End User Licensing Agreement (EULA)

IT IS IMPORTANT THAT YOU READ CAREFULLY AND UNDERSTAND THIS END USER LICENSE AGREEMENT (THIS "AGREEMENT"). BY USING THE SOFTWARE YOU ACKNOWLEDGE THAT (1) YOU HAVE READ AND REVIEWED THIS AGREEMENT IN ITS ENTIRETY, (2) YOU AGREE TO BE BOUND BY THIS AGREEMENT, (3) THE INDIVIDUAL USING THE SOFTWARE HAS THE POWER, AUTHORITY AND LEGAL RIGHT TO ENTER INTO THIS AGREEMENT ON BEHALF OF YOU (AS AN INDIVIDUAL IF ON YOUR OWN BEHALF OR FOR THE ENTITY THAT EMPLOYS YOU ("YOU" OR "YOUR") AND, (4) BY SUCH USE, THIS AGREEMENT CONSTITUTES BINDING AND ENFORCEABLE OBLIGATION BETWEEN YOU AND OPMANTEK SOFTWARE PTY LTD (ACN 160362907). ("LICENSOR").

1. SOFTWARE LICENSE

1.1.   Limited License. Subject to the terms and conditions of this Agreement, Licensor hereby grants to You on the Effective Date (defined below) a limited, non-exclusive, non-transferable license (without the right to sublicense) to install and use the number of copies of Licensor's commercial software for which You have paid the license fee (except as provided below) for the licensed purpose ("Authorized Copies") in object code form only ("OT Software") on blades or servers or virtual machines owned or controlled by You solely for Your own internal business operations (the OT Software includes any updates provided by Licensor). In the case where You have paid a license fee for unlimited use of the software the software may only be used for the Unlimited Purpose. "Unlimited Purpose" means the commercial software must be installed in a single physical location and used by a single team and single Network Operations Center and the software cannot be used in a Managed Service Provider environment (i.e cannot be used to provide services to third parties which are not controlled, controlling or under common control with You) and is to manage blades, servers, routers, switches, firewalls and other equipment owned or controlled by You. The Unlimited Purpose may be altered by written agreement with Opmantek. If You are a party to this Agreement, You may request a license to the source code of the Software which the Licensor may provide in some circumstances. The Effective Date is the date on which payment for the Authorized Copies is received by the Licensor.

1.2.   Third Party Software. The OT Software is also distributed with certain third party software listed at http://opmantek.com/licensing ("Third Party Software"). The Third Party Software is subject to the terms of the relevant third party licenses set forth at http://opmantek.com/licensing ("Third Party Software Licenses"). OT Software and the Third Party Software together are the "Combined Software Package". You will comply with the Third Party Software Licenses for the relevant Third Party Software. 1.3 Restrictions. You will not copy or use the OT Software except as expressly permitted by this Agreement. You will not relicense, sublicense, rent or lease the OT Software or use the OT Software for third-party training, time-sharing or service bureau use. You will not, and will not permit any third party to, copy, adapt, alter, modify, translate, reverse engineer, disassemble or decompile the OT Software, except to the extent expressly permitted by applicable law, and then only after You have notified Licensor in writing of Your intended activities. The OT Software is licensed, not sold and the ownership of all copies of the OT Software shall remain with Licensor. 1.4 Ownership. All right, title and interest, including all intellectual property rights, in and to the OT Software, and all copies

and derivatives thereof, are and will remain the sole and exclusive property of Licensor. You do not acquire any other rights, express or implied, in the OT Software other than those rights expressly granted under this Agreement. All rights not expressly granted by Licensor to You are hereby reserved by Licensor. You shall not delete or in any manner alter or change any copyright, trademark and other proprietary rights notices appearing in the Combined Software Package and shall reproduce them on all copies made by or for You. 1.5 No Support. Licensor has no obligation to provide support, maintenance, upgrades, modifications or new releases under this Agreement. Any support services shall be provided by a separate agreement and may be subject to additional fees. 1.6 Registration and Product Licensing Information. Registration information provided by You when registering the OT Software or renewing Your subscription to the OT Software and product licensing information generated by the OT Software may be submitted to the Licensor. This information will only be used for the purpose of maintaining the registration of Your Limited License and will be treated as Your Confidential Information. No other information provided by You or collected or stored by the OT Software will be submitted to the Licensor by the OT Software.

1.7. Updates. You acknowledge that the Licensor may from time to time issue updates to the OT Software. If you elect to install such updates, you agree that this Agreement will apply to all such updates.

2. SOFTWARE LICENSE

The fees for each copy of the OT Software are set forth in the Opmantek Fee Schedule. Except for any trial period, the payment of the fees for all Authorized Copies shall be due prior to the use of the OT Software for the Term. The "Term" is the period commencing on the Effective Date and ending when the Agreement is terminated as provided below. The fees shall not include any taxes.

3. NO WARRANTIES

LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, OF ANY KIND WITH RESPECT TO THE COMBINED SOFTWARE PACKAGE. THE COMBINED SOFTWARE PACKAGE IS PROVIDED "AS IS" WITH NO WARRANTY. YOU AGREE THAT YOUR USE OF THE COMBINED SOFTWARE PACKAGE IS AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, LICENSOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE COMBINED SOFTWARE PACKAGE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY ARISE OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. Licensor does not warrant that the OT Software will operate in combination with hardware, software, systems or data not provided by Licensor, except as expressly specified in the Documentation.

4. CONFIDENTIALITY

The party receiving any information ("Receiving Party") from the other party ("Disclosing Party") that a Disclosing Party

that a Disclosing Party should know is confidential or proprietary based on the circumstances surrounding the disclosure, including, without limitation, non-public technical and business information ("Confidential Information") shall maintain the Confidential Information of the Disclosing Party for a period of seven (7)years after the termination of this Agreement. The Receiving Party agrees not to use said Confidential Information for any purpose except as necessary to fulfill its obligations and exercise its rights under this Agreement. The Receiving Party shall protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the Disclosing Party to the same degree that it takes to protect its own confidential information of similar importance and in no event less than reasonable care. This section shall not apply to any Confidential Information which is in the public domain or which enters into the public domain without the action or inaction of the Receiving Party, is known to the Receiving Party prior to the disclosure of the Confidential Information or the Receiving Party develops the information without access to the Confidential Information of the Disclosing Party.

5.   TERMINATION

5.1.   Term. Until it is terminated as provided below, this Agreement is effective for one (1) year after the Effective Date ("Initial Term") and shall be automatically be extended for another one (1) year period (each a "Renewal Term") unless you give notice Licensor thirty (30) days prior to the initial date of the next Renewal Term. Either party may terminate this Agreement prior to the end of a term if the other party materially breaches its obligations hereunder and, where such breach is curable, such breach remains uncured for thirty days following written notice of the breach.

5.2.   Termination by Licensor. The Licensor may terminate this Agreement at any time if You materially breach its obligations hereunder or You violate the Third Party License for the relevant Third Party Software and, where such breach is curable, such breach remains uncured for thirty days following written notice of the breach. For breaches of Section 4, Licensor may terminate the Agreement immediately upon notice.

5.3.   Termination by You. You may terminate this Agreement at any time by destroying or returning to Licensor all copies of the OT Software licensed to You. However, if You terminate this Agreement during the Initial Term or any Renewal Term, the Licensor shall not be obligated to refund any fees.

5.4.   Return of OT Software Upon Termination. If this Agreement is terminated, You shall (a) immediately cease using the applicable OT Software, and (b) upon written request from Licensor, you will certify in writing to the Licensor within thirty (30) days after such termination that You have either destroyed, permanently erased or returned the OT Software and the Documentation in all forms and all copies including backup copies to the Licensor.

6.   GENERAL TERMS

6.1.   Law. This Agreement and all matters arising out of or relating to this Agreement will be governed by the internal laws of the State of California and the federal U.S. laws applicable therein, without giving effect to any choice of law rules. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of

Goods, the application of which is expressly excluded. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in San Francisco, California before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures (if both parties reside in the US) or its JAMS International Arbitration Rules (if any party resides outside the US). Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. Notwithstanding the above, nothing in this Agreement shall be deemed as preventing a party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the parties and the subject matter of the dispute as necessary to protect that party's name, proprietary information, trade secrets, know-how, or any other intellectual property or proprietary rights.

6.2.   Disclaimer of Consequential Damages. IN NO EVENT WILL LICENSOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, BUSINESS, SAVINGS, DATA, USE OR COST OF SUBSTITUTE PROCUREMENT, INCURRED BY YOU, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.3.   Limitation of Liability. IN NO EVENT WILL LICENSOR'S LIABILITY FOR DAMAGES HEREUNDER EXCEED THE AMOUNTS ACTUALLY PAID BY YOU TO LICENSOR FOR THE OT SOFTWARE IN THE PRIOR TWELVE MONTHS.

6.4.   Allocation of Liability. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS ARTICLE 6 AND IN THE OTHER PROVISIONS OF THIS AGREEMENT AND THE ALLOCATION OF RISK HEREIN ARE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN THE PARTIES, WITHOUT WHICH LICENSOR WOULD NOT HAVE ENTERED INTO THIS AGREEMENT. LICENSOR'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN.

6.5.   Severability and Waiver. If any provision of this Agreement is held to be illegal, invalid or otherwise unenforceable, such provision will be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, will be deemed to be severed and deleted from this Agreement, while the remainder of this Agreement will continue in full force and effect. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach.

6.6.   No Assignment. You may not assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement or any rights or obligations under this Agreement without the prior written consent of Licensor; provided however that in the case of a merger or sale of all or substantially all of Your assets, You may request a waiver and Licensor will not unreasonably withhold its consent. Any purported assignment, transfer or delegation by You will be null and void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

6.7.   Government Contracting. The OT Software under this Agreement is "commercial computer software" (as that

term is described in DFAR 252.227-7014(a)(1)). If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms and this Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.11 (Technical Data) of the Federal Acquisition Regulations ("FAR") and its successors. If acquired by or on behalf of any agency within the Department of Defense ("DOD"), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 227.7202 of the DOD FAR Supplement and its successors.

6.8.   Export Administration. You will comply fully with all relevant export laws and regulations of the United States, including, without limitation, the U.S. Export Administration Regulations (collectively "Export Controls"). Without limiting the generality of the foregoing, You will not, and You will require Your representatives not to, export, direct or transfer the Software, or any direct product thereof, to any destination, person or entity restricted or prohibited by the Export Controls.

6.9.   Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all written or oral prior agreements or understandings with respect thereto. No modification, extension or waiver of or under this Agreement is valid unless it is made in a writing which identifies itself as an amendment to this Agreement and that writing is signed by an authorized representative of the party sought to be charged therewith. No waiver will constitute, or be construed as, a waiver of any other obligation or condition of this Agreement. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of any paragraph or in any way affect the section.