



## **END USER LICENSE AGREEMENT FOR eG Innovations Products**

IMPORTANT: PLEASE REVIEW CAREFULLY.

By choosing "Yes" when prompted to accept this license agreement or by installing the software, you are consenting to be bound by and are becoming a party to this agreement. If you do not agree to all of the terms of this agreement, choose the "No" option and DO NOT INSTALL the software. If the copy of the software you received was accompanied by a printed or other form of "HARD-COPY" end user license agreement whose terms vary from this agreement, then the hard-copy end user license agreement governs your use of the software.

This End-User License Agreement ('EULA') is a legal agreement between you and eG Innovations which governs your use of the eG monitoring solutions, which includes "online" or electronic documentation and may include computer software and associated media and printed materials ('Product').

This Agreement sets forth the terms and conditions of your use of the Product. Any third party software that is provided with the Product with such third party's license agreement (in either electronic or printed form) is included for use at your option. If you choose to use such software, then such use shall be governed by such third party's license agreement and not by this Agreement.

For purposes of this Agreement, the "Licensor" shall be eG Innovations Pte Ltd.

### 1. GRANT OF LICENSE

1.1 The Product is protected by copyright laws and international copyright treaties, as all as other intellectual property laws and treaties. The Product is licensed, not sold.

1.2 The Product contains some or all of the following types of software:

- (a) "Manager Software" that is a software program executing on a computer, workstation, or server to store measurements from the Agent Software, allows retrieval and analysis of the stored measurements and generates alerts when required. The computer(s), workstation(s) or server(s) running the Manager Software shall be referred to as the "eG Server";
- (b) "Agent Software" that allows a software program executing on a computer, terminal, workstation, or other electronic device (each of the foregoing a "Device") to make measurements regarding one or more applications executing on the device, or the device itself, and report these measurements to the Manager Software.

1.3 In this Agreement, unless the context otherwise requires, the following words shall have the following meanings:

"Customer" means the subscribers of the Licensee who use the Product and/or the Customized Product, whether on its own, or modified in accordance with the terms of this Agreement, to receive the Services.

"Customizations" means and includes any and all modifications, alterations, amendments, additions and/or any other changes of whatever nature that the Licensee makes to the Product (including without limitation, its object code and/or source code), for the purposes of (i) enabling the Product to be used on its eG Server and/or (ii) enabling the Product to be used on its and/or its Customers' eG Server in order to provide the Services.

"Customized Product" means the Product which has had Customizations effected to it. Services means the remote monitoring services that are provided by the Licensee to its Customers using the Product and/or Customized Product.

1.4 This EULA grants you the following rights:

- (a) A non-exclusive and non-transferable license to use the Product according to the provisions contained herein and subject to payment of applicable license fees
- (b) A non-exclusive license to use the Product and to sub-license the Agent Software to your Customers, according to the provisions contained herein and subject to the payment of the applicable license fees. In particular:
  - (i) Your use of the Product, in respect of the number of copies of Manager Software and Agent Software, time period and functionality, will be in accordance with the corresponding license fee paid;
  - (ii) You may use the Product to provide the Services ;
  - (iii) You may effect Customizations to the Products



- (iv) You may grant your Customer a sub-license to use the Agent Software, provided that you undertake to ensure that that Customer executes an End-User License Agreement upon the terms set out in Schedule 1 hereto; and
  - (v) Once issued a permanent (node locked license) for the eG manager, in future, you can only increase the number of agents associated with that manager
- (c) You may be granted a right to any enhancements, updates and support services to the Product, depending on the license fee paid.
- 1.5 In addition, the following rights and limitations apply to your use of the Product:
- (a) You may make one copy of the Product solely for backup or archival purposes;
  - (b) Aside from the rights granted in this EULA, you may not modify, enhance or adapt the Product;
  - (c) You may not reverse engineer, decompile or disassemble the Product, except and only to the extent that such activity is expressly permitted under the terms of this EULA or by any applicable law notwithstanding the limitation;
  - (d) You must maintain all Licensor's copyright notices on all copies of the Product licensed to you under the terms of this EULA;
  - (e) Save as permitted under Clause 1.4(b)(ii), you must not distribute, disseminate, broadcast, cablecast, publish or circulate in any way the Product to any third party;
  - (f) Save as permitted under Clause 1.4(b)(ii), you may not rent, lease, lend the Product or engage in any other form of commercial exploitation or commercial rental arrangement. In particular, you shall not, without the previous consent in writing of the Licensor be concerned or interested either directly or indirectly in the production or development of any software or product which is so like or similar to the Product or any of its components thereof;
  - (g) Save as permitted under the terms of this EULA, you may not transfer any of your rights under this EULA;
  - (h) You agree to keep all usual and proper records relating to your reproduction, use, Customizations and distribution of the Product pursuant to this EULA. Licensor reserves the right to request that you conduct an internal audit at any time prior to sixty (60) days after the termination of this EULA for the Product. You agree within sixty (60) days after receiving such notice from Licensor to deliver a complete copy of such audit results and certify that the audit results are true and correct; and
  - (i) All rights not expressly granted under this EULA are reserved by Licensor.

## 2. LICENSE FEES

2.1 Any license fee charged for the use of the Product applies to the Product developed by Licensor, its subsidiaries, and its parent concern. The license fee does not apply to any third party software bundled with the Product.

2.2 The appropriate license fees payable by you are exclusive of taxes, including withholding taxes, charges of value added taxes (including Goods and Services Tax) which, where applicable will be paid by you at the rate and in the manner prescribed by law.

## 3. TITLE

All title, ownership rights, and intellectual property rights in the Products shall remain with Licensor. You acknowledge such ownership and intellectual property rights and will not take any action to jeopardize, limit or interfere in any manner with the Licensor's aforementioned rights with respect to the Products. The Products are protected by copyright and other intellectual property laws and by international treaties. Title and related rights in the content accessed through the Products are the property of the applicable content owner and are protected by applicable law. The license granted under this EULA gives you no rights to such content.

## 4. LIMITED WARRANTY.

4.1 If you have paid a license fee for the Product, Licensor warrants that for a period of thirty (30) days from the date of acquisition ('Warranty Period'), the Product, if operated as directed, will substantially achieve the functionality described in the accompanying documentation. Licensor does not warrant, however, that your use of the Product will be uninterrupted or that the operation of the Product will be error-free or secure. Licensor also warrants that the media containing the Product, if provided by Licensor, is free from defects in material and workmanship and will so remain for thirty (30) days from the date you acquired the Product.



- 4.2 Licensor's sole liability for any breach of this warranty and your sole remedy shall be, in Licensor's sole discretion:
- (i) to replace your defective media or Product; or
  - (ii) to advise you how to achieve substantially the same functionality with the Product as described in accompanying documentation through a procedure different from that set forth in the accompanying documentation.
- 4.3 Repaired, corrected, or replaced Products shall be covered by this limited warranty for the period remaining under the warranty that covered the original Product.
- 4.4 Any enhancements and updates provided to you after the expiration of the Warranty Period are not covered by any warranty or condition, expressed or implied.
- 4.5 Only if you inform Licensor of your problem with the Product during the Warranty Period and provide evidence of the date you purchased a license to the Product will Licensor be obligated to honor the warranty given in this Clause 4. In addition, you should use reasonable efforts to identify and locate the defect to the extent possible.
- 4.6 Licensor will use reasonable commercial efforts to repair, replace or advise pursuant to the warranty given in this Clause 4 within thirty (30) days of being so notified. Licensor shall have no obligation to attempt repairs of irreproducible defects and if after numerous repeated efforts, Licensor is unable to restore the Product to good working order, Licensor may, at its option replace the Product with any one of equivalent functionality or configuration.
- 4.7 All exchange Products replaced under the warranty given in this Clause 4, will become the property of Licensor.
- 4.8 The warranty give in this Clause 4 shall immediately terminate if:
- (i) any modifications or Customizations are made to the Product by you during the Warranty Period, or
  - (ii) the media is subjected to accident, abuse, or improper use; or
  - (iii) you violate the terms of this Agreement
- except to the extent it is obvious that the improper action has not had any impact to the occurrence or consequences of the defect in the Product.
- 4.9 This warranty shall not apply if:
- (i) the Product is used on or in conjunction with hardware or software other than the unmodified version of hardware and software with which the Product was designed to be used as described in the accompanying documentation; or
  - (ii) defects are caused to the Product by or in connection with improper handling or use or by external reasons, such as (but not limited to) excessive physical force, humidity or water, detrimental environmental or operating conditions, interference by or malfunctioning of equipment not supplied by Licensor.
- 4.10 THIS IS A LIMITED WARRANTY, AND IT IS THE ONLY WARRANTY MADE BY LICENSOR OR ITS SUPPLIERS. LICENSOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS. YOU MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE ABOVE LIMITED WARRANTY PERIOD. MOREOVER, IN NO EVENT WILL WARRANTIES PROVIDED BY LAW, IF ANY, APPLY UNLESS THEY ARE REQUIRED TO APPLY BY STATUTE NOTWITHSTANDING THEIR EXCLUSION BY CONTRACT. NO DEALER, AGENT, OR EMPLOYEE OF LICENSOR IS AUTHORIZED TO MAKE ANY MODIFICATIONS, EXTENSIONS, OR ADDITIONS TO THIS LIMITED WARRANTY.
- 4.11 The foregoing provisions shall be applicable to the maximum extent permitted by applicable law.
5. PUBLIC REPORTING
- Neither you nor any permitted user of the Product shall have no right to report in public the results of any benchmarks or tests that the user may conduct of the Product, without the prior written consent of Licensor, its subsidiaries, or parent concerns.



## 6. TERMINATION

- 6.1 This Agreement and the license granted hereunder will terminate automatically upon a material breach the terms and conditions contained herein which is not remedied by you within a reasonable time period specified by Licensor in a written notice drawing attention to the violation and requiring it to be remedied.
- 6.2 The rights granted to you under this EULA may be terminated by Licensor upon a material violation by you of any terms and conditions contained herein which are not remedied by you within a reasonable period specified by Licensor in a written notice drawing attention to the violation and requiring it to be remedied.
- 6.3 Termination by Licensor shall be by written notice that is delivered to you not less than thirty (30) days prior to the effective date of termination specified in the notice. Such notice of termination shall have no effect if you cure all breaches that gave rise to termination prior to the effective date of termination.
- 6.4 Upon termination, you must destroy all copies of the Product. Your obligations to pay accrued charges and fees shall survive any termination of this Agreement.

## 7. EXPORT CONTROLS

None of the Product or underlying information or technology may be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) Cuba, Iraq, Libya, Sudan, North Korea, Iran, Syria or any other country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. By downloading or using the Product, you are agreeing to the foregoing and you are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list. In addition, you are responsible for complying with any local laws in your jurisdiction which may impact your right to import, export or use the Product, and you represent that you have complied with any regulations or registration procedures required by applicable law to make this license enforceable.

## 8. LIMITATION OF LIABILITY.

- 8.1 UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL LICENSOR OR ITS SUPPLIERS OR RESELLERS BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES. IN NO EVENT WILL LICENSOR BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE AMOUNT LICENSOR RECEIVED FROM YOU FOR A LICENSE TO THE PRODUCT, EVEN IF LICENSOR SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM LICENSOR'S NEGLIGENCE TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS EXCLUSION AND LIMITATION MAY NOT APPLY TO YOU.
- 8.2 UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT OR OTHERWISE, SHALL LICENSOR BE LIABLE FOR DAMAGES IN EXCESS OF THE PURCHASE PRICE OF THE PRODUCT.

## 9. NOTICES

Any written notice required or permitted hereunder shall be in English and shall be deemed to be properly given when sent to the address or facsimile number of the recipient set out in the Purchase Order or by such other address or facsimile number as the recipient may designate by notice given in accordance with the provisions of this Clause. Any notice may be delivered personally or by first class pre-paid letter or by facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by facsimile transmission when dispatched.

## 10. MISCELLANEOUS.

- 10.1 This Agreement represents the complete agreement concerning the subject matter hereof and supercedes all prior and contemporaneous agreements and communications, whether oral or written, between the parties relating to the subject matter hereof, and all past course of dealing or industry custom.
- 10.2 This Agreement may only be amended only by a writing executed by both parties.
- 10.3 THE ACCEPTANCE OF ANY PURCHASE ORDER PLACED BY YOU IS EXPRESSLY MADE CONDITIONAL ON YOUR ASSENT TO THE TERMS SET FORTH HEREIN, AND NOT THOSE IN YOUR PURCHASE ORDER.



- 10.4 Each provision of this Agreement shall be construed separately and notwithstanding that the whole or any part of such provision may prove to be illegal or unenforceable, the other provisions of this Agreement and the remainder of the provision in question shall continue in full force and effect.
- 10.5 No forbearance, delay or indulgence by either party in enforcing the provisions of this EULA shall prejudice or restrict the rights of that party nor shall any waiver if its rights operate as a waiver of any subsequent breach.
- 10.6 The validity of this Agreement and the rights, obligations and relations of the parties hereunder shall be construed and determined under and in accordance with the laws of the State of Delaware, excluding conflict of law provisions (except to the extent applicable law, if any, provides otherwise) and parties agree to submit to the exclusive jurisdiction of the courts of the State of Delaware.
- 10.7 The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.



## Schedule 1

### END USER LICENSE AGREEMENT FOR eG ENTERPRISE AGENT/MONITOR SOFTWARE

IMPORTANT: PLEASE READ CAREFULLY.

This End-User License Agreement ('EULA') is a legal agreement between you and eG Innovations which governs your use of the eG Agent Software, which includes "online" or electronic documentation and may include computer software and associated media and printed materials ('Product').

This Agreement sets forth the terms and conditions of your use of the Product. Any third party software that is provided with the Product with such third party's license agreement (in either electronic or printed form) is included for use at your option. If you choose to use such software, then such use shall be governed by such third party's license agreement and not by this Agreement.

For purposes of this Agreement, the "Licensor" shall be eG Innovations Pte Ltd.

#### 1. GRANT OF LICENSE

1.1 The Product is protected by copyright laws and international copyright treaties, as all as other intellectual property laws and treaties. The Product is licensed, not sold.

1.2 This EULA grants to you a non-exclusive, non-transferable license to use the Product according to the provisions contained herein. In particular, the number of copies of Product that will be made available to you and time period and functionality of the said copies, will be in accordance with the corresponding license fee paid;

1.3 In addition, the following rights and limitations apply to your use of the Product :

- (a) You may make one copy of the Product solely for backup or archival purposes;
- (b) You may not modify, enhance or adapt the Product;
- (c) You may not reverse engineer, decompile or disassemble the Product, except and only to the extent that such activity is expressly permitted by any applicable law notwithstanding the limitation;
- (d) You must maintain all Licensor copyright notices on all copies of the Product;
- (e) You must not distribute, disseminate, broadcast, cablecast, publish or circulate in any way the Product to any third party;
- (f) You may not rent, lease, lend the Product or engage in any other form of commercial exploitation or commercial rental arrangement. In particular, you shall not, without the previous consent in writing of the Licensor be concerned or interested either directly or indirectly in the production or development of any software or product which is so like or similar to the Product or any of its components thereof;
- (g) You may not transfer any of your rights under this EULA;
- (h) You agree to keep all usual and proper records relating to your reproduction and use, of the Product pursuant to this EULA. Licensor reserves the right to request that you conduct an internal audit at any time prior to sixty (60) days after the termination of this EULA for the Product. You agree within sixty (60) days after receiving such notice from Licensor to deliver a complete copy of such audit results and certify that the audit results are true and correct; and
- (i) All rights not expressly granted under this EULA are reserved by Licensor.

#### 2. TITLE AND WARRANTY

2.1 All title, ownership rights, and intellectual property rights in the Products shall remain with Licensor. You acknowledge such ownership and intellectual property rights and will not take any action to jeopardize, limit or interfere in any manner with Licensor's with respect to the Products. The Products are protected by copyright and other intellectual property laws and by international treaties. Title and related rights in the content accessed through the Products are the property of the applicable content owner and are protected by applicable law. The license granted under this EULA gives you no rights to such content.



2.2 Licensor makes no warranties whatsoever, whether express or implied, in respect of the functionality of the Product.

### 3. PUBLIC REPORTING

Neither you nor any permitted user of the Product shall have any right to report in public the results of any benchmarks or tests that the user may conduct of the Product, without the prior written consent of Licensor, its subsidiaries, or parent concerns.

### 4. TERMINATION.

4.1 This Agreement and the license granted hereunder will terminate automatically upon a material breach the terms and conditions contained herein which is not remedied by you within a reasonable time period specified by Licensor in a written notice drawing attention to the violation and requiring it to be remedied.

4.2 The rights granted to you under this EULA may be terminated by Licensor upon a material violation by you of any terms and conditions contained herein which are not remedied by you within a reasonable period specified by Licensor in a written notice drawing attention to the violation and requiring it to be remedied.

4.3 Termination by Licensor shall be by written notice that is delivered to you not less than thirty (30) days prior to the effective date of termination specified in the notice. Such notice of termination shall have no effect if you cure all breaches that gave rise to termination prior to the effective date of termination.

4.4 Upon termination, you must destroy all copies of the Product. Your obligations to pay accrued charges and fees if any) shall survive any termination of this Agreement.

### 5. EXPORT CONTROLS

None of the Product or underlying information or technology may be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) Cuba, Iraq, Libya, Sudan, North Korea, Iran, Syria or any other country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. By downloading or using the Product, you are agreeing to the foregoing and you are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list. In addition, you are responsible for complying with any local laws in your jurisdiction which may impact your right to import, export or use the Product, and you represent that you have complied with any regulations or registration procedures required by applicable law to make this license enforceable.

### 6. LIMITATION OF LIABILITY.

6.1 UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL LICENSOR OR ITS SUPPLIERS OR RESELLERS BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES. IN NO EVENT WILL LICENSOR BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE AMOUNT LICENSOR RECEIVED FROM YOU FOR A LICENSE TO THE PRODUCT, EVEN IF LICENSOR SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM LICENSOR'S NEGLIGENCE TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS EXCLUSION AND LIMITATION MAY NOT APPLY TO YOU.

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### 7. NOTICES

Any written notice required or permitted hereunder shall be in English and shall be deemed to be properly given when sent to the address or facsimile number of the recipient set out in the Purchase Order or by such other address or facsimile number as the recipient may designate by notice given in accordance with the provisions of this Clause. Any notice may be delivered personally or by first class pre-paid letter or by facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by facsimile transmission when dispatched.

### 8. MISCELLANEOUS.

8.1 This Agreement represents the complete agreement concerning the subject matter hereof and supercedes all prior and contemporaneous agreements and communications, whether oral or written, between the parties relating to the subject matter hereof, and all past course of dealing or industry custom.



- 8.2 This Agreement may only be amended only by writing executed by both parties.
- 8.3 Each provision of this Agreement shall be construed separately and notwithstanding that the whole or any part of such provision may prove to be illegal or unenforceable, the other provisions of this Agreement and the remainder of the provision in question shall continue in full force and effect.
- 8.4 No forbearance, delay or indulgence by either party in enforcing the provisions of this EULA shall prejudice or restrict the rights of that party nor shall any waiver if its rights operate as a waiver of any subsequent breach.
- 8.5 The validity of this Agreement and the rights, obligations and relations of the parties hereunder shall be construed and determined under and in accordance with the laws of the State of Delaware, excluding conflict of law provisions (except to the extent applicable law, if any, provides otherwise) and parties agree to submit to the exclusive jurisdiction of the courts of the State of Delaware.
- 8.7 The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.