Terms of Use

Welcome, and thank you for your interest in LogZilla Corporation ("LogZilla," "we," or "us") and our website at www.logzilla.net (our "Service"). These Terms of Use are a legally binding contract between you and LogZilla regarding your use of the Service.

PLEASE READ THE FOLLOWING TERMS CAREFULLY. BY USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS, INCLUDING THE LOGZILLA PRIVACY POLICY (TOGETHER, THE "TERMS").

If you are not eligible, or do not agree to the Terms, then you do not have our permission to use the Service.

LogZilla Service Overview

The Service is a website that: (a) provides information regarding LogZilla and LogZilla's proprietary software; and (b) facilitates the purchase of licenses and access to LogZilla software. Your use of LogZilla software is subject to additional terms and conditions which you will have an opportunity to review and accept prior to downloading or otherwise accessing LogZilla software, currently: End User License Agreement

Eligibility. You must be at least 18 years of age to use the Service. By agreeing to these Terms, you represent and warrant to us that: (a) you are at least [18] years of age; (b) you have not previously been suspended or removed from the Service; and (c) your registration and your use of the Service is in compliance with all applicable laws and regulations. If you are using the Service on behalf of an entity, organization, or company, you represent and warrant that you have the authority to bind that organization to these Terms and you agree to be bound by these Terms on behalf of that organization.

Accounts and Registration

To access some features of the Service, you may be required to register for an account. When you register for an account, you may be required to provide us with some information about yourself, such as your email address or other contact information. You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account. If you have reason to believe that your account is no longer secure, then you must immediately notify us at support@/spambot-remove/logzilla.net.

Payment

The Service may enable you to perform purchase transactions for licenses to LogZilla software. Before you pay any fees, you will have an opportunity to review and accept the fees that you will be charged. LogZilla uses a third party payment processor to collect this payment and unless otherwise agreed, LogZilla accepts payment for purchase transactions via credit card. Fees are due immediately upon placement of an order through the Service. By placing an order, you authorize LogZilla to provide your payment details to its third party payment processor for processing and to charge all sums you specify at the time of purchase, to the payment method you specify at the time of purchase. If you pay any fees with a credit card, LogZilla or its third party payment processor may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase. The Service may include functionality for activating, updating or canceling recurring payments for periodic charges. If you activate or update recurring payments through the Service, you authorize LogZilla or its third party payment processor to periodically charge, on a going-forward basis and until cancellation of either the recurring payments or your account, all accrued sums on or before the payment due date for the accrued sums. If you use the Service to update or cancel any existing authorized one-time or recurring payment, it may take up to 30 business days for the update or cancellation to take effect.

User Content

User Content Generally. Certain features of the Service may permit users to upload content to the Service, including messages, reviews, photos, video, images, folders, data, text, and other types of works ("User Content") and to publish User Content on the Service. You retain copyright and any other proprietary rights that you may hold in the User Content that you post to the Service.

Limited License Grant to LogZilla

By posting or publishing User Content, you grant LogZilla a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid right and license (with the right to sublicense) to host, store, transfer, display, perform, reproduce, modify for the purpose of formatting for display, and distribute your User Content, in whole or in part, in any media formats and through any media channels now known or hereafter developed.

Limited License Grant to Other Users

By posting or sharing User Content with other users of the Service, you grant those users a non-exclusive license to access and use that User Content as permitted by these Terms and the functionality of the Service.

User Content Representations and Warranties.

You are solely responsible for your User Content and the consequences of posting or publishing User Content. By posting or publishing User Content, you affirm, represent, and warrant that:

You are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions to authorize LogZilla and users of the Service to use and distribute your User Content as necessary to exercise the licenses granted by you in this section, in the manner contemplated by LogZilla, the Service, and these Terms; and

your User Content, and the use of your User Content as contemplated by these Terms, does not and will not: (i) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause LogZilla to violate any law or regulation.

User Content Disclaimer

We are under no obligation to edit or control User Content that you or other users post or publish, and will not be in any way responsible or liable for User Content. LogZilla may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms or is otherwise objectionable. You understand that when using the Service you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against LogZilla with respect to User Content. We expressly disclaim any and all liability in connection with User Content. If notified by a user or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, LogZilla does not permit copyright-infringing activities on the Service.

Digital Millennium Copyright Act

DMCA Notification. We comply with the provisions of the Digital Millennium Copyright Act applicable to Internet Service providers (17 U.S.C. §512, as amended). If you have an intellectual property rights-related complaint about material posted on the Service, you may contact our Designated Agent at the following address:

LogZilla Corporation

ATTN: Legal Department (Copyright Notification)

166 Hargraves Dr., Ste. C400-218, Austin, TX, 78737

Email: copyright@-spam-remove-between-dashes-logzilla.net

Any notice alleging that materials hosted by or distributed through the Service infringe intellectual property rights must include the following information:

An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other right being infringed; A description of the copyright-protected work or other

intellectual property right that you claim has been infringed; A description of the material that you claim is infringing and where it is located on the Service; your address, telephone number, and email address; A statement by you that you have a good faith belief that the use of those materials on the Service is not authorized by the copyright owner, its agent, or the law; and A statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Repeat Infringers

LogZilla will promptly terminate without notice the accounts of users that are determined by LogZilla to be "Repeat Infringers." A Repeat Infringer is a user who has been notified of infringing activity or has had User Content removed from the Service at least twice.

Prohibited Conduct.

BY USING THE SERVICE YOU AGREE NOT TO:

use the Service for any illegal purpose or in violation of any local, state, national, or international law; violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right; post, upload, or distribute any User Content or other content that is unlawful, defamatory, libelous, inaccurate, or that a reasonable person could deem to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate; interfere with security-related features of the Service, including by: (a) disabling or circumventing features that prevent or limit use or copying of any content; or (b) reverse engineering or otherwise attempting to discover the source code of any portion of the Service except to the extent that the activity is expressly permitted by applicable law; interfere with the operation of the Service or any user's enjoyment of the Service, including by: (a) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (b) making any unsolicited offer or advertisement to another user of the Service; (c) attempting to collect personal information about another user or third party without consent; or (d) interfering with or disrupting any network, equipment, or server connected to or used to provide the Service, or violating any regulation, policy, or procedure of any such network, equipment, or server;

perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, accessing any other Service account without permission, or falsifying your age or date of birth; sell or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 12) or any right or ability to view, access, or use any Material; or attempt to do any of the acts described in this Section 7, or assist or permit any person in engaging in any of the acts described in this Section 7.

Termination of Use; Discontinuation and Modification of the Service

If you create an account for the Service, you may terminate it at any time by clicking on the "Delete" button in the account profile. If you terminate your account, you remain obligated to pay all outstanding fees, if any, incurred prior to termination relating to the Service. If you violate any provision of these Terms, your permission from us to use the Service will terminate automatically. In addition, LogZilla may in its sole discretion terminate your user account on the Service or suspend or terminate your access to the Service at any time for any reason or no reason, with or without notice. We also reserve the right to modify or discontinue the Service at any time (including by limiting or discontinuing certain features of the Service), temporarily or permanently, without notice to you. We will have no liability whatsoever on account of any change to the Service or any suspension or termination of your access to or use of the Service.

Privacy Policy

Please read the LogZilla Privacy policy carefully for information relating to our collection, use, storage and disclosure of your personal information. The LogZilla Privacy Policy is incorporated by this reference into, and made a part of, these Terms.

Additional Terms

Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the "Additional Terms"), such as end-user license agreements for any downloadable software, or rules that applicable to a particular feature or content on the Service, subject to Section 11. All Additional Terms are incorporated by this reference into, and made a part of, these Terms.

Modification of these Terms

We reserve the right, at our discretion, to change these Terms on a going-forward basis at any time. Please check these Terms periodically for changes. Material modifications are effective upon your acceptance of the modified Terms. Immaterial modifications are effective upon publication. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

Ownership; Proprietary Rights.

The Service is owned and operated by LogZilla. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, Services, and all other elements of the Service ("Materials") provided by LogZilla are protected by intellectual property and other laws. All Materials included in the Service are the property of LogZilla or our third-party licensors. Except as expressly authorized by LogZilla, you may not make use of the Materials. LogZilla reserves all rights to the Materials not granted expressly in these Terms.

Feedback

If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Service ("Feedback"), then you hereby grant LogZilla an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner and for any purpose, including to improve the Service and create other products and Services.

Indemnity

You are responsible for your use of the Service, and you will defend and indemnify LogZilla and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (together, the "LogZilla Entities") from and against every claim, liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or in any way connected with: (a) your access to, use of, or alleged use of, the Service; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or (d) any dispute or issue between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of that claim.

Disclaimers; No Warranties

THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. THE LOGZILLA ENTITIES DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. THE LOGZILLA ENTITIES DO NOT WARRANT THAT THE SERVICE OR ANY PORTION OF THE SERVICE, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICE, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND DO NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF THE LogZilla ENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN

THESE TERMS. YOU ASSUME ALL RISK FOR ANY DAMAGE THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE SERVICE, YOUR DEALING WITH ANY OTHER SERVICE USER, AND ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE. YOU UNDERSTAND AND AGREE THAT YOU USE THE SERVICE, AND USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN MATERIALS OR CONTENT THROUGH THE SERVICE AND ANY ASSOCIATED SITES OR SERVICES, AT YOUR OWN DISCRETION AND RISK, AND THAT YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE), OR THE LOSS OF DATA THAT RESULTS FROM THE USE OF THE SERVICE OR THE DOWNLOAD OR USE OF THAT MATERIAL OR CONTENT.

SOME JURISDICTIONS MAY PROHIBIT A DISCLAIMER OF WARRANTIES AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

Limitation of Liability

IN NO EVENT WILL THE LOGZILLA ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICE OR ANY MATERIALS OR CONTENT ON THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY LOGZILLA ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

THE AGGREGATE LIABILITY OF THE LOGZILLA ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF: (A) THE AMOUNT YOU HAVE PAID TO LOGZILLA FOR ACCESS TO AND USE OF THE SERVICE IN THE 12 MONTHS PRIOR TO THE EVENT(S) OR CIRCUMSTANCES GIVING RISE TO CLAIM; OR (B) $100.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. ACCORDINGLY, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE

BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 15 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

Governing Law

This Agreement will be governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Texas and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. If a lawsuit or court proceeding is commenced pursuant to these Terms, then you and LogZilla agree to submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Travis County, Texas for the purpose of litigating any dispute. We operate the Service from our offices in Texas, and we make no representation that Materials included in the Service are appropriate or available for use in other locations.

Notice

The following are trademarks of LogZilla Corp: "Network Event Orchestrator", "Network Event Orchestration", "NEO" logo, "Preduplication", "PreDup". The following are Registered trademarks of LogZilla Corporation: "LogZilla". Other marks as used in this website are the property of the respective owners thereof. Certain products of LogZilla Corporation may contain intellectual property covered by one or more of the following: US Patent Numbers 9,122,694 and 9,195,674.

General

These Terms, together with the Privacy Policy and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and LogZilla regarding your use of the Service. Except as expressly permitted above, these Terms may be amended only by a written agreement signed by authorized representatives of all parties to these Terms. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect. Upon termination of these Terms, Sections 2, 4, 5, and 6 through 19, along with the Privacy Policy and any other accompanying agreements, will survive.

Consent to Electronic Communications

By using the Service, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

Contact Information. The Service is offered by LogZilla Corporation, located at 166 Hargraves Dr., Ste. C400-218, Austin, TX, 78737. You may contact us by sending correspondence to that address or by emailing us at support@/spambot-remove/logzilla.net.

END USER LICENSE AGREEMENT

This End User License Agreement, including any Order which by this reference is incorporated herein (this "**Agreement**"), is a binding agreement between LogZilla Corporation ("**LogZilla**") and the person or entity receiving the Software (as defined below) accompanied by this Agreement ("**you**" or "**Customer**"). You may have received an "evaluation edition", "alpha", "beta", or other non-commercial release version of the Software ("**Evaluation Edition**") or a commercially released or generally available version of the Software and your rights will vary depending on the version that you received.

LogZilla provides the software solely on the terms and conditions set forth in this agreement and on the condition that Customer accepts and complies with them. By clicking the "accept" button, you (a) accept this agreement and agree that Customer is legally bound by its terms; and (b) represent and warrant that: (i) you are of legal age to enter into a binding agreement; and (ii) if Customer is a corporation, governmental organization or other legal entity, you have the right, power and authority to enter into this agreement on behalf of Customer and bind Customer to its terms. If Customer does not agree to the terms of this agreement, LogZilla will not and does not license the software to Customer and you must not install the software or documentation.

Notwithstanding anything to the contrary in this agreement or your or Customer's acceptance of the terms and conditions of this agreement, no license is granted (whether expressly, by implication or otherwise) under this agreement, and this agreement expressly excludes any right, concerning any software that Customer did not acquire lawfully or that is not a legitimate, authorized copy of LogZilla's software.

1.   Definitions. For purposes of this Agreement, the following terms have the following meanings:

"**Development Use**" means use of the Software by Customer to design, develop and/or test new applications for Production Use.

"**Documentation**" means user manuals, technical manuals and any other materials provided by LogZilla, in printed, electronic or other form, that describe the installation, operation, use or technical specifications of the Software.

"**Fees**" are the License Fees and the Support Fees.

"**License Fees**" means the license fees, including all taxes thereon, paid or required to be paid by Customer for the license granted under this Agreement.

"**License Package**" means the type of license selected by Customer depending on the number of hosts and messages Customer needs. License Packages are available in evaluation, small business and enterprise sizes.

"**Order**" means the document by which the Software and any Support Services are ordered by Customer.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

"**Production Use**" means using the Software with Customer's applications for internal business purposes only, which may include third party customers' access to or use of such applications. "Production Use" does not include the right to reproduce the software for sublicensing, resale, or distribution, including

without limitation, operation on a time sharing or service bureau basis or distributing the software as part of an ASP, VAR, OEM, distributor or reseller arrangement.

"**Software**" means the object code versions of the software set forth in the Order.

"**Support Fees**" means the support fees, including all taxes thereon, paid or required to be paid by Customer for the Support Services ordered under this Agreement.

"**Third Party**" means any Person other than Customer or LogZilla.

"**Use**" means Development Use or Production Use.

2.   License Grant and Scope. Subject to and conditioned upon Customer's strict compliance with all terms and conditions set forth in this Agreement, LogZilla hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable (except as expressly set forth in **Section 2(d)**), limited license during the Term (as defined below) to use the Software and Documentation, solely as set forth in this **Section 2** and subject to all conditions and limitations set forth in **Section 4** or elsewhere in this Agreement. This license grants Customer the right to:

(a)   Download and install in accordance with the Documentation the Software and Documentation solely for Customer's Use and in accordance with the number messages or events associated with the License Package, each as specified in the Order. In addition to the foregoing, Customer has the right to make one copy of the Software solely for archival purposes, provided that Customer does not, and does not allow any Person to, install or use any such copy other than if and for so long as the copy installed in accordance with the preceding sentence is inoperable and, provided, further, that Customer uninstalls and otherwise deletes such inoperable copy. All copies of the Software made by Customer:

(i)   will be the exclusive property of LogZilla;

(ii)   will be subject to the terms and conditions of this Agreement; and

(iii)   must include all trademark, copyright, patent and other intellectual property rights notices contained in the original.

(b)   Use and run the Software as properly installed in accordance with this Agreement and the Documentation, solely as set forth in the Documentation and solely for Customer's internal business purposes. If Customer has acquired Software for Development Use, Customer is not permitted to use the Software for Production Use. If Customer has acquired Software for Production Use, Customer is not permitted to use the Software for Development Use.

(c)   Download or otherwise make a reasonable number of copies of the Documentation depending on the License Package and use such Documentation, solely in support of its licensed use of the Software in accordance herewith. All copies of the Documentation made by Customer:

(i)   will be the exclusive property of LogZilla;

(ii)   will be subject to the terms and conditions of this Agreement; and

(iii)   must include all trademark, copyright, patent and other intellectual property rights notices contained in the original.

(d)   Permit third party consultants to access and use the Software solely for Customer's internal business operations, provided that such consultants execute an agreement with Customer with terms and conditions no less protective of LogZilla than those in this Agreement. Customer remains liable for any breach of this Agreement by a third party consultant.

3.   Third-Party Materials. The Software may include software, content, data or other materials, including related documentation, that are owned by Persons other than LogZilla and that are provided to Customer on terms that are in addition to and/or different from those contained in this Agreement ("**Third-Party Licenses**"). Customer is bound by and will comply with all Third-Party Licenses. Any breach by Customer or any of its authorized users of any Third-Party License is also a breach of this Agreement.

4.   Use Restrictions. Customer will not:

(a)   use (including make any copies of) the Software or Documentation beyond the scope of the license granted under **Section 2**;

(b)   except as may be permitted by **Section 2(d)** and strictly in compliance with its terms, provide any other Person, including any subcontractor, independent contractor, affiliate or service provider of Customer, with access to or use of the Software or Documentation;

(c)   modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Software or Documentation or any part thereof;

(d)   combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other programs;

(e)   reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Software or any part thereof;

(f)   remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices from the Software or Documentation, including any copy thereof;

(g)   except as expressly set forth in **Section 2(a)** and **Section 2(c)**, copy the Software or Documentation, in whole or in part;

(h)   rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Software or any features or functionality of the Software, to any Third Party for any reason, whether or not over a network and whether or not on a hosted basis, including in connection with the internet, web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-sharing, service bureau, software as a service, cloud or other technology or service;

(i)   use the Software in, or in association with, the design, construction, maintenance or operation of any hazardous environments or systems, including:

(i)   power generation systems;

(ii)   aircraft navigation or communication systems, air traffic control systems or any other transport management systems;

(iii)   safety-critical applications, including medical or life-support systems, vehicle operation applications or any police, fire or other safety response systems; and

(iv)   military or aerospace applications, weapons systems or environments;

(j)   use the Software in violation of any federal, state or local law, regulation or rule; or

(k)   use the Software for purposes of competitive analysis of the Software, the development of a competing software product or service or any other purpose that is to LogZilla's commercial disadvantage.

5.   <u>Responsibility for Use of Software</u>. Customer is responsible and liable for all uses of the Software through access thereto provided by Customer, directly or indirectly. Specifically, and without limiting the generality of the foregoing, Customer is responsible and liable for all actions and failures to take required actions with respect to the Software by any other Person to whom Customer may provide access to or use of the Software, whether such access or use is permitted by or in violation of this Agreement.

6.   <u>Feedback</u>. If Customer provides any feedback to LogZilla concerning the functionality and performance of the Software (including identifying potential errors and improvements) ("**Feedback**"), Customer hereby assigns to LogZilla all right, title, and interest in and to the Feedback, and LogZilla is free to use the Feedback without any payment or restriction.

7.   <u>Compliance Measures</u>.

(a)   The Software may contain technological copy protection or other security features designed to prevent unauthorized use of the Software, including features to protect against use of the Software: (i) beyond the scope of the license granted pursuant to **Section 2**; or (ii) prohibited under **Section 4**. Customer will not, and will not attempt to, remove, disable, circumvent or otherwise create or implement any workaround to, any such copy protection or security features.

(b)   Upon reasonable notice to Customer, during the Term and for three years thereafter, Customer will keep current, complete, and accurate records regarding the reproduction, distribution, and use of the Software. Customer will provide such information to LogZilla and certify that it has paid all fees required under this Agreement within five business days of any written request, so long as no more than two requests are made each year. LogZilla may, in LogZilla's sole discretion, audit Customer's use of the Software under this Agreement at any time during the Term and for three years thereafter to ensure Customer's compliance with this Agreement, provided that (i) any such audit will be conducted on not less than 30 days' prior notice to Customer, and (ii) no more than 2 audits may be conducted in any 12 month period except for good cause shown. LogZilla also may, in its sole discretion, audit Customer's systems within 3 months after the end of the Term to ensure Customer has ceased use of the Software and removed the all copies of the Software from such systems as required hereunder. Customer will fully cooperate with LogZilla's personnel conducting such audits and provide all reasonable access requested by LogZilla to records, systems, equipment, information and personnel, including machine IDs, serial numbers and related information. LogZilla will only examine information related to Customer's use of the Software. LogZilla may conduct audits only during Customer's normal business hours and in a manner that does not unreasonably interfere with Customer's business operations.

(c)   If any of the measures taken or implemented under this **Section 6** determines that Customer's use of the Software exceeds or exceeded the use permitted by this Agreement then:

(i)   Customer will, within 7 days following the date of receipt of written notice from LogZilla, pay to LogZilla the retroactive License Fees for such excess use and obtain and pay for a valid license to bring Customer's use into compliance with this Agreement. In determining the Customer Fee payable pursuant to the foregoing, (x) unless Customer can demonstrate otherwise by documentary evidence, all excess use of the Software will be deemed to have commenced on the commencement date of this Agreement or, if later, the completion date of any audit previously conducted by LogZilla hereunder, and continued uninterrupted thereafter, and (y) the rates for such licenses will be determined without regard to any discount to which Customer may have been entitled had such use been properly licensed prior to its commencement (or deemed commencement).

(ii)   If the use exceeds or exceeded the use permitted by this Agreement by more than 5%, Customer will also pay to LogZilla, within 7 days following the date of LogZilla's written request therefor, LogZilla's reasonable costs incurred in conducting the audit.
LogZilla's remedies set forth in this **Section 6** are cumulative and are in addition to, and not in lieu of, all other remedies LogZilla may have at law or in equity, whether under this Agreement or otherwise.

8.   Maintenance and Support.

(a)   Subject to **Section 8(d)**, the license granted hereunder entitles Customer to the technical support and maintenance services ("**Support Services**") identified on the Order, if any, during the Term.

(b)   Support Services will include provision of such updates, upgrades, bug fixes, patches and other error corrections (collectively, "**Updates**") as LogZilla makes generally available at no additional charge to all Customers of the Software then entitled to Support Services. LogZilla may develop and provide Updates in its sole discretion, and Customer agrees that LogZilla has no obligation to develop any Updates at all or for particular issues. Customer further agrees that all Updates will be deemed "Software," and related documentation will be deemed "Documentation," all subject to all terms and conditions of this Agreement. Customer acknowledges that LogZilla may provide Updates via download from a website designated by LogZilla and that Customer's receipt thereof will require an internet connection, which connection is Customer's sole responsibility. LogZilla has no obligation to provide Updates via any other media. Support Services do not include any new version or new release of the Software LogZilla may issue as a separate or new product, and LogZilla may determine whether any issuance qualifies as a new version, new release or Update in its sole discretion.

(c)   If Customer reports a bug or error to LogZilla, LogZilla will use commercially reasonable efforts to begin development on an Update for such bug or error within 12 hours of receipt of notification from Customer.

(d)   LogZilla reserves the right to condition the provision of Support Services, including all or any Updates, on Customer's registration of the copy of Software for which support is requested. LogZilla has no obligation to provide Support Services, including Updates:

(i)   for any but the most current version or release of the Software;

(ii)   for any copy of Software for which all previously issued Updates have not been installed;

(iii)   if Customer is in breach under this Agreement; or

(iv)   for any Software that has been modified other than by or with the authorization of LogZilla, or that is being used with any hardware, software, configuration or operating system not specified in the Documentation or expressly authorized by LogZilla in writing.

9.   Collection and Use of Information.

(a)   Customer acknowledges that LogZilla may, directly or indirectly through the services of Third Parties, collect and store information regarding use of the Software and about equipment on which the Software is installed or through which it otherwise is accessed and used, through:

(i)   the provision of maintenance and support services; and

(ii)   security measures included in the Software as described in **Section 6**.

(b)   Customer agrees that LogZilla may use such information for any purpose related to any use of the Software by Customer or on Customer's equipment, including but not limited to:

(i)   improving the performance of the Software or developing Updates; and

(ii)   verifying Customer's compliance with the terms of this Agreement and enforcing LogZilla's rights, including all intellectual property rights in and to the Software.

10.   Intellectual Property Rights. Customer acknowledges and agrees that the Software and Documentation are provided under license, and not sold, to Customer. Customer does not acquire any ownership interest in the Software or Documentation under this Agreement, or any other rights thereto other than to use the same in accordance with the license granted, and subject to all terms, conditions and restrictions, under this Agreement. LogZilla and its licensors and service providers reserve and retain their entire right, title and interest in and to the Software and all intellectual property rights arising out of or relating to the Software, except as expressly granted to Customer in this Agreement. Customer will safeguard all Software (including all copies thereof) from infringement, misappropriation, theft, misuse or unauthorized access. Customer will promptly notify LogZilla if Customer becomes aware of any infringement of LogZilla's intellectual property rights in the Software and fully cooperate with LogZilla, at LogZilla's sole expense, in any legal action taken by LogZilla to enforce its intellectual property rights.

11.   Confidentiality. By virtue of this Agreement, the parties may have access to information that is confidential to one another ("**Confidential Information**"). Confidential Information includes the Software, Documentation, this Agreement and any Order, and all information clearly identified as confidential. A party's Confidential Information does not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) 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; (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (d) is independently developed by the other party. The parties agree to hold each other's Confidential Information in confidence during the term of this Agreement and for a period of 2 years after termination of this Agreement. The parties agree, unless required by law, not to make each other's Confidential Information available in any form to any third party for any purpose other than the implementation of this Agreement. LogZilla may reasonably use Customer's name and a description of Customer's use of the Software for its investor relations and marketing purposes, unless Customer provides written notice within 7 days of installation of the Software to LogZilla that it may not do so.

12.   Payment. All License Fees and Support Fees are payable within 30 days of the date of invoice from LogZilla and are non-refundable. Any renewal of the license or maintenance and support services

hereunder will not be effective until the fees for such renewal have been paid in full. Late payments accrue interest at a rate of 1% per month.

13.   Term and Termination.

(a)   This Agreement and the license granted hereunder will remain in effect for the term set forth on the Order or until earlier terminated as set forth herein (the "**Initial Term**"). This Agreement will renew automatically following the Initial Term for one-year terms (each, a "**Renewal Term**" and both the Initial Term and the Renewal Term are the "**Term**") until either party terminates the Agreement upon notice 30 days prior to the end of the then-current term. Notwithstanding the foregoing, for Evaluation Edition licenses, this Agreement and the license granted hereunder will end upon completion of the testing or evaluation period specified by LogZilla, which shall not exceed 30 days from delivery of the Software to Customer unless otherwise expressly agreed in writing by LogZilla.

(b)   LogZilla may terminate this Agreement, effective upon written notice to Customer, if Customer, materially breaches this Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured 30 days after LogZilla provides written notice thereof.

(c)   LogZilla may terminate this Agreement, effective immediately, if Customer files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property.

(d)   Upon expiration or earlier termination of this Agreement, the license granted hereunder will also terminate, and Customer will cease using and destroy all copies of the Software and Documentation. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination, or entitle Customer to any refund, in each case except as set forth in **Section 14(c)**.

14.   Limited Warranties, Exclusive Remedy and Disclaimer/Warranty Disclaimer.

(a)   If you are using Evaluation Edition of the Software, the Software is provided "AS IS" and without any warranties. Solely with respect to Software for which LogZilla receives a Fee, LogZilla warrants that, for a period of 90 days following the first installation of the Software, the Software will substantially contain the functionality described in the Documentation, and when properly installed on a computer meeting the specifications set forth in, and operated in accordance with, the Documentation, will substantially perform in accordance therewith. THE FOREGOING WARRANTY DOES NOT APPLY, AND LOGZILLA STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY MATERIALS.

(b)   The warranties set forth in **Section 14(a)** will not apply and will become null and void if Customer materially breaches any material provision of this Agreement, or if Customer or any other Person provided access to the Software by Customer, whether or not in violation of this Agreement:

(i)   installs or uses the Software on or in connection with any hardware or software not specified in the Documentation or expressly authorized by LogZilla in writing;

(ii)   modifies or damages the Software; or

(iii)   misuses the Software, including any use of the Software other than as specified in the Documentation or expressly authorized by LogZilla in writing.

(c)   If, during the period specified in **Section 14(a)**, any Software covered by the warranty set forth in such Section fails to perform substantially in accordance with the Documentation, and such failure is not excluded from warranty pursuant to the **Section 14(b)**, LogZilla will, subject to Customer's promptly notifying LogZilla in writing of such failure, either:

      (i)   repair or replace the Software, provided that Customer provides LogZilla with all information LogZilla requests to resolve the reported failure, including sufficient information to enable LogZilla to recreate such failure; or

      (ii)   if LogZilla is unable to repair or replace the Software, refund the License Fees paid for such Software, subject to Customer's ceasing all use of and, if requested by LogZilla, returning to LogZilla all copies of the Software or certifying in writing that all copies of the Software have been destroyed.

If LogZilla repairs or replaces the Software, the warranty will continue to run from the installation date, and not from Customer's receipt of the repair or replacement. The remedies set forth in this **Section 14(c)** are Customer's sole remedies and LogZilla's sole liability under the limited warranty set forth in **Section 14(a)**.

(d)   EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN **Section 14(a)** AND THE SUPPORT SERVICES SET FORTH IN **Section 8**, THE SOFTWARE AND DOCUMENTATION ARE PROVIDED TO CUSTOMER "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LOGZILLA, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, LOGZILLA PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE LICENSED SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

15.   <u>Limitation of Liability</u>. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW:

(a)   IN NO EVENT WILL LOGZILLA OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, DELAY OR INABILITY TO USE THE SOFTWARE, LOST REVENUES OR PROFITS, DELAYS, INTERRUPTION OR LOSS OF SERVICES, BUSINESS OR GOODWILL, LOSS OR CORRUPTION OF DATA, LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION OR SHUTDOWN, FAILURE TO ACCURATELY TRANSFER, READ OR TRANSMIT INFORMATION, FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION, SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION, BREACHES IN SYSTEM OR NETWORK

SECURITY OR OTHER SECURITY INCIDENTS OF ANY KIND, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT LOGZILLA WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b)   IN NO EVENT WILL LOGZILLA'S AND ITS AFFILIATES', INCLUDING ANY OF ITS OR THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS', COLLECTIVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID TO LOGZILLA PURSUANT TO THIS AGREEMENT IN THE TWELVE MONTHS PRECEDING THE EVENT GIVING RISE TO LIABILITY FOR THE SOFTWARE OR SUPPORT SERVICES THAT ARE THE SUBJECT OF THE CLAIM.

(c)   THE LIMITATIONS SET FORTH IN **Section 15(a)** AND **Section 15(b)** WILL APPLY EVEN IF CUSTOMER'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

16.   <u>Export Regulation</u>. The Software and Documentation may be subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations. Customer will not, directly or indirectly, export, re-export or release the Software or Documentation to, or make the Software or Documentation accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. Customer will comply with all applicable federal laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Software or Documentation available outside the US.

17.   <u>US Government Rights</u>. The Software is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if Customer is the U.S. Government or any contractor therefor, Customer will receive only those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other U.S. Government Customers and their contractors.

18.   <u>Miscellaneous</u>.

(a)   This Agreement will be governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Texas and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. If a lawsuit or court proceeding is commenced pursuant to this Agreement, then Customer and LogZilla agree to submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Travis County, Texas for the purpose of litigating any dispute.

(b)   LogZilla will not be in default hereunder by reason of any failure or delay in the performance of its obligations hereunder where such failure or delay is due to strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air

conditioning or Customer equipment, loss and destruction of property or any other circumstances or causes beyond LogZilla's reasonable control.

(c)   All notices, requests, consents, claims, demands, waivers and other communications hereunder will be in writing and will be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (iv) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on the Order (or to such other address as may be designated by a party from time to time in accordance with this **Section 18(c)**).

(d)   This Agreement (including the Order) and all other documents that are incorporated by reference herein, constitutes the sole and entire agreement between Customer and LogZilla with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. In the event of a conflict between the terms in the body of this Agreement and the Order, the terms of this Agreement will prevail. Any preprinted or other terms on an Order (including any purchase order) or other correspondence that are in addition to or conflict with this Agreement are hereby rejected. If LogZilla provides you with a new version of the Software with a new agreement, then the new agreement will supersede the terms of this Agreement if Customer uses such new version of the Software.

(e)   Customer will not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, merger, a sale of all or substantially all of Customer's assets, business reorganization or otherwise, without LogZilla's prior written consent. Any purported assignment, delegation or transfer in violation of this **Section 18(e)** is void. LogZilla may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under this Agreement without Customer's consent. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

(f)   This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(g)   This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the party so waiving.

(h)   If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(i)   This Agreement will be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Order referred to herein will be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

(j)   The headings in this Agreement are for reference only and will not affect the interpretation of this Agreement.

(k)   The following Sections survive termination of this Agreement: 1, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18.

(l)   The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.