

## End User License Agreement

*Last updated 11-14-25*

This End User License Agreement (as defined below) is entered into and agreed upon by you, either an individual or an entity (“You” or “Company” or “County”) and N-able Technologies Ltd. and (collectively, “N-able”) for the Software (as defined below). This Agreement is made and entered into as of the date that You first accept this Agreement either by executing a Sales Order that references this Agreement or by downloading, installing and/or utilizing the Software or Services (the “Effective Date”).

**BY ACCEPTING THIS AGREEMENT, EITHER BY INDICATING YOUR ACCEPTANCE, BY EXECUTING A SALES ORDER THAT REFERENCES THIS AGREEMENT, OR BY DOWNLOADING, INSTALLING, UTILIZING, OR RECEIVING THE SOFTWARE OR SERVICES (AS DEFINED BELOW), YOU AGREE TO ALL THE TERMS OF THIS AGREEMENT.**

This Agreement is a legally binding contract between you and N-able. If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind that entity to this Agreement.

This EULA, which is attached as Exhibit 1 to the Sales Order, , governs the use of the Software and Services. Any online or click-wrap terms that conflict with the Contract or the agreed EULA are rejected and will not apply to Client. Changes to this EULA require a written amendment signed by both parties.

Your continued use or receipt of the Services shall represent your acceptance of and agreement to the terms and conditions of this Agreement. You are responsible for making certain that any spam blocker or other email filter you employ will not block legal communications from N-able.

### 1. DEFINITIONS.

**1.1 Affiliates** means an entity controlled by, under common control with, or controlling such entity, where control is denoted by having fifty percent (50%) or more of the voting power (or equivalent) of the applicable entity. Subject to the terms and conditions of this Agreement, Your Affiliates may use the license granted hereunder, and You are responsible for their compliance with this Agreement and their actions and/or omissions.

**1.2 Agreement** means:

- a. this [End User License Agreement](#) as agreed to by both parties and attached as Exhibit 1 to the relevant Sales Order;
- b. the [Data Processing Addendum](https://www.n-able.com/wp-content/uploads/resources/legal/Data-Processing-Addendum.pdf) (<https://www.n-able.com/wp-content/uploads/resources/legal/Data-Processing-Addendum.pdf>);
- c. the [Software Support and Maintenance Terms](https://www.n-able.com/legal/support-and-maintenance-agreement) and Conditions (<https://www.n-able.com/legal/support-and-maintenance-agreement>);
- d. the relevant Sales Order(s); and
- e. N-able’s invoices for charges due from You in accordance with the Sales Order or any other documents incorporated by reference in this Agreement.

**1.3 Charged Price** is the price listed on the Sales Order.

**1.4 Client(s)** means the customer(s) of an MSP.

**1.5 Data Processing Addendum** means the terms of the then-current data processing addendum that N-able provides or makes available to you, including on N-able’s website as N-able may revise from time to time.

**1.6 Devices** means (whether physical or virtual) a server, system, workstation, computer, mobile device, or end point upon which or through which the Software is accessed or used and/or on which the Software is installed.

**1.7 Documentation** means the then-current official user documentation prepared and provided by N-able to You on the use of the Software and Services, which documentation N-able may update from time to time. For the avoidance of doubt, any installation guide or end user documentation not prepared or provided by N-able, any online community site, unofficial documentation, non-user documentation, specifications, videos, white papers, or related media or feedback does not constitute Documentation.

**1.8 Initial Sales Order** means Your first Sales Order with N-able for any Software or Services.

**1.9 MSP** means any person or entity that manages and supports Clients' information technology infrastructure using the Services, including but not limited to network monitoring, backup services, security services, and any related co-managed services.

**1.10 N-able Content** means, if applicable, N-able marketing documents and other content that are made available by N-able on N-able's website from time to time for MSPs to use in connection with selling to their customers their services that utilize the Software or Services.

**1.11 N-able Marks** means the trademarks and service marks that are specifically approved by N-able for MSPs to use in connection with selling to their Client(s) their services that utilize the Software or Services.

**1.12 N-hanced Services** means any technical, professional, and other services specifically identified and designated in a Sales Order as "N-hanced Services" to be provided by N-able

**1.13 N-hanced Support** means N-hanced Support purchased by You as set forth in the Sales Order.

**1.14 Personal Data** means any information that can be used to identify an individual as that term is defined under Regulation (EU) 2016/679 ("General Data Protection Regulation" or "GDPR") or related data protection laws.

**1.15 Product Addendum** means additional terms and conditions set forth in Section 15 that relate to the applicable Software, Services or Documentation.

**1.16 Quantity Commitment** means the quantity of Software or Services purchased listed under "Qty" (or a similar term) on the Sales Order.

**1.17 Sales Order** means the N-able order form, product information dashboard, or other N-able ordering document, such as a quote and a corresponding purchase order, that specifies Your purchase of the Software or Services, including specified N-hanced Services, if any, pricing, and other related information. In case of a conflict between any Sales Order and any other language in the Agreement, the Sales Order will control.

**1.18 Services** means N-hanced Services and Support.

**1.19 Software** means the object code versions of the product and any other downloadable software provided by N-able under this Agreement, together with the updates, new releases or versions, and modifications or enhancements, owned and licensed by N-able to You pursuant to this Agreement. Notwithstanding anything to the contrary in this Agreement, "Software" also includes any software delivered to you by N-able as part of any N-hanced Services provided by N-able.

**1.20 Support** means the maintenance or support provided by N-able or its designated agents for the Software as set forth in this Agreement. If you have purchased N-hanced Support, "Support" includes N-hanced Support.

**1.21 Term** means the Subscription Dates listed on Your Sales Order(s) if You are on a one-to-three-year plan; if You are on a month-to-month plan Your Term is one month.

**1.22 User** means an individual authorized by You to use the Software, Services, and Documentation, for whom You have purchased a license or to whom You have supplied a user identification and password. User(s) may only include Your employees, consultants, and contractors, and if You are an MSP, Your Clients. Notwithstanding anything to the contrary in

this Agreement, User(s) of N-hanced Services may only include Your employees, consultants, and contractors.

**1.23 Usage** means the quantity of the Software or Services used during the relevant subscription period .

**1.24 Viruses** mean any malicious code, Trojan horses, malware, spam, viruses, or other destructive technology.

**1.25 Your Data** or Data means data and files, including Personal Data, communicated, processed, stored, or submitted by You or Your Users in connection with Your or Your User's through the Software or Services.

**1.23 Your Marks** means the trademarks and service marks, including any logos, that You use for marketing purposes as described in Section 4.5.

## **2. PROVISION OF SOFTWARE AND SERVICES.**

**2.1 Subscription License.** Upon payment of the fees and subject to Your continuous compliance with the terms and conditions of this Agreement, N-able hereby grants You, for Software obtained on a subscription license basis (as shown on the Sales Order), a limited, revocable, non-exclusive, non-transferable license for the applicable Term to internally use the Software and Documentation, subject to all of the terms of the Agreement, including those contained in this Section 2.1.

a) For each Software license that You obtain from N-able, You may: (i) use the Software on any single Device, unless the Documentation clearly states otherwise; and (ii) copy the Software for back-up and archival purposes, provided each copy must contain all of the original Software's proprietary notices and a notice that it will not be used for transfer, distribution, or sale.

b) The Software is in use on a Device when it is loaded into temporary memory or installed in permanent memory (hard drive or other storage media or device). You agree that You will register the Software only with N-able and that You will only install a Software license key obtained directly from N-able. You may provide, make available to, or permit Your Users to use or access the Software or Documentation.

c) **Services Delivery; Updates and Modifications.** You agree that N-able may deliver the Software to You with the assistance of its Affiliates, licensors, and service providers. You further agree that, N-able may update or modify the Software and Documentation at any time, including, without limitation, to reflect changes in, among other things, laws, regulations, technology, industry practices, patterns of system use, or availability of a third party program. N-able will use commercially reasonable efforts to provide an alternative Software or Documentation that does not materially reduce the level of performance, functionality, or security of the Software during the Term.

**2.2 Perpetual License Legacies.** Upon payment of the fees and subject to Your continuous compliance with the terms and conditions of this Agreement, N-able hereby grants You, for Software obtained on a perpetual license basis (as shown on the Sales Order), a perpetual, non-exclusive, non-transferable license to internally use the Software and Documentation subject to all of the terms and conditions of the Agreement, including the terms contained in this Section 2.2.

a) For each Software license that You obtain from N-able, You may: (i) use the Software on any single Device, unless the Documentation clearly states otherwise; and (ii) copy the Software for back-up and archival purposes, provided each copy must contain all of the original Software's proprietary notices and a notice that it will not be used for transfer, distribution or sale.

b) The Software is in use on a Device when it is loaded into temporary memory or installed in permanent memory (hard drive or other storage media or device). You agree that You will register the Software only with N-able and that You will only install a Software license key

obtained directly from N-able. You may provide, make available to, or permit Your Users to use or access the Software or Documentation, in whole or in part.

c) **Services Delivery; Updates and Modifications.** You agree that N-able may deliver the Services or Software to You with the assistance of its Affiliates, licensors, and service providers. You further agree that, N-able may update or modify the Software and Documentation at any time to reflect changes in, among other things, laws, regulations, technology, industry practices, patterns of system use, or availability of a third-party program. N-able will use commercially reasonable efforts to provide alternative Software or Documentation that does not materially reduce the level of performance, functionality, security, or availability of the Software during the Term.

**2.3 Evaluation or Beta License.** If the Software is noted on the Sales Order as provided to You for evaluation or beta purposes, in lieu of the license granted in Section 2.1, N-able grants to You a limited, revocable, non-exclusive, non-transferable, license to use the Software internally solely for evaluation purposes prior to purchase or implementation (an “Evaluation License”), subject to this Agreement and Your continuous compliance with its terms. The Evaluation License is not for production use and shall terminate on the end date of the pre-determined evaluation period or immediately upon notice from N-able, in its sole discretion.

Notwithstanding any other provision contained herein, Software and Documentation provided pursuant to an evaluation license is provided to you “AS IS” and without indemnification, liability, Support, or statutory, express or implied warranty of any kind. Except to the extent such terms conflict with the specific Evaluation License terms set forth in this Section, all other terms of this Agreement shall apply to Software licensed under an Evaluation License.

**2.4 Internal Use License.** If the Software and Documentation are noted in the Sales Order as provided to You for internal use, N-able grants to You, in lieu of the license granted in Section 2.1, a limited, revocable, non-exclusive, non-transferable license to use internally the Software solely for Your internal business purposes in connection with Your use of the Services (an “Internal Use License”), subject to this Agreement and Your continuous compliance with its terms. The Internal Use License shall terminate on the end date of the pre-determined period or immediately upon notice from N-able, in its sole discretion. Notwithstanding any other provision contained herein, Software and Documentation provided pursuant to an Internal Use License are provided to you “AS IS” and without indemnification, liability, support, or statutory, express or implied warranty of any kind. Except to the extent such terms conflict with the specific Internal Use License terms set forth in this Section, all other terms of this Agreement shall apply to Software licensed under an Internal Use License.

**2.5 N-hanced Services.** Upon payment of the fees and subject to Your continuous compliance with the terms and conditions of this Agreement, N-able will provide the N-hanced Services, if any, set forth in the Sales Order, subject to all the terms of the Agreement.

### **3. RESTRICTIONS; OBLIGATIONS.**

**3.1 Restrictions.** You may not do or assist or enable any third party to do any of the following: (i) provide, make available to, or permit individuals other than Your Users to use the Software, Services, or Documentation, either in whole or part, except under the terms expressly set forth in this Agreement; (ii) copy, reproduce, republish, upload, post, or transmit the Software, Services, or Documentation (except for back-up or archival purposes, which may not be used for transfer, distribution, or sale); (iii) license, sell, resell, rent, lease, transfer, sublicense, distribute, or otherwise transfer rights to the Software, Services, or Documentation; (iv) modify, translate, reverse engineer, decompile, disassemble, create derivative works of, or otherwise attempt to derive the source code of the Software, Services, or Documentation; (v) create, market, distribute add-ons or enhancements or incorporate into another product the Software, Services, or Documentation without prior written consent of N-able; (vi) remove any proprietary notices or

labels on the Software, Services, or Documentation, unless authorized in writing by N-able; (vii) license or purchase the Software, Services, or Documentation if You (or any of Your Users) are a direct competitor (or an agent of a direct competitor) of N-able, (viii) use the Services, Software, or Documentation for the purposes of monitoring the Software's or Services' availability, performance, or functionality, or (ix) for any other benchmarking or competitive purposes; (x) use the Software or Services to violate any rights of third parties, including, without limitation, privacy rights, or storing or transmitting infringing, libelous, unlawful, or tortious material or to store or transmit material in violation of any applicable laws; (xi) use the Software or Services to store or transmit Viruses; (xii) interfere with, impair, or disrupt the integrity or performance of the Software or Services or any other third party's use of any software, hardware, equipment or network; (xiii) use the Software or Services in a manner that results in excessive use, bandwidth, or storage; or (xiv) alter, circumvent, or provide the means to alter or circumvent the Software or Services, including seeking any back end or unauthorized access or circumvention of the technical limitations, and/or (xv) attempt to avoid any recurring fees. Any such prohibited use shall immediately terminate Your license to the Software or access to the Services. The Software is intended only for use with public domain or properly licensed third-party materials. All responsibility for obtaining such a license is Yours, and N-able shall not be responsible for Your failure to do so.

**3.2 Use of Software or Services.** You and Your Users use of the Software and Services shall not exceed your rights to use the Software and Services set forth in the Agreement and applicable Sales Orders. You are responsible for Your and Your Users' use of the Software and Services, including any unauthorized usage. N-able may monitor use of the Software and Services by all Users at any time. In addition, N-able, or its designated representatives, will have the right upon reasonable notice, during regular business hours, to access and review your books and records (including electronically) for the purpose of verifying Your compliance with the terms and conditions of this Agreement, including any use limitations.

**3.3 Your Obligations.** You acknowledge, agree, and warrant that: (i) You are and will be responsible for Your and Your Users' activity and compliance with this Agreement, and if You become aware of any violation, You will immediately terminate the offending party's access to the Software, Services, and Documentation and notify N-able; (ii) You and Your Users will comply with all applicable local, state, and federal; (iii) You will use the Software and Services only in accordance with the applicable Documentation, and you will ensure that the Software is installed on a supported platform as set forth in the applicable Documentation and that the Software and Services are used only with public domain or properly licensed third party materials; (iv) You will install the latest version of the Software on Devices accessing or using the Software; (v) You are legally able to process and provide Your Data to N-able and its Affiliates, including obtaining appropriate consents or rights for such processing; (vi), You have the right to access and use Your infrastructure, including any system or network, to obtain or provide the Software and will be solely responsible for the accuracy, security, quality, integrity, and legality of the same; and (vii) You will keep your registration information, billing information, passwords and technical data accurate, complete, secure and current for as long as You subscribe to the Software, Services, and Documentation.

If You are an MSP, You further acknowledge, agree, and warrant that: (i) You have sufficient technical infrastructure, current and complete knowledge, and expertise to perform the services You provide for Your Clients; (ii) You will provide all sales, problem resolution, and support services to Your Clients; (iii) You will be responsible for billing, invoicing, and collection for Your Clients; and (iv) You will operate at Your own expense and risk under Your own name as an MSP.

**3.4 Injunctive Relief.** The parties agree that, in addition to any other relief to which the non-breaching party may be entitled, any material breach of this Section 3 will cause irreparable injury and the non-breaching party may seek injunctive relief in a court of competent jurisdiction without the need of posting bond.

#### **4. PROPRIETARY RIGHTS.**

**4.1 License to N-able Content.** This paragraph applies to You if You are an MSP. Subject to the terms of this Agreement and Your continuous compliance with the same, N-able hereby grants to You a personal, limited, revocable, non-exclusive, non-transferable, non-sublicensable license to use, reproduce and distribute the N-able Content in Your marketing and advertising materials that are provided to Clients. No right to modify or prepare derivative works of the N-able Content (including any translation into another language) is granted to You.

**4.2 License to N-able Marks.** This paragraph applies to You only if You are an MSP. Subject to this Agreement and Your continuous compliance with its terms, N-able hereby grants to You a personal, limited, revocable, non-exclusive, non-transferable, non-sublicensable license to use the N-able Marks during this Agreement solely to market and advertise to Clients that Your services utilize the Software. Your use of the N-able Marks will strictly comply with [N-able's Trademark and Copyright Guidelines](#) (the "Guidelines"), which are incorporated in the Agreement by this reference, and which N-able may update or revise from time to time.

You agree to obtain N-able's prior written approval of all uses of the N-able Marks. N-able may withdraw any approval of any use of the N-able Marks at any time and at its sole discretion, and such withdrawal may require You to recall any previously distributed physical printed materials, at N-able's sole discretion. You shall cooperate with N-able, at N-able's request in facilitating N-able's monitoring and control of the nature and quality of the materials bearing the N-able Marks and will supply N-able with specimens of Yours use of the N-able Marks upon request. If N-able notifies You that Your use of the N-able Marks is not in compliance with this Agreement, then You shall promptly take such corrective action as reasonably directed by N-able. N-able is the sole and exclusive owner of the N-able Marks and all goodwill arising from Your use of the N-able Marks shall inure to the benefit of N-able. You shall do nothing inconsistent with such ownership, either during the term of this Agreement or afterwards. Without limitation, You shall not attempt to register the N-able Marks or any similar marks in any jurisdiction or challenge N-able's ownership of the N-able Marks.

Your use of the N-able Marks shall be on behalf, and inure to the benefit, of N-able. Your utilization of the Marks will not create any right, title or interest in such N-able Marks for Your benefit. You shall use the N-able Marks so that each N-able Mark creates a separate and distinct impression from any other trademark that may be used or affixed to materials bearing the N-able Marks. You may not delete, remove, hide, move or alter any trademark, logo, icon, image or text that represents the company name of N-able, or create or use any derivation thereof, or any icon, image, or text that is likely to be confused with the same. All representations of the company name or mark of N-able or any of its Affiliates' names or marks must remain as originally distributed regardless of the presence or absence of a trademark, copyright, or other intellectual property symbol or notice.

**4.3 Ownership of N-able Intellectual Property.** The Software, N-able Content, N-able Marks and Documentation are licensed, not sold. Use of "purchase" in conjunction with licenses under this Agreement does not imply a transfer of ownership. Except for the limited rights expressly granted by N-able to You under this Agreement, You acknowledge and agree that all right, title and interest in and to all copyrights, trademarks, patents, trade secrets, intellectual property (including without limitation algorithms, business processes, improvements, enhancements, modifications, derivative works, and information collected and analyzed in connection with the Software) and other proprietary rights arising out of or relating to the Software, Services, N-able

Content, N-able Marks, and Documentation, and the provision of them, belong exclusively to N-able or its suppliers or licensors. All rights, titles, and interest in and to content which may be accessed through the Software, Services, and Documentation is the property of the respective owner and may be protected by applicable intellectual property laws and treaties. This Agreement gives You no rights to such content, including use of the same.

You hereby grant N-able a royalty-free, fully-paid, worldwide, exclusive, transferable, sub-licensable, irrevocable and perpetual license to use or incorporate into its products and Services, and Software any suggestions, enhancement requests, recommendations or other feedback provided by You or Your Users relating to the Software, Services, or Documentation. All rights not expressly granted to You under this Agreement are reserved by N-able. There are no implied rights to the Software, Services, Documentation, N-able Content, or N-able Marks.

**4.4 Ownership of Your Data.** You and Your Users retain all right, title, and interest in and to all copyright, trademark, patent, trade secret, intellectual property, and other proprietary rights in and to Your Data. N-able's right to access and use the same are limited to those expressly granted in this Agreement. No other rights with respect to Your Data are implied.

#### **4.5 Use of Your Marks.**

Publicity; Use of Name and Marks. N-able will not use, display, or otherwise refer to Deschutes County's name, seal, logos, trademarks, service marks, trade names, domain names, or any substantially similar identifiers ("County Marks"), nor identify County as a customer, in any marketing, advertising, promotion, press release, case study, website, social media, proposal, investor materials, or public communications, without County's prior written approval signed by an authorized County representative in County Administration and reviewed by County Counsel. No license to use County Marks is granted by this Agreement. Any approval, if granted, will be limited to the specific use approved, for a limited duration, and may be revoked by County at any time in its sole discretion upon written notice, whereupon N-able will cease the use and remove all references within two (2) business days. This Section supersedes any contrary terms in online or click-through agreements. Nothing in this Section restricts County's disclosures required by law; however, such disclosures will not be deemed consent or authorization for N-able publicity.

### **5. TERM AND TERMINATION.**

**5.1 Term.** The Agreement will begin on the Subscription Start Date listed in the relevant Sales Order(s). If You terminate the Agreement as described in this Section, it will end on the Subscription End Date.

#### **5.2 Termination.**

(a) **If Your Sales Order reflects a month-to month commitment Term:** You may terminate this Agreement at any time by providing N-able with prior written notice of Your intention to terminate this Agreement by completing a cancellation request through [N-ableMe](#). The effective date of termination under this Section 5.2(a) will be the last day of the first full calendar month after N-able's receipt of the termination notice. Notwithstanding anything to the contrary in the Sales Order, if You terminate the Agreement pursuant to this Section, fees charged for the final month of the Agreement will be based on the prices set forth in the applicable Sales Order(s) and due from You upon receipt. All contracts invoiced on a monthly basis through N-able must enroll in automatic payment unless otherwise agreed by N-able.

(b) **If Your Sales Order reflects a Term other than month-to-month:** You may only terminate the Agreement by completing a cancellation request through [N-ableMe](#) at least thirty (30) days prior to the Subscription End Date listed on the relevant Sales Order(s). If You do not terminate in accordance with this Section at least thirty (30) days prior to the Subscription End Date, the Agreement will automatically renew for one (1) year and is subject to a price increase as set forth herein.



In the event of any conflict between this Section and the Sales Order, the Sales Order shall control. Nothing in this Agreement shall supersede or be construed as a modification to the Term(s) specified in the Sales Order.

### **5.3 Termination**

**Termination and Suspension.** Either party may terminate this Agreement for material breach by the other party not cured within thirty (30) days after written notice (ten (10) days for payment breaches). Either party may immediately suspend the affected Services, on written notice, only a court order or binding sanctions; the suspending party will limit the scope and duration and will restore Services once the condition is remedied. If not cured within the applicable time period above (e.g. thirty (30) days or ten (10) days), the suspending party may terminate the affected Services for cause.

**5.4 Effect of Termination.** The termination does not relieve You of the obligation to pay any fees or other amounts accrued or payable to N-able through termination. N-able will not be obligated to provide refunds of any amounts paid prior to termination or any credits towards amounts due, no matter how much time is left in the Term as of the date of termination.

Without prejudice to any other rights N-able may have, upon termination You must cease all use of the Software, N-able Marks, N-able Content and Documentation and destroy or return (upon request by N-able) all copies of the Software, N-able Content and Documentation and destroy all materials bearing the N-able Marks.

**You acknowledge and agree that it is your responsibility to retrieve Your Data from N-able within thirty (30) business days of the termination of this Agreement for any reason (including nonpayment).**

You acknowledge and agree that if you do not retrieve Your Data within that timeframe N-able has the right to delete Your Data, including any and all copies thereof and that once it is deleted, Your Data cannot be recovered.

Sections 1 (Definitions), 3.1 (Restrictions), 4.3 (Ownership of N-able Intellectual Property), 4.4 (Ownership of Your Data), 5.4 (Effect of Termination), 6-8 (Fees and Payment; Taxes; Data; Protection of Your Data; Confidential Information), 9.2 (Warranty Disclaimer), 10 (Indemnification), 11 (Limitation of Liability), and 14 (General), shall survive any termination or expiration of this Agreement, along with any other provisions which by their express terms do survive or by their nature should survive.

## **6. FEES AND PAYMENT; TAXES.**

**6.1 Fees and Payment.** All orders placed will be considered final upon acceptance by N-able. Fees shall be at N-able's then standard rates at the time of invoice unless otherwise set forth in the Sales Order and all fees will be due and payable as set forth in the Sales Order.

Pricing for any renewal term will be the same as Charged Price stated on the invoice issued 90 days before Your renewal date, plus an increase up to: a) five percent (5%) plus any increase in the Consumer Price Index (CPI) published by the U.S. Bureau of Labor Statistics during the immediately prior year; and b) the incremental value of additional features and functionality that have been added to Your Products and Services during the term, in N-able's sole discretion. CPI is calculated at the last month of the term based on the prior twelve months. The term "CPI" means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items (1982-1984=100) published by the United States Department of Labor, Bureau of Labor Statistics. Your renewal terms shall also include a new Quantity Commitment equal to Your previous Quantity Commitment as listed in Your most recent Sales Order plus eighty (80) percent of Your Usage in excess of such previous Quantity Commitment as reflected in the last invoice sent one hundred and twenty (120) days prior to Your renewal date or earlier.

Any changes to Your Services or Software may be made only once per year, cannot reduce your fees due under the Agreement, and will require mutual written amendment of the relevant Sales Order. In addition, N-able will consider, in its sole discretion, Quantity Commitment relief (net



of any Usage) on a dollar-for-dollar basis relative to Your monthly minimum spend if You lose a Client representing at least 10% of relevant business revenue from Your preceding monthly invoice, provided that such relief: (i) is not requested within 90 days of the initial start date or renewal date; (ii) is provided only once during a Term; (iii) You provide written evidence of the Client termination that is approved by N-able at its sole discretion; (iv) is effective on the month following N-able's approval; and (v) does not involve any refunds or credits. All contracts invoiced on a monthly basis through N-able must enroll in automatic payment unless otherwise agreed by N-able.

**Late Payments; Disputed Amounts; Suspension.** Client will pay undisputed invoices net thirty (30) days from receipt. Interest may accrue only on undisputed amounts not received within thirty (30) days after their due date, at a rate not to exceed zero point seventy-five percent (0.75%) per month (nine percent (9%) per annum, simple interest), which is the legal rate of interest under ORS 82.010, or any lower maximum rate then permitted by applicable law. No interest or fees accrue on amounts subject to a good-faith dispute, provided Client gives notice of the dispute within fifteen (15) days of invoice and the parties cooperate in good faith to resolve it. N-able may suspend the affected portion of the Services for non-payment of undisputed amounts only after at least fifteen (15) business days' prior written notice and an opportunity to cure; any suspension must be no broader than reasonably necessary and may not include security-critical monitoring, detection, triage, or incident response functions if suspension would materially increase Client's cybersecurity risk. N-able may terminate for non-payment only for undisputed amounts that remain unpaid sixty (60) days after the due date and after a final ten (10) day cure notice. N-able's right to charge interest as set forth herein is N-able's exclusive monetary remedy for late payment prior to termination.

If You or your Users exceed the Quantity Commitment designated in Your Sales Order or enable any other Software or Services through any of our platforms, in addition to N-able's other remedies, charges for Usage above such commitment level will be calculated at the Charged Price or, if there is none specified on the Sales Order for the applicable Service or Software, at the current list price of the Software or Service, as applicable. Unless otherwise provided in the Sales Order, all payments made under this Agreement shall be in United States dollars. All payments hereunder are non-refundable and non-recoupable.

If You believe all or any part of an invoice is in error, you must notify N-able within ninety (90) days of your receipt of the invoice. If You fail to do so You waive any right to contest the invoice.

You may, add additional subscription licenses or add additional Software or Services at any time. Once additional licenses, Software, or Services are added, the price change is effective immediately and prorated for the first month according to your billing cycle.

**6.2 Taxes.** All fees are exclusive of taxes, and You shall pay or reimburse N-able for all taxes arising out of transactions contemplated by this Agreement. If You are required to withhold any tax for payments due, You shall gross up Your payments to N-able so that N-able receives the amount due in full, free of any deductions. As reasonably requested, You will provide documentation to N-able showing that taxes have been paid to the relevant taxing authority. "Taxes" means any sales, VAT, use, excise, and other taxes (other than taxes on N-able's net income), export and import fees, tariffs, and customs duties and similar charges imposed by any government or other authority. You hereby confirm that N-able can rely on the name and address that You provide to N-able when You agree to the fees or in connection with Your payment method as being the place of supply for sales tax and income tax purposes or as being the place of supply for VAT purposes where You have established Your business.

## **7. DATA; PROTECTION OF YOUR DATA.**

**7.1 Your Data.** N-able and its Affiliates may remove Your Data or any other data, information, or content of data or files used, stored, processed or otherwise by You or Your Users in conjunction with the Software or Services that N-able, in its sole discretion, believes to be or is: (a) a Virus; (b) illegal, libelous, abusive, threatening, harmful, vulgar, pornographic, or obscene; (c) used for the purpose of spamming, chain letters, or dissemination of objectionable material; (d) used or capable of use to cause offense, defame or harass; or (e) in violation of this Agreement in any way; or (f) used or capable of use to circumvent any security, encryption, data protection, use restriction or other similar feature of the Software or Services; or (g) infringing the intellectual property rights or any other rights of any third party.

You agree that You and Your Users are responsible for maintaining and protecting backups of Your Data directly or indirectly processed using the Software or Services and that, unless and solely to the extent required by applicable law, N-able is not responsible for exportation of, the failure to store, the loss, or the corruption of Your Data.

You hereby grant to N-able a nonexclusive, worldwide, royalty-free, fully-paid, transferable license to use and process Your Data to assist with the necessary operation and function of the Software and Services, to improve N-able products and services and Your and Your Users' experience with them, and for any purpose set forth in this Agreement, which are incorporated in this Agreement by this reference and which N-able may update or revise from time to time.

You represent and warrant that, with regard to processing of Personal Data, You and Your Users shall be the data controller and N-able shall be the data processor that shall determine the purpose and manner in which Personal Data is or will be processed.

**7.2 Protection of Data.** Each party shall comply with its respective obligations under applicable data protection laws. Each party shall maintain appropriate administrative, physical, technical and organizational measures that ensure an appropriate level of security for Confidential Information and Personal Data. N-able and its Affiliates will process Personal Data in accordance with its [Data Processing Addendum](#).

You are responsible for ensuring that the security of the Software and Services are appropriate for Your intended use and the storage, hosting, or processing of Personal Data and any other categories of data.

N-able employs physical, technical and administrative safeguards to help secure the Software and Services against accidental or unauthorized loss, access, or disclosure. You understand that no system of data transmission, storage or retrieval can be made entirely impenetrable or free from vulnerabilities, and despite all measures employed, the Software and Services are not guaranteed against all security threats or other vulnerabilities.

You agree that N-able's security obligations extend only to those systems, networks, network devices, facilities and information technology components over which N-able has control. As between N-able and You, You are responsible for the proper configuration and maintenance of physical, administrative and technical safeguards as they relate to Your access and use of the Software and Services through any other system, network devices, networks, facilities and other information technology components. In no event will N-able be responsible, nor will we have any liability, for physical, administrative, or technical controls related to the Software or Services (including without limitation Personal Data) that You are able to control, including but not limited to access credentials, network connectivity and internet connectivity.

You agree to: (i) change passwords and other access credentials related to the Software or Services on a regular basis and immediately upon becoming aware of any unauthorized access to, or use or compromise of, the Software or Services, and require Your Users and Clients to do the same; and (ii) promptly apply any updates, upgrades, modifications or other enhancements that N-able determines are necessary or appropriate to maintain the security, confidentiality,

integrity, availability or performance of the Software or Services, and cause Your Users and Clients to do the same.

**7.3 No Protected Health Information.** Cove Data Protection™, N-central®, and N-sight™ may be used for the processing, storing, maintenance, and transmission of protected health information (“PHI”) as defined under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). You expressly acknowledge and agree that You shall neither submit to any other Services or Software, nor use those Services or Software to store, maintain, process or transmit any data or information that constitutes PHI or otherwise use other Services or Software in any manner that would require N-able or other Services or Software to be compliant with HIPAA. You acknowledge and agree that N-able shall have no liability to You for any such data or information. You further acknowledge and agree that neither N-able or its Affiliates are acting on Your behalf as a Business Associate (as defined under HIPAA) unless You request and execute a Business Associate Agreement with N-able. N-able may immediately and upon notice suspend all or portion of Your access to the Services and Software (without any liability to You in connection with such suspension), if N-able has a good faith belief that You have breached this paragraph.

## **8. CONFIDENTIAL INFORMATION.**

As used in this Agreement, “**Confidential Information**” means any nonpublic information or materials disclosed under this Agreement by either party to the other party, either directly or indirectly, in writing, orally, or by inspection of tangible objects, which the disclosing party clearly identifies as confidential or proprietary. Confidential Information includes Personal Data, and N-able’s Confidential Information includes the Software and Services, and any information or materials relating to the Software and Services (including pricing), or otherwise. Confidential Information may also include confidential or proprietary information of a third party disclosed by a disclosing party which the disclosing party clearly identifies as confidential or proprietary. The receiving party will: (i) hold the disclosing party’s Confidential Information in confidence and use reasonable care to protect the same; (ii) restrict disclosure of such Confidential Information to those employees or agents with a need to know such information and who are under a duty of confidentiality respecting the protection of Confidential Information substantially similar to those of this Agreement; and (iii) use Confidential Information only for the purposes for which it was disclosed, unless otherwise expressly permitted by this Agreement. The restrictions will not apply to Confidential Information, excluding Personal Data, to the extent it: (i) is (or through no fault of the recipient, has become) generally available to the public; (ii) was lawfully received by the receiving party from a third party without such restrictions; (iii) was known to the receiving party without such restrictions prior to receipt from the disclosing party as demonstrated by the receiving party’s contemporaneous written records; or (iv) was independently developed by the receiving party without breach of this Agreement or access to or use of the disclosing party’s Confidential Information.

**Public Records and Compelled Disclosure.** Client will comply with Oregon Public Records Law. If Client receives a request for N-Able’s Confidential Information, Client will, to the extent legally permitted and as reasonably practical, provide notice to N-Able before disclosure so that N-Able may seek, at N-able’s sole expense, to limit or prevent disclosure (e.g., by asserting applicable exemptions such as trade secrets under ORS 192.345(2) or other exemptions under ORS 192.355). Client is not obligated to initiate any proceeding to oppose disclosure and will disclose as required by law if N-able does not obtain relief before the applicable response deadline.

If N-able or its affiliates receive a subpoena, court order, or other compulsory legal demand for Client's Confidential Information, N-able will provide prompt notice to Client (where legally permitted) to enable Client to seek, at Client's sole expense, to limit or prevent disclosure. N-able shall limit disclosure to what is legally required.

## **9. LIMITED WARRANTY AND WARRANTY DISCLAIMER.**

### **9.1 Limited Warranty.**

During the Subscription Term the Software and Services will substantially conform to the Documentation and will be provided in a professional and workmanlike manner by qualified personnel. The warranty in this Section replaces the 'thirty (30) days' warranty and applies throughout the Subscription Term. The warranty does not apply to nonconformities caused by: (i) unauthorized modifications; (ii) use not in accordance with the Documentation or this Agreement; or (iii) failures of third-party products not provided or controlled by N-able. If the Software or Services fail to conform, N-able will promptly repair, replace, or re-perform at its expense; if N-able is unable to restore material conformity within thirty (30) days of notice, Client may terminate the affected Order and receive a pro-rata refund of prepaid, unused fees related to the affected Service, without prejudice to other remedies.

You must provide prompt written notice and reasonable assistance to N-able to remedy any nonconformity, and Your sole and exclusive remedy for breach of this warranty shall be repair, replacement, or re-performance as described herein.

**9.2 Warranty Disclaimer.** EXCEPT AS EXPRESSLY WARRANTED IN SECTION 9.1, THE SOFTWARE, SERVICES, DOCUMENTATION, N-ABLE CONTENT, N-ABLE MARKS, SUPPORT, AND ALL OTHER PRODUCTS AND SERVICES PROVIDED HEREUNDER OR MADE AVAILABLE UNDER THIS AGREEMENT, INCLUDING THIRD PARTY HOSTED SERVICES OR SOFTWARE (COLLECTIVELY, FOR THE PURPOSES OF THIS PARAGRAPH, "PRODUCTS"), ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS EXPRESSLY STATED IN SECTION 9.1, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, N-able DISCLAIMS AND EXCLUDES ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON INFRINGEMENT, ACCURACY, RELIABILITY, SECURITY, LOSS OR CORRUPTION OF DATA, CONTINUITY, OR ABSENCE OF DEFECT RELATING TO THE PRODUCTS OR THE RESULTS OF THE SAME. N-ABLE DOES NOT WARRANT THAT THE PRODUCTS, INCLUDING ANY SPECIFICATIONS OR FUNCTIONS CONTAINED IN THEM, WILL MEET YOUR REQUIREMENTS OR THAT DEFECTS IN THEM WILL BE CORRECTED. N-ABLE SPECIFICALLY DISCLAIMS RESPONSIBILITY FOR THIRD-PARTY PRODUCTS AND SERVICES WITH WHICH YOU MAY UTILIZE THE SOFTWARE, AND YOU SPECIFICALLY DISCLAIM AND WAIVE ANY RIGHTS AND CLAIMS AGAINST N-ABLE WITH RESPECT TO SUCH THIRD-PARTY PRODUCTS AND SERVICES. YOU ACKNOWLEDGE AND AGREE THAT IN ENTERING INTO THIS AGREEMENT YOU HAVE NOT RELIED ON ANY REPRESENTATION OR WARRANTY WHICH IS NOT EXPRESSLY SET FORTH HEREIN.

## **10. INDEMNIFICATION.**

**10.1 N-able Indemnification.** Subject to Section 11 below, N-able will indemnify, defend, and hold You harmless from any third party claim brought against You alleging that the Services, Software, Documentation, N-Able Content, or N-able Marks infringes or misappropriates any

U.S. patent, copyright, trademark, trade secret, or other intellectual property rights of a third party (an “Infringement Claim”), provided: (i) use of the Services, Software, Documentation, N-Able Content, and N-able Marks by You is in conformity with the Agreement and applicable Documentation; (ii) the alleged infringement is not caused by modification or alteration of the Services, Software, Documentation, N-Able Content, or N-able Marks; (iii) the alleged infringement was not caused by a combination or use of the Services, Software, Documentation, N-Able Content, or N-able Marks with products or content not supplied by N-able where such infringement would not have existed in the Services, Software, Documentation, N-Able Content, or N-able Marks absent such combination; and/or (iv) You have not continued to use the Services, Software, Documentation, N-Able Content, or N-able Marks after You are notified of the alleged infringement and provided by N-able with access to Services, Software, Documentation, N-Able Content, or N-able Marks intended to avoid the alleged infringement. N-able’s indemnification obligations are contingent upon You: (i) promptly notifying N-able in writing of the Infringement Claim; (ii) granting N-able the right to control the defense and settlement of the Infringement Claim with counsel reasonably acceptable to Client; provided, however, neither N-able nor any attorney engaged by N-able shall defend the claim in the name of Deschutes County or any department or agency thereof, nor purport to act as legal representative of the County or any of its departments or agencies without first receiving from the County’s Legal Counsel authority to act as legal counsel for the County, nor shall N-able settle any claim on behalf of the County without the approval of the County’s Legal Counsel; and (iii) Client has no obligation to assist in the defense. Client may, at its sole discretion, reasonably cooperate (limited to non-privileged, readily available records) at N-able’s expense. These indemnities are in addition to, and not in lieu of, other remedies available to Client. If a claim is likely, N-able will procure the right for Client to continue use, or modify/replace the affected item to be non-infringing with materially equivalent functionality; if not feasible, Client may terminate the affected Order and receive a pro-rata refund of prepaid, unused fees, plus commercially reasonable transition assistance.

## **10.2 Your Indemnification.**

Deschutes County is a public body subject to the Oregon Tort Claims , ORS 30.260–30.300 (“OTCA”). County does not agree to indemnify, defend, or hold harmless N-able or any third party. Each party is responsible for its own acts and omissions and those of its officers, employees, agents, and contractors to the extent provided by applicable law, including the OTCA. Nothing in this Agreement is intended to, nor shall it be construed to, waive any rights, defenses, immunities, limitations, or protections afforded to County under the Oregon Constitution, the Oregon Tort Claims Act, or other applicable law.

## **11. LIMITATION OF LIABILITY.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (I) IN NO EVENT WILL N-ABLE OR ITS AFFILIATES, OR ITS OR THEIR DIRECTORS, EMPLOYEES, OR AGENTS HAVE ANY LIABILITY, CONTINGENT OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, STATUTORY OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO LOST PROFITS, LOST OR CORRUPTED DATA, LOSS OF GOODWILL, WORK STOPPAGE, EQUIPMENT FAILURE OR MALFUNCTION, PROPERTY DAMAGE OR ANY OTHER ECONOMIC DAMAGES OR LOSSES ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SOFTWARE, SERVICES, DOCUMENTATION, N-ABLE CONTENT, N-ABLE MARKS, OR ANY OTHER PRODUCTS OR SERVICES PROVIDED HEREUNDER, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, INDEMNITY OR OTHERWISE) UPON WHICH ANY SUCH LIABILITY IS

BASED; AND (II) THE AGGREGATE LIABILITY OF N-able AND ITS AFFILIATES, AND ITS AND THEIR DIRECTORS, EMPLOYEES, AND AGENTS, AND THE SOLE REMEDY (OR THE ALTERNATE SOLE REMEDY IN THE EVENT THAT ANY SOLE REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE) AVAILABLE TO YOU ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SOFTWARE, SERVICES, DOCUMENTATION, N-ABLE CONTENT, N-ABLE MARKS, OR ANY OTHER PRODUCTS OR SERVICES PROVIDED HEREUNDER SHALL BE LIMITED TO TERMINATION OF THIS AGREEMENT AND DAMAGES NOT TO EXCEED THE TOTAL AMOUNT PAYABLE OR PAID TO N-ABLE UNDER THIS AGREEMENT DURING THE TWELVE MONTHS PRIOR TO TERMINATION.

**12. THIRD PARTY PROGRAMS.** To the extent the Software is bundled with third party software programs, the third-party software programs are governed by their own license terms, which may include open source or free software licenses, and those terms will prevail over this Agreement as to Your use of the third-party software programs. Nothing in this Agreement limits You or Your user's rights under, or grants You or Your User rights that supersede, the terms of any such third-party software program. If You do not agree to the license terms applicable to this third-party software, then You agree that You shall not use the Software or the third party software.

**13. SUPPORT.** N-able shall, during the Term, provide You with Support in accordance with N-able's Software Support and Maintenance Terms and Conditions that were in existence at the time this Agreement was executed. The Software Support and Maintenance Terms and Conditions are incorporated in the Agreement by this reference. In addition, if applicable, N-able shall, during the Term, provide You with N-hanced Support as provided in the applicable Sales Order.

#### **14. GENERAL.**

**14.1 Notices.** All notices must be in writing and shall be mailed by registered or certified mail to Legal Department, 30 Corporate Drive, Suite 400, Burlington, MA 01803, Attention: General Counsel, and sent via email to [generalcounsel@N-able.com](mailto:generalcounsel@N-able.com) (with evidence of effective transmission).

**14.2 Entire Agreement; Precedence.** This Agreement constitutes the entire agreement between the parties relating to the subject matter of this Agreement and supersedes all prior or contemporaneous communications, agreements and understandings, written or oral, with respect to the subject matter hereof. If there is a conflict or inconsistency between the provisions of this Agreement and the documents otherwise referred to in this Agreement, the conflict or inconsistency will be resolved in the following order of precedence, with the first document listed having the highest precedence and the last document listed having the lowest precedence: (1) As applicable Deschutes County Code [Section 2.37.150](#), Exhibit [1] (this amended EULA); (2) the mutually executed Sales Order; and (3) support policies or other documents expressly incorporated by a signed amendment.

Quotes, invoices, portal or website terms, release notes, knowledge-base articles, or other online terms are administrative only and do not add to or modify the parties' agreement. No Online/User Assent. Client end users, administrators, and contractors are not authorized to bind Client. Any pop-up, click-through, or in-product assent presented to a user that purports to modify or replace this Agreement is void and of no effect unless separately incorporated into the Contract by a written amendment signed by an authorized County representative and approved by County Counsel and the designated representative from N-able.

**14.3 Assignment.** You may not assign any of Your rights under this Agreement, allow the assumption of your rights under this Agreement, or delegate Your performance under this

Agreement, whether voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or in any other manner, without N-able's prior written consent. N-able may assign its rights and delegate its performance under this Agreement to: (i) any entity that acquires all or substantially all of N-able's assets or substantially all of the assets of that portion of N-able's business that manages this Agreement; (ii) any Affiliate that controls, is controlled by, or is under common control with N-able; or (iii) any successor in a merger, acquisition, or reorganization, including any judicial reorganization. Any purported assignment of rights or delegation of performance by You in violation of this Section is void. This Agreement is binding upon, and will inure to the benefit of, the Parties hereto and their permitted assigns and successors-in-interest.

**14.4 Export Control Laws.** The Software and Documentation delivered to You under this Agreement are subject to export control laws and regulations of the United States and may also be subject to import and export laws of the jurisdiction in which it was accessed, used, or obtained, if outside those jurisdictions. You shall abide by all applicable export control laws, rules, and regulations applicable to the Software and Documentation. You agree that You are not located in or are not under the control of or a resident of any country, person, or entity prohibited to receive the Software or Documentation due to export restrictions and that You will not export, re-export, transfer, or permit the use of the Software or Documentation, in whole or in part, to or in any of such countries or to any of such persons or entities.

You further acknowledge that N-able does not offer Services or Software in the following countries:

- Albania
- Belarus
- Bosnia and Herzegovina
- Burma
- Central African Republic
- China
- Crimea and occupied Ukraine
- Cuba
- Democratic Republic of the Congo
- Ethiopia
- Iran
- Kosovo
- Lebanon
- Mali
- Montenegro
- Nicaragua
- North Korea
- North Macedonia
- Russian Federation
- Somalia
- Sudan and Darfur
- Syria
- Venezuela
- Yemen
- Zimbabwe

You agree that if you are located in any of the countries listed above You will not access the Services or Software or allow Users or Clients located in those countries to do the same.



**14.5 Modifications.** Except as N-able is otherwise permitted to do so under this Agreement, this Agreement shall not be amended or modified except in a writing signed by authorized representatives of each party.

**14.6 Severability.** If any provision of this Agreement is held to be unenforceable, illegal, or void, that shall not affect the enforceability of the remaining provisions. The parties further agree that the unenforceable provision(s) shall be deemed replaced by a provision(s) that is binding and enforceable and that differs as little as possible from the unenforceable provision(s), with considerations of the object and purpose of this Agreement.

**14.7 Waiver.** The delay or failure of either party to exercise any right provided in this Agreement shall not be deemed a waiver of that right.

**14.8 Remedies.** N-able's rights and remedies set forth in this Agreement are cumulative and are not intended to be exhaustive.

**14.9 Force Majeure.** N-able will not be liable for any delay or failure to perform obligations under this Agreement due to any cause beyond its reasonable control, including: acts of God; labor disputes; industrial disturbances; systematic electrical, telecommunications or other utility failures; earthquakes, storms, or other elements of nature; blockages; embargoes; riots; acts or orders of government; acts of terrorism; war; or any other cause beyond its reasonable control (whether similar or dissimilar to the foregoing).

**14.10 Construction.** Paragraph headings are for convenience and shall have no effect on interpretation.

**14.11 Governing Law.** The validity, interpretation and enforcement of this Agreement shall be governed by and construed in accordance with the laws of the State of Oregon and of the United States, without regard to any conflict of law provisions, except that the United Nations Convention on the International Sale of Goods and the provisions of the Uniform Computer Information Transactions Act shall not apply to this Agreement. You hereby consent to the exclusive jurisdiction of the state and federal courts in Deschutes County, Oregon. If you have any claim arising out of relating to this Agreement or the Software, Services, Documentation, N-able Marks, or N-able Content, you must bring the claim in an appropriate court as set forth in this Section within the guidelines prescribed by Oregon state law.

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

**14.13 U.S. Government Use.** N-able's Software and Documentation were developed exclusively at private expense and are a "commercial item" as defined in Federal Acquisition Regulation ("FAR") 2.101, and any supplement is provided with no greater than RESTRICTED RIGHTS. Such Software, Documentation, and related items consist of "commercial computer software," "commercial computer software documentation," and commercial technical data as defined in the applicable acquisition regulations, including FAR 2.101 and FAR Part 12. Use, duplication, release, modification, transfer, or disclosure ("Use") of the Software and Documentation are restricted by this Agreement and in accordance with Defense Federal Acquisition Regulation Supplement ("DFARS") Section 227.7202 and FAR Section 12.212, and the Software, and Documentation are licensed (i) only as commercial items; and (ii) with only the rights granted to commercial end users pursuant to this Agreement. Such Use is further restricted by FAR 52.227-14, 252.227-7015, or similar acquisition regulations, as applicable and amended. Except as described herein, all other Use is prohibited. This Section is in lieu of, and supersedes, any other FAR, DFARS, or other clause addressing government rights under this Agreement or any other contract under which the Software or Documentation is acquired or licensed. Manufacturers are N-able Technologies Ltd., Floor 2, Dundee House, 50 North Lindsay Street, Dundee, DD1 1QE,

United Kingdom and N-able Solutions ULC, 450 March Road, 2nd Floor, Ottawa, Ontario K2K 3K2 Canada.

**14.14 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

## **15. PRODUCT ADDENDA.**

These Sections apply only to the specific products referenced in the headings.

**15.1 Mail Services Product.** You acknowledge and agree You are solely responsible for adjusting the relevant DNS (MX record) and/or mail server settings such that Your Data, including emails, no longer pass through the N-able systems and for exporting Your Data, including emails, from the archive, quarantine, or logging prior to termination of the license to the Software. Your failure to do so may cause Your Data to be lost.

**15.2 Cove Data Protection.** IN ADDITION TO THE OTHER TERMS AND CONDITIONS HEREIN, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOUR DATA MAY NOT BE AVAILABLE OR RESTORABLE IF (1) YOU UTILIZE THE SERVICES IN EXCESS OF THE AMOUNT YOU ORDERED; (2) COPIES OF YOUR DATA WERE NOT COMPLETED FOR ANY REASON; (3) YOU ATTEMPT TO BACK UP DEVICES, FILES, FOLDERS, OR DRIVES NOT SUPPORTED BY THE SERVICES AS SET FORTH IN THE DOCUMENTATION; (4) YOU DESELECT OR DELETE A DEVICE, FILE, FOLDER, OR DRIVE FROM YOUR N-ABLE ACCOUNT, FROM YOUR DEVICE, OR FROM BEING BACKED UP BY THE SERVICES; (5) YOU MODIFY YOUR OPERATING SYSTEM IN A MANNER THAT BREAKS COMPATIBILITY OR INHIBITS THE FUNCTIONALITY OF THE SERVICES OR SOFTWARE; (6) YOUR COMPUTER IS UNABLE TO ACCESS THE INTERNET OR N-ABLE INFRASTRUCTURE; (7) YOU FAIL TO COMPLY WITH THE AGREEMENT OR DOCUMENTATION; OR (8) YOU TERMINATE OR FAIL TO RENEW YOUR SUBSCRIPTION TO THE SERVICES.

**15.3 Endpoint Detection and Response.** N-able [Endpoint Detection and Response](#) and [Managed Endpoint Detection](#) and Response are powered by SentinelOne® and SentinelOne's [Services Addendum](#) applies to these Services. N-able's Software Services Agreement and End User License Agreements do not apply.

**15.4 N-able Managed Detection and Response (MDR).** N-able MDR will use commercially reasonable efforts to meet the Service Level Objectives (SLOs) listed in the [SLO Addendum](#).

**15.5 Remote Script Orchestration.** If You purchase SentinelOne® Remote Script Orchestration, You acknowledge that it is a powerful, highly customizable tool that can irreparably damage software and hardware. You take sole responsibility for any harm associated with Your or Your Clients' use of Remote Script Orchestration, and N-able shall have no liability for deletion or corruption of data, loss of access, permanent or temporary downtime on affected systems, any portion of loss from third party claims of infringement or any other loss or liability, arising out of Your or Your Clients' use of Remote Script Orchestration. You shall not use and shall prohibit your Clients from using Remote Script Orchestration to: (i) perform services or access computers or devices on behalf of third parties without specific, explicit consent; or (ii) upload, store, process, or analyze "Sensitive Data" which may include, without limitation, payment card industry data, personal information, Personal Data, PHI, financial data, trade secrets or proprietary information, login information, and other data that may have contractual or other restrictions imposed by applicable laws and regulations. N-able may immediately suspend all or a portion of Your access to the Services and Software (without any liability to You in connection with such suspension) and terminate this Agreement if N-able has a good faith belief that You have breached this paragraph.

**15.6. Adlumin MDR Advanced Cyberwarranty**

If You purchase Adlumin MDR Advanced Your Clients are eligible to receive the Adlumin MDR Advanced Cyberwarranty (the “Warranty”; also referred to as the “N-able Certification Warranty”) through your Managed Service Provider, the following details and terms and conditions of eligibility apply. Please read and understand them.

The Warranty is supported and administered by [Cysurance](#). It is Your responsibility to ensure each of Your Clients meet the requirements for enrollment in the Warranty. You agree that You must obtain each Client’s completion of the Warranty Enrollment Form (the “Form”) ([https://n-able.na1.echosign.com/public/esignWidget?wid=CBFCIBAA3AAABLblqZhAYAA3WKALNF8yrSsZGTb-aP7ainqYiRJraaOltPnVGal57RADQGFVDAY4kMzKL2FQ\\*](https://n-able.na1.echosign.com/public/esignWidget?wid=CBFCIBAA3AAABLblqZhAYAA3WKALNF8yrSsZGTb-aP7ainqYiRJraaOltPnVGal57RADQGFVDAY4kMzKL2FQ*)), which includes contact information and acceptance of the Participant Agreement (<https://enroll.cysurance.com/wp-content/uploads/Cysurance-Certification-Warranty-Participant-Agreement-n-able.pdf>). You should review and understand the Participant Agreement prior to directing Your Clients to the Form.

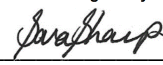
The Warranty is only available to eligible MSPs and their Clients, and You are solely responsible for ensuring your Clients are properly enrolled in the Warranty. You agree that N-able has no responsibility to monitor or administer the Warranty and shall have no liability whatsoever relative to the Warranty.

### 15.7 Disaster Recovery as a Service (DRaaS)

If You use Cove Data Protection DRaaS, You acknowledge that some recovery options allow You to choose to expose data to the public internet. You also understand that if you choose such options You increase Your risk of unauthorized access, data disclosure, or service disruption, and You are solely and fully responsible for understanding and accepting these risks.

You further agree that at no time, including during Your use of N-able cloud resources and IP addresses, will you engage in any illegal or unauthorized activities such as misuse or abuse of any assigned public IP addresses (*e.g.*, sending spam/DDoS traffic, hosting malware/command-and-control, or conducting unauthorized network scanning/attacks), or permit Your Clients to do so. You and Your Clients’ use of DRaaS is Your sole responsibility, and N-able will have no liability for deletion or corruption of Your Data, loss of access, permanent or temporary downtime, or any other loss or liability, arising out of Your or Your Clients’ use of this Service. N-able may immediately suspend all or a portion of Your access to the Services and Software (without any liability to You in connection with such suspension) and terminate this Agreement if N-able has a good faith belief that You have breached this paragraph.

#### N-ABLE TECHNOLOGIES LTD.

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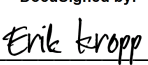
Name: Sara Sharp

Title: VP, International Operations

Date: December 29, 2025

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#### DESCHUTES COUNTY

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Name: Erik Kropp

Title: Acting County Administrator

Date: December 29, 2025