Itential End User License Agreement

This End User License Agreement, including the Order Form, which by this reference is incorporated herein (this "**Agreement**"), is a binding agreement between Itential, LLC ("**Licensor**") and _____ "Licensee" ("**Licensee**").

1.   Definitions. For purposes of this Agreement, the following terms have the following meanings:

(a)   "**Authorized Users**" means (i) the employees and independent contractors of Licensee and its affiliates and (ii) any third parties that Licensee or any of Licensee's affiliates authorizes to act on its behalf.

(b)   "**Documentation**" means user manuals, technical manuals and any other materials provided by Licensor, in printed, electronic or other form, that describe the installation, operation, use or technical specifications of the Software.

(c)   "**License Fees**" means the license fees, including all taxes thereon, paid or required to be paid by Licensee for the license granted under this Agreement.

(d)   "**Licensee**" has the meaning set forth in the preamble.

(e)   "**Intellectual Property Rights**" means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

(f)   "**Licensor**" has the meaning set forth in the preamble.

(g)   "**Order Form**" means the electronic order placed by or on behalf of Licensee for Licensee's purchase of the license for the Software granted under this Agreement.

(h)   "**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

(i)   "**Software**" means the software programs for which Licensee is purchasing a license, as expressly set forth in the Order Form, including Third Party Licenses.

(j)   "**Third Party**" means any Person other than Licensee or Licensor.

2.   <u>License Grant and Scope</u>. Subject to and conditioned upon Licensee's compliance with all terms and conditions set forth in this Agreement, Licensor hereby grants to Licensee a non-exclusive, non-transferable and non-sublicensable, except to the affiliated companies of Licensee, perpetual, limited (as provided in this Agreement) license to use, solely by and through its Authorized Users, the Software and Documentation, solely as set forth in this **Section 2** and subject to all conditions and limitations set forth in **Section 4** or elsewhere in this Agreement. This license grants Licensee the right, exercisable solely by and through Licensee's Authorized Users, to:

(a)   Download, copy and install the number of copies of the Software set forth on the Order Form on each of the designated hardware platforms set forth on the Order Form. In addition to the foregoing, Licensee has the right to make one copy of the Software solely for archival purposes and a reasonable number of copies of the Software solely for backup purposes, provided that Licensee shall not, and shall not allow any Person to, install or use any such copy other than if and for so long as any copy installed in accordance with the preceding sentence is inoperable and, provided, further, that Licensee uninstalls and otherwise deletes such inoperable copy(ies). All copies of the Software made by the Licensee:

(i)   will be the exclusive property of the Licensor;

(ii)   will be subject to the terms and conditions of this Agreement; and

(iii)   must include all trademark, copyright, patent and other Intellectual Property Rights notices contained in the original.

(b)   Use and run the Software as properly installed in accordance with this Agreement, the Order Form and the Documentation, solely as set forth in the Documentation and the Order Form.

(c)   Download or otherwise make one (1) copy of the Documentation per copy of the Software permitted to be downloaded or made and installed in accordance with this Agreement and use such Documentation, solely in support of its licensed use of the Software in accordance herewith. All copies of the Documentation made by Licensee:

(i)   will be the exclusive property of Licensor;

(ii)   will be subject to the terms and conditions of this Agreement; and

(iii)   must include all trademark, copyright, patent and other Intellectual Property Rights notices contained in the original.

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(d)   Transfer any copy of the Software from one hardware device to another, provided that the number of hardware devices on which the Software is installed at any one time does not exceed the number permitted under **Section 2(a)**.

3.   <u>Third-Party Materials</u>. The Software includes software, content, data or other materials, including related documentation, that are owned by Persons other than Licensor and that are provided to Licensee on licensee terms that are in addition to and/or different from those contained in this Agreement, including open source software ("**Third-Party Licenses**"). A list of all materials included in the Software and provided under Third-Party Licenses and the terms of such licenses is attached to this Agreement. Licensee is bound by and shall comply with all Third-Party Licenses, provided the terms of such licenses have been made available to Licensee by attaching them to the execution copy of this Agreement.

4.   <u>Use Restrictions</u>. Licensee shall not, and shall require its Authorized Users not to, directly or indirectly:

(a)   use (including make any copies of) the Software or Documentation beyond the scope of the license granted under **Section 2**;

(b)   modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Software or Documentation or any part thereof;

(c)   combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other programs;

(d)   reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Software or any part thereof;

(e)   remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices provided on or with the Software or Documentation, including any copy thereof;

(f)   except as expressly set forth in **Section 2(a)** and **Section 2(c)**, copy the Software or Documentation, in whole or in part;

(g)   rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Software, or any features or functionality of the Software, to any Third Party for any reason, whether or not over a network or on a hosted basis, including in connection with the internet or any web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-

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sharing, service bureau, software as a service, cloud or other technology or service; or

    (h)   use the Software or Documentation in violation of any law, regulation or rule.

5.   <u>Responsibility for Use of Software</u>. Licensee is responsible and liable for all uses of the Software and Documentation through access thereto provided by Licensee, directly or indirectly, subject to the limitation of liability as set forth in this Agreement. Specifically, and without limiting the generality of the foregoing, Licensee is responsible and liable for all actions and failures to take required actions with respect to the Software and Documentation by its Authorized Users or by any other Person to whom Licensee or an Authorized User may provide access to or use of the Software and/or Documentation, whether such access or use is permitted by or in violation of this Agreement, subject to the limitation of liability as set forth in this Agreement.

6.   <u>Intellectual Property Rights</u>. Licensee acknowledges and agrees that the Software and Documentation are provided under license, and not sold, to Licensee. Licensee does not acquire any ownership interest in the Software or Documentation under this Agreement, or any other rights thereto other than to use the same in accordance with the license granted, and subject to all terms, conditions and restrictions, under this Agreement. Licensor and its licensors and service providers reserve and shall retain their entire right, title and interest in and to the Software and all Intellectual Property Rights arising out of or relating to the Software, except as expressly granted to the Licensee in this Agreement. Licensee shall safeguard all Software (including all copies thereof) from infringement, misappropriation, theft, misuse or unauthorized access. Licensee shall promptly notify Licensor if Licensee becomes aware of any infringement of the Licensor's Intellectual Property Rights in the Software and fully cooperate with Licensor in any legal action taken by Licensor to enforce its Intellectual Property Rights.

7.   <u>Term and Termination</u>.

    (a)   This Agreement shall remain in effect until terminated as set forth herein.

    (b)   Licensee may terminate this Agreement by ceasing to use and destroying all copies of the Software and Documentation.

    (c)   Either party may terminate this Agreement, effective upon written notice to the other party, if a party, materially breaches this Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured 30 days after a party provides written notice thereof.

(d)   Either party may terminate this Agreement, effective immediately, if either party files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property.

(e)   Upon termination of this Agreement for Licensee's material breach, the license granted hereunder shall also terminate, and Licensee shall cease using and destroy all copies of the Software and Documentation. No termination shall affect Licensee's obligation to pay all Licensee Fees that may have become due before such termination, in accordance with Section 13(f), or entitle Licensee to any refund, in each case except as set forth in Section 8(b)(ii).

(f)   The indemnity as set forth in Section 9 (a) shall survive termination of this Agreement. In addition, the provisions of Sections 10 (Limitation of Damages), 11 (Export Regulation), 12 (U.S. Government Rights) and 13 (Miscellaneous) shall survive termination of this Agreement.

8.   <u>Limited Warranties, Exclusive Remedy and Disclaimer/Warranty Disclaimer</u>.

(a)   Licensor warrants that,:

(i)   for a period of 180 days following the purchase date set forth on the Order Form, any media on which the Software is provided will be free of material damage and defects in materials and workmanship under normal use;

(ii)   for a period of 180 days following the purchase date set forth on the Order Form ,the Software will function in conformance with the Documentation;

(iii)   the Software will not contain any software, electronic, mechanical or other means, device or function that would allow Licensor or a third party to monitor or gain unauthorized access to any Licensee system without Licensee's express consent, use any electronic self-help mechanism or restrict, disable, limit or impair the performance of any software, Software or Licensee system; and

(iv)   the Software is free from any Virus at the time when it is Delivered to Liberty Global

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(v)   notwithstanding the indemnity as set forth in Section 9(a) and subject to the exceptions in Section 9(d) below, the Software will not infringe or misappropriate a third party's rights in any Intellectual Property.

(b)   If, during the period specified in Section 8(a), any Software covered by the warranty set forth in such Section fails to perform substantially in accordance with such warranty, Licensor will, subject to Licensee's promptly notifying Licensor in writing of such failure, at its sole option, either:

(i)   repair or replace the Software; or

(ii)   refund the License Fees paid for such Software, subject to Licensee's ceasing all use of and, if requested by Licensor, returning to Licensor all copies of the Software.

If Licensor repairs or replaces the Software, the warranty will continue to run from the initial date specified on the Order Form, and not from Licensee's receipt of the repair or replacement. The remedies set forth in this Section 8(b) are Licensee's sole remedies with respect to the warranty in Section 8(a).

(C)   EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 8(A) OR ANY OTHER WARRANTY SET FORTH IN A SEPARATE AGREEMENT BETWEEN LICENSOR AND LICENSEE OR BETWEEN LICENSEE AND AN AUTHORIZED DISTRIBUTOR OR RESELLER OF THE SOFTWARE, THE SOFTWARE AND DOCUMENTATION ARE PROVIDED TO LICENSEE "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 8(A) OR ANY OTHER WARRANTY SET FORTH IN A SEPARATE AGREEMENT BETWEEN LICENSOR AND LICENSEE OR BETWEEN LICENSEE AND AN AUTHORIZED DISCTRIBUTOR OR RESELLER OF THE SOFTWARE, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LICENSOR, ON ITS OWN BEHALF AND ON BEHALF OF ITS LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, THE LICENSOR PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SOFTWARE WILL MEET THE LICENSEE'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION,

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MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

9. Licensor Intellectual Property Indemnity.

(a) Subject to the exceptions in Section 9(d) below, Licensor will indemnify and defend Licensee and its employees, officers, directors and affiliated companies ("**Indemnified Parties**") from and against from and against all claims, suits, demands and actions brought against the Indemnified Parties or tendered to the Indemnified Parties for defense and/or indemnification (collectively "**Claims**"), and for all resulting damages, losses, costs, and liabilities (including reasonable attorney and professional fees) that result or arise from Claims that the use of the Software constitutes an infringement or misappropriation of a third party's rights in any Intellectual Property.

(b) The Indemnified Party will promptly notify Licensor, in writing, of any Claim for which such Indemnified Party believes that it is entitled to indemnification (provided that an Indemnified Party's failure to provide such notice or to provide it promptly will relieve Licensor of its indemnification obligations only if and to the extent that such failure prejudices Licensor's ability to defend the Claims). The Indemnified Party may employ counsel at its own expense to assist it with respect to any such Claim; provided, however, that if such counsel is necessary because of a conflict of interest of either Licensor or its counsel or because Licensor does not assume control, Licensor will bear the expense of such counsel. The Indemnified Party shall have no authority to settle any claim on behalf of Licensor.

(c) If Licensee's right to sell or use Software is enjoined, Licensor will, at Licensor's expense, in the following order as is commercially reasonable:

(i) procure for Licensee and its Customers the right to use the Software;

(ii) replace the Software with equivalent non-infringing Software;

(iii) modify the Software so it becomes non-infringing; or

(iv) remove the Software, refund the price paid by Licensee and reimburse Licensee for all reasonable expenses for removal and replacement of the Software.

(d) Licensee makes no warranty of non-infringement with respect to and has no obligation to indemnify Licensor for infringement or misappropriation that is the result of:

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<ol type="i">
<li value="1">use of the Software for purposes other than as contemplated by the Specifications; or
<li value="2">use of the Software in combination with third-party hardware, software, or systems (other than as specifically contemplated in the Specifications).

10.   <u>Limitation of Damages</u>.

    (a)   NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEPT:

        (I)   DAMAGES FOR WHICH A PARTY HAS AN OBLIGATION OF INDEMNITY UNDER THIS AGREEMENT;

        (II)   ANY GROSSLY NEGLIGENT, WILLFUL OR FRAUDULENT ACT OR OMISSION; OR

        (III)   INFRINGEMENT OR MISAPPROPRIATION OF LICENSOR'S INTELLECTUAL PROPERTY RIGHTS IN THE SOFTWARE.

        "CONSEQUENTIAL DAMAGES" INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES AND LOST BUSINESS OPPORTUNITIES, WHETHER THE OTHER PARTY WAS OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES.

    (B)   OTHER THAN WITH RESPECT TO THE MATTERS DESCRIBED IN SECTIONS 10(A)(I)THROUGH 10(A)(III) ABOVE, IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY LICENSEE IN ACCORDANCE WITH SECTION 13 (F) FOR THE SOFTWARE.

    (c)   The limitations in this Section 10 will apply even if a party's remedies under this Agreement fail of their essential purpose.

11.   <u>Export Regulation</u>. The Software and Documentation may be subject to US export control laws, including the US Export Administration Act and its associated regulations. The Licensee shall not, directly or indirectly, export, re-export or release the Software or Documentation to, or make the Software or Documentation accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. The

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Licensee shall comply with all applicable federal laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Software or Documentation available outside the US.

12.   US Government Rights. The Software is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if the Licensee is the US Government or any contractor therefor, Licensee shall receive only those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.

13.   Miscellaneous.

(a)   This Agreement is governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of New York. Any legal suit, action or proceeding arising out of or related to this Agreement or the licenses granted hereunder shall be instituted in the federal courts of the United States or the courts of the State of New York in each case located in the city of New York, New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

(b)   Licensor will not be responsible or liable to Licensee, or deemed in default or breach hereunder by reason of any failure or delay in the performance of its obligations hereunder where such failure or delay is due to strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning or Licensee equipment, loss and destruction of property or any other circumstances or causes beyond Licensor's reasonable control.

(c)   All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight

courier (receipt requested); (c) on the date sent by facsimile or e-mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on the Order Form (or to such other address as may be designated by a party from time to time in accordance with this Section 13(c)).

(d)   Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement without Licensor's prior written consent, which consent Licensor may give or withhold in its sole discretion. Notwithstanding the foregoing, Licensee may assign this Agreement on notice to Licensor to any entity acquiring substantially all of Licensor's assets. Any purported assignment, delegation or transfer in violation of this Section 13(d) is void. Licensor may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under this Agreement without Licensee's consent. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

(e)   This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(f)   It is agreed between the parties that the Licensee Fees will not be paid to Licensor by Licensee directly, but by Cisco Systems International BV or one of its affiliated companies (hereinafter **"Cisco"**). Payment by Cisco of the License Fees discharges Licensee in full from its obligations to pay the License Fees.

(g)   This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(h)   If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(i)   For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Sections and Exhibits refer to the Sections of, and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Order Form and all Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

(j)   The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

[Signatures follow.]

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The parties have signed this Agreement effective as of the date of last signature below.

Licensor:

Itential, LLC

_____
Name:
Title:

Licensee:

_____

_____
Name:
Title: