



READ THIS AGREEMENT BEFORE DOWNLOADING, INSTALLING, OR USING THE SOFTWARE. VERSA NETWORKS IS WILLING TO LICENSE THE SOFTWARE TO YOU OR THE ENTITY YOU REPRESENT AND ALL OF SUCH ENTITY'S AFFILIATES (COLLECTIVELY "YOU") AND MAKE AVAILABLE ASSOCIATED SUPPORT & MAINTENANCE SERVICES ONLY IF YOU ACCEPT ALL OF THE TERMS OF THIS AGREEMENT.

YOU SHALL HAVE NO RIGHT TO INSTALL OR USE THE SOFTWARE OR TO RECEIVE ANY SUPPORT & MAINTENANCE SERVICES THAT YOU MAY HAVE ORDERED UNLESS YOU HAVE RECEIVED A COPY OF THE SOFTWARE FROM VERSA NETWORKS OR A VERSA NETWORKS-AUTHORIZED PARTNER OR RESELLER (COLLECTIVELY, AN "APPROVED SOURCE"), AND (II) YOU ACCEPT ALL TERMS OF THIS AGREEMENT.

IF YOU DO NOT AGREE TO ALL TERMS OF THE AGREEMENT, OR IF YOU HAVE RECEIVED OR ORDERED THE SOFTWARE FROM SOMEONE WHO IS NOT AN APPROVED SOURCE, THEN (A) DO NOT DOWNLOAD, INSTALL, OR USE THE SOFTWARE (AND, IF APPLICABLE, THE HARDWARE PRODUCT IN WHICH IT WAS PRELOADED) OR REQUEST ANY SUPPORT & MAINTENANCE SERVICES, AND (B) EITHER (I) RETURN THE HARDWARE PRODUCT, IF APPLICABLE, RETURN OR DESTROY ALL COPIES OF THE SOFTWARE AND REQUEST, IF APPLICABLE, FULL REFUND OF THE SOFTWARE LICENSE FEE FROM THE PARTY THAT FURNISHED YOU THE SOFTWARE. By installing or using any software, using the hardware product in which the software was delivered preloaded, if applicable, or by using any support & maintenance services You will be deemed to have accepted this Agreement.

*IF YOU AND VERSA NETWORKS OR VERSA AUTHORIZED PARTNER HAVE SIGNED A SEPARATE WRITTEN AGREEMENT COVERING YOUR RIGHTS AND DUTIES WITH RESPECT TO THE SOFTWARE, THEN THAT WRITTEN AGREEMENT TAKES PRECEDENCE OVER ANY CONFLICTING TERMS OF THIS AGREEMENT.*

**Versa Networks, Inc.**

**Your Company:**

2550 Great America Way, Suite 350

Santa Clara, CA 95054

Attention:

Attention:

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the Effective Date.

**Versa Networks, Inc.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## END USER LICENSE AGREEMENT

This Versa Networks End User License Agreement ("**Agreement**") governs Your rights and duties with respect to the Software. Capitalized terms used in this Agreement are defined in (Definitions). The terms "Customer," "you," "your," and "yours" refer to you, the end customer and user of the Products, whether obtained directly from Versa or through one of our authorized channel partners.

### 1. License Grant.

- a. When You purchase or rightfully receive a license to a Software product, Versa grants You a worldwide, non-exclusive, non-transferrable right to install and use that Software for the term stated in Your Proof of Entitlement.
- b. Your use of the Software may not exceed the quantity of License Metric units that You purchased,
- c. You may install and use the Software on any device that supports it. You may make a reasonable number of back-up copies of the Software, provided each copy contains all of the original copyright, trademark and other proprietary notices, and such back-up copies shall not count against the quantity of License Metric units.

### 2. Licensing Model.

Software offered by Versa for production or commercial application employs no programmatic license enforcement. It is Your responsibility to purchase sufficient License Metric units to meet Your Software usage and select that in the License Manager application of V.Director. Versa also expects You to report your license usage in periods defined in your contract, Versa reserves the right to verify Proof of Entitlement and corresponding Software usage as defined in Section 8 (Recordkeeping and Audits).

### 3. Term of License.

a. Subscription License. Unless Your commercial agreement (Enterprise License Agreement (ELA) or Master Services Agreement (MSA)) states otherwise, the term of the Subscription Licenses will be 12, 36 or 60 months, as per referenced in Your Purchase Order. The term of Your Subscription License is subject to the actions and status as defined in Section 5 (Subscription License).

b. Start Date. Unless Your commercial agreement (ESA or MSA) states otherwise, Your Subscription Start Date will be up to ninety (90) days from the date of Your Purchase Order.

c. Renewals. All subscriptions must be renewed to remain in effect. Unless otherwise agreed ninety (90) days prior to the end of the term all subscriptions will automatically be renewed and invoiced for one year. Subscription License renewals are subject to terms of Versa's *EOL and EOS policies and procedures set forth in the document entitled Versa Software and Support Overview (June 2020)* incorporated herein by this reference.

d. Terminate: If You opt not to renew, Your subscription(s) will terminate at the end of the term. See the Section 7. Termination for more information.

e. Modify: Subscription License may be modified during the term to a higher solution tier and/or bandwidth tier. A Modify action results in termination of the existing license and subsequent start of a new Subscription License for the initial term, which will co-terminate with all existing licenses. Any remaining license value will be credited towards the new subscription license.

### 4. Support & Maintenance Services

- a. General. Subject to its EOL/EOS Policies, Versa makes available the support & maintenance services (the "**Support & Maintenance Services**") described in the Versa Support & Maintenance Terms ("**SSA**") (see respective document from Versa). All Support & Maintenance Services are subject to the terms and conditions of this EULA.
- b. Subscription License. During the term of the paid Subscription, Versa shall provide Support & Maintenance Services at no additional charge.

- c. Updates. During the term of a paid subscription, updates are made available to You via Versa Networks software delivery repositories, Your rights with respect to the Update are subject to the terms of this Agreement, the then-current applicable SSA or the then-current EOL/EOS Policies.
5. **License Restrictions, Limitations and Prohibitions.** Notwithstanding any other term of this Agreement, You shall not, directly or indirectly:
- a. Decompile, disassemble or reverse engineer the Software or modify, unbundle, or create derivative works based on the Software, except as expressly permitted by applicable law without the possibility of contractual waiver. If the law requires Versa to provide interface information to You to adapt the Software, Versa, at its option, may either (A) provide the information to You subject to Your acceptance of non-disclosure and use limitation terms that Versa reasonably requires, or (B) perform that adaptation itself at a reasonable charge for services.
  - b. Copy the Software except for archival purposes or as necessary for You to install and make use of the Software as expressly licensed by Versa. Archival copies shall not count against the License Metric quantities.
  - c. Detach or separate any libraries, files, modules or other components embedded within a Software product or within a particular software image you have received even if any such library, file, module or other component is separately licensable, or use any such modules, files or other components separately from the Software product or software image in which it is embedded (except to the extent that a documented feature of the Software product is implemented by doing so);
  - d. Furnish any copy of the Software or other means of access to the Software to any third party other than to Your contractor(s) solely for Your benefit in performing its contract services for You and in that case only if that contractor has agreed to adhere to the terms of this Agreement. If You do furnish Software or access to Software to Your contractor(s), You shall remain fully and primarily responsible to Versa for compliance with all provisions of this Agreement;
  - e. Remove (or, if the license includes the right to make copies of the Software, fail to include in those copies) any readme files notices, disclaimers, marks and labels included in the Software as delivered by Versa; or
  - f. Use or allow use of the Software in violation of any applicable law or regulation or to support or facilitate any illegal activity.
6. **License and Maintenance Contract fees & Taxes.** Fees. Unless otherwise specified in Your commercial agreement (ELA or MSA), or a separate written agreement, All fees are due and payable based on the terms in Your commercial agreement or Order document.
7. **Termination.** Versa may suspend your use of the Software at any time if Versa reasonably believes that you have breached the terms of Sections 5, 8, 9, or 16; if such breach remains uncured for 10 days following receipt of notice from Versa, then Versa may terminate this Agreement immediately. You may terminate this Agreement for cause if we breach any material obligation of ours under this Agreement and fail to cure such breach within 10 days following receipt of written notice from you. If you terminate this Agreement for cause, you will receive a refund equal to the remaining credit value of the subscription from the Versa authorized partner.
- a. Effect of Termination or Expiration. Upon any termination or expiration of this Agreement, the Licenses and the Support Services will automatically terminate.
  - b. Termination for Insolvency. Either party may terminate Agreement, effective immediately upon written notice, if the other party becomes the subject of a voluntary or involuntary petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation or composition for the benefit of creditors, if that petition or proceeding is not dismissed with prejudice within sixty (60) days after filing.
8. **Recordkeeping and Audit.**
- a. Your Duty to Monitor Use. You agree to regularly monitor Your use of all Software and generate accurate, complete and auditable records of levels of that use and report any access use to Versa.
  - b. Reports of Excess Use; Purchase of Additional License Metric Units. If at any time Your maximum level of use of the Software exceeds the number of License Metric units You have purchased, then on or before ten days after the last day of the calendar quarter in which Your level of use first exceeded that limit, unless your commercial agreement states otherwise, You agree to (i) notify Versa or Versa Authorized Partner of Your maximum level of use and (ii) agree to order and purchase additional

Licenses or upgrade to a license tier that exceeds the maximum purchased entitled level of use of the Software during such calendar quarter.

- c. **Versa's Right to Audit.** In order to enable Versa or Versa Authorized Partner to verify Your compliance with this Agreement, You shall, throughout the Term of License and for three years thereafter, provide to Versa or Versa Authorized Partner and its professional advisors access to such facilities, personnel, records and reports as reasonably necessary for reasonable inspection and copying to validate compliance with this Agreement.
- d. If any inspection under subsection 8.c discloses that You used the Software in excess of applicable License Metric units and failed timely to comply with subsection 8.b, then on notice of the inspection results, You shall immediately:
  1. You agree to (i) notify Versa or Versa Authorized Partner of Your maximum level of use and (ii) agree to order and purchase additional Licenses or upgraded license tiers, that exceed the purchased entitled maximum level of use of the Software during such calendar quarter.
  2. if applicable, purchase and pay for Support & Maintenance Contracts sufficient to cover Your new total number of Licenses;
  3. pay late payment fees accruing on the purchase price of such additional Licenses and on the amount of underpayment in respect of contracts purchased or required for an applicable Support & Maintenance Services at a rate of 1% per month for each calendar month since the month on which Your use first exceeded Your License Metric units; and
  4. pay the reasonable costs incurred by Versa in conducting the audit.

The remedy stated in this Section 8.d is in addition to any other remedy Versa may otherwise have.

9. **Confidential Information** The parties will protect each other's Confidential Information. The party receiving Confidential Information will exercise at least the same degree of care that it uses to protect its own Confidential Information of a similar nature, but in no event less than reasonable care. Confidential Information does not include information that (a) is or was lawfully received by the recipient from another party without confidentiality obligations, (b) becomes available in the public domain through no action or inaction of the recipient, or (c) is developed independently by the recipient without reference to the discloser's Confidential Information.
10. **Your Data.** Unless Versa otherwise agrees in a signed writing, You shall not disclose or provide Versa or Versa Authorized Partner access to any personally-identifiable information, whether in data or any other form. You shall be solely responsible for all consequences of any such disclosure or grant of access.
11. **Consent to End User Collected Data.** You agree that Versa may collect and use technical data and related information (including, but not limited to, technical information about your devices, server, system and application software, and peripherals, and device fingerprints) that is gathered periodically to facilitate the provision of software updates, host customer data, product support, and other services to you (if any) related to the Software and to monitor compliance under this Agreement. Versa may use this information to operate, provide, improve, and develop Versa products, services and technologies, to prevent or investigate fraudulent or inappropriate use of Versa products, services, and technologies, for research and development, and for the other purposes described in this Agreement or to Customer as part of Versa's products and services. By using the Software, you agree that Versa may process all data in accordance with our Privacy Policy available at [www.versa-networks.com/privacy-policy](http://www.versa-networks.com/privacy-policy).
12. **Ownership.** Versa and Versa's licensors, respectively, retain exclusive ownership of all right, title, and interest of all intellectual property in and to the Software. Nothing in this Agreement constitutes a sale or other transfer or conveyance of any right, title, or interest in the Software.
13. **Limited Warranty.** The Service Level Agreement available at <https://www.versa-networks.com/wp-content/uploads/2019/03/Versa-Networks-Support-Services.pdf> is your exclusive remedy for any interruptions in the availability of the Software. Versa warrants for Your sole benefit that for a period of ninety (90) days from the commencement of the license term (herein, the "*Warranty Period*"), the Software delivered, shall be confirm in all material respects to Versa's published specifications under normal authorized use consistent with the product instructions. You may not make a warranty claim after lapse of the Warranty Period.

#### 14. Indemnification

a. **General.** Versa shall, at its expense, defend any claim brought against You that the Software infringes any third party patents, copyright, or registered trademarks and will indemnify You against the final judgment entered by a court of competent jurisdiction or any settlements arising out of a Claim. This obligation is subject to You: (a) notifying Versa promptly in writing of the Indemnified Claim; (b) giving Versa the exclusive control of the defense of any Indemnified Claim (including statements to third parties regarding the claim) and (c) provide reasonable assistance necessary for Versa to perform its obligations hereunder (at Versa's expense).

b. **Additional Remedies.** In the event any such Indemnified Claim is brought or threatened, or in Versa's reasonable opinion is likely to be brought or threatened, Versa may, at its sole option and expense: (a) procure for You the right to continue use of the Software or infringing part thereof; or (b) modify or amend the applicable Software, or infringing part thereof, or replace the applicable Software, or infringing part thereof, with other software or services, as applicable, having substantially the same or better capabilities; or, if , in Versa's reasonable opinion, neither of the foregoing is commercially practicable, (c) terminate Your rights with respect to the applicable Software and refund the portion of the license fees paid for the period of such term license for the infringing Software occurring after termination.

15. **Limitation of Damages.** Neither party will be liable for indirect, incidental, exemplary, special, or consequential, damages; loss or corruption of data; or loss of revenues, profits, goodwill, or anticipated sales or savings. In no event will Versa's total cumulative liability to Customer exceed the aggregate amount Customer has paid to Versa or its authorized channel partners to purchase the Software during the prior 12-month period.
16. **Compliance with Laws; Export Requirements.** You shall comply with all applicable laws and regulations in connection with use of the Software and any Support & Maintenance Services. You acknowledge and agree that the Software as well as related technical data and assistance that may be furnished in the course of the Support & Maintenance Services may contain encryption or encryption technology and are all subject to legal and regulatory controls and restrictions on export and re-export, including those of the U.S. Department of Commerce. You warrant and represent that the Software was not furnished to You as a result of an export or re-export or import in violation of US or other applicable laws or regulations, that You are not on any Denied Persons list or other list published by the US Government of parties to whom exports or re-exports of products subject to export controls are forbidden, that no Software is located in or controlled from a site in a Group E country (Cuba, Iran, North Korea, Syria or Sudan), and that You are not using any Software or technology furnished hereunder or in connection with any Support & Maintenance Services to further activities in support of development, manufacture or use of nuclear fuel or weapons, missiles, or chemical or biological weapons. You further covenant that You will immediately notify Versa if at any time those warranties and representation become no longer accurate. Regardless of any disclosure You might make to Versa of an ultimate destination of the Software, You shall not export, either directly or indirectly, any Software without first obtaining any and all necessary approvals from the U.S. Department of Commerce or any other agency or department of the United States Government is required. You understand and agree that Versa may without liability or breach impose certain restrictions and conditions on Support & Maintenance Services in order to protect against violation of export control laws.
17. **Commercial Computer Software.** The Software is a "commercial item" as defined at Federal Acquisition Regulation (48 C.F.R.) ("FAR") section 2.101 comprised of "commercial computer software" and "commercial computer software documentation" as those terms are used in FAR 12.212. Consequently, regardless of whether You are the US Government or a department or agency thereof, You shall acquire only those rights with respect to the Software that are set forth in this Agreement and Your Proof of Entitlement.
18. **Third Party Software.** Any licensor of Versa whose software is embedded in the Software shall be a third party beneficiary with respect to this Agreement, and that licensor shall have the right to enforce this Agreement in its own name as if it were Versa. In addition, certain third party software may be provided with the Software and is subject to the accompanying license(s), if any, of its respective owner(s). To the extent portions of the Software are distributed under and subject to open source licenses obligating Versa to make the source code for those portions publicly available (such as the GNU General Public License ("GPL") or the GNU Lesser General Public License ("LGPL")), Versa will make those source code portions (including Versa modifications, as appropriate) available upon request for a period of up to three years from the date of distribution. You may obtain a copy of the GPL at <http://www.gnu.org/licenses/gpl.html>, and a copy of the LGPL at <http://www.gnu.org/licenses/lgpl.html>. Open source information and information on contacting Versa can be found at <http://www.versa-networks.com/support>.
19. **Force Majeure.** Except for Your duty to make payment for Software or Services, and except for Your unauthorized installation or use of Software, neither party will be responsible for any failure or delay in its performance due to causes beyond its reasonable control, including, but not limited to, acts of God, war, riot,

embargoes, acts of civil or military authorities, fire, floods, earthquakes, accidents, strikes, or fuel crises ("Force Majeure"), provided that the party gives prompt written notice thereof to the other party and uses its diligent efforts to resume performance. Either party shall be entitled to terminate this Agreement if the Force Majeure event continues for a period of one month.

**Miscellaneous.** This Agreement together with the applicable commercial agreement (ELA or MSA) and SSA, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior agreements, and understandings regarding the Products. Except as otherwise provided below, this Agreement may not be amended or modified except by a writing executed by the duly authorized representatives of both parties. Failure to exercise any right under this agreement will not constitute a waiver. This Agreement (including all documents incorporated herein), shall be governed by the laws of the State of California (without reference to its conflicts of laws principles). Any report or notice under this Agreement shall be given in writing, if to Versa then by email to [info@versa-networks.com](mailto:info@versa-networks.com) or by mail or courier to 2550 Great America Way, Ste 350, Santa Clara, CA 95054, USA attn.: Legal. If You and an authorized representative of Versa have signed a valid separate written agreement governing Your use of any Software licensed from Versa, then that signed agreement will take precedence over any inconsistent terms of this Agreement. Versa may at any time post on its website (or that of its affiliates) modifications or restatements of the SSA, EOL/EOS Policies or any other policy or guideline referenced in this Agreement or the SSA. Any such modification shall govern, but only during an extension or renewal term or reinstatement period which begins after posting of the modification.

20. **Use of Customer's Name.** Versa may use Customer's name and may disclose that Customer is a licensee of Versa's Software in Versa advertising, press, promotion and similar public disclosures with respect to the Software, including displaying Customer's logo on [www.versa-networks.com](http://www.versa-networks.com); provided, however, that such advertising, promotions or similar public disclosures shall not indicate that Customer in any way endorses any Versa products, without prior written permission from Customer. Customer agrees that, upon Customer's public announcement of product designed with or containing Versa Software, Versa may publicly disclose the nature of the Versa involvement in said product.
21. **Severability.** If any portion of this Agreement is held invalid, the Parties agree that such invalidity shall not affect the validity of the remainder of this Agreement.

#### 21. Notification.

a) General: Except as otherwise provided elsewhere in this Agreement, any report or notice under this Agreement shall be given in writing, Versa by email or by mail or courier to 2550 Great America Way, Suite 350, Santa Clara, CA 95054 USA attn.: EULA Notices provided that the notice identifies You by name, address and email address; or, if to You, by email to Your contact email address (or by mail addressed to Your street address that is associated with Your user account for access to Versa Customer Support at <http://www.versa-networks.com/support>. If You have no such user account, then notification shall be deemed given to You by emailing or sending by mail or courier notice to any office or contact email address for the Authorized Source from which You acquired Your subscription.

b) HIPAA: Should Versa enter into a Business Associate Agreement ("BAA") while providing the subscription service, Versa will comply with The HIPAA Breach Notification Rule, 45 CFR §§ 164.400-414, requiring HIPAA covered entities and their business associates to provide notification following a breach of unsecured protected health information. Specifically, Versa will assist you in providing notice to next of kin regarding a breach of personal data involving your employees who have used the subscription service and are now deceased.

22. **Certain Definitions.** The following terms not defined elsewhere in this Agreement have the respective meanings set below:

- **"Agreement"** means this End User License Agreement.
- **"SSA"** means Versa Support and Maintenance Terms attached hereto.
- **"Approved Source"** is Versa or a partner, distributor or reseller authorized by Versa to distribute Software and Support & Maintenance Services in the territory in which You are located.
- **"Confidential Information"** is as defined in Section 12, above.
- **"Preloaded Software"** means Software that is delivered pre-installed on Versa compatible hardware platforms, together with Updates for that Software.
- **"EOL/EOS Policies"** are as defined in Section 3.
- **"Versa Networks"** or **"Versa"** means Versa Networks, Inc.

- **"License Metric"** is a metric defined in Section 9 or, for some Software, Your MPA.
- **"Support & Maintenance Services"** for Software means the set of software maintenance services described in the attached SSA.
- **"Proof of Entitlement"** is a Versa order confirmation or other Versa-issued written or electronic confirmation of Versa's grant to You of a license. The Proof of Entitlement must identify You, the Software licensed, the license identifier, any applicable License Metric and, if applicable, the number of units of that License Metric that You purchased, the Term or if it's a Special Purpose License
- A **"Release"** is a particular object code image of a software product that is identified by a Release denomination starting with "x.y" followed by additional image identifying string.
- **"Software"** means the software product identified in Your Proof of Entitlement, and includes 1) machine-readable instructions and data, 2) components, files, and modules, 3) any accompanying audio-visual content, and 4) accompanying activation keys, if any, and 5) associated documentation. Except where the context otherwise requires, Software includes any Update of that Software that You rightfully receive under a Subscription or contract for Support & Maintenance Services.
- **"Special Purpose License"** means any of the licenses described in Section 6 of the Agreement.
- **"MSA"** means Your Master Services Agreement, Your commercial agreement with Versa.
- **"ELA"** means your Enterprise License Agreement, Your commercial agreement with Versa.
- **"Subscription"** means a license to Software for a finite, fixed term of use that includes Your right to receive throughout the term of the Subscription and at no additional charge, support and maintenance services under the terms of the Applicable SSA.
- **"Subscription Action"** means an action taken on a Subscription License that results in a change in Subscription Status. For example, an Activate action changes the status of a Subscription License to Active and starts a subscription term.
- **"Subscription Status"** is the current subscription state.
- **"Update"** means software that is an upgrade, bug fix, patch or other revision of Software licensed hereunder that Versa makes generally available free of incremental charge to customers purchasing a Support & Maintenance Contract or Subscription. An Update may be a different revision of the Software that You originally licensed and, therefore, may have a different set of features and functionality.
- **"Version"** means one or more Releases of a particular software product with a common "x.y.z" denomination in the of the Release identifier.