Kentik SaaS Services Agreement

THIS SAAS SERVICES AGREEMENT ("AGREEMENT") CONTAINS THE TERMS FOR USE OF THE SAAS SERVICES AND RECEIPT OF PROFESSIONAL SERVICES AND IS BETWEEN KENTIK TECHNOLOGIES, INC. ("KENTIK") AND THE PARTY AGREEING TO THE TERMS OF THIS AGREEMENT ("CUSTOMER"). BY ELECTRONICALLY EXECUTING AN ORDER THAT REFERENCES THIS AGREEMENT, CLICKING AN "ACCEPT" OR SIMILAR BUTTON, OR OTHERWISE USING THE SAAS SERVICES ("EFFECTIVE DATE"), CUSTOMER AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT. CUSTOMER MAY NOT USE THE SAAS SERVICES WITHOUT AGREEING TO THIS AGREEMENT FIRST. IF A WRITTEN AGREEMENT REGARDING CUSTOMER'S USE OF THE SAAS SERVICES EXISTS BETWEEN AND HAS BEEN EXECUTED BY BOTH KENTIK AND CUSTOMER, THE TERMS OF THAT WRITTEN AGREEMENT SHALL TAKE PRECEDENCE OVER THIS AGREEMENT.

1. DEFINITIONS.
"Affiliate" means and includes any entity that directly or indirectly controls, is controlled by, or is under common control with a party, where "*control*" means the ownership of, or the power to vote, at least fifty percent (50%) of the voting stock, shares, or interests of such entity.
"Customer Data" means information which Customer inputs into the SaaS Services and data output from the SaaS Services that is made available to Customer or can otherwise be retrieved or accessed by Customer through the SaaS Services.
"Customer Equipment" means Customer's computer hardware, software, and network infrastructure used to access the SaaS Services.
"Device" means a single router, switch, chassis, server, and the like, and that functions as a flow-exporter. Single router, switch, chassis or server. Clusters are considered multiple devices and are excluded from the definition of a single Device.
"Extension Term" means each additional period beyond the Initial Term that for which the term for the applicable SaaS Service is extended, and if no period is stated, each Extension Term is one (1) year. **"Initial Term"** means the first term for the SaaS Services defined in an Order.
"Order" means the online order form that is submitted by Customer and lists the applicable term, fees, SaaS Services and any Professional Services ordered by Customer, and any additional terms applicable to the SaaS Services.
"Professional Services" means the professional/consulting services listed in Section 4, the Professional Services Description, and as may be further identified in an Order.
"Professional Services Description" means the description of the Professional Services purchased by Customer contained in the applicable description document.
"Reseller" means Microsoft Marketplace.
"Support" has the meaning set forth in Section 7.
"Taxes" means any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, sales, use or withholding taxes.
"Term" means the Initial Term and any Extension Term applicable to each SaaS Service.
"SaaS Services" means the applicable SaaS Services and/or Professional Services.
"SaaS Services Description" means the description of the applicable SaaS Services purchased by Customer and specified on an Order.
"Updates" means all SaaS Services updates and enhancements that Kentik generally makes available at no additional charge to its customers of the SaaS Services listed in an Order who are current in payment of applicable fees.
"Users" means Customer's employees, contractors, and agents who are authorized by Customer to use the SaaS Services on its behalf.

2. TERMS OF THE SAAS SERVICES. Subject to the terms of the Agreement and each Order, Kentik grants Customer a non-exclusive, non-transferable right to access and use the SaaS Services listed under an Order during the Term. Customer's right to use the SaaS Services is also limited to any other restrictions contained in an Order.

3. CUSTOMER RESPONSIBILITIES RELATING TO USE OF THE SAAS SERVICES AND KENTIK'S RIGHTS.
3.1 As between the parties, Customer is responsible for (i) all activities conducted under its User logins, (ii) obtaining and maintaining any Customer Equipment and any ancillary services needed to connect to, access or otherwise use the SaaS Services, and (iii) ensuring that the Customer Equipment and any ancillary services are compatible with the SaaS Services and comply with all configuration requirements set forth in the SaaS Services Description.

3.2 Customer shall use the SaaS Services solely for its internal business purposes, in compliance with applicable law, and shall not: (a) resell, sublicense, lease, time-share to any third party (unless otherwise expressly permitted in an Order); (b) send or store infringing or unlawful material using the SaaS Services; (c) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the SaaS Services or the data contained therein; (d) modify, copy or create derivative works based on the SaaS Services; (e) reverse engineer the SaaS Services; (f) propagate any virus, worms, Trojan horses, or other programming routine intended to damage any system or data; (g) access the SaaS Services for the purpose of building a competitive product or service or copying its features or user interface; (h) use the SaaS Services, or permit the SaaS Services to be used, for purposes of product evaluation, benchmarking or other comparative analysis intended for publication without Kentik's prior written consent; or (i) permit access to the SaaS Services by a direct competitor of Kentik.

3.3 Any failure of Customer to comply with the obligations set forth in this Section 3 may be deemed a material breach of this Agreement. If Customer fails to comply with the obligations set forth in this Section 3 within three (3) days of receipt of notice from Kentik to do so, Kentik reserves the right to suspend the use of the SaaS Services until such failure is remedied.

4. PROFESSIONAL SERVICES.

4.1 Kentik shall provide Professional Services as set forth in an Order and the applicable Professional Services Description or as otherwise set forth in a Statement of Work ("SOW") executed by the parties.

4.2 Kentik shall not be liable for failure to perform any of its obligations, including satisfaction of the time deadlines set forth in any SOW, where Kentik is unable to perform, or its performance is delayed, due to the actions or inactions of Customer including, but not limited to, Customer's failure to meet its project deadlines, fulfill the Customer obligations set forth in any SOW or provide necessary information or adequate working conditions, including, without limitation, equipment, space, personnel, or technical support.

4.3 Any material changes to a SOW shall be set forth in a new SOW or Order signed by both parties.

5. OWNERSHIP AND USE.

5.1 Customer shall retain all ownership rights in the Customer Data (as defined in Section 1) and Customer Confidential Information. Except as otherwise expressly identified in a mutually executed SOW, Kentik shall have and retain all ownership rights in the SaaS Services, report format and structure and general statistical information, and all work developed or created by Kentik during the course of providing Support or Professional Services to Customer (if any). Kentik hereby grants Customer a royalty-free, nonexclusive, right to use the foregoing on the same terms and conditions as the SaaS Services subject to any and all agreed upon fees.

5.2 Kentik shall own any suggestions, enhancement requests, recommendations, or other feedback provided by Customer or its Users relating to the Kentik Products.

6. FEES.

6.1 The Fees for the SaaS Services are as stated in an Order and are effective during the Initial Term specified therein. Notwithstanding the foregoing, if Customer places an order from a different geographical location than as set forth in the initial Order, different fees may apply. Unless otherwise stated in an Order, Fees for the Initial Term are due upon the Effective Date of the applicable Order. Fees for any Extension Terms are due in accordance with the above, except that they are due on the effective date of the renewal.

6.2 Upon execution of this Agreement, payment obligations are non-cancelable and, except as expressly provided in this Agreement, upon payment, all payments made by Customer are non-refundable. All undisputed fees due hereunder shall be due and payable to Reseller on the terms set forth by Reseller. Failure to make payments in accordance with this Section may result in suspension of Customer's ability to access the SaaS Services until payment is made.

6.3 Unless otherwise provided, Kentik's fees do not include any Taxes. Customer is responsible for paying all Taxes, including, but not limited to sales, use, GST, and VAT taxes associated with its purchases hereunder, excluding Taxes based on Kentik's and/or Reseller's net income. If Reseller includes on the invoice such Taxes for which Customer is responsible, the tax amount invoiced shall be paid by Customer, unless Customer provides a valid tax exemption certificate authorized by the appropriate taxing authority upon execution of this Agreement.

6.4 Customer shall reimburse Reseller for all reasonable, pre-approved and appropriately documented travel and related expenses incurred by Kentik in performing Professional Services at Customer's location. Customer shall be responsible for its own travel and out of pocket expenses associated with attending any training services at a Kentik facility.

6.5 Customer shall keep and maintain accurate systems logs and records as are necessary to determine Customer's compliance with the Device use and other restrictions and Fees due under this Agreement ("Records"). Upon reasonable request by Kentik, Customer shall review its records and pay any underpaid Fees related to an over usage or notify Kentik that no additional Fees are due. Kentik or its authorized representative shall also have the right to audit the books and records of Customer, at Kentik's expense, to determine whether Customer is in compliance with this Agreement ("**Audit**"). If an Audit reveals that Kentik has been underpaid, Customer shall immediately pay Kentik such underpaid amount plus interest thereon at the rate of one and a half percent (1.5%) per month. Any Audit shall be performed only during Customer's normal business hours upon reasonable prior written notice, no more frequently than once per calendar year, and shall be performed in such a manner as to avoid unreasonable interference with Customer's business operations.

7. SUPPORT AND SLAs. Kentik shall provide Support as long as Customer is current on payment of any Support fees (if any) and all other Fees listed in an Order. Support shall be provided in accordance with Kentik's standard support policy, a copy of which may be found on Exhibit A.

8. WARRANTIES.
8.1 Each party represents and warrants that (i) it has the legal power to enter into and perform under this Agreement; and (ii) it shall comply with all applicable laws in its performance hereunder.
8.2 Kentik warrants (i) it will provide the Professional Services in a professional and workmanlike manner consistent with good industry standards and practices; and (ii) that for a period of thirty (30) days after completion, the Professional Services will conform to the representations in Section 4. As Customer's sole and exclusive remedy and
Kentik's entire liability for any breach of the foregoing warranty, Kentik will repair and/or re-perform the Professional Services.
8.3 Kentik warrants that the SaaS Services will substantially conform in all material respects in accordance with the SaaS Services Description. Customer will provide prompt written notice of any non-conformity. As Customer's sole and exclusive remedy and Kentik's entire liability for any breach of the foregoing warranty, Kentik will confirm and then fix, provide a work around, or otherwise repair or replace the nonconforming portion of the SaaS Services, or, if Kentik is unable to do so, terminate the right to use the SaaS Services and return the SaaS Services Fees paid to Reseller for the period beginning with Customer's notice of nonconformity through the remainder of the Initial Term or then-current Extension Term, as applicable.
8.4 Kentik warrants that the SaaS Services will meet the requirements set forth in the SaaS Service Service Level Agreement ("SLA") on Exhibit A. In the event of a breach of the foregoing warranty, as Customer's sole and exclusive remedies, Kentik will provide the remedies set forth in the SLA.
8.5 EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. KENTIK DOES NOT WARRANT THE OPERATION OF THE SAAS SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

9. PATENT AND COPYRIGHT INDEMNITY.
9.1 Kentik shall defend, indemnify and hold Customer and its officers, directors, employees, subsidiaries and shareholders harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings ("Claims") (i) made or brought against Customer by a third party alleging that the use of the SaaS Services as contemplated hereunder infringes the U.S. intellectual property rights of such third party or (ii) based on a violation of any statute, law, ordinance or regulation by Kentik, provided that Customer (a) promptly gives written notice of the Claim to Kentik; (b) gives Kentik sole control of the defense and settlement of the Claim (provided that Kentik may not settle any Claim unless it unconditionally releases Customer of all liability); and (c) provides to Kentik, at Kentik's cost, all reasonable assistance.
9.2 As it relates to 9.1(i), Kentik may, at its sole option and expense: (i) procure for Customer the right to continue using the SaaS Services under the terms of this Agreement; (ii) replace or modify the SaaS Services to be non- infringing without material decrease in functionality; or (iii) if the foregoing options are not reasonably practicable, terminate the right to use the infringing SaaS Services and Reseller shall refund to Customer the prepaid fees for the remainder of the Initial Term or then-current Extension Term as measured from the date of termination.
9.3 As it relates to 9.1(i), Kentik shall have no liability for any Claim to the extent the Claim is based upon (i) the use of the SaaS Services in combination with any other product, service or device not furnished, recommended or approved by Kentik, if such Claim would have been avoided by the use of

the SaaS Services, without such product, service or device; or (ii) Customer's use of the SaaS Services other than in accordance with this Agreement.

9.4 The provisions of this Section 9 set forth Kentik's sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to infringement or misappropriation of third party intellectual property rights of any kind.

9.5 Customer shall defend, indemnify and hold Kentik, its officers, directors, employees, subsidiaries and shareholders harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with all Claims arising out of (i) a violation of any statute, law, ordinance, or regulation by Customer; and/or (ii) Customer Data used in conjunction with the SaaS Services. Kentik shall have the right to participate in such defense with counsel of its own choosing at its expense.

10. CONFIDENTIALITY AND DATA SECURITY.

10.1 As used herein, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement (including pricing and other terms reflected in an Order), the SaaS Services, documentation, business and marketing plans, technology and technical information, product designs, and certification and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to Disclosing Party; (ii) was known to Receiving Party prior to its disclosure by Disclosing Party without breach of any obligation owed to Disclosing Party; (iii) was independently developed by Receiving Party without breach of any obligation owed to Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to Disclosing Party. **10.2** Receiving Party shall not disclose any Confidential Information of Disclosing Party for any purpose outside the scope of this Agreement, except with Disclosing Party's prior written consent. Receiving Party shall protect the confidentiality of Disclosing Party's Confidential Information in the same manner that it protects the confidentiality of its own confidential information of like kind (but in no event using less than reasonable care). Receiving Party shall promptly notify Disclosing Party if it becomes aware of any actual or reasonably suspected breach of confidentiality of Disclosing Party's Confidential Information.

10.3 If Receiving Party is compelled by law to disclose Confidential Information of Disclosing Party, it shall provide Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if Disclosing Party wishes to contest the disclosure.

10.4 Upon any termination of this Agreement, the Receiving Party shall continue to maintain the confidentiality of the Disclosing Party's Confidential Information as long as it remains confidential and, upon request, return to the Disclosing Party or destroy all materials containing such Confidential Information.

10.5 Kentik shall take appropriate physical, technical, and administrative security measures sufficient to secure the Customer data entered into the SaaS Services ("Customer Data") against any unauthorized disclosure, and as required by any applicable law or regulation. Without limiting the foregoing, Kentik will implement security measures that are consistent with industry standards.

10.6 Kentik will (a) process Customer Data only to the extent, and in such manner, as is necessary to provide the SaaS Services to Customer and its Users under this Agreement and in accordance with Customer's instructions from time to time; (b) not otherwise process or use the Customer Data; and (c) keep Customer Data logically separate from other data and information that is held by Kentik. For purposes of clarity, the provisions above apply to all Customer Data, including but not limited to personal information. Kentik shall promptly comply with any request from Customer requiring Kentik to delete Customer Data. Kentik will provide Customer with the means to access, amend, delete or transfer Customer Data. If Kentik receives any third-party communication relating directly or indirectly to the processing of the personal information, Kentik must promptly notify Customer and must fully cooperate and assist Customer in addressing the communication. Kentik will, at its expense, provide Customer with reasonable assistance to comply with any obligations under the applicable data protection laws relating to personal information.

11. LIMITATION OF LIABILITY.

11.1 EXCEPT (i) FOR THE PARTIES' INDEMNIFICATION OBLIGATIONS; (ii) FOR CUSTOMER'S FAILURE TO PAY ANY FEES DUE UNDER THIS AGREEMENT; (iii) IN THE EVENT OF EITHER PARTY'S UNAUTHORIZED USE, DISTRIBUTION OR DISCLOSURE OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; OR (iv) EITHER PARTY'S MATERIAL BREACH OF SECTION 10 (COLLECTIVELY, "EXCLUSIONS"), IN NO OTHER EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER

ANY OTHER THEORY OF LIABILITY, EXCEED THE ANNUALIZED FEES OWED OR PAID TO KENTIK FOR THE SAAS SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE MONTHS PRIOR TO WHEN THE CLAIM ACCRUED.

11.2 EXCEPT FOR THE EXCLUSIONS, IN NO OTHER EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER FOR ANY LOST PROFITS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGE TO GOODWILL HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.3 THE PARTIES' LIABILITY FOR THE EXCLUSIONS WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WILL BE LIMITED TO (5) TIMES THE ANNUALIZED FEES OWED OR PAID TO KENTIK FOR THE SAAS SERVICES GIVING RISE TO THE CLAIM DURING TWELVE MONTHS PRIOR TO WHEN THE CLAIM ACCRUED.

12. TERM AND TERMINATION.

12.1 This Agreement commences on the Effective Date and continues until all rights granted in accordance with this Agreement and the applicable Order(s) have expired or have been terminated. The Initial Term applicable to each Order commences upon Customer's execution of such Order and shall expire at the end of the Initial Term or then- current Extension Term. Each Order shall be automatically extended for Extension Term(s) equal to the greater of the previous Term or twelve (12) months (at the current price of the SaaS Services) unless either party provides written notice of non-renewal to the other at least thirty (30) days before such expiration.

12.2 A party may terminate this Agreement or an Order for cause: (i) upon 30 days' written notice to the other party of a material breach of this Agreement if such breach remains uncured at the expiration of such period; (ii) immediately upon written notice if the other party becomes the subject of a bankruptcy, insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding; and (iii) as otherwise provided herein.

12.3 Either party may terminate the Agreement immediately by written notice if no Order is in effect.

12.4 Upon termination of this Agreement or an Order, Customer shall: (i) cease all use of the Services. The parties' rights and obligations under Sections 5, 6, 8.5, 9-11, 12.5, and 13 shall survive termination of this Agreement.

13. General

13.1 The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created hereby.

13.2 Notices shall be in writing, sent using a recognized private mail carrier or the United States Postal Service and effective on proof of delivery. Notices sent to Kentik shall be sent to: Kentik Technologies, Inc., 625 2nd Street, Suite 100, San Francisco, CA 94107, Attn: CEO. Notices sent to Customer shall be sent to the address communicated to Kentik via the Order.

13.3 No amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by Customer and Kentik. Notwithstanding any language to the contrary therein, no terms stated in a purchase order or in any other order document (other than a SOW, or other mutually executed order document expressly incorporated herein) shall be incorporated into this Agreement, and all such terms shall be void. This Agreement, which includes all documents referenced herein, SOWs and attachments hereto, represents the entire agreement of the parties, and supersedes all prior or contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. This Agreement is not for the benefit of any third party.

13.4 No failure or delay in exercising any right hereunder shall constitute a waiver of such right. Except as otherwise provided, remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law,
such provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect.

13.5 Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations) due to a natural disaster, actions or decrees of governmental bodies or communications line failure which (i) hinders, delays or prevents a party in performing any of its obligations, (ii) is beyond the control of, and without the fault or negligence of, such party, and (iii) by the exercise of reasonable diligence such party is unable to prevent or provide against.

13.6 Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other (not to be unreasonably withheld). Notwithstanding the foregoing, Kentik may assign this Agreement in its entirety, without consent of the

Customer, to its successor in interest in connection with a merger, reorganization, or sale of all or substantially all assets or equity. Any attempted assignment in breach of this Section shall be void. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. For clarity, Kentik may use subcontractors in the ordinary course of its business.

13.7 A party will be excused from a delay in performing, or a failure to perform, its obligations under the Agreement (other than payment obligations) to the extent such delay or failure is caused by the occurrence of any contingency beyond the reasonable control, and without any fault, of such Party. In such event, the performance times will be extended for a period of time equivalent to the time lost because of the excusable delay; provided, however, if the delay or failure continues for more than twenty (20) days, the Party not relying on the excusable delay may terminate the Agreement upon notice to the other party. In order to avail itself of the relief provided in this Agreement, a party must act with due diligence to remedy the cause of, or to mitigate or overcome, such delay or failure.

13.8 Kentik may access and use Customer Data to the extent necessary to provide, support and improve the Service under this Agreement and for its own business purposes on an anonymized and aggregated basis in a manner that does not disclose Customer as the source and the contents of the underlying Customer Data. Such uses may include, but are not limited to, enabling the sharing of network alerts and vulnerabilities and other network issues Kentik discovers through its provision of the SaaS Services.

13.9 In any action to interpret or enforce this Agreement, the prevailing party shall be awarded all court costs and reasonable attorneys' fees it incurs.

13.10 There are no third-party beneficiaries to this Agreement.

13.11 Kentik may list Customer's name in Kentik's customer lists on Kentik's website and in its marketing
materials.

13.12 Each party agrees to comply fully with all applicable regulations of the United States Department of Commerce and with the United States Export Administration Act, as amended from time to time, and with all applicable laws and regulations of other jurisdictions with respect to the importation and use of the SaaS Services.

13.13 This Agreement shall be governed exclusively by the internal laws of the state of California, without regard to its conflicts of laws rules. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. The parties hereby consent to the exclusive jurisdiction of the state and federal courts located in San Francisco, California, for resolution of any disputes arising out of this Agreement.

Exhibit A

SUPPORT AND SERVICE LEVEL AGREEMENT
This Support and Service Level Agreement) is subject to the terms and conditions of the
Kentik SaaS Services Agreement ("Agreement") by and between Kentik and the Customer.
Any capitalized terms not defined herein shall have the meanings set forth in in the
Agreement.

Service Level Agreement
("SLA")

1. Definitions. The following definitions apply to this SLA.
    1.1. "**Actual Unavailability**" means the percentage of Maximum Availability during
        Reporting Period in which the SaaS Services was Unavailable (i.e., cumulative
        minutes of Unavailability during such month divided by Maximum Availability).
    1.2. "**Exclusion**" means any period in which the SaaS Services is Unavailable,
        inoperable, suspended, terminated or otherwise disrupted as a result of any of the
        following:
        1.2.1. outages or degradation of performance to any public internet backbones,
        networks or servers; 1.2.2.any failures of, or problems caused by, Customer's
        equipment, software, technology, systems or local
            access services;
        1.2.3. periods of Scheduled Maintenance or Unscheduled Maintenance activities;
        1.2.4. lack of availability or untimely response time from Customer to
            respond to incidents that require its participation for source
            identification and/or resolution;
        1.2.5. any failures of, or problems caused by, any third party and/or third party
            equipment, software hardware or other technology (other than third party
            equipment within Kentik's direct control) or third party actions or inactions;
        1.2.6. any voluntary actions or inactions from Customer or any third party,
            including any work performed at Customer request (for example additional
            technical assistance) or other activities that Customer directs;
        1.2.7. events beyond Kentik's control, such as changes resulting from government,
            political, or other regulatory actions or court orders, strikes, riots, labor
            disputes, insurrection, fires, floods, explosions, war, governmental action,
            labor conditions, earthquakes, natural disasters, acts of or against third
            parties (including third party carriers or other vendors), or any other force
            majeure events; and
        1.2.8. suspension or termination of the SaaS Services by Kentik as authorized pursuant to
            the Agreement.
    1.3. "**Maximum Availability**" means the total number of minutes in the calendar
        month, e.g. 43,200 minutes in the month of September.
    1.4. "**Monthly Fees**" means the applicable fee payable to Kentik for the SaaS Services under
        the Agreement
        allocated to the month in which the Service Commitment is not met (for example if
        the term is 12 months, then 1/12 of the 12 month SaaS Services fees).
    1.5. "**Monthly Uptime Percentage**" is calculated by subtracting Actual Unavailability from
        100%, other than any
        Unavailability resulting directly or indirectly from an Exclusion. If Customer's
        subscription to the SaaS Services is only over a partial month, it is assumed that
        the SaaS Services were Available during the portion of the month in which
        Customer was not subscribed to the Service.
    1.6. "**Reporting Period**" is the calendar month in which the Service Commitment is measured.
    1.7. "**Scheduled Maintenance**" means the period of time where Kentik performs
        maintenance activities making commercially reasonable efforts to schedule
        outages for essential maintenance and updating to occur on weekends and/or off-
        hours. Kentik reserves the right to extend or change the times of the Scheduled
        Maintenance. In addition, Scheduled Maintenance shall not exceed four (4) hours
        in any consecutive three (3) month period.
    1.8. "**Unavailable**" means the SaaS Services are not available and/or providing the
        following capabilities to the Customer; access to portal, data collection,
        outbound system calls and API availability

1.9. ***"Unscheduled Maintenance"*** means downtime of the SaaS Services that is required to apply urgent patches fixes, or to undertake other urgent maintenance activities or required as a result of conditions beyond Kentik's reasonable control. Unscheduled Maintenance may occur as Kentik deems necessary.

2. <u>SaaS Availability</u>**.** Subject to the terms and conditions of this SLA, Kentik will provide the SaaS Services at a Monthly Uptime Percentage of 99.99% each calendar month during the term of the Agreement ("***Service Commitment***").

3. <u>Maintenance Notifications</u>. Maintenance notifications will be sent to all of Customer's email addresses with User Accounts on the Kentik system. It is Customer's sole responsibility to ensure the provided email address is current and fully functional. Kentik will use commercially reasonable efforts to notify Customer at least one (1) business day before any Scheduled Maintenance and thirty minutes before any Unscheduled Maintenance is performed on its systems. Notice will contain the expected start time, the planned duration of the Unscheduled Maintenance, and whether Kentik expects the SaaS Services to be unavailable during the Unscheduled Maintenance.

4. <u>Service Credits</u>. For every hour (or portion thereof) that Kentik fails to meet the Service Commitment in any calendar month during the term of the Agreement, Customer will be eligible to receive a service credit equal to the 1 day equivalent (or portion thereof) fees paid, not to exceed 50% of monthly fees. By way of example, if Kentik were down for 2 hours in the month of May and Customer paid annual fees of $120,000, the credit would would be calculated as follows: $120,000/12 = $10,000 per month/30 days = $333.33 per day x 2 days =$666.66.

5. <u>Request for Credit</u>. Customer may request a credit for any Reporting Period under this SLA and such requests must be submitted in writing within ten (10) days after the end of the Reporting Period. The total of all credits applicable to or accruing in any given Reporting Period shall not exceed 50% of the Fees attributable to Kentik by Customer for the Reporting Period. All credit requests will be verified against Kentik system records. Kentik will make available to Customer a monthly record upon request. Generally, credits will be applied to future invoices, but may also be received as refunds upon request by Customer.

6. <u>Sole Remedy</u>. The right to a credit described in this SLA shall be the sole and exclusive remedy available to Customer in the event of unavailability of the SaaS Services.

Support Services

1. <u>Standard Support</u>. Standard Support consists of the following:
   ### *1.1 Error Corrections and Defect Resolutions*
   Kentik shall use commercially reasonable efforts to correct and/or provide a work-around for any incident reported by Customer in the current unmodified release of the SaaS Services in accordance with the priority level reasonably assigned to such incident by Kentik.
   ### *1.2 SaaS Services and Documentation Updates.*
   Kentik shall provide access to Customer one (l) electronic copy of all updated revisions to the documentation and the generally released SaaS Services updates. Updates do not include products or options that are designated by Kentik as new products or options for which Kentik charges a separate fee.
   ### *1.3 Support Requests and Named Support Contacts.*
   Customer may initiate electronic Support requests via email to Kentik at any time. Support requests submitted via email will be addressed by Kentik during the support hours listed in this SLA document. Customer will promptly identify two internal resources that are knowledgeable about Customer's operating environment and operation of the SaaS Services (collectively, "Named Support Contacts"). Named Support Contacts will serve as primary contacts between Customer and Kentik.

2. <u>Customer Cooperation</u>.
   Kentik's obligation to provide Support Services is conditioned upon the following: (i)

Customer's reasonable effort to resolve the problem after communication with Kentik; and (ii) Customer's provision to Kentik of sufficient information and resources to correct the problem, including, without limitation, remote access as further discussed in these policies. As related to Critical or Major cases, Customer shall provide continuous access to appropriate Customer personnel and any third party software or hardware interacting with Kentik (if applicable) during Kentik's response related to the Critical or Major case or Kentik shall be permitted to change the Priority of the case.

3. Support Services Conditions***.***

Kentik shall have no obligation to provide support to the extent any problem with the SaaS Services is due to (i) the SaaS Services having been altered, damaged or modified by Customer or Customer's agents; (ii) Customer's negligence, hardware malfunction or other causes beyond the reasonable control of Kentik; (iii) SaaS Services being used in breach of the Agreement; or (v) a failure that cannot be reproduced by Kentik.

4. Priority Level Definitions.
   Critical:
   - System Unavailable –
   - Complete loss of service, data ingest or query access is unavailable and no workaround exists. Excludes any scheduled maintenance as communicated.

   Major:
   - Major Function Issue –
   - Degraded service that substantially impairs the use of one or more features of the application required to perform necessary business functions but does not effectively render the application unusable as a whole. No data is lost, no workaround exists. Excludes any scheduled maintenance as communicated.

   Minor:
   - Minor Impact Issue –
   - Application is impaired, but the reported error or issue has a reasonable workaround and does not pose a serious business impact.

   Question / Cosmetic:
   - General questions about existing documentation, training or use of functionality.

   Enhancement:
   - Request for
new or extended functionality
5. Support Priority
Classification Matrix.

Priority	Initial Response Time	Updates from Support	Resolution	Resolution Goal
Critical	4 hours (24x7)	Every 2 Business Hours	4 hours	Kentik access and/or data collection is restored
Major	4 hours (12x5)	Once per Business Day	24 hours	Function is restored or workaround is provided
Minor	8 hours (12x5)	Upon Status Change	N/A	Instructions or workaround is provided
Question/ Cosmetic	24 hours (12x5)	No Updates Provided	N/A	Question is answered
Enhancement	48 hours (12x5)	No Updates Provided	N/A	Enhancement request is acknowledged and logged

Response times are measured from when Customer notifies Support, by emailing support@kentik.com, about a problem with the SaaS Services at which time a case number will be issued

Standard Support hours of availability are as follows:
  (12x5): Monday through Friday 8:00am to 8:00pm Eastern Standard Time.
Emergency / Critical Support hours of availability: 24/7 as outlined here:
https://www.kentik.com/customer-care/

Resolution times for Critical and Major Priorities are measured at the time Engineering has acknowledged an outage.

6. Customer Escalation Matrix.

Contacts are subject to change and may be posted here: https://www.kentik.com/customer-care/. The table below outlines the escalation procedures for Critical and Major Priorities:

Priority	Order	Timeframe	Escalation Point	Name	Contact
Critical/ Major	First	When Response Time has lapsed	Emergency Support Number	On-call Engineer	US: +1 844-356-3278, ext 6 Intl: +1 415-963-9825, ext 6 escalations@kentik.com
Critical/ Major	Second	Immediately after Resolution Time has lapsed	Head of Customer Success	Matthew Cavanaugh	+1 406-600-8877 mcavanaugh@kentik.com