

Offer Description for AppDynamics

IMPORTANT: READ CAREFULLY

1. OVERVIEW

This Offer Description describes supplemental terms and conditions that will govern Your use of the AppDynamics LLC's ("AppDynamics") software product ("Software") and related services, as indicated in the Order(s) for internal business purposes only. Please consult the AppDynamics documentation located at <http://docs.appdynamics.com> for further information on its technical specifications, configuration requirements, features and functionalities (the "Documentation"). AppDynamics SaaS licenses purchased pursuant to this Offer Description may only be converted to on-premise licenses at an additional fee and upon AppDynamics' written consent.

The Cisco Universal Cloud Agreement ("Agreement") and the terms herein govern Your use of the Software referenced herein. A current copy of the Agreement is located at: <http://www.cisco.com/c/en/us/about/legal/cloud-and-software.html>.

Unless defined within the text herein, capitalized terms used in this Offer Description are defined in Annex A, Annex B or the Agreement. For clarity, all references to Cloud Service in the Agreement shall be read to encompass the Software, as defined herein, and vice versa. Furthermore, for the avoidance of doubt and as defined in the Agreement, all references to Cisco in the Agreement shall be read to include AppDynamics, as a wholly owned subsidiary of Cisco.

If the Software listed in this Offer Description is compatible for use with other Cisco products or service offerings not referenced herein, such other products and/or offerings may have additional license terms that apply to Your use of such products and offerings. You are also responsible for complying with the terms for such other Cisco products and offerings, as applicable. The terms set forth herein apply to the Software listed in this Offer Description whether purchased for use on a standalone basis, or purchased for use with such other Cisco products or offerings.

Please note that with respect to this Offer Description, the following sections of the Agreement are not applicable to Your use of the Software: Sections 5(c)(International Data Transfers); 8 (Warranty); 12 (Support Services); 13 (Term and Termination) as it relates to the EOL policy specified therein; and 15 (Applicable Law and Jurisdiction). Further, the clause relating to an initial thirty (30) day termination period specified in the preamble of the Agreement is not applicable to your purchase of the Software described in this Offer Description.

AppDynamics reserves the right to change this Service Description at any time.

2. TERMS AND CONDITIONS

A. Use Limitations. You shall not (and shall not authorize any third party to): (a) modify or create derivative works based on all or any part of the Software, nor modify any proprietary rights notices that appear in the Software; (b) cause the decompiling, disassembly, or reverse engineering of any portion of the Software, or attempt to discover any source code or other operational mechanisms of the Software, (c) publish the results of any benchmarking tests run on the Software; (d) use AppDynamics Test & Dev Edition licenses in any environment other than test-only, non-production environments; or (e) configure

the Software to collect any (1) social security numbers or other government-issued identification numbers, (2) passwords or other authentication credentials, (3) health information, biometric data, genetic data, or payment/financial information, (4) any data relating to a person under the age of 13 years old, or (5) any other data that is subject to regulatory or contractual handling requirements (e.g., PCI, HIPAA, or state and federal data security laws). You acknowledge and agree that the license to the Software is not intended to limit the licenses set forth at <https://docs.appdynamics.com/display/DASH/Legal+Notices>.

B. Maintenance and Support. “Support” is defined as AppDynamics’ obligations to respond to support requests as described in Annex A (Enterprise Support). “Maintenance” means AppDynamics’ obligations related to error resolution, bug fixes and the provision of updates and upgrades made generally commercially available by AppDynamics in its sole discretion, all as described in Annex A. Subject to Your payment of the fees set forth in the applicable Order, AppDynamics will (a) provide Maintenance and Support for the Software, and make the Software available to You in accordance with Annex B (Availability and Security). For time-limited licenses for the Software (as set forth in an Order, “Subscription Licenses”), the fees for Maintenance and Support are included in the fees for the Software.

C. Services. All Services will be rendered on a time and materials basis. AppDynamics will not exceed the total time purchased without prior written approval from You. If the Services purchased have been consumed, AppDynamics will stop work until additional Services have been purchased. Services will be performed on business days (a business day means Monday through Friday, excluding national holidays, during working hours, in the location where the Services are delivered). Saturday work, and hours worked during the week that exceed the local working hours in a week, will be charged at the agreed rate x 1.5. Work on Sundays or national holidays will be charged at 2 x the agreed rate. If You cancel or delay any scheduled Services less than ten (10) business days before the start date of such Services, then AppDynamics will deduct from Your account (or You will pay for) the amount of Services that were scheduled in any of the ten (10) business days following the date of cancellation (or notification of the delay, as applicable), and You will fully reimburse AppDynamics for any reasonable travel and expenses incurred by AppDynamics for such Services (and for any Services rescheduled by You) for which AppDynamics is unable to obtain a refund. Travel and living expenses are not included in the Services fees unless otherwise stated on the Order. If not used, pre-purchased Services and pre-paid expenses expire twelve (12) months after the date purchased.

The Services offering for Your AppDynamics Bundle purchase is located at https://legal.appdynamics.com/AppDynamics_Bundle_Remote_Services_Offering_10October2017.pdf and a description of the applicable Service Module is located at https://legal.appdynamics.com/SOW_AppDynamics_Standard-Foundation.pdf.

The Services offering for Your AppDynamics Accelerator purchase is located at https://legal.appdynamics.com/AppDynamics_Accelerator_Services_Offering_10October2017.pdf and a description of the applicable Service Modules are located at: https://legal.appdynamics.com/SOW_AppDynamics_Standard-Foundation.pdf

https://legal.appdynamics.com/SOW_AppDynamics_Standard-Modular-Sprint.pdf.

The foregoing are each incorporated by reference.

For either Your AppDynamics Bundle or Accelerator purchase, the Premium University Subscription entitles a named student unlimited access to the self-paced catalogue of classes, unlimited public virtual instructor led classes, 2 Certification Exam attempts, and up to 32 hours monthly of on-demand lab access.

D. Data Protection. Notwithstanding anything to the contrary set forth in Section 5(c) of the Agreement, if Your primary place of business as an ordering entity is outside North, Central or South America, the following terms shall apply.

1. *Definitions.* In this Offer Description, the terms “data controller”, “data processor”, “sensitive personal data” and “personal data” have the meanings given to them in European Union Directive 95/46/EC.
2. *Your Compliance with Privacy Laws.* You will at all times comply in full with the requirements of any applicable privacy and data protection laws to which You are subject as a data controller (“Applicable Privacy Law(s)”), and You represent that You have all rights and consents necessary to provide personal data to AppDynamics hereunder.
3. *AppDynamics’ Compliance.* AppDynamics shall only process Your Personal Data in accordance with the instructions received from You and to the extent necessary for the purpose of performing AppDynamics’ obligations under this Agreement.
4. *Security.* AppDynamics shall implement appropriate technical and organizational measures against unauthorized destruction or unlawful processing, accidental loss or damage to or destruction of Your Personal Data.
5. *Subprocessing.* AppDynamics may subcontract processing of Your Personal Data provided that it enters into a written agreement with any subcontractor containing terms at least as stringent as those in this clause; AppDynamics will remain liable to You for the acts and omissions of any subcontractor it appoints to process Your Personal Data.
6. *Adequacy.* AppDynamics may export Your Personal Data outside of the European Economic Area provided that it complies with Applicable Privacy Law(s).

E. Term; Renewal. Notwithstanding anything to the contrary set forth in Section 13 of the Agreement, the term of this Agreement begins on the date that an Order is executed by You and will remain in effect until all Subscription Licenses (and Maintenance and Support Terms, if applicable) expire or until this Agreement is otherwise terminated in accordance with the terms hereof, whichever occurs first (the “Term”). For the avoidance of doubt, the “License Term” begins on the date the Software license keys are delivered to You and extends for the period specified in the applicable Order (unless earlier terminated in accordance with this Agreement). Notwithstanding the auto-renewal provision set forth in Section 13 of the Agreement, the Software purchased pursuant to this Offer Description shall not

auto-renew.

F. Warranties. Notwithstanding anything to the contrary set forth in Section 8 of the Agreement, AppDynamics sole and exclusive warranty for the Software listed in this Offer Description is that during the first ninety (90) days following the date the Software is purchased, the Software will, in all material respects, conform to the functionality described in the then-current Documentation for the applicable Software version. AppDynamics' sole obligation for a breach of this warranty shall be that AppDynamics shall be required to use commercially reasonable efforts to modify the Software to conform in all material respects to the Documentation, and if AppDynamics is unable to materially restore such functionality within thirty (30) days from the date of written notice of such breach, You shall be entitled to terminate the applicable license upon written notice and receive a pro-rata refund of the Software license fees (or Maintenance and Support Fees, for perpetual licenses) that have been paid in advance for the remainder of the License Term for the applicable Software (beginning on the date of termination). EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL SOFTWARE, DOCUMENTATION, MAINTENANCE AND SUPPORT AND SERVICES ARE PROVIDED "AS IS" AND APPDYNAMICS AND ITS SUPPLIERS EXPRESSLY DISCLAIM ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE WITH RESPECT THERETO, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

G. Governing Law. Notwithstanding anything to the contrary set forth in Section 15 and Appendix 2 of the Agreement, if Your primary place of business as an ordering entity is in North, Central or South America, the governing law of this Agreement and Offer Description is the State of California, United States of America and the exclusive forum over any claim arising under the Agreement and Offer Description are the courts located in and serving San Francisco, CA. If Your primary place of business as an ordering entity is outside North, Central or South America, this Agreement and Offer Description shall be governed by and construed in accordance with the laws of England and the exclusive forum over any claim arising under the Agreement and Offer Description are the courts located in and serving England and Wales.

H. Notices. Notwithstanding anything to the contrary set forth in Section 16(e), You may give notice to AppDynamics at any time by any letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to AppDynamics at the following address or such other address as may be notified to You from time to time: AppDynamics, 303 Second Street, North Tower, 8th Floor, San Francisco, CA 94107, Attn: Legal Department.

ANNEX A
ENTERPRISE SUPPORT

GENERAL REQUIREMENTS. AppDynamics will provide access to a ticketing system that will be available twenty-four (24) hours per day, seven (7) days per week. The ticketing system will be maintained by qualified support specialists, who shall use commercially reasonable efforts to provide technical support regarding the Software.

HOURS OF OPERATION. Support is available twenty-four (24) hours per day, seven (7) days per week.

ERROR CLASSIFICATION. Any reported errors are classified in the following manner, in each case when caused by the Software:

Error Classification	Criteria
Urgent	Your production application is down or there is a major malfunction, resulting in a business revenue loss and impacting Your application functionality for a majority of users.
High	Critical loss of Your application functionality or performance, impacting the application functionality for a high number of users
Normal	Moderate loss of Your application functionality or performance, impacting multiple users.
Low	Minor loss of Your application functionality or product feature in question.

ERROR DEFINITION. An “error” means a reproducible malfunction in the Software that is reported by You through AppDynamics’ ticketing system that prevents the Software from performing in accordance with the operating specifications described in the then-current Documentation.

AUTHORIZED SUPPORT CONTACTS. Maintenance and Support will be provided solely to Your designated support contacts. The Order may indicate a maximum number of designated support contacts for Your service level. You will provide its designated support contacts, including its primary email address.

YOUR OBLIGATION TO ASSIST. If You report a purported error in the Software, AppDynamics’ ticketing system will request the following minimum information:

- A general description of the operating environment
- A list of all hardware components, operating systems and networks
- A reproducible test case
- Any log files, trace and systems files

Your failure to provide this information may prevent or significantly delay AppDynamics’ ability to identify and fix the reported error. AppDynamics’ time to respond to any error will begin when AppDynamics has received all requested information from You and is able to reproduce the error.

ERROR RESOLUTION. If AppDynamics determines there is an error in the Software, AppDynamics may, at its sole option, repair that error in the version of the Software that You are currently using or instruct You to install a newer version of the Software with that error repaired. AppDynamics reserves the right to provide You with a workaround in lieu of fixing an error.

SOFTWARE UPDATES AND UPGRADES. You must be current on fees in order to receive access to Maintenance.

RESPONSE TIME. AppDynamics shall respond to error tickets in accordance with the tables set forth below. AppDynamics will use reasonable means to repair the error and keep You informed of progress. AppDynamics makes no representations as to when a full resolution of the error may be made.

Error	Initial Response and Acknowledgement	Manager Escalation	VP Escalation	Email Status Updates for Open Cases
Urgent	1 Hour	1 Business Day	1 Week	Daily
High	6 Hours	1 Week	2 Weeks	Weekly
Normal	1 Business Day	Quarterly Review for All Open Issues	None	None
Low	2 Business Days	Semi-Annual Review for All Open Issues	None	None

MAINTENANCE AND SUPPORT POLICY: The Maintenance and Support policy is as follows:

AppDynamics provides Maintenance and Support for each version of the Software for a period of twelve (12) months after the generally available release of the next major version of the Software (a major release is a change in the first number to the right of the decimal point). For example, if version 4.1 is released on January 1, 2015, then AppDynamics will provide Maintenance and Support for version 4.0 until January 1, 2016. AppDynamics does not provide Maintenance or Support for any customized software (or components thereof).

For third party software or technology used by You with the Software but not included with the Software (a "Platform", such as Java Virtual Machines), AppDynamics will follow the end-of-life ("EOL") support timeline announced by the third party vendor of such Platform. AppDynamics will stop providing Maintenance and Support for an EOL'd Platform version when the Platform vendor stops providing maintenance and support for that Platform version.

ANNEX B
AVAILABILITY AND SECURITY

AVAILABILITY.

AppDynamics will provide System Availability (as defined below) of ninety-nine and one-half percent (99.5%) (the "Availability SLA"), excluding situations identified as "Exclusions" below. For purposes of the Availability SLA, the AppDynamics network extends to, includes and terminates at the data center located router that provides the outside interface of each of AppDynamics' WAN connections to its backbone providers (the "AppDynamics Network"). A report on the actual Availability of the Software is located at <https://portal.appdynamics.com/status/saas>.

"Exclusions" means any outage that results from any of the following:

- a. Any Maintenance performed by AppDynamics during AppDynamics' standard Maintenance windows. AppDynamics will notify You within forty-eight (48) hours of any standard Maintenance and within twenty-four (24) hours for other non-standard emergency Maintenance (collectively referred to herein as "Scheduled Maintenance").
- b. Your information content or application programming, or the acts or omissions of You or Your agents, including, without limitation, the following:
 1. Your use of any programs not supplied by AppDynamics;
 2. Your failure to provide AppDynamics with reasonable advance prior notice of any pending unusual large deployments of new nodes (i.e., adding over ten percent (10%) total nodes in less than twenty-four (24) hours);
 3. Your implementation of any significant configuration changes, including changes that lead to a greater than thirty percent (30%) change in a one week period or greater than fifty percent (50%) change in a one month period in the number of key objects in the system including but not limited to metrics, snapshots, nodes, events and business transactions;
 4. Any misconfiguration by You (as determined in AppDynamics' sole discretion), including configuration errors or unintended usage of the Software;
 5. Your failure to upgrade the Agents, as defined below, to keep the Agent versions within six (6) months of the Controller version; or
 6. Your implementation of configuration changes in the number of key objects in the Software (including metrics, snapshots, nodes, events and business transactions) that results in, or is likely to result in, an adverse impact on other customers;
- c. Force majeure or other circumstances beyond AppDynamics' reasonable control that could not be avoided by its exercise of due care.
- d. Failures of the Internet backbone itself and the network by which You connect to the Internet backbone or any other network unavailability outside of the AppDynamics Network, such as misconfigurations, proxies or firewalls.
- e. Any window of time when You agrees that the Software's availability/unavailability will not be monitored or counted.
- f. Any problems resulting from You combining or merging the Software with any hardware or software not supplied by AppDynamics or not identified by AppDynamics in the Documentation as being compatible with the Software.
- g. Your or any third party's use of the Software in an unauthorized or unlawful manner.

Remedies for Excessive Downtime:

In the event the availability of the Software falls below the Availability SLA in a given calendar quarter, AppDynamics will pay You a service credit ("Service Credit") as follows, corresponding to the actual Availability of the Software during the applicable calendar quarter (on pro-rated basis for annual or multi-

year fees): if the Availability is 99.5% or greater, You are entitled to receive no credits; if the Availability is 97.0% - 99.49%, then You are entitled to receive Service Credits equal to five percent of the fees for the applicable calendar quarter; if the Availability is 95.0% - 96.9%, then You are entitled to receive Service Credits equal to ten percent of the fees for the applicable calendar quarter; and if the Availability is less than 95.0%, then You are entitled to receive Service Credits equal to twenty percent of the fees for the applicable calendar quarter. Such Service Credit will be issued as a credit against any fees owed by You for the next calendar quarter of the Term, or, if You do not renew, then AppDynamics will pay You the amount of the applicable Service Credit within thirty (30) days after the end of the License Term. To receive Service Credits, You must submit a written request to AppDynamics to legal@appdynamics.com within 15 days after the end of the quarter in which the Software was unavailable, or Your right to receive Service Credits with respect to such unavailability will be waived. The remedies stated in this section are Your sole and exclusive remedies and AppDynamics' sole and exclusive obligations for service interruption or unavailability.

"System Availability" is measured by the following formula: $(n - y) * 100 / n$

(1) "n" is the total number of minutes in the given calendar quarter minus the Exclusions (as defined above); and "y" is the total number of minutes in the given calendar quarter that the Controller is not accessible by You (as determined by AppDynamics' tools).

(2) Specifically excluded from "n and "y" in this calculation are the Exclusions.