

GENERAL TERMS AND CONDITIONS

IN ORDER TO ACCESS AND USE THE PRODUCT, YOU MUST AGREE TO THIS AGREEMENT. READ THIS AGREEMENT CAREFULLY AND CLICK THE "AGREE" BOX BEFORE ACCESSING OR USING THE PRODUCT. BY CLICKING THE "AGREE" BOX OR, IF YOU HAVE ALREADY CLICKED THE "AGREE" BOX, BY CONTINUING TO ACCESS OR USE THE PRODUCT, YOU AGREE TO THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THIS AGREEMENT, IN WHICH CASE THE TERMS "YOU," "YOUR," AND "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES.

1. DEFINITIONS

1.1 "Agreement" means these General Terms and Conditions, and all other disclaimers, operating rules, policies and procedures that may be published from time to time on the website www.Panorama9.com as well as any additional terms and conditions contained in ordering documents that describe the order specific information, e.g., subscription prices, license terms and billing information.

1.2 "Criteria" means the criteria set out in the Order Confirmation to calculate the Subscription Fee in accordance with the Price List.

1.3 "Dashboard" means the user interface where the Customer can access information about those parts of its IT-systems which are monitored by the Product.

1.4 "Data" means any data collected by Panorama9 in connection with Customer's use of the Product regarding Customer's IT-environment, including information concerning Customer's hardware, software and networks and their use by employees and contractors.

1.5 "Order Confirmation" means a written or electronic order confirmation and invoice document from Panorama9 to Customer for the Product to be provided by Panorama9.

1.6 "Product" means the Software and documentation which allows the Customer to track its own IT-system via the Dashboard and related services.

1.7 "Software" means the object code versions of the Product, together with the updates, upgrades, modifications or enhancements owned and provided by Panorama9 to Customer pursuant to this Agreement.

1.8 "Subscription Fee" means the price to be paid by Customer for the use of the Product.

1.9 "Subscription Period" means the period for which Customer has paid the Subscription Fee or, as applicable, the period for which Customer has been granted a free limited time trial subscription.

1.10 "User" means any person authorized to use the Product being either an employee or contractor of Customer.

1.11 "We", "us", "our", and "Panorama9" means Panorama9, Inc., 795 Folsom Street, 1st Floor, San Francisco, CA 94107.

1.12 "You", "your", and "Customer" means the legal entity with whom Panorama9 has entered into this Agreement concerning use of the Product covered by this Agreement.

2. SCOPE OF THIS AGREEMENT AND CHANGES

2.1 Any use of the Product is subject to the provisions of this Agreement.

2.2 In consideration of the applicable Subscription Fee, Panorama9 will provide the Product as set forth in the Order Confirmation.

2.3 Panorama9 may change these General Terms and Conditions, from time to time. If we change these General Terms and Conditions, we will send the latest version of these General Terms and Conditions to you by e-mail and your continued access and use of the Product shall be deemed acceptance of the changed General Terms and Conditions, subject to Section 10.6 below.

3. LICENSE

3.1 The Product includes a software agent on the Customer's IT-system which provides data to the Dashboard. Panorama9 hereby grants you a revocable, non-exclusive, non-transferable, license to reproduce and use any Software provided as a result of the Product as specified in the Order Confirmation and any minor upgrade to it supplied under this Agreement for the time you have paid the applicable Subscription Fee or, as applicable, the period of the free limited time trial subscription, solely for your own internal use during the Subscription Period. The authorized use shall be limited to the intended use as reflected in Panorama9's publicly available marketing material, as may be changed from time to time.

3.2 You will not use the Product to provide services to third parties who are not individually licensed hereunder.

3.3 The license is limited to the number of Users specified in the Order Confirmation.

3.4 You may not assign, sell, rent, lease, sublicense, lend, transfer, resell, or distribute the Product to any third party or use the Product on behalf of any third party unless otherwise agreed to in writing by Panorama9 in its sole discretion. You agree not to copy the Product, in whole or in part. You agree not to modify, obscure, or delete any proprietary rights notices included in or on the Product or documentation and you agree to include all such notices on all copies. You may not modify the Product, make derivative works based on the Product, or merge the Product into any other computer programs. You may not reverse engineer, disassemble, or decompile the Product, in whole or in part, or otherwise attempt to derive its source code. You agree to use the Product in compliance with all applicable laws and regulations, including, without limitation, applicable export control laws and regulations of the United States and other jurisdictions.

4. FURTHER LICENSE CONDITIONS REGARDING SOFTWARE AND DASHBOARD

4.1 The User specified in the Order Confirmation will be provided access on Panorama9's website to the Software to be installed on the Customer's IT-environment. The User shall use the Software only in accordance with this Agreement and will not exceed the usage defined in this Agreement, e.g., by scanning, patching, or installing the Software on a larger number of hosts than specified or outside the entity(ies) which the Software has been licensed for.

4.1.1 If the Customer has purchased a single-User license to the Software, the Customer will be provided with logins and password for the User specified in the Order Confirmation, which give the single-User access to the Dashboard. A single-User licensee shall use the Dashboard in accordance with this Agreement and may not allow others to use the personal login and password.

4.1.2 If the Customer has purchased a multi-User license to the Dashboard, the Customer will be provided with logins and passwords according to the number of Users specified in the Order Confirmation. If the Customer is entitled to set up multiple Users the number of Users is limited to

the number of Users specified in the Order Confirmation. Customer shall provide each User with a personal login and password with which the User may access the Dashboard with. Customer shall ensure that each User keeps its personal login and password confidential and that the total number of Users does not exceed the number specified in the Order Confirmation. Customer is obligated to pay for all Users that are set up to use the Dashboard.

5. PRICES PAYMENT AND INVOICING

5.1 The Subscription Fee and payment dates for the Product shall be those set forth in the Order Confirmation. The Subscription Fee is set according to the Price List on the basis of a number of individual and relevant Criteria which are stated in the Order Confirmation, e.g., number of Users.

5.2 Customer will promptly notify Panorama9, if at any time during the Subscription Period one or more of the Criteria specified in the Order Confirmation are exceeded.

5.3 Panorama9 is entitled to monitor the Customers usages of the Product in order to verify that the Criteria specified in the Order Confirmation are not exceeded.

5.4 Upon reasonable notice, subject to the Customer's reasonable security procedures and during reasonable business hours, Panorama9 is entitled to conduct an audit to verify that the Criteria specified in the Order Confirmation are not exceeded.

5.5 If a monitoring or an audit reveals that there is more than one User using a password or the Criteria specified in the Order Confirmation is incorrect the Subscription Fee shall be recalculated accordingly. In the event that any monitoring or audit shows that the number of Users specified in the Order Confirmation is understated by 5% or more, the Customer shall promptly pay Panorama9 reasonable internal and external cost incurred in respect of such monitoring or audit.

5.6 All sales are final. No amount shall be refunded if Panorama9 finds that one or more of the Criteria are less than settled in the Order Confirmation.

5.7 Any value-added tax, state sales tax, customs duty and similar public charges shall be paid by Customer.

5.8 Payment terms shall be net thirty (30) days from the date of the Order Confirmation. Unless otherwise agreed by Panorama9, all payments shall be made by electronic transfer (e.g., PayPal) in the currency used on the quotation in the Order Confirmation. Any undisputed amounts remaining unpaid following the payment due date, and all disputed payments that are paid following the resolution of such dispute, will bear interest accruing from the original payment due date through the date that such amounts are paid at the lower interest rate of (a) 1% per month and (b) the highest interest rate allowed by law.

5.9 Initial Subscription Fee shall be invoiced via the Order Confirmation in advance of providing access to the Product.

5.10 Panorama9 is entitled to change the Price List from time to time.

6. CONFIDENTIALITY

6.1 Each party (a "**Receiving Party**") understands that the other party (the "**Disclosing Party**") may share certain information of a confidential nature during the Subscription Period. "**Confidential Information**" means (a) any documents or materials that the Disclosing Party marks "Confidential" or with a similar designation; (b) any information the Disclosing Party orally designates as "Confidential" or with a similar designation at the same time of disclosure, and is confirmed in writing by the Disclosing Party to the Receiving Party within thirty (30) days of such disclosure; and (c) any source

code for the Software (to the extent you obtain access to any source code) and User IDs and passwords for the Product. The Receiving Party agrees, for itself and any affiliate, agents, and employees, that it will not publish, disclose, or otherwise divulge or use (other than as expressly permitted under this Agreement) any Confidential Information of the Disclosing Party without the prior written consent of the Disclosing Party in each instance. Each party will use at least the same level of care to maintain the confidentiality of the other party's Confidential Information as it uses to maintain the confidentiality of its own non-public information, and in no event less than a reasonable degree of care. Without granting any right or license, the Disclosing Party agrees that the foregoing will not apply with respect to information that the Receiving Party can document (i) is in the public domain and is available at the time of disclosure or which thereafter enters the public domain and is available, through no improper action or inaction by the Receiving Party or any Affiliate, agent, or employee (provided, however, that an item of Confidential Information shall not be considered in the public domain due to the fact that the individual elements that comprise that item can be found in the public domain); (ii) was in its possession or known by it prior to receipt from the Disclosing Party; (iii) was rightfully disclosed to it by a third party without restriction; (iv) is independently developed by the Receiving Party without access to such Confidential Information; or (v) is compelled to be disclosed pursuant to any statutory or regulatory authority, court order, or legal process, provided the Disclosing Party is given prompt notice of such requirement and the scope of such disclosure is limited to the extent possible.

7. DATA PROTECTION

7.1 By entering into this agreement, Customer agrees that information regarding Customer, its employees, customers and suppliers that is provided to Panorama9 in connection with this Agreement and Data collected by the Product may be processed (including, without limitation, collection, transfer, storage, compilation, analyzing and tracking) by Panorama9 for the following purposes: (a) use for the provision of the functionalities of the Product; (b) use by Panorama9 within the scope of Panorama9's activities in order to respond to your request for information and for contacting you with possible solutions to identified issues with your IT-environment; (c) use to prepare aggregated statistics about your use of the Product to third parties, provided that such transfer to third parties shall be aggregated so that it does not identify a particular individual or company.

7.2 Customer acknowledges that Panorama9's Product is cloud-based and by entering into this Agreement you give your express consent to that Data will be transferred to Panorama9's suppliers of web services in order to support the intended functionality of the Product. Panorama9 will use only professional suppliers that have agreed to adhere to applicable data protection legislation, if relevant.

7.3 Customer confirms that it is Customer's obligation as data controller to inform its employees and customers of the processing of data pursuant to this Agreement and to ensure that such employees and customers have given their consent to such processing in accordance with applicable data protection legislation, if relevant.

7.4 Customer may at any time give written notice to Panorama9 that it does not wish Panorama9 to process the Data collected pursuant to this Agreement. Where Customer exercises its right to prevent processing, Panorama9 shall have the right to terminate this Agreement forthwith on written notice and the provisions of Section 10 shall apply on such termination. Such notice shall not affect Panorama9's right to continued use of Data aggregated so that it does not identify a particular individual or company.

7.5 Panorama9 shall provide to Customer User IDs and passwords or other secured means to access the Product. Both Customer and Panorama9 shall maintain the confidentiality of User IDs and passwords and shall follow all reasonable instructions relating to the security of the Product.

7.6 You agree that Panorama9 may use the email addresses provided to send you recommendations for possible solutions to issues identified with your IT-environment, as well as to send you notifications about product updates and improvements, company news and events. You may opt out of this service at any time by giving notice to Panorama9.

7.7 Please read or [Privacy Policy](#) <link> to learn more about how we collect, use, and share information and data.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 All intellectual property rights, including the rights to patents, copyrights, trademarks, trade secrets, the documents or any other materials provided to the Customer in the performance of this Agreement and/or arising and created under and in connection with this Agreement shall remain vested in and/or automatically and immediately upon creation vest in Panorama9 and/or its licensors as the case may be.

8.2 Information procured from a third party may be the subject of rights owned by that third party.

9. LIMITATION OF LIABILITY AND DISCLAIMER

9.1 The Product will monitor, detect and disclose potential risks and deficiencies in Customer's IT-system as well as detect potential breach of Customer's company policies in relation to the use of the IT-system.

9.2 HOWEVER, THE PRODUCT IS PROVIDED "AS IS" AND "AS-AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES AND MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR WARRANTIES OF QUALITY OR PERFORMANCE. PANORAMA9 DOES NOT WARRANT THAT: (A) OPERATION OF ANY OF THE PRODUCT SHALL BE UNINTERRUPTED OR ERROR FREE, (B) THAT FUNCTIONS CONTAINED IN THE PRODUCT SHALL OPERATE IN COMBINATIONS WHICH MAY BE SELECTED FOR USE BY CUSTOMER OR MEET CUSTOMER'S REQUIREMENTS (INCLUDING REGULATORY REQUIREMENTS IN CUSTOMER'S JURISDICTION), OR (C) THAT THE PRODUCT WILL DETECT ALL VULNERABILITIES, DEFICIENCIES AND POSSIBLE BREACHES OF COMPANY POLICIES. TO THE EXTENT PERMITTED BY LAW, ANY CONDITION OR WARRANTY WHICH WOULD OTHERWISE BE IMPLIED INTO THIS AGREEMENT IS HEREBY EXCLUDED.

9.3 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PANORAMA9 BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING FOR THE LOSS OF PROFIT, REVENUE, OR DATA) ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE PRODUCT OR THIS AGREEMENT, HOWEVER CAUSED, AND UNDER WHATEVER CAUSE OF ACTION OR THEORY OF LIABILITY BROUGHT (INCLUDING UNDER ANY CONTRACT, NEGLIGENCE, OR OTHER TORT THEORY OF LIABILITY) EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.4 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PANORAMA9'S TOTAL CUMULATIVE LIABILITY TO YOU (OR ANY THIRD PARTY) IN CONNECTION WITH YOUR USE OF THE PRODUCT OR THIS AGREEMENT WILL NOT EXCEED THE SUBSCRIPTION FEE PAID AND PAYABLE BY YOU TO PANORAMA9 DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM GIVING RISE TO SUCH LIABILITY.

10. TERM AND TERMINATION

10.1 The term of this Agreement shall commence on the date of first availability of the Product for use by the Customer and shall continue for the Subscription Period. Thereafter the term shall automatically renew for successive Subscription Period(s) unless rightfully terminated. Either party may terminate any or all of the Product on written notice to the other no less than three (3) months before the end of the then-current Subscription Period. To be valid, any termination notice from the Customer to Panorama9 must comply with Section 11.4.

10.2 Either party may with immediate effect terminate this Agreement by written notice to the other party (a) if the other party breaches any provision of this Agreement (including non-payment of fees) and such breach is not cured within thirty (30) days after written notice thereof is received by the breaching party; (b) if the other party commits any irremediable breach of this Agreement or repeats any breach as has previously been the subject of a notice under paragraph (a) above.

10.3 If either party goes bankrupt or ceases to trade for some other reason, the other party may terminate this Agreement with immediate effect unless the provisions of applicable insolvency laws prevent such termination. If, under applicable insolvency laws, the bankruptcy estate is entitled to become a party to this Agreement, the estate must notify the other party in writing of whether it wishes to become a party to this Agreement. Such notice must be given within five (5) business days after a request has been made to that effect. If either party files for a suspension of payments, or if it commences negotiations for a compulsory composition with creditors, or if it turns out that, as a result of the party's financial situation, it is unlikely to be able to perform this Agreement, the other party may terminate this Agreement with immediate effect.

10.4 If the Customer commits a material breach of this Agreement (including non-payment of fees), Panorama9 is entitled to disable your access to the Product until the breach is remedied, provided that Panorama9 gives you notice of the details of such breach. Customer will continue to be charged for the Subscription Fee and other charges during any period of suspension.

10.5 Panorama9 reserves the right to make changes to the scope and content of the Product or part thereof at any time. Such changes resulting in significant limitation or removal of functionalities in the Product are subject to thirty (30) days prior notice. If Customer does not agree to a change of scope or content which is resulting in significant limitation or removal of functionalities Customer may terminate the affected Product with expiry at the then-current Subscription Period by notifying Panorama9 in writing within the thirty (30) days notice period.

10.6 In the event of material changes to the General Terms and Conditions, Customer will be entitled to terminate this Agreement to the end of the then current Subscription Period by giving written notice within two (2) weeks from receipt of the new General Terms and Conditions. In such case the existing General Terms and Conditions will continue in force until the expiry of this Agreement. No amount shall be refunded in case of the Customer's termination of this Agreement due to material changes to this Agreement.

10.7 If new legislation, orders from public authorities or other entities requires Panorama9 to make changes in the Product or its services, which Panorama9 is not in its own discretion willing to make for technical or commercial reasons, Panorama9 may with immediate effect terminate this Agreement by written notice to the Customer.

10.8 Upon termination of this Agreement Customer shall promptly pay Panorama9 for all Product delivered up to the effective date of termination at the agreed upon prices.

10.9 Upon any termination of this Agreement or rights granted hereunder Customer shall immediately discontinue use of the Product and uninstall and discontinue use of the Software affected by such termination and promptly certify to Panorama9 that it has discontinued use of and returned or destroyed all copies of the affected Software then in its possession, including all documentation related thereto.

10.10 Those provisions of this Agreement that by their terms or sense are intended to survive termination or expiration of this Agreement will survive and remain in full force and effect.

11. MISCELLANEOUS

11.1 This Agreement will be governed by and interpreted in accordance with the laws of the State of California, without giving effect to any principles of conflict of laws. The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply to this Agreement. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in San Francisco, California and the parties irrevocably consent to the personal jurisdiction and venue therein.

11.2 Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

11.3 In the event that any provision of this Agreement is deemed by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the court will modify or reform this Agreement to give as much effect as possible to such provision. Any provision which cannot be so modified or reformed will be deleted and the remaining provisions of this Agreement will continue in full force and effect.

11.4 All notices provided hereunder will be in writing, delivered personally, by e-mail or sent by overnight courier, registered or certified mail to the addresses specified in the Order Confirmation or such other address as may be specified in writing by notice given in accordance with this Section 11.4. All such notices will be deemed to have been given: (a) upon receipt when delivered personally; (b) upon receipt when delivered by e-mail; or (c) in the case of overnight courier, one weekday after delivery to the overnight courier.

11.5 Performance of any obligations required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party, which waiver will be effective only with respect to the specific obligation described therein. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

11.6 Neither party will be responsible for any failure or delay in its performance under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials or supplies, war, terrorism, riot, natural disasters or governmental action.

11.7 Panorama9 and you are, and will be deemed to be, independent contractors with respect to the subject matter of this Agreement, and nothing contained in this Agreement will be deemed or construed in any manner whatsoever as creating any partnership, joint venture, employment, agency, fiduciary, or other similar relationship between Panorama9 and you.

11.8 This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed an original, and all of which together will constitute one and the same agreement.

11.9 This Agreement, including properly executed Order Confirmation(s), constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement, and supersedes any and all prior understandings and agreements, whether oral or written, between the parties with respect to the subject matter of this Agreement.

BY CLICKING THE "AGREE" BOX OR, IF YOU HAVE ALREADY CLICKED THE "AGREE" BOX, BY CONTINUING TO ACCESS OR USE THE PRODUCT, YOU ACKNOWLEDGE AND AGREE THAT (A)



YOU HAVE READ THIS AGREEMENT IN ITS ENTIRETY, (B) YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT, AND (C) YOUR OBLIGATIONS UNDER THIS AGREEMENT ARE BINDING AND ENFORCEABLE.

PLEASE PRINT A COPY OF THIS AGREEMENT FOR YOUR RECORDS.