VECTRA NETWORKS, INC.
PURCHASE AND LICENSE AGREEMENT

This Purchase and License Agreement (this "Agreement") is entered into by and between Vectra Networks, Inc., a Delaware corporation having a principal place of business at 550 S Winchester Blvd, San Jose, CA 95128 ("VECTRA"), and [•], a [•] corporation having a principal place of business located at [•] ("Customer"). VECTRA and Customer hereby agree as follows:

1   Definitions

"Hardware" means the VECTRA hardware products set forth in the Order.

"Product" means the VECTRA security services product(s) set forth in the Order that consist of Hardware, Software, and/or Subscriptions.

"Order" means a sales quotation or order confirmation provided by VECTRA that specifies Product(s) to be provided under this Agreement.

"Software" means the executable code version of VECTRA's software products set forth in the Order and any updates thereto furnished by VECTRA under this Agreement.

"Subscriptions" means subscription-based Software or services provided by VECTRA to Customer for a fixed or recurring period, subject to subscription fees for each such period as set forth in the Order.

2   Products and Services

2.1   Purchase of Hardware. Customer agrees to purchase the Hardware set forth in the Order on the terms set forth in this Agreement.   Delivery shall be FCA (Incoterms 2010) VECTRA's point of shipment. All delivery dates are estimates.

2.2   Software License. Subject to the terms and conditions of this Agreement, VECTRA grants to Customer a nonexclusive, nontransferable, limited license to use the Software in accordance with the applicable user documentation and license keys provided by VECTRA   solely for Customer's internal use: (i) at the Customer facility authorized in the Order, (ii) during the period for which Customer has purchased a then-current license and Subscription and paid the applicable subscription fees, (iii) by Licensee employees up to the number of users for whom then-current licenses and Subscriptions have been paid, and (iv) for the measured bandwidth usage ("Measured Usage") as calculated in accordance with Section **Error! Reference source not found.**, up to the service level set forth in the Order ("Service Level").

2.3   Subscriptions. The Subscriptions will commence on the Effective Date (or other applicable start date specified in the Order) and will continue for the period set forth in the Order (the "Initial Subscription Term"). The Subscriptions will automatically renew at the end of the Initial Subscription Term and any subsequent term for a renewal term of one (1) year (each a "Renewal Subscription Term," and together with the Initial Subscription Term, the "Subscription Term") unless either party has provided written notice of non-renewal of the applicable Subscription at least ninety (90) days prior to the end of the then-current term. All renewals are subject to payment of applicable subscriptions fees as set forth in Section 3 below.

2.4   Maintenance and Services**.** Maintenance services are subject to Exhibit A and require payment of applicable subscription fees as set forth in Section 3 below ("Maintenance"). Installation, training and other support services may be provided if set forth in the Order, subject to the terms set forth in Exhibit A and payment of all applicable fees for such services as set forth in Section 3 below.

2.5   Evaluation. Any Hardware, Software or Subscriptions provided for evaluation or at no charge or for a nominal charge may only be used for evaluation during the evaluation period set forth in the Order, not to exceed 90 days ("Evaluation Period") and solely for considering whether to purchase the applicable Product from Customer and not for any other purpose or any productive use. Customer shall return and discontinue all use of such Products at the end of the Evaluation Period.

2.6   Restrictions. Customer shall not (and shall not permit any third party to) (i) copy, modify, translate, reverse engineer, decompile, disassemble or otherwise reduce the Software or Subscriptions to human perceivable form or attempt to discover underlying source code, algorithms or techniques, except to the extent that such activities may not be prohibited under applicable law, (ii) provide, lease, use for timeshare or service bureau purposes, or lend or otherwise allow use of any Product by or on behalf of any third party or at any location other than the Customer facility authorized in the Order, (iii) disclose any benchmarking, competitive analysis or other results obtained from any Product or use any Product or portion thereof to develop any similar item or any competitive products or services, (iv) use or remove the applicable Software or Subscriptions from any Hardware on which or for which they are provided under the applicable Order, (v) attempt to disable or circumvent any license key, encryption or other security device or mechanism used in connection with the Product, Software or Subscriptions; or (vi) remove or otherwise interfere with any portion of the Product designed to monitor Customer's compliance with this Agreement. Customer acknowledges that Software and Subscriptions may include license keys and other features that disable use at the end of the applicable license or Subscription Term, or once the Service Level set forth in the Order is met.

2.7   Proprietary Rights. The Software and Subscriptions are licensed and not sold. VECTRA shall retain ownership of all Software and Subscriptions and all intellectual property rights relating thereto. Customer agrees that VECTRA may use and exploit without restriction any error reports, suggestions and other information provided by Customer with respect to the Products and shall own any fixes, modifications, improvements and new versions made by VECTRA based on such information. The Products, Software, documentation and other non-public information provided by VECTRA, and the terms of this Agreement, are confidential to VECTRA and shall not be disclosed by Customer to any third party. Products may contain certain software or portions provided under terms and conditions different from this Agreement (such as open source or community source), which may be identified in a text file or about box or in a file or files referenced thereby, and

Customer agrees that such software or portions will be subject to such other terms and conditions to the extent inconsistent with this Agreement or to the extent required by such other terms and conditions. All implied licenses are disclaimed and all rights not expressly granted herein are reserved to VECTRA.

2.8 <u>Data Access</u>. VECTRA collects personally identifiable information uploaded during registration or account administration and information provided during support requests (collectively, "<u>Customer Administrative Data</u>"). Customer Administrative Data includes, for example, name, email address, phone number, and VECTRA-generated licenses associated with a Customer's account or email address. In the provision of the Product or a Subscription (including services related thereto), VECTRA may receive, store, process, and utilize network traffic data, including system stability data, threat detection information, user experience data, user interface data, and session and detection metadata (including packet capture data) (such data, "<u>Customer Traffic Data</u>" and, together with Customer Administrative Data, all such data is "<u>Customer Data</u>"). Without limiting the foregoing, VECTRA may automatically access, process, and retain Customer Traffic Data transferred on networks to which Customer connects any Product for purposes of product improvement, analysis, and evaluation as follows:

    a. <u>Default Access</u>. VECTRA may monitor and access: (i) system stability data, including uptime statistics for various processes; hardware, software and network failure indicators; and backtrace and call stack data; (ii) threat detection information, including the number, type and score of each threat detection instance (based on VECTRA proprietary metrics); the attribution of each threat detection to an anonymized host; and the score for each anonymized host; (iii) anonymized user experience data, including the last login time; the frequency of logins; and User Interface clickstream data; and (iv) interface data.

    b. <u>Optional Metadata Access</u>. As set forth in the Order or as Customer otherwise elects during the installation, configuration or use of the Products, VECTRA may (in addition to the Customer Traffic Data set forth in Section 2.1a) monitor and access non-identifying session and detection metadata, including DNS, HTTP and session data; detection details; host ID mapping data; and precursors.

    c. <u>Optional Virtual Private Network ("VPN") Access</u>. As set forth in the Order or as Customer otherwise elects during the installation, configuration or use of the Products, VECTRA may (in addition to the Customer Traffic Data set forth in Sections 2.8a) and 2.8b) receive VPN access to Customer's network, monitor and access packet capture data, and facilitate troubleshooting.

2.9 <u>Data Access Consent</u>. Customer acknowledges that the Products detect threats and attacks by monitoring Customer Data, and that the Products may be less effective in detecting threats, attacks, or other suspicious or unauthorized activity if the Products do not have adequate access to Customer Data. Customer authorizes and directs VECTRA to store, process, retrieve, and disclose Customer Data for the following purposes: (i) providing service to Customer; (ii) analyzing, maintaining and improving VECTRA's products and services; (iii) complying with legal, governmental or contractual terms or requirements, including without limitation good faith efforts to comply with such terms or requirements; (iv) making malicious or unwanted content anonymously available to its licensors for the purpose of further developing and enhancing VECTRA products and services; and (v) anonymously aggregating and statistically analyzing malicious or unwanted content. In addition, VECTRA may use Customer Administrative Data for the following purposes: (i) to inform Customer about products, seminars and services VECTRA believes may be of interest to you; (ii) to contact Customer if VECTRA needs to obtain or provide additional information; and (iii) to verify the accuracy of VECTRA's records. VECTRA may use web analytics and cookies as set forth in the VECTRA Privacy Policy available online at http://www.vectranetworks.com/privacy_policy/, which VECTRA may amend from time to time.

2.10 <u>Data Protection by Customer</u>. Customer represents and warrants that Customer's use of the Products and Subscriptions complies with all applicable laws, including those related to data privacy, data security, and international communications and that Customer has obtained any and all consents necessary for VECTRA to engage in data processing under this Agreement. Submission or provision of Customer Data to VECTRA shall be at Customer's own risk, and VECTRA assumes no responsibility or liability for receipt of such Customer Data.

2.11 <u>Confidentiality</u>. The Software in source code form remains a confidential trade secret of VECTRA and/or its suppliers. The Software is protected by the copyright and other intellectual property laws of the United States and international treaties. Customer acknowledges that, in the course of using the Product, including the Software, Customer may obtain or learn information relating to the Software, which may include, without limitation, information relating to the performance, reliability or stability of the Software, operation of the Software, knowhow, techniques, processes, ideas, algorithms, and software design and architecture ("<u>Proprietary Information</u>"). As between the parties, such Proprietary Information shall belong solely to VECTRA. During and after the term of this Agreement, Customer shall hold in confidence and protect, and shall not use (except as expressly authorized by this Agreement) or disclose, Proprietary Information to any third party.

3 Fees and Payments

3.1 <u>Fees</u>. Customer agrees to pay the purchase price for the Hardware, license fees and subscription fees for the Software, Subscriptions and Maintenance, renewal fees and other payments as set forth in the Order, or if not specified, at VECTRA's then-current list price for the respective Product or service. The subscription fees may be modified by VECTRA for each renewal period by written notice to Customer at least thirty (30) days prior to the end of the then-current period.

3.2 <u>Invoicing</u>. Hardware purchases set forth under this Agreement will be invoiced by VECTRA upon shipment of such Hardware. All subscription fees and maintenance fees shall be invoiced by VECTRA and payable by Customer prior to the start of the applicable subscription and maintenance period. All other amounts will be invoiced as set forth in the Order, or if not specified, prior to

commencement of the applicable licenses, services or renewals.

3.3 <u>Payments</u>. All payments shall be due and payable within thirty (30) days after the date of invoice by VECTRA. Without limiting any other remedies, past due amounts shall be subject to a monthly charge of one and one-half percent (1½%) per month of the unpaid balance or the maximum rate allowable by law, whichever is less.

3.4 <u>Burstable Billing</u>. Any and all fees set forth in the Order on a "burstable billing" basis will be based on Customer's Measured Usage during the applicable billing period. To calculate Customer's Measured Usage, VECTRA will sample the traffic through networks monitored by, or to which Customer connects, any Product. At the end of the billing period, the samples are ordered from highest to lowest. The top five percent (5%) of the samples are discarded. The highest remaining sample (i.e., Customer's usage at the ninety-fifth percentile (95th %)) is the Measured Usage.

3.5 <u>Taxes</u>. Amounts payable to VECTRA under this Agreement are payable in full to VECTRA without reduction for taxes (including any withholding tax) or customs duties. In addition, Customer shall be responsible for any and all taxes (including, without limitation, consumption sales, use, value-added and similar taxes) and customs duties paid or payable, however designated, levied, or based on amounts payable to VECTRA hereunder and any associated penalties, fines and attorneys' fees, but exclusive of United States federal, state and local taxes based solely on VECTRA's net income.

4 Term and Termination. This Agreement shall commence as of the Effective Date and shall continue for each Order until the end of the applicable Subscription Term, unless earlier terminated. Either party may terminate this Agreement or an applicable Order in the event of breach by the other party that is not cured within 30 days after notice (or 10 days for breach of payment or license restrictions). VECTRA may terminate this Agreement immediately upon Customer becoming insolvent or generally failing to pay its debts as they become due, or commencing or becoming subject to reorganization, insolvency or liquidation proceedings or ceasing to conduct business in the ordinary course. Upon termination, all licenses and Subscriptions shall terminate and Customer shall return and cease all use of the Software and Subscriptions. Sections 2.6, 2.7, 2.9, 2.10, 2.11, 3, 6, 7, 8 and 9, and all payment obligations accruing prior to termination, will survive.

5 Limited Warranty

5.1 <u>Limited Warranty</u>. Hardware as delivered by VECTRA will be free from material defects in materials and workmanship for a period of ninety (90) days from the date of shipment. Customer's sole remedy, and VECTRA's exclusive liability, with respect to such warranty will be to repair, replace or provide a refund of the purchase price (at VECTRA's option) for the defective Hardware or portion thereof, subject to return within the applicable warranty period in accordance with VECTRA's return materials authorization (RMA) procedures and provided the defect is not due to accident; unusual physical, electrical or electromagnetic stress; neglect; modification, alteration or misuse; or failure to properly install, operate and maintain in accordance with the manufacturer's specifications. Software and Subscriptions are subject to maintenance as set forth in Exhibit A and not warranty. VECTRA does not warrant that Product will meet

Customer's requirements or function uninterrupted or error free. EXCEPT AS EXPRESSLY SET FORTH ABOVE, PRODUCTS, SOFTWARE, HARDWARE, SUBSCRIPTIONS AND ANY SERVICES ARE "AS IS" AND WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, AND VECTRA SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

5.2 <u>RMA Procedures</u>. Prior to return of any Hardware, Customer will execute and report the results of any tests or diagnostics specified by VECTRA, confirm limited warranty status with VECTRA and obtain and affix an RMA number from VECTRA prior to shipment. Returns with RMA number are to be shipped by Customer, freight pre-paid, to VECTRA's designated return or repair facility, so that they are received within 2 weeks of obtaining the RMA number. Any Hardware found to be out-of-warranty, including any with a voided warranty, is subject to charges for processing and repair or replacement at VECTRA's then-current rates.

6 Limitation of Liability. IN NO EVENT SHALL VECTRA BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING COSTS OF PROCUREMENT OF SUBSTITUTE GOODS) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY PRODUCT OR SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. VECTRA'S TOTAL LIABILITY ARISING OUT OR RELATING TO THIS AGREEMENT OR ANY PRODUCTS OR SERVICES WILL NOT EXCEED THE AMOUNT PAID FOR THE RESPECTIVE PRODUCT, SOFTWARE, SUBSCRIPTION OR SERVICE TO WHICH THE CLAIM RELATES, REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE.

7 Governing Law; Disputes. This Agreement is governed by California law, excluding its choice of laws rule. The United Nations Convention on Contracts for the International Sale of Goods (1980) is specifically excluded and shall not apply. Any dispute or claim arising out of or related to this Agreement, or breach or termination thereof, shall be subject to exclusive jurisdiction, forum and venue of the state and federal courts in Santa Clara County, California, and the parties agree and submit to the personal and exclusive jurisdiction of these courts. This Agreement and all proceedings shall be in the English language only.

8 Export; FCPA. Products may not be exported without prior written consent of VECTRA. Customer warrants and hereby gives written assurance to VECTRA that Customer will comply with all U.S. and foreign export and re-export restrictions applicable to the Products, documentation and technical information provided hereunder. Company warrants that it shall comply with the Foreign Corrupt Practices Act ("FCPA") in all dealings with, by, for or on behalf of VECTRA, and shall not offer, promise, give, demand, seek or accept, directly or indirectly, any gift or payment, consideration or benefit in kind that would or could be construed as an illegal or corrupt practice.

9 Miscellaneous. This Agreement and the rights hereunder may not be assigned or otherwise transferred, either directly or indirectly, by Customer without the prior written consent of VECTRA. This is the entire Agreement between the parties relating to the subject matter hereof and no waiver or modification of the Agreement shall be valid unless in writing signed by each party. The waiver of a breach of any term hereof shall in no way be construed as a waiver of any other term or breach hereof. This Agreement supersedes all pre-printed terms and conditions in any purchase order or other business form submitted by Customer and any inconsistent non-pre-printed terms, all of which are rejected. If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect. This Agreement may be executed counterparts, each of which will be considered an original, including by facsimile or other electronic form.

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

VECTRA NETWORKS, INC.   _____ **(CUSTOMER)**

By: _____   By: _____

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

EXHIBIT A

Maintenance Services

1. Maintenance Term. Maintenance service as set forth in this Exhibit A ("Maintenance Services") commence on the Effective Date (or other applicable start date specified in the Order) and will continue until the end of the Subscription Term. If Customer elects not to renew Maintenance Services or fees are not kept current, Customer may re-enroll only upon prior written consent of VECTRA and payment of the applicable subscription fee for the coming period and all fees that would have been paid had Customer not discontinued Maintenance Services.

2. Maintenance Services. For so long as Customer is current in the payment of all subscription fees, the following Maintenance Services will be made available during the applicable Subscription Term: (a) Updates released during the Subscription Term, and (b) Error resolution assistance for Errors in the Software reported by Customer during the Subscription Term, as further described below. Maintenance Services and Support will be provided only with respect to the then current version of the Software and only for active Subscriptions. VECTRA shall have no obligation to provide Maintenance Services or Support for: (i) altered or damaged Software or any portion of the Software incorporated with or into other software; (ii) Software or Subscription problems caused by Customer's negligence, abuse or misapplication, use of the Software or Subscriptions other than as specified in VECTRA's user manual or other causes beyond the control of VECTRA; or (iii) Software or Subscriptions installed or used on any hardware that is not supported by VECTRA. Support requests may be submitted online 24/7 at support.vectranetworks.com.For Error resolution assistance, VECTRA will use commercially reasonable efforts to correct any Error reported by Customer in the Software attributable to VECTRA, employing a level of effort commensurate with the severity of the Error, provided, however, that VECTRA shall have no obligation to correct all errors in the Software.

3. Customer Responsibilities. Customer is responsible for providing sufficient information and data to allow VECTRA to readily reproduce all reported Errors. If VECTRA believes that a problem reported by Customer may not be due to an Error in the Software or cannot be readily reproduced VECTRA will so notify Customer. Customer shall document and promptly report all Errors to VECTRA and take all steps necessary to carry out procedures for the rectification of Errors or malfunctions within a reasonable time after such procedures have been received from VECTRA.

4. Certain Definitions. For the purpose of this Exhibit only, the following terms shall have the following meanings:

"Error" means a reproducible programming error in the Software which significantly degrades the Software as compared to VECTRA's published performance specifications. Correction may be provided by patch, correction in the next Update, work-around or avoidance procedure, or other resolution to remedy the Error.

"Support" means technical support telephone or email assistance provided by VECTRA to a designated Customer support contact during normal business hours concerning the installation and use of the Product.

"Update" means a maintenance release of the Software designated as such by VECTRA and released on a general, regularly scheduled basis as part of standard maintenance to VECTRA's other maintenance customers for the same version of the Software without additional charge.