

VSS Monitoring, Inc.
End User License Agreement

THIS IS AN IMPORTANT LEGAL DOCUMENT BETWEEN YOU (“YOU” OR “CUSTOMER”) AND VSS MONITORING, INC. (“VSS”) APPLICABLE TO YOUR USE OF THE VSS SOFTWARE INCLUDED WITH OR INCORPORATED WITHIN YOUR VSS HARDWARE PRODUCT OR THAT YOU HAVE OTHERWISE DOWNLOADED OR OBTAINED, INCLUDING ANY UPDATE THERETO (THE “VSS SOFTWARE”). IF YOU DO NOT AGREE TO THE TERMS OF THIS END USER LICENSE AGREEMENT (THIS “AGREEMENT”), THEN DO NOT DOWNLOAD, INSTALL, OR USE THE SOFTWARE.

THIS LICENSE OF THE VSS SOFTWARE IS VALID ONLY UPON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS CONTAINED IN THIS AGREEMENT. YOUR ACCEPTANCE WILL BE BY INSTALLING, DOWNLOADING, ACCESSING OR USING THE VSS SOFTWARE OR BY CLICKING “I ACCEPT” WHERE APPLICABLE. YOU ARE BINDING YOURSELF AND THE BUSINESS ENTITY THAT YOU REPRESENT (COLLECTIVELY, "CUSTOMER") TO THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, THEN (A) YOU MAY NOT DOWNLOAD, INSTALL, ACCESS, OR USE THE VSS SOFTWARE, AND (B) YOU MAY RETURN THE VSS SOFTWARE AND ALL DOCUMENTATION PROVIDED THERewith TO VSS OR THE AUTHORIZED VSS RESELLER FROM WHOM YOU PURCHASED THE APPLICABLE VSS PRODUCT(S) FOR A FULL REFUND, OR, IF THE SOFTWARE AND DOCUMENTATION ARE SUPPLIED AS PART OF A VSS HARDWARE PRODUCT (“VSS PRODUCT”), YOU MAY RETURN THE ENTIRE VSS PRODUCT FOR A FULL REFUND. ONLY THE ORIGINAL END USER PURCHASER MAY RETURN THE VSS SOFTWARE AND VSS PRODUCT(S) UNDER THIS PARAGRAPH. IN THE EVENT THERE IS A SEPARATE SIGNED OR CLICK THROUGH AGREEMENT BETWEEN YOU AND VSS, THE TERMS OF THOSE OTHER AGREEMENTS WILL SUPERSEDE THIS AGREEMENT IN THE EVENT OF A CONFLICT.

1. Grant of License. Subject to the terms and conditions of this Agreement, VSS hereby grants to Customer a nonexclusive, non-sublicensable, nontransferable (except as set forth in Section 7(b) below) license to use the VSS Software and related documentation (“Documentation”), solely for Customer's internal business purposes as further described in Section 2(b) below.
2. Restrictions on Use and Disclosure.
 - (a) Software is Licensed not Sold. Customer agrees and acknowledges that all VSS Software is licensed and not sold, and that all use of “purchase” or “sell” in connection with VSS Software shall be deemed to mean “license.” Nothing in this Agreement shall be deemed to provide to Customer any right, title or interest in any VSS Software or Documentation, other than the express license rights set forth in Section 1 hereof.
 - (b) Permitted Use. Customer shall use the VSS Software solely as embedded in, for execution on, or in connection with VSS Hardware Products owned or evaluated by Customer and used for Customer's internal business purposes and in the manner enabled by VSS. For all VSS Software, downloaded or otherwise obtained by Customer, Customer shall not copy or duplicate the VSS Software or Documentation, or any portion thereof, for any other purpose other than for making a backup copy. No other uses of the VSS Software or Documentation are authorized by this Agreement and any unauthorized use of the VSS Software or Documentation shall be a violation of the terms of this Agreement. No right or license is granted under this Agreement for the use of the VSS Software or Documentation, directly or indirectly, for any other purpose or for the benefit of any other person or entity.
 - (c) Ownership; Proprietary Notices. Title to, and ownership of, and all proprietary rights in and to the VSS Software and all intellectual property rights in and to the VSS Software, VSS Products, and Documentation, and each copy thereof, shall remain at all times with VSS or its third party licensors. Customer may not sell, transfer, lend or otherwise make available, or disclose to third parties, the VSS Software (except as set forth in Section 7(b)), or remove or alter any copyright or other proprietary notice contained therein. Customer shall include on each copy of the VSS Software all copyright or other proprietary notices of VSS or its licensors contained on such VSS Software. Customer shall not remove any proprietary or other notices provided by VSS on any VSS Software, VSS Product, or Documentation.
 - (d) No Modification or Reverse Engineering. Customer may not modify or alter the VSS Software, VSS Products, or Documentation, create derivative works of the VSS Software, VSS Products, or Documentation, reverse engineer the VSS Software or VSS Products, translate the VSS Software or reduce the VSS Software by any other means to a human-perceivable form except insofar as such activities are permitted under any open source or similar license agreement for software included in the VSS Software or VSS Products. Customer agrees not to use or permit the VSS Software or VSS Products to perform services for third parties, whether on a service bureau or time sharing basis or otherwise, without the express written authorization of VSS. Customer agrees not to disclose, provide, or otherwise make available trade secrets contained within the VSS Software, VSS Products, or Documentation in any form to any third party without the prior written consent of VSS. Customer shall implement reasonable security measures to protect such trade secrets. To the extent required by law, and at Customer's written request, VSS or an authorized VSS reseller shall provide Customer with the interface information needed to achieve interoperability between the VSS Software and another

independently created program, on payment of the applicable fee, if any. Customer shall observe strict obligations of confidentiality with respect to such information and shall use such information in compliance with any applicable terms and conditions upon which VSS or its authorized resellers makes such information available.

3. No Hazardous Uses. VSS PRODUCTS ARE NOT AUTHORIZED FOR USE IN CRITICAL SAFETY OR OTHER APPLICATIONS WHERE ANY FAILURE MAY REASONABLY BE ANTICIPATED TO RESULT IN BODILY INJURY, LOSS OF LIFE, OR CATASTROPHIC DAMAGE TO PROPERTY. IF CUSTOMER USES OR SELLS THE VSS PRODUCTS FOR USE IN ANY SUCH APPLICATIONS, CUSTOMER ACKNOWLEDGES THAT SUCH SALE OR USE IS AT CUSTOMER'S SOLE RISK. CUSTOMER WILL INDEMNIFY, DEFEND AND HOLD VSS AND ITS AUTHORIZED RESELLERS AND SUPPLIERS HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES AND COSTS ARISING OUT OF OR IN CONNECTION WITH SUCH SALE OR USE.

4. Additional Terms and Limitations-Evaluation Products. Prior to you making a decision to purchase Products, VSS may distribute Product for testing, evaluation, or demonstration purposes ("Evaluation Product"). Subject to the terms of this Agreement, if VSS provides you with an Evaluation Product, then VSS grants you a temporary, revocable, non-exclusive, non-transferable license to use the Evaluation Product set forth in the applicable VSS Evaluation Request Form and the Documentation solely for testing, evaluation, or demonstration purposes ("Purpose"). Evaluation Product that is Software contains a license key that disables the Software after 30 days, or other term as agreed to by the parties, and which will render the Evaluation Product unusable. If, after using the Evaluation Product, you wish to continue such use, you must purchase the Product.

5. Product Returns. Prior to returning Evaluation Products to VSS, you must remove any (i) confidential, proprietary, or personal information, including without limitation, personal health information or personally identifiable information (as such is defined under applicable local law, regulation or directive, including without limitation, in the U.S., the Gramm-Leach-Bliley Act, and Health Insurance Portability and Accountability Act, HITECH Act), and (ii) removable media such as floppy disks, CDs, or PC Cards. In addition, you are responsible for backing up your data on the Evaluation Products. VSS is not responsible for any of your confidential, proprietary, or personal information or removal thereof; lost or corrupted data; or damaged or lost removable media.

6. Term and Termination. This Agreement and the license granted herein shall remain effective until terminated as specified in the related Purchase Order, separate written agreement, or under this section. Customer may terminate this Agreement and the license at any time by destroying all copies of the VSS Software and any login credentials permitting remote access to any VSS Software and sending notice of termination to VSS. Customer's rights under this Agreement will terminate immediately without notice from VSS or any authorized VSS reseller if Customer fails to comply with any provision of this Agreement. Upon termination, Customer shall destroy all copies of the VSS Software in its possession or control. All limitations on liability, indemnification provisions and disclaimers and restrictions of warranty shall survive termination of this Agreement. Any other clauses which by their terms are required for the enforcement of this Agreement shall survive termination.

7. Product Warranty Period. VSS Monitoring warrants that the software for a period of 90 days and the hardware for a period of 12 months, in either case from its original date of shipment, will substantially conform to VSS' published product documentation. If, during the warranty period a failure of the software or hardware to conform as warranted occurs and is reported to VSS Monitoring, VSS Monitoring at its option, will use commercially reasonable efforts to repair or replace the non-conforming software and/or hardware.

The foregoing warranties will apply provided you give VSS prompt written notice of the material defect or nonconformity within the warranty period specified above and return the defective or nonconforming product, including the original power supply, to VSS in accordance with VSS' RMA process, and provided the warranty labels are not disturbed or removed to the extent the warranty status of the product cannot be determined.

8. Warranty Limit. The warranties set forth in Section 7 do not apply to any failure of the Software or Hardware caused by (a) your failure to follow VSS' installation, operation, or maintenance instructions, procedures, or Documentation; (b) your mishandling, misuse, negligence, or improper installation, de-installation, storage, servicing, or operation of the Product; (c) unauthorized modifications or repairs; (d) use of the Products in combination with equipment or software not supplied by VSS or authorized in the Product Documentation; and (e) power failures or surges, fire, flood, accident, actions of third parties, or other events outside VSS' reasonable control.

9. Warranty Disclaimer. CUSTOMER MAY OBTAIN WARRANTIES IN A SEPARATE AGREEMENT WITH VSS OR IN ITS ARRANGEMENTS WITH VSS'S AUTHORIZED RESELLER FROM WHICH CUSTOMER ACQUIRED THE VSS SOFTWARE AND VSS PRODUCTS. EXCEPT FOR ANY WARRANTIES SPECIFICALLY AGREED UPON IN A SEPARATE AGREEMENT BY VSS, THE VSS SOFTWARE AND VSS PRODUCTS ARE PROVIDED "AS IS" AND VSS HAS NOT AND SHALL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AS TO THE CONDITION, MERCHANTABILITY, NON-INFRINGEMENT, DESIGN, OPERATION OR FITNESS FOR OR SATISFACTION IN REGARDS TO A PARTICULAR PURPOSE OF THE VSS PRODUCTS, VSS SOFTWARE, DOCUMENTATION OR ANY UPDATES.

10. Limitations on Liability.

(a) Disclaimer. IN NO EVENT SHALL VSS, ITS LICENSORS OR ITS AUTHORIZED RESELLERS BE LIABLE UNDER ANY CONTRACT, TORT OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, COVER, RELIANCE, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOST REVENUE, OR LOSS OF DATA OR PROFITS, WHETHER OR NOT VSS, ITS LICENSORS OR ITS AUTHORIZED RESELLERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) Limitation. IN NO EVENT SHALL VSS'S, ITS LICENSORS' AND ITS AUTHORIZED RESELLERS' AGGREGATE LIABILITY WITH RESPECT TO THE VSS PRODUCT(S) EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER FOR SUCH VSS PRODUCTS IN THE THEN-PRECEDING TWELVE MONTH PERIOD. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

11. Other Provisions.

(a) Governing Law. This Agreement, and all disputes relating hereto, shall be governed by and construed in accordance with the laws of the State of California, excluding its conflicts of laws principles. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. All such disputes shall be subject to the exclusive jurisdiction of the state and federal courts located in California and the parties agree and submit to the personal and exclusive jurisdiction and venue of these courts.

(b) Assignment. Customer shall not assign this Agreement or any rights or obligations hereunder, without the prior written consent of VSS, except that Customer may assign this Agreement, in its entirety (and not in part), to any acquirer of the VSS Products with which the VSS Software is used, so long as such acquirer agrees in writing to be bound to the terms and conditions of this Agreement and any other agreements between VSS and Customer, to the same extent such agreements apply to Customer. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

(c) Export Regulations. Customer understands that VSS is subject to regulation by the U.S. government and its agencies, which prohibit export or diversion of certain technical products and information to certain countries and individuals. Customer warrants that it will comply in all respects with all export and re-export restrictions applicable to the technology and documentation provided hereunder.

(d) Restricted Party. Customer represents that it is not a Restricted Party, which shall be deemed to include any person or entity: (1) located in or a national of Cuba, Iran, Libya, North Korea, Sudan, Syria, or any other countries that may, from time to time, become subject to U.S. export controls for anti-terrorism reasons or with which U.S. persons are generally prohibited from engaging in financial transactions; (2) on the U.S. Department of Commerce Denied Person's List, Entity List, or Unverified List; U.S. Department of the Treasury list of Specially Designated Nationals and Blocked Persons; or U.S. Department of State List of Debarred Parties; (3) engaged in activities involving nuclear materials or weapons, missile or rocket technologies, or proliferation of chemical or biological weapons; or (4) affiliated with or a part of any non-U.S. military organization. Customer shall not sell, resell, loan, disclose, or otherwise transfer any VSS Software, VSS Product, or Documentation to any Restricted Party without prior, express written authorization from VSS and the appropriate U.S. Government agency. If Customer becomes a Restricted Party during the term of this Agreement, this Agreement shall automatically terminate and Customer shall immediately cease all use of the VSS Software.

(e) United States Government Rights. The VSS Software and Documentation qualify as "commercial items," as that term is defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212 and DoD FAR Supp. 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which the Agreement may be incorporated, a U.S. government Customer will acquire the VSS Software and Documentation with only those rights set forth in the Agreement. Use of either the VSS Software or Documentation or both constitutes agreement by the U.S. Government Customer that the Software and Documentation are "commercial computer software" and "commercial computer software documentation," and constitutes acceptance of the rights and restrictions herein.

(f) Modification. This is the entire agreement between the parties relating to the subject matter hereof and all other terms are rejected. No waiver or modification of this Agreement shall be valid unless in writing signed by each party. The waiver of a breach of any term hereof shall in no way be construed as a waiver of any term or other breach hereof. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law the remaining provisions of this Agreement shall remain in full force and effect

(g) Entire Agreement. This Agreement, as it may be amended from time to time, sets forth the entire agreement between you and VSS with respect to its subject matter, and it supersedes all prior communications, understandings and agreements, as well as the terms and conditions set forth in or on any purchase order, acknowledgement form, check, or any other document or instrument you may issue or transmit to VSS or a reseller in connection with your use of the Licensed Software, excluding (A) any separate agreement

signed by VSS, (B) any separate click through agreement required by VSS in order for Customer to access or use the VSS Software, (C) the VSS website terms and conditions and (D) the VSS website Privacy Policy, which are incorporated herein by reference.

(h) Miscellaneous. If any portion hereof is found to be void or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect. This Agreement has been written in the English language, and the parties agree that the English version will govern. 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 such section or in any way affect such section.

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