



END USER AGREEMENT

This END USER AGREEMENT (“Agreement”) is entered into by and between Meru Networks, Inc., on behalf of itself and its affiliates (collectively, “Meru”) and you, your principals, officers, directors, employees, agents and/or successors (“You”), and sets forth the terms and conditions governing Your purchase, access to and use of the hardware (“Hardware”) and software (“Software”) listed on Meru’s price list (Hardware and Software are collectively referred to as “Product”) that You purchased directly from Meru or from Meru’s authorized reseller (“Reseller”).

Notwithstanding the above, if authorized representatives of Meru and You have previously executed a manually-signed written agreement with respect to the subject matter of this Agreement (“Written Agreement”), the terms of the Written Agreement will control. If You have any questions about these terms and conditions, please contact Meru at support@merunetworks.com, (408) 215-5300 or, if You purchased the Product from a Reseller, please contact the Reseller.

IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MAY WITHIN 30 DAYS AFTER YOUR PURCHASE OF THE PRODUCT FROM MERU OR ITS RESELLER, RETURN THE PRODUCT AND ALL DOCUMENTATION AND OTHER MATERIALS PROVIDED WITH THE PRODUCT TO MERU OR ITS RESELLER, AS APPLICABLE, FOR A FULL REFUND.

1. CERTAIN RIGHTS AND OBLIGATIONS.

1.1 License, not Sale, of Software. As used in this Agreement, “Software” means any and all computer software, any printed or electronic documentation (“Documentation”), or other code, whether on disk, in read-only memory, or on any other media, and whether embedded in the Hardware or provided on a stand-alone basis (subject to the terms in Section 1.3 applicable to Third Party Software). You acknowledge and agree that, notwithstanding the use of the terms “purchase” and “sell” in this Agreement, title to Software provided to You does not pass to You or any third party. As between Meru and You, subject to the limited right to use the Software provided herein, Meru owns all rights, title and interest in and to the Software, including, without limitation, all intellectual property and proprietary rights therein. You acknowledge and agree that the Software is copyrighted and contains materials (including, without limitation, the specific design and structure of individual programs, trade secret, and performance of the Software) that are protected by copyright, trademark, trade secret and other laws and international treaties relating to proprietary rights.

1.2 Permitted Software Uses. Subject to the terms and conditions of this Agreement, Meru grants You a non-exclusive, non-transferable, limited right and license, for Your own internal business or personal purposes, (i) to access and use the Software solely as embedded in the Hardware on which the Software has been installed and in accordance with the Documentation for the Software, or (ii) if the Software is provided to You on a stand-alone basis, to install, execute and use the Software only on or in connection with Hardware which is designed for operation in conjunction with the Software and in accordance with the Documentation for the Software. Except with respect to embedded Software, if Meru has not provided a back-up copy of the Software to You, You may make one copy of the Software in machine-readable form for backup purposes only and such

copy of the Software shall be subject to the terms of this Agreement. The backup copy must include all copyright and other proprietary information and notices contained on the original Software.

1.3 Third Party Software. Meru or its Reseller may provide to You certain third-party stand-alone software products, whether Meru-branded or third party-branded software products (“Third Party Software”), and Your use of the Third Party Software may be subject to separate licensing agreements (“Third Party Licenses”) that are either included with such software or its documentation, or otherwise made available by Meru or the Reseller. By acknowledging Your acceptance of the terms of this Agreement, You agree that You will review these Third Party Licenses (if any) and agree to comply with them. In the event of a conflict between a term of this Agreement and a term of a Third Party License, the terms of the Third Party License controls with respect to the applicable Third Party Software only. If You are not provided a separate Third Party License in connection with Third Party Software as set forth in this Section, Your Use of such Third Party Software shall be subject to the terms and restrictions in this Agreement (including, without limitation, Section 2.4 below).

1.4 Hardware. You acknowledge and agree that Meru retains ownership of any and all copyright, mask work, patent, trade secret or other intellectual property rights in and to the Hardware. The Hardware is offered for sale and is sold by Meru or its Reseller subject in every case to the conditions that such sale does not convey any license expressly or by implication, to reproduce or manufacture the Hardware or any part thereof nor to analyze or attempt to duplicate, in whole or in part, the structure, composition or functions of, or otherwise reverse engineer the Hardware or any part thereof.

1.5 Restrictions on Use. You shall not, nor shall You permit any third party to: (a) decompile, reverse engineer, disassemble, or otherwise attempt to derive the source code of the Software; (b) modify, translate or create derivative works of the Software; (c) rent, lease, loan, distribute, assign or transfer the Software unless expressly permitted in writing by Meru; (d) remove, deface or obscure any of Meru’s or its suppliers’ proprietary rights notices on or in the Product or on output generated by the Product; or (e) publish or otherwise disclose to any third party the results of any benchmark tests run on the Software.

1.6 Software Keys. If a software key is required in order to unlock and activate Your Product (“Key”), Meru will, within a reasonable time following Meru’s receipt of all requested information, send You via email, the Key(s) necessary for You to use the Product. You agree to (a) not tamper with the Product in any way that would circumvent the requirement for a Key; (b) use the Key provided by Meru only to activate the Product for which it was issued and for no other purpose; and (c) maintain the confidentiality of the Keys with respect to the Product.

1.7 Government End Users. If You are the U.S. Government or if You are a contractor or subcontractor (at any tier) of the U.S. Government and are licensing the Software for use by the U.S. Government or in connection with any contract or other transaction with the U.S. Government, You acknowledge that by accepting delivery of the Software, the Software qualifies as commercial computer software and that the Documentation qualifies as commercial computer software documentation within the meaning of the acquisition regulations and contract clauses applicable to this procurement. **The terms and conditions of this Agreement are fully applicable to the Government’s use and disclosure of the Software and Documentation, and shall supersede any conflicting terms or**

conditions. If this Agreement fails to meet the Government's needs or is inconsistent in any respect with Federal law, You agree to return the Software and Documentation, unused, to Meru Networks, Inc. at 894 Ross Drive, Sunnyvale CA 94089 or, as applicable, to the Reseller you obtained the Software and Documentation from.

2. LIMITED PRODUCT WARRANTY

2.1 Limited Warranties

2.1.1 One-Year Limited Hardware

Warranty: Meru warrants that for one year following any Hardware's shipment to You (the "Hardware Warranty Period"), Meru will, subject to Your compliance with the return procedures set forth below, at Meru's sole option, repair, replace or refund the purchase price of the Hardware found not to operate in accordance with Meru's published specifications for the Hardware, so long as You have correctly installed the Hardware and operated it in conformance with such specifications. If during the first 30 days of the Hardware Warranty Period the Hardware fails to operate, and provided You give notice of such failure to the Reseller and return the Hardware during such 30 day period in compliance with the return procedures set forth below, Meru will replace the Hardware with new Hardware. Otherwise, Hardware replaced under this warranty may be remanufactured. Hardware replaced or repaired pursuant to this warranty will be covered as set out in this paragraph for the remainder of the original Hardware Warranty Period, or for 30 days from shipment of such repaired or replacement Hardware, whichever is longer.

2.1.2 90-day Limited Software

Warranty: Meru warrants that for 90 days following the date of any Software's shipment to You (the "Software Warranty Period"), it will, at Meru's sole option, repair, replace or refund the purchase price of any Software that fails to perform in substantial conformance with Meru's published specifications for the Software, so long as the Software has been properly installed and used. If during the Software Warranty Period the failure of any embedded Software causes the Hardware materially to fail to perform in accordance with the Hardware specifications, and if Meru does not resolve the failure, Meru shall refund the purchase price of the affected Hardware.

2.2 Exclusions. The warranties with respect to Hardware and Software shall not apply to any failure arising from any alteration or modification of the Product in any way by anyone other than Meru, abuse, negligence or misapplication, use of the Product other than as specified in the applicable Product documentation, improper site preparation or maintenance, interruptions in electric power or the telecommunications network, use of the Product with Software, interfacing, parts or supplies not supplied by Meru or failure of the Product to interoperate with any other Software or equipment, except to the extent that such interoperability is expressly set out in the applicable documentation.

2.3 Return procedures. To obtain warranty service in the Americas, You must notify Meru of the alleged defect, obtain a return materials authorization ("RMA") from Meru and return the Product in accordance with the instructions provided by Meru. To obtain warranty service outside of the Americas, You must notify the Reseller of the alleged defect, obtain an RMA from the Reseller and return the Product in accordance with the instructions provided by the Reseller. You are fully responsible for delivering the Product to the Reseller or Meru, and Meru is responsible for returning the Product if it is found to be defective. Returned Products which are found by Meru to be not

defective, out-of-warranty or otherwise ineligible for warranty service will be shipped back to You at Your expense. All replaced Products and parts, whether under warranty or not, become the property of Meru.

2.4 Warranty limitations. Except as expressly provided in this Warranty Policy **THE HARDWARE IS SOLD AND THE SOFTWARE IS LICENSED "AS IS" AND "WITHOUT WARRANTY", AND WITH RESPECT TO ALL PRODUCTS, MERU HEREBY SPECIFICALLY EXCLUDES AND DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED BY LAW, STATUTE OR COURSE OF DEALING. THE PARTIES SPECIFICALLY EXCLUDE ALL REPRESENTATIONS AND WARRANTIES, WHETHER STATUTORY OR OTHERWISE, WITH RESPECT TO NON-INFRINGEMENT OF ANY NATURE OF THE RIGHTS OF ANY THIRD PARTY. MERU'S REPAIR, REPLACEMENT OR REFUND SHALL BE YOUR EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY WITH RESPECT TO ANY PRODUCT. YOU ACKNOWLEDGE THAT MERU MAKES NO WARRANTY WITH RESPECT TO INTERFERENCES CAUSED TO OR BY TELECOMMUNICATIONS, RADIO COMMUNICATIONS OR OTHER COMMUNICATIONS OR TRANSMISSIONS WHEN ANY MERU PRODUCT IS BEING OPERATED.** Meru does not authorize anyone to alter any of the warranty provisions or exclusions set out in this policy. You understand that Meru does not guarantee that any error or other nonconformance can or will be corrected or that the Product will operate in all environments and with all systems and equipment or that the Product will operate error free or without interruption.

2.5 Hazardous Activities Disclaimer. MERU DOES NOT WARRANT THAT ANY HARDWARE OR SOFTWARE OR SYSTEM OR NETWORK ON WHICH THE HARDWARE OR SOFTWARE IS USED WILL BE FREE OF VULNERABILITY TO INTRUSION, VIRUS ATTACK OR HACKER ATTACKS. NO PRODUCT IS FAULT-TOLERANT OR DESIGNED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING WITHOUT LIMITATION, IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, WEAPONS SYSTEMS, DIRECT LIFE-SUPPORT MACHINES, OR ANY OTHER APPLICATION IN WHICH THE FAILURE OF THE PRODUCT COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY OR SEVERE PHYSICAL OR PROPERTY DAMAGE (COLLECTIVELY, "HIGH RISK ACTIVITIES"). MERU EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES.

2.6 SUPPORT – MERUASSURE. Meru's standard technical support service, MeruAssure, is sold separately, and is not included in Meru's Limited Hardware Warranty or Limited Software Warranty. The terms and conditions of MeruAssure are set out in Schedule A to this Agreement and may change from time to time. The then-current terms and conditions for MeruAssure are available online at <http://www.merunetworks.com/support> ("MeruAssure Terms of Service"). If You purchase MeruAssure from Meru or the Reseller, You will be required to agree to the MeruAssure Terms of Service, but if You are located outside of the United States, a reseller and/or distributor may be delivering MeruAssure support with respect to Products on their own behalf and under their own brand, and You may be required to enter into an agreement directly with such reseller or distributor for support.

2.7 Changes to this Warranty Policy. Meru may change this Warranty Policy at any time, and all changes to such Warranty Policy shall become effective upon Meru first

publishing a new Warranty Policy on its website or by providing a copy of such new Warranty Policy to You.

3. **TERM AND TERMINATION.** This Agreement is effective until terminated. Your rights under this Agreement will terminate automatically without notice from Meru if You fail to comply with any term(s) of this Agreement. Upon termination, You must destroy all copies of the Software in Your possession or control.

4. **CONFIDENTIALITY.**

4.1 **Confidential Information.** Each party agrees to keep confidential and not disclose to any third party, and to use only for purposes of performing or as otherwise permitted under this Agreement, all proprietary or confidential information disclosed or made available by the other party pursuant to this Agreement that, is labeled confidential or proprietary, or should reasonably be considered to be confidential or proprietary based on the nature of the information or the circumstances surrounding its disclosure ("Confidential Information"). In the case of Meru, all proprietary or confidential information relating to the Product disclosed or made available by Meru, including without limitation, the Software's organization, structure, sequence, logic and source code, and the terms of this Agreement, shall be deemed Confidential Information of Meru. The receiving party shall protect the Confidential Information using measures similar to those it takes to protect its own confidential and proprietary information of a similar nature but not less than reasonable measures. The Confidential Information shall only be disclosed to the receiving party's employees and/or contractors who are bound by obligations of confidentiality and non-use no less restrictive than those in this Agreement.

4.2 **Exceptions.** These obligations shall not apply to information which is publicly available other than through unauthorized disclosure by the receiving party, is known by the receiving party at the time of disclosure as evidenced in writing, is rightfully obtained by the receiving party from a third party who has the right to disclose it, or which is required by law, government order or request to be disclosed by the receiving party (in which case such party must use its best efforts to give the disclosing party notice of the requirement so that disclosure can be contested by the disclosing party and receiving party agrees to seek to obtain (or to cooperate with disclosing party in obtaining) confidential treatment of such information).

5. **INDEMNITY.**

5.1 **Meru IP Indemnity.** Meru will, at its own expense, defend any suit or proceeding brought against You to the extent based on a claim that the Product (excluding Third Party Products or other third party materials) directly infringes any duly issued U.S. patent or copyright of a third party, and Meru will pay all damages finally awarded against You or through Meru's settlement of such claim; provided that (i) You promptly notify Meru in writing of any such claim, (ii) You give Meru sole control of the defense and settlement thereof, and (iii) You provide all reasonable assistance in connection therewith, at Meru's request and expense. Notwithstanding the foregoing, Meru will have no liability regarding any claim arising out of or related to: (i) any products or components not supplied by Meru to You hereunder; (ii) the combination, operation or use of any Product with other products, components, process or material not obtained from Meru, if the claim of infringement would not have occurred but for such combination, operation or use; (iii) any modification to the Products not made by Meru, if the claim of infringement would not have occurred but for such modification; (iv) use of the Product in a manner other than for which it was designed or in a manner other than as specified by Meru; (v) Meru's compliance with specifications provided by You; or (vi) failure to use replacement or modified Products

provided by Meru (collectively, the "Excluded Claims"). THIS SECTION 6.1 STATES YOUR SOLE AND EXCLUSIVE REMEDY, AND MERU'S SOLE LIABILITY, WITH RESPECT TO CLAIMS OF INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHTS OF ANY KIND.

5.2 **Your Indemnity.** You will, at Your expense, defend, indemnify and hold Meru and its directors, officers, employees, and agents harmless against any and all claims, actions, demands, suits, losses, liabilities, judgments, expenses and costs (including without limitation reasonable attorneys' fees) arising out of or related to the Excluded Claims.

6. **LIMITATION OF LIABILITY.** MERU WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST BUSINESS, LOST DATA, LOSS OF USE, OR COST OF COVER INCURRED BY YOU ARISING OUT OF OR RELATED TO YOUR PURCHASE OR USE OF, OR INABILITY TO USE, THE PRODUCT OR SUPPORT, OR OTHERWISE RELATED TO THIS AGREEMENT, UNDER ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, EVEN IF MERU KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE CUMULATIVE LIABILITY OF MERU FOR ALL CLAIMS WHATSOEVER RELATED TO THIS AGREEMENT WILL NOT EXCEED THE PRICE YOU PAID MERU FOR THE PRODUCT GIVING RISE TO SUCH CLAIMS. THE LIMITATIONS SET FORTH HEREIN ARE INTENDED TO LIMIT THE LIABILITY OF MERU AND SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to You.

7. **GENERAL.**

7.1 This Agreement will be governed by and construed in accordance with the laws of the State of California, U.S.A., without reference to its conflict of law principles. Except for actions seeking injunctive relief for a violation of intellectual property rights, confidentiality obligations or enforcement or recognition of any award or order in any appropriate jurisdiction, (a) if You are located in the United States, any and all claims, controversies or actions arising out of or relating to this Agreement shall be filed exclusively in the State and Federal courts located in the County of Santa Clara, California; and (b) if You are located outside of the United States, then all claims, disputes or controversies arising out of or related to this Agreement shall be subject to binding arbitration in Santa Clara, California, under the Commercial Arbitration Rules of the American Arbitration Association.

7.2 If a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect as the original provision and the remainder of this Agreement will remain in full force. Failure of a party to enforce any provision of this Agreement shall not be construed as a waiver of such provision or of the right to enforce such provision.

7.3 This Agreement sets forth the entire agreement between the parties, and supersedes all prior or contemporaneous representations or understandings between the parties, written or oral, regarding such subject matter. Any different or additional term on any purchase order or other correspondence provided by You will have no force or effect

and are not binding on Meru. No modification or amendment of this Agreement will be binding unless in writing and signed by an authorized representative of Meru. The Products may be subject to export control laws, rules and regulations of the United States and applicable foreign jurisdictions, and You agree to comply with all such laws, rules and regulations.

7.4 Meru shall not be liable for failure or delay in fulfilling or performing any of its obligations under this Agreement to the extent that such failure or delay is due to any cause beyond the control of Meru.

7.5 Notices under this Agreement must be in writing and will be deemed given when delivered personally, or by email or facsimile (with confirmation of receipt) or by conventional mail (registered or certified, postage prepaid with return receipt requested). Notices will be addressed, (a) if to You, at the address provided by You when You register Your Product, and (b) if to Meru, at the address provided on the Meru website at <http://www.merunetworks.com>, but each party may change the address by written notice in accordance with this paragraph.

Schedule A

MERUASSURE – TERMS OF SERVICE

This MERASSURE TERMS OF SERVICE (“Agreement”) is entered into by and between Meru Networks, Inc., on behalf of itself and its affiliates (collectively, “Meru”) and you, your principals, officers, directors, employees, agents and/or successors (“You”), and sets forth the terms and conditions governing Your ACCESS TO AND USE OF THE SUPPORT SERVICES Described in this Agreement (“Support”) provided by Meru directly to You or through its authorized subcontractor (“Authorized Providers”) with respect to the Meru products that You purchased directly from Meru or from a Meru-authorized reseller (“Reseller”). BY USING SUPPORT, YOU ACCEPT, WITHOUT LIMITATION OR QUALIFICATION, ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

Notwithstanding the above, if authorized representatives of Meru and You have previously executed a manually-signed written agreement with respect to the subject matter of this Agreement (“Written Agreement”), the terms of the Written Agreement will control. If You have any questions about these terms and conditions, please contact Meru at support@merunetworks.com, (408) 215-5300 or, if You purchased Support from a Reseller, please contact the Reseller.

1. DEFINITIONS.

1.1 “Documentation” means operating manuals, user instructions and technical literature for the use of the Products, which are provided to You with the Products.

1.2 “Error” means a failure of the Product to operate substantially in accordance with the applicable specifications in the Documentation.

1.3 “Hardware” means the physical components of the Products.

1.4 “Initial Support Term” has the meaning set forth in Section 2.1.

1.5 “Order” means the order that You place with Meru or its Reseller for Support of designated Product(s).

1.6 “Product(s)” means the Meru Hardware, Software or combination thereof, for which Meru offers Support and for which You purchase Support as identified in Your Order.

1.7 “Release” means any software release from Meru – which may be categorized as a Major Release, Minor Release, Maintenance Release or Patch Release.

1.7.1 “Major Release” means any release of the Software that includes substantial new functionality or features and, is identified by a change to the left of the first decimal point (e.g., 2.0 or 3.0).

1.7.2 “Minor Release” means any release of the Software that includes some new functionality or features and, is identified by a change to the right of the first decimal point (e.g., 2.1 or 2.2).

1.7.3 “Maintenance Release” means a release of the Software that includes a grouping of bug fixes related to a particular Major or Minor Release and, is identified by a change to the right of the second decimal point (e.g., 2.4.1 or 2.4.2).

1.7.4 “Patch Release” means a release of the Software that includes a bug fix or an Error-specific fix for an emergency event (in Meru’s sole determination) and, is identified by a change to the right of the dash after the second decimal point (e.g., 2.1.1-1 or 2.1.1-2, aka build number).

1.8 “Software” means the machine-readable object code of the Products, whether incorporated into the Hardware or delivered separately, including Releases thereof.

1.9 “Support” means the support and maintenance services provided by Meru to You with respect to the Products as further described in this Agreement.

1.10 “Support Fees” means the fees for the Initial Support Term that You must pay to Meru or its Reseller pursuant to an Order.

1.11 “Support Renewal Fees” means the fees for the Support Renewal Term (i) if purchased from Meru, as set forth in Meru’s then-current price list for Support at the time of renewal, unless otherwise agreed to in writing by You and an authorized representative of Meru; or (ii) if purchased from a Reseller, as specified by Reseller.

1.12 “Support Renewal Term” has the meaning set forth in Section 2.1.

1.13 “Technical Personnel” means any of Your designated employees or representatives who have undergone such training as required by Meru on the proper operation of the Products.

2. GENERAL TERMS.

2.1 Provision of Support; Term. Subject to the terms and conditions of this Agreement, Meru will use commercially reasonable efforts to provide Support to Your Technical Personnel. Subject to the terms and conditions herein, Meru’s obligation to provide Support to You under each Order shall begin on the date as specified in this Section 2.1 and shall continue for the time period indicated on Meru’s price list for the Support You ordered, unless earlier terminated as provided in Section 5 below (“Initial Support Term”): (i) if You order Products and Support for these Products as part of the same Order, the Initial Support Term shall begin (a) on the date of shipment of the Products by Meru to You (when You purchased the Products directly from Meru) or (b) on the date of shipment of the Products by Meru to the Reseller from whom You purchased the Products (when Reseller purchased the Products directly from Meru), or (c) on the date of shipment of the Products by Meru’s authorized distributor (“Distributor”) to the Reseller from whom You purchased the Products (when Reseller purchased the Products from Distributor); or (ii) if You order Support for Products that are not covered by the Order, the Support term shall begin as set forth in Section 2.3 below. Each Initial Support Term will renew for successive 12-month periods, provided you deliver to Meru such supporting documentation as may be required by Meru, e.g. purchase order, prior to the expiration of the term (each, a “Support Renewal Term”) unless (i) You notify Meru of Your intention to renew Support for a longer term as may be available in Meru’s then-current price list for Support, at least forty-five (45) days prior to expiration of the then-current support term, or (ii) either party provides written notice to the other party of its intention not to renew Support at least forty-five (45) days prior to expiration of the then-current support term, or (iii) unless earlier terminated as provided in Section 5 of this Agreement. Failure by You to deliver the supporting documentation as described above will cause your Support to lapse, and subject you to the terms in Section 2.3. If You purchased Support for the Initial Support

Term from a Reseller, Meru reserves the right to require You to purchase Your first Support Renewal Term from such or any other Reseller.

2.2 Support Activation. To activate Support for each Order, Your authorized representative must register online at <http://www.merunetworks.com/support> or call Meru at 1-888-637-8952 (1-888-Meru-WLAN) or 1-408-215-5305. Activation requires that You provide such information as requested by Meru over the phone or on the registration form, including, without limitation, the serial number of the Product(s) for which You purchased Support.

2.3 Lapsed Support; Reinstatement Support. In the event of any lapse of Support, or in the event you purchase Support after purchasing the Products, Meru may subsequently offer to reinstate (or instate, as the case may be) Support for Products on which the Support lapsed or for any Products purchased by You not previously covered by Support subject to the terms and conditions set forth in this Agreement; provided, however, that (i) in order for Support to be re-instated or instated as applicable, You must pay Support Fees that would otherwise have been due for the period of time for which Support either had not been previously purchased or had lapsed as well as Support Fees due for Support to be provided hereunder, and (ii) such Products (including those Products not previously covered by Support) must be in good working condition. In addition to the Support Fees due hereunder, Meru may (in its sole discretion) charge You a reinstatement fee ("Reinstatement Fee") of twenty-five percent (25%) on the delinquent portion of the Support Fees, including both the lapsed period and current term.

2.4 Discontinued Product (End of Life). Meru will not be obligated to provide Support to You in connection with any discontinued Product beyond three (3) years after the date of such discontinuance, subject to the Support Exclusions in Section 3.7 below.

3. MERUASSURE SUPPORT.

3.1 Hardware Replacement. This section applies if the Support You purchased includes advance Hardware replacement. If the Hardware, when used as intended under normal operating conditions, fails to perform substantially in accordance with the Documentation, You shall promptly notify Meru via telephone at 1-888-637-8952 or email at support@merunetworks.com of such failure, including details of the failure that are sufficient to permit Meru to diagnose and replicate the problem. If the failure is of a character that Meru determines requires factory repair, then Meru will use commercially reasonable efforts to ship replacement Hardware that is the same revision of Hardware, within one (1) business day after making this determination. Notwithstanding the previous sentence, Meru may ship revision-compatible replacement Hardware in its sole discretion, and You agree to accept such replacement Hardware. Within thirty (30) days after You notify Meru of such failure as required in this Section, You must, at Your sole expense, (a) obtain a Return Materials Authorization (RMA) from Meru; (b) pack the Hardware to protect it from damage while in transit; and (c) ship the nonconforming Hardware to Meru, with the RMA number clearly displayed on the exterior of the package. If You purchase Support that includes advance Hardware replacement more than ninety (90) days following Your purchase of the qualifying Product, Meru reserves the right to require a wait period of thirty (30) days from the start of the Support term before providing any advance Hardware replacement. If after attempting to repair the Hardware Meru finds no Error, You will be invoiced for, and agree to pay, the cost of shipping the advance replacement Hardware to You. If You fail to return the non-conforming

Hardware to Meru within thirty (30) days of providing Meru with notice as required in this Section, then Meru will invoice You for the Hardware previously shipped to You as an advance replacement at the lower of the price You paid for the non-conforming Hardware or its then-current Meru list price.

3.2 Releases. If You are current in Your payment obligations, during the term of this Agreement, Meru will provide to You all Major (except as expressly provided in this Section), Minor, Maintenance, and Patch Releases that Meru makes generally available to its other customers receiving MeruAssure Support. Notwithstanding the foregoing, Meru may, in its sole discretion, designate certain Major Releases as not being included as part of Support and subject to Your payment of additional fees. Meru may make Major, Minor, Maintenance, and Patch Releases available to You through electronic download (from the MeruAssure Portal website at <http://www.merunetworks.com/support>) or on optical, magnetic, or other removable media. Meru shall have no liability for any changes in Your hardware which may be necessary to use Product due to any Release (including any error correction). The provision of any Major, Minor, Maintenance, or Patch Release to You will not operate to extend the original warranty period on the Software as part of the Product. Upon the provision of a Release to You, such Release will be deemed to be licensed under the terms and conditions of the original agreement ("End User Agreement") accompanying the Product or executed by You, and You will acquire license rights to use such Release in accordance with the terms and conditions of such End User Agreement. Except as expressly provided in the End User Agreement, no license or other right is granted herein to You, whether directly or by implication, estoppel or otherwise, with respect to any intellectual property right of Meru.

3.3 Telephone Support. Meru will provide telephone support for the use of the Product through its MeruTAC customer service center twenty-four (24) hours a day, seven (7) days a week, three hundred and sixty-five (365) days a year. MeruTAC is staffed by engineers trained to provide customer assistance for the Products. All telephone support will be provided solely to Your Technical Personnel, and will consist of answering questions regarding the proper operation of the Software, providing troubleshooting assistance, and rendering general information, advice, and instructions in connection with the end use of the Product. You will be responsible for providing first-line helpdesk support to Your users of the Products, and You will be responsible for screening first-line technical inquiries and escalating to Meru only those issues that cannot be resolved by Your Technical Personnel. Meru Support Phone Numbers are: 1-888-637-8952 (1-888-Meru-WLAN) or 1-408-215-5305 or such other numbers as Meru may communicate to You.

3.4 E-mail Support. You may submit technical inquiries to Meru via e-mail, at support@merunetworks.com. Meru will use commercially reasonable efforts to respond to e-mail in a timely manner; however, You agree and acknowledge that there may be delays in responses to inquiries submitted via e-mail.

3.5 Error Correction. If the Products exhibit an Error, You will promptly notify Meru of such Error, and Meru will use commercially reasonable efforts to address the Error as described in this Section 3.5.

3.5.1 Priority Levels. At the time You notify Meru of an Error, Your Technical Personnel will provide to Meru the serial number of the affected Product (for Hardware) and in all cases will specify (a) the nature of the Error; (b) the circumstances under which the Error was encountered; (c) technical information relating to the operating environment in

which the Software was running at the time of the Error; (d) the steps, if any, that You took immediately following the Error; and (e) the immediate impact of the Error upon the ability of Your network to function. Upon receipt of such Error report, Meru will evaluate the Error and classify it into one of the following Priority levels based upon the following priority classification criteria:

PRIORITY LEVEL CLASSIFICATION CRITERIA

Priority 1: Used for Errors that cause a critical system or service outage in a live environment, resulting in severe degradation of overall network performance and/or significant reduction in capacity.

Priority 2: Used for Errors that cause intermittent degradation of system or service performance impacting end-user service quality or impairing network operator control or operational effectiveness. Also includes loss of redundancy or diagnostic capabilities.

Priority 3: Used for Errors that cause minor degradation of system or service performance with no impact on end-user service quality and minimal impact on network operations.

Priority 4: Used for Errors that cause no impact on system or network operations and includes information requests or standard questions on the configuration or functionality of equipment.

3.5.2 Problem Resolution.

Priority 1 Errors: Meru will use commercially reasonable efforts to provide an initial response to Your Technical Personnel within one (1) hour of You contacting MeruTAC for Priority 1 Errors. Meru will commit resources to work on a round-the-clock basis until a correction or workaround to the Priority Level 1 Error is found. Such corrections or work-arounds may take the form of Maintenance or Patch Releases, procedural solutions, correction of Documentation errors, or other such remedial measures as Meru may determine, in its sole discretion, to be appropriate. Meru will provide You with a problem resolution schedule and inform You of its progress on a daily basis. Priority 1 Errors will be downgraded to a Priority 2 upon the delivery to You of a correction or work-around.

Priority 2 Errors: Meru will commit resources to formulate a correction or work-around to the Priority 2 Error during Meru's normal business hours and in accordance with its existing Release schedule. Such corrections or workarounds may take the form of Maintenance or Patch Releases, procedural solutions, correction of Documentation errors, or other such remedial measures as Meru may determine, in its sole discretion, to be appropriate. Meru will provide You with a problem resolution schedule and inform You of its progress on a weekly basis.

Priority 3 Errors: Meru will use commercially reasonable efforts to provide corrections or work-arounds to Priority 3 Errors during Meru's normal business hours and in accordance with its existing Release schedule. Such corrections or work-arounds may take the form of Major, Minor, Maintenance, or Patch Releases, procedural solutions, correction of Documentation errors, or other such remedial measures as Meru may determine, in its sole discretion, to be appropriate.

Priority 4 Errors: Meru will use commercially reasonable efforts to provide resources during Meru's normal business hours to provide information assistance or provide feedback.

3.6 Meru Online Support Portal. You may access the Meru Online Support Portal at <http://www.merunetworks.com/support>, through which You may obtain FAQs, field alerts, release notes and product documentation that enable You to troubleshoot issues that You may be having with the Products. Meru Online Support Portal is available twenty-four (24) hours per day, seven (7) days per week. You will need a secure login and password ("ID") to access the Meru Online Support Portal. At Your request via phone or email, Meru will provide You with Your ID. You will (and You will cause Your employees and agents to) maintain at all times the confidentiality of Your ID and otherwise will treat such information as Confidential Information of Meru. You agree to accept responsibility for all activities that occur through the use of Your ID.

3.7 Exclusions. Meru shall not be obligated to provide Support with respect to any Product for which You have not paid Meru the applicable Support Fees, Support Renewal Fees or Reinstatement Fee (as defined in Section 6.5), as applicable, or to the extent that such Support arises from or relates to any of the following ("Support Exclusions"): (a) any modifications or alterations of the Products by any party other than Meru; (b) Errors or other problems caused by Your negligence, abuse or misapplication, use of the Product other than as specified in the applicable Documentation (including, but not limited to, incompatible operating environments and systems), accidents, acts of nature or other causes beyond the control of Meru; (c) any use of Software other than the current Minor Release or the immediately preceding Minor Release, on Hardware that has not been designated as Discontinued or End of Life by Meru; (d) any use of Software other than the most recent Minor Release or the immediately preceding Minor Release that is compatible (as determined by Meru in its sole discretion) with Hardware that has been designated as Discontinued or End of Life by Meru; (e) any issues arising from the failure of the Products to interoperate with any other software or equipment, except to the extent that such interoperability is expressly mandated in the applicable Documentation; (f) any breakdowns, fluctuations, or interruptions in electric power or the telecommunications or cable network; (g) any third party application (except to the extent such third party application is a Product and You specifically purchased Support with respect to such Product as part of the Order); or (h) any Error that is not verifiable and reproducible by Meru. Support shall not include on-site support for the Products. On-site support is required to be purchased separately. Meru shall have no liability for any Support Exclusions and further reserves the right to charge additional amounts to You for any Support requests from You with respect to Support Exclusions and You agree to pay such charges.

4. YOUR RESPONSIBILITIES. As a condition to all of Meru's obligations under this Agreement, You agree to comply with the following obligations:

4.1 Trained Personnel. You will ensure that Your personnel who use the Products in the course of their employment or work for You are familiar with the Products to the extent necessary for them to operate the Products with reasonable competence. Without limiting the generality of the foregoing, You will cause all Technical Personnel to complete such training and instruction as Meru may reasonably require from time to time, at the then-current terms and price for such training and instruction as currently set forth at <http://www.merunetworks.com/support>.

4.2 General Cooperation. You will cooperate with Meru as requested by Meru to facilitate Meru's provision of Support hereunder. Without limiting the foregoing, at Meru's request,

You will (i) provide Meru with reasonable access to appropriate personnel, records, network resources, maintenance logs, physical facilities, and equipment; (ii) refrain from undertaking any operation that would directly or indirectly block or slow down any maintenance service operation; and (iii) comply with Meru's instructions regarding the use and operation of the Products. You will keep a detailed operations log for the Products and will document any Errors that arise. You acknowledge and agree that failure to have any or all information or access available as needed by Meru in order to provide Support may result in delays in Meru's response and/or may hinder Meru's ability to perform Support, and Meru will not be responsible for any such delay or inability. Further, any response, resolution or other time commitments agreed to by Meru in this Agreement will be suspended pending Meru's receipt of all such information and/or access. You agree and acknowledge that Meru's obligations under this Agreement are limited to the Products, and that Meru is not responsible for the operation and general maintenance of Your operating environment.

5. TERM AND TERMINATION.

5.1 Termination for Cause. Either party may terminate this Agreement upon immediate written notice in the event that the other party (the "Breaching Party") materially breaches this Agreement and such breach remains uncured for a period of thirty (30) days following written notice of such breach to the Breaching Party.

5.2 Effect of Termination. Upon any termination of this Agreement, Meru will immediately cease providing Support. The provisions of Sections 4.2, 5.2, 6, 7.2, 8, 9 and 10 of this Agreement will survive any termination or expiration hereof.

6. FEES AND PAYMENT TERMS. The terms in this Section 6 apply to Support that You purchase directly from Meru. If You purchase Support from a Reseller, such Reseller's fees and payment terms shall apply.

6.1 Support Fees. You will pay Meru the Support Fees invoiced by Meru for Support during the Initial Support Term.

6.2 Support Renewal Fees. For each Support Renewal Term, You will pay the Support Renewal Fees invoiced by Meru. Meru shall notify You in writing of the Support Renewal Fees applicable to the Support Renewal Term (if such fees are higher than the Support Fees paid by You for the immediately preceding Support period) no less than thirty (30) days prior to the end of the then-current Support period.

6.3 Payment. You will pay all Meru invoices within thirty (30) days of the date of invoice or, in the case of Support Renewal Fees, no later than the expiration of the previous Support term. The Support Fees, Support Renewal Fees and Reinstatement Fee (as defined in Section 6.5) are non-refundable. All fees are stated and payable in U.S. Dollars and are exclusive of sales, use, excise, property or any other taxes. You are responsible for payment of all such taxes (except those based on Meru's net income). Payments due under this Agreement are not subject to any set-off claims by You. If at any time You are delinquent in the payment of any invoice or are otherwise in breach of this Agreement, Meru may, in its sole discretion, withhold Support until payment in full is made or the breach is cured, as applicable. Payment not received by Meru when due may be subject to a late payment service charge of 1.5% per month (or, if lower, the highest rate permitted by applicable law) of the overdue amount.

6.4 Billing Periods. At Your request or otherwise, Meru may from time to time re-designate the timing and/or duration of the billing periods with respect to certain Product for which

Support was purchased to coincide with the billing periods of other Products under Support, in order to simplify invoicing, and the Support Fees or Support Renewal Fees, as applicable, will be re-allocated accordingly.

7. LIMITED WARRANTY; DISCLAIMER.

7.1 Limited Warranty. Meru warrants to You that Meru will provide Support in a workmanlike manner. Your sole and exclusive remedy, and Meru's entire liability, for any breach of the foregoing warranty shall be for Meru to re-perform, at no cost to You, such non-conforming Support, provided that You report the non-conformity to Meru in writing within thirty (30) days after the date of completion of such non-conforming Support.

7.2 Disclaimer. EXCEPT AS EXPRESSLY STATED IN SECTION 7.1 ABOVE, ALL SUPPORT IS PROVIDED TO YOU "AS IS" AND "AS AVAILABLE", WITHOUT WARRANTY OF ANY KIND, AND MERU AND ITS SUPPLIERS AND LICENSORS DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, GUARANTEES, AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO SUPPORT AND OTHERWISE UNDER THIS AGREEMENT, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, ACCURACY, AND QUIET ENJOYMENT. MERU DOES NOT WARRANT THAT SUPPORT WILL MEET YOUR REQUIREMENTS AND THAT EVERY REPORTED PROBLEM OR ERROR IN THE PRODUCTS CAN OR WILL BE RESOLVED TO YOUR SATISFACTION.

8. LIMITATION OF LIABILITY. MERU WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST BUSINESS, LOST DATA, LOSS OF USE, OR COST OF COVER INCURRED BY YOU ARISING OUT OF OR RELATED TO YOUR PURCHASE OR USE OF, OR INABILITY TO USE, THE PRODUCTS OR SUPPORT, OR OTHERWISE RELATED TO THIS AGREEMENT, UNDER ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, EVEN IF MERU KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE CUMULATIVE LIABILITY OF MERU FOR ALL CLAIMS WHATSOEVER RELATED TO THIS AGREEMENT WILL NOT EXCEED THE PRICE YOU PAID MERU UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE. THE LIMITATIONS SET FORTH HEREIN ARE INTENDED TO LIMIT THE LIABILITY OF MERU AND SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to You.

9. CONFIDENTIALITY.

9.1 Confidential Information. Each party agrees to keep confidential and not disclose to any third party, and to use only for purposes of performing or as otherwise permitted under this Agreement, all proprietary or confidential information disclosed or made available by the other party pursuant to this Agreement that, is labeled confidential or proprietary, or should reasonably be considered to be confidential or proprietary based on the nature of the information or the circumstances surrounding its disclosure ("Confidential Information"). In the case of Meru, all proprietary or confidential information relating to the Products disclosed or made available by Meru, including without limitation, the Software's organization, structure, sequence, logic and source code, and the terms of this Agreement, shall be deemed Confidential Information of Meru, whether or not so labeled or identified. The receiving party shall protect the Confidential Information using measures similar to those it takes to protect its own confidential and proprietary information of a similar nature, but not less than reasonable measures. The Confidential Information shall only be disclosed to the receiving party's employees and contractors who are bound by obligations of confidentiality and non-use no less restrictive than this Agreement.

9.2 Exceptions. These obligations shall not apply to information which is publicly available other than through unauthorized disclosure by the receiving party, is known by the receiving party at the time of disclosure as evidenced in writing, is rightfully obtained by the receiving party from a third party who has the right to disclose it, or which is required by law, government order or request to be disclosed by the receiving party (in which case such party must use its best efforts to give the disclosing party notice of the requirement so that disclosure can be contested by the disclosing party and receiving party agrees to seek to obtain (or to cooperate with disclosing party in obtaining) confidential treatment of such information).

10. GENERAL.

10.1 This Agreement will be governed by and construed in accordance with the laws of the State of California, U.S.A., without reference to its conflict of law principles. Except for actions seeking injunctive relief for a violation of intellectual property rights, confidentiality obligations or enforcement or recognition of any award or order in any appropriate jurisdiction, (a) if You are located in the United States, any and all claims, controversies or actions arising out of or relating to this Agreement shall be filed exclusively in the state and federal courts located in the County of Santa Clara, California; and (b) if You are located outside of the United States, then all claims, disputes or controversies arising out of or related to this Agreement shall be subject to binding arbitration in Santa Clara, California, under the Commercial Arbitration Rules of the American Arbitration Association.

10.2 If a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect as the original provision and the remainder of this Agreement will remain in full force. Failure of a party to enforce any provision of this Agreement shall not be construed as a waiver of such provision or of the right to enforce such provision.

10.3 Except as expressly provided in this Agreement with respect to Written Agreement, this Agreement sets forth the entire agreement between the parties, and supersedes all prior or contemporaneous representations or understandings between the parties, written or oral, regarding such subject matter. Any different or additional term on any

purchase order or other correspondence provided by You will have no force or effect and are not binding on Meru. No modification or amendment of this Agreement will be binding unless in writing and signed by an authorized representative of Meru. The Products may be subject to export control laws, rules and regulations of the United States and applicable foreign jurisdictions, and You agree to comply with all such laws, rules and regulations.

10.4 Notices under this Agreement must be in writing and will be deemed given when delivered personally, by email or by facsimile (with confirmation of receipt) or by conventional mail (registered or certified, postage prepaid with return receipt requested). Notices will be addressed, (a) if to You, at the address provided by You and required as part of the activation process and (b) if to Meru, Attention: Legal at the address provided on the Meru website at www.merunetworks.com, but each party may change the address by written notice in accordance with this paragraph.

10.5 Meru shall not be liable for failure or delay in fulfilling or performing any of its obligations under this Agreement to the extent that such failure or delay is due to any cause beyond the control of Meru.

10.6 This Agreement will be binding upon and inure to the benefit of the parties, their successor and permitted assigns. You may not transfer, sublicense or otherwise assign this Agreement or any of its rights or obligations hereunder without Meru's prior written consent. Any attempted assignment in violation of this Section will be void.