software, and Customer agrees that this Agreement amends and supersedes prior versions of the end user license agreement applicable to such prior versions of Customer Managed Software.

## Exhibit A – Cloud Service Addendum

This Cloud Service Addendum (this “Addendum”) is an addendum to the End User Software License and Services Agreement (the “Agreement”) between Centrifry Corporation and the Customer as defined in the Agreement. Capitalized terms used in this Addendum and not otherwise defined below shall have the meanings given to such terms in the Agreement. In the event of a conflict between the terms of this Addendum and the Agreement, the terms of this Addendum shall control.

Customer and Centrifry hereby agree to the following:

### 1. Centrifry Obligations

**1.1 Availability of Service.** Centrifry uses an industry-leading cloud service provider that provides a monthly uptime availability of at least 99.9% to host the Cloud Service. Centrifry will provide 99.9% availability for the Cloud Service during the cloud service provider’s service availability. Centrifry measures the availability of the Cloud Service. For purposes of the foregoing, “availability” means that the Cloud Service returned the correct, expected data when queried. Centrifry agrees to use its commercially reasonable efforts to make the Cloud Service generally available 99.9% of the time, 24 hours a day, 7 days a week, except for: (a) planned downtime (of which Centrifry shall give at least two weeks online or e-mail notice to Customer and which Centrifry shall schedule to the extent reasonably practicable during the weekend hours from 11:00 p.m. PT Friday to 12:00 p.m. PT Sunday); or (b) any unavailability caused by circumstances beyond Centrifry’s reasonable control, including the force majeure provisions identified in the Agreement and computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within Centrifry’s possession or control, and network intrusions or denial of service attacks. Service availability is documented monthly at [www.centrifry.com/trust](http://www.centrifry.com/trust).

**1.2 Security.** Centrifry shall maintain commercially reasonable administrative, physical and technical safeguards to maintain and protect Customer’s data that is submitted to the Cloud Service by Customer. Centrifry shall not be responsible for loss of data transmitted on networks not owned or operated by Centrifry, including the Internet. Centrifry shall produce an SSAE 16 (SOC 2) report (or similar alternative report as reasonably selected by Centrifry) on an annual basis, and Customer may request a copy of such report and agrees that such report shall be deemed Centrifry’s Confidential Information under the Agreement.

**1.3 Ownership of Customer Data.** Except for software that Centrifry licenses to Customer, as between the parties, Customer retains all right, title, and interest in and to Customer Data, as defined in Section 2.4 of this Exhibit. Centrifry acquires no rights in Customer Data other than the right to host Customer Data within the Cloud Service, including the right to use and reproduce Customer Data solely as necessary to provide the Cloud Service.

**1.4 Use of Customer Data.** Centrifry will use Customer Data (other than in aggregate and anonymized form) only to provide Customer with the Cloud Service. This use may include troubleshooting to prevent, find, and fix problems with the operation of the Cloud Service. It may also include improving features for finding and protecting against threats to users. Centrifry may share aggregated and anonymized Customer Data with business partners for use for their business purposes, but Centrifry de-identifies and aggregates such data so that the data cannot be traced to an individual, a customer, or a device. Centrifry will not use Customer Data or derive information from it for any advertising or other marketing purposes without Customer’s consent.

**1.5 Third-party requests.** Centrifry will not disclose Customer Data to a third party (including law enforcement, other government entity, or civil litigant, but excluding Centrifry’s subcontractors) except as the Customer directs or unless required by law. Should a third party contact Centrifry with a demand for Customer Data, Centrifry will attempt to redirect the third party to request that data directly from Customer. As part of this effort, Centrifry may provide Customer’s basic contact information to the third party. If compelled to disclose Customer Data to a third party, Centrifry will promptly notify Customer and provide a copy of the demand, unless legally prohibited from doing so. Customer is responsible for responding to requests by third parties regarding Customer’s use of the Cloud Service, such as requests to take down content under the Digital Millennium Copyright Act.

### 2. Customer Obligations

**2.1 Internet Access.** Customer must have a high speed Internet connection in order to use the Cloud Service. Customer shall procure and maintain the hardware, software and systems that connect Customer’s network to the Cloud Service, and shall implement all reasonable communication and security protocols necessary to use the Cloud Service.



**2.2 Customer Information.** Customer shall provide and maintain with Centrifly accurate and complete information on Customer's legal business name, address, phone number, email address(es) and other information reasonably requested by Centrifly. Customer agrees that Centrifly may provide any and all communications, reports, statements and notices (other than legal notices under the Agreement) to such email address(es), and may rely on any communications, directions or statements received from such email address(es).

**2.3 Security.** Customer shall maintain commercially reasonable administrative, physical and technical safeguards to prevent unauthorized access to or use of the Cloud Service. Customer is responsible for all activity occurring under its User Accounts, including, but not limited to those that access the Cloud Service, [www.centrifly.com](http://www.centrifly.com) and related Centrifly websites and user portals, and for abiding by all applicable local, national and international laws. Customer shall promptly notify Centrifly of any unauthorized access to or use of the Cloud Service and any loss or theft of any User's username or password of which Customer becomes aware.

**2.4 Customer Data.** Customer is responsible for the legality, quality, accuracy and integrity of any data and other information that Customer submits to Centrifly in the course of using the Cloud Service ("Customer Data"). Centrifly will not be responsible for any corrections, deletions or damage to Customer Data. Customer Data may include documents, images and other digital information that Customer chooses to transmit to and store in the Cloud Service. Customer is solely responsible for ensuring that Customer Data is not offensive, obscene, inappropriate or unlawful and that it does not contain any viruses or harmful content. Any Customer Data that Centrifly determines, in its sole discretion, may be offensive, obscene, inappropriate or unlawful or that may contain viruses or harmful content may be removed from the Cloud Service.

### 3. Changes

**3.1 Changes to the Cloud Service.** Centrifly may make changes to the functionality, user interface, usability of the Cloud Service and related Documentation from time to time. In the event of any material change to the functionality, user interface, usability of the Cloud Service, as Customer's sole remedy in the event of such change, Customer shall have the right to terminate the Agreement and receive a pro-rata refund of fees paid by Customer for the Cloud Service for the terminated portion of the term.

**3.2 Changes to this Addendum.** Centrifly may make changes to this Addendum from time to time, but will not reduce the level of service for which Customer has paid. In the event of any material change to this Addendum, Centrifly will notify Customer by either sending an email to the email address(es) provided by Customer pursuant to this Addendum, or will post a notice in Customer's administrator's account. If Customer does not agree to such change, Customer must notify Centrifly within thirty (30) days of Customer's receipt of such change, in which case the change will not take effect until the end of the then current Subscription Term.

### 4. Suspension and Termination

**4.1 Suspension for Non-Payment.** Centrifly reserves the right to suspend Customer's access to or use of the Cloud Service in the event any payment of Subscription Fees is due but not paid within thirty (30) days of the date of Centrifly's invoice. Customer agrees that Centrifly will not be liable to Customer, any Affiliate or any third party for any suspension under this Section 4.1.

**4.2 Suspension for Inappropriate Use.** Centrifly reserves the right to suspend Customer's access of the Cloud Service if Centrifly determines that Customer's use is contrary to law or causing material harm to Centrifly or others. Centrifly will provide reasonable notice of such suspension. Customer agrees that Centrifly will not be liable to Customer, any Affiliate or any third party for any suspension under this Section 4.2.

**4.3 Handling of Data on Termination.** In the event of any expiration or termination of Customer's use of the Cloud Service, upon Customer's request, Centrifly will export Customer's data that is stored on the Cloud Service to a mobile storage medium and will return such data to Customer. Alternatively, Customer may request that Centrifly delete all such data. Centrifly may delete all of Customer's data that is stored on the Cloud Service thirty (30) days following any expiration or termination of Customer's use of the Cloud Service. Customer agrees that Centrifly will not be liable to Customer, any Affiliate or any third party for any data deleted under this Section 4.3.