

## ARCHIVE Bindplane End User License Agreement (March 2026)

Last Updated: March, 2026

BY DOWNLOADING, INSTALLING, OPERATING, ACCESSING OR USING (“Use, Used, or Using”) OBSERVIQ SOFTWARE, THE INDIVIDUAL AND THE LEGAL ENTITY ON WHOSE BEHALF THE SOFTWARE IS USED (“You or Your”) AGREE TO BE BOUND BY THE TERMS OF THIS END USER LICENSE AGREEMENT (“EULA”) BETWEEN YOU AND OBSERVIQ, INC. A DELAWARE CORPORATION (“observIQ”). THE EULA MAY BE REVISED BY OBSERVIQ FROM TIME TO TIME. IF ANY CHANGES TO THIS EULA ARE MADE, AN UPDATED VERSION OF THE AGREEMENT WILL BE POSTED ON observIQ’S WEBSITE. IT IS YOUR RESPONSIBILITY TO REVIEW THE UPDATED TERMS OF THIS AGREEMENT. YOUR CONTINUED USE OF THE SOFTWARE AFTER THE CHANGES ARE POSTED CONSTITUTES YOUR ACCEPTANCE OF THE REVISED TERMS.

IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, YOU MUST NOT USE THE SOFTWARE, AND YOU MUST DELETE OR RETURN THE UNUSED SOFTWARE TO observIQ FORTHWITH AND REQUEST A REFUND OF THE LICENSE FEE, IF ANY, THAT YOU PAID FOR THE SOFTWARE.

EVALUATION LICENSE. If You are using the Software for evaluation purposes, Your use of the Software is only permitted in a non-production environment and for the period limited by the Order, or if no term is specified, thirty (30) days. Notwithstanding any other provision in this EULA, for evaluation purposes the Software is provided “AS-IS” without indemnification, support or warranty of any kind.

BINDPLANE FREE EDITION RESTRICTIONS. If you are using the "Bindplane Free Edition" version of the Software, your use is restricted to 10GB/Day of ingest and managing up to 10 agents. Any usage beyond these limitations is in violation of this EULA.

### 1. DEFINITIONS.

1.1. “Affiliate” means, with respect to a party, an entity that is directly or indirectly controlled by, is under common control with, or controls that party, by voting, contractual or similar interest.

1.2. “Documentation” means that documentation that is generally provided to You by observIQ with the Software, as revised by observIQ from time to time, which includes the applicable user guide located at <https://docs.bindplane.com/> (“Product Guide”), end user manuals, operation instructions, installation guides, release notes, and on-line help files regarding the use of the Software.

1.3. “Intellectual Property Rights” means all worldwide intellectual property rights,

including without limitation, copyrights, trademarks, service marks, trade secrets, know how, inventions, patents, patent applications, moral rights and all other proprietary rights, whether registered or unregistered.

1.4. “License Key” means a serial number that enables You to activate and Use the Software.

1.5. “Open Source Software” or “OSS” means software components embedded in or distributed with the Software and provided under separate license terms, which can be found either in the oss\_attribution.txt file, the LICENSE OR NOTICE FILE (or similar file) provided within the Software.

1.6. “Order” means a purchase order, on-line purchase, or other ordering document issued by You to observIQ or an observIQ authorized reseller (“Authorized Reseller”) that sets forth applicable license metrics (Price, Evaluation, Term duration, Enterprise, On-premises or SaaS (Hosted), \$/Gigabyte or other associated fees) and is accepted by observIQ as set forth in the Order Section below.

1.7. “Software” means the observIQ computer programs listed on observIQ’s website, whether provided in a form hosted (SaaS) by observIQ (e.g., BindPlane Original) or an on-premises version (e.g., Bindplane Enterprise) as set forth in an Order, including Documentation, updates and new releases that observIQ provides generally to its customers from time to time. “Software” includes observIQ API’s, as well as certain libraries developed and made available by observIQ from time to time that wrap the API (“observIQ Libraries”) and software agents to support the collection, and reporting of events and metrics (“observIQ Agents”), collectively, the “observIQ Tools”.

1.8. “Term” means the duration of a License as specified in the Order.

1.9. “Territory” means the country or countries in which You have been invoiced; provided, however, that if You have been invoiced within any of the European Economic Area member states, You may deploy the corresponding Software throughout the European Economic Area.

1.10. “Third Party Agent” means a contractor, vendor or other third party delivering information technology services to You or observIQ as applicable.

## 2. LICENSE GRANT.

2.1. General License Grant. Subject to payment of applicable fees and the limitations and restrictions set forth herein, the Product Guide and in an Order, observIQ grants You a non-exclusive, revocable, non-transferable (except as set forth in the Transfers; Assignment Section) license to Use the Software (in object code only) and the Documentation during the Term and within the Territory, solely for Your internal business operations. If you elect to use the observIQ Tools, you

acknowledge and agree that such observIQ Tools are only made available to support access to and use of observIQ computer programs and shall not be used unless in conjunction with observIQ computer programs.

2.2. Third Party Agents. Under the License granted to You in the General License Grant Section above, You may permit Your Third Party Agents to Use the Software on Your behalf for the sole purpose of delivering services to You, provided You shall be fully responsible for Your Third Party Agents' compliance with the terms and conditions of this EULA.

2.3. Copying. You may copy the Software and Documentation only as necessary to install and run the quantity of copies Ordered, but otherwise for archival purposes only.

2.4. Feedback. Feedback provided to observIQ related to the Software may be used by observIQ to improve or enhance its products and, accordingly, You grant observIQ a non-exclusive, perpetual, irrevocable, royalty-free, worldwide right and license to use, reproduce, disclose, sublicense, distribute, modify, and otherwise exploit such feedback without restriction.

2.5. Open Source Software. Notwithstanding anything herein to the contrary, Open Source Software is licensed to You under such OSS's own applicable license terms. To the extent any such applicable license provides You rights that are inconsistent with rights granted in this EULA, then the rights in the applicable open source license shall take precedence, but solely with respect to such open source software. To the extent the license for any Open Source Software requires observIQ to make available to You the corresponding source code and/or modifications (the "Source Files"), You may obtain a copy of the applicable Source Files by sending a written request to: [opensource@bindplane.com](mailto:opensource@bindplane.com). All requests should clearly specify: Open Source Files Request. The source code and associated licenses for the observIQ Tools are available at <https://github.com/observIQ>.

2.6. Customer Data. You hereby grant observIQ and its Third Party Agents a worldwide, non-exclusive, royalty-free right and license during the Term to use, reproduce, transmit, perform, display and store Your usage and operational information, as well as Your data and network, security, user, and file information, (collectively, "Customer Data") solely for the purpose of supporting Your use of the Software, including but not limited to, auditing purposes, analytics purposes, statistical purposes, bug fixes and creating reports. Subject to the confidentiality obligations contained in this EULA, You agree observIQ may additionally use Customer Data: (a) for operating, maintaining, and improving observIQ's products and services; and (b) in aggregate form only, not attributable to You, for research and

marketing purposes. You shall retain all right, title and interest in and to Customer Data and all Intellectual Property Rights therein.

### 3. RESTRICTIONS; OWNERSHIP.

3.1. License Restrictions. Without observIQ's prior written consent, You must not, and must not allow any third party to: (a) use Software in an application services provider, service bureau, or similar capacity for third parties; (b) disclose to any third party the results of any benchmarking, testing or comparative or competitive analyses of the Software done by or on behalf of You; (c) make the Software available in any form to anyone other than Your employees or Third Party Agents reasonably acceptable to observIQ; (d) transfer or sublicense the Software to an Affiliate or any third party, except as expressly permitted in the Transfers; Assignment Section; (e) use Software in conflict with the terms and restrictions of this EULA and other requirements specified in the Product Guide and/or Order; (f) except to the extent permitted by applicable mandatory law, modify, translate, enhance, or create derivative works from the Software, or reverse engineer, decompile, or otherwise attempt to derive source code from the Software, except as specified in the Decompilation Section; (g) remove any copyright or other proprietary notices on or in any copies of Software; (h) reproduce, distribute, republish, display, post or transmit in any form or by any means the Software, including but not limited to electronic, mechanical, photocopying, recording or other means; (i) Use the Software in order to build a similar or competitive product or service; or (j) violate or circumvent any technological restrictions within the Software.

3.2. Decompilation. Decompiling the Software is permitted to the extent the laws of the Territory give You the express right to do so to obtain information necessary to render the Software interoperable with other software; provided, however, You must first request such information from observIQ, provide all reasonably requested information to allow observIQ to assess Your claim, and observIQ may, in its discretion, either provide such interoperability information to You, impose reasonable conditions, including a reasonable fee, on such use of the Software, or offer to provide alternatives to ensure that observIQ's proprietary rights in the Software are protected and to reduce any adverse impact on observIQ proprietary rights.

3.3. Ownership. Right, title and interest in the Software, all copies and portions thereof, and all improvements, enhancements, modifications and derivative works thereof, and all Intellectual Property Rights therein, are and shall remain the sole and exclusive property of observIQ and its licensors. Nothing in this EULA

constitutes a sale, transfer or conveyance of any title or ownership in the Software. Your rights to use the Software shall be limited to those expressly granted in this EULA and any applicable Order. observIQ reserves all rights not expressly granted to You. No other rights with respect to the Software or any related Intellectual Property Rights are implied.

3.4. Third Party Software and Services. Although You may be able to connect to or otherwise access non-observIQ services, software or materials with the Software, You acknowledge and agree that: (a) observIQ does not control and is not responsible for any such non-observIQ services, software or materials; (b) observIQ has no liability with respect to any use of non-observIQ services, software or materials; and (c) You are responsible for complying with any third party licenses and other terms applicable to the non-observIQ services, software or materials.

#### 4. ORDER; FEES.

4.1. Order. Your Order is subject to this EULA or an applicable license agreement executed by both You and observIQ which supersedes this EULA. No Orders are binding on observIQ until accepted by observIQ.

4.2. Fees. You shall pay ObservIQ (or Authorized Reseller) the amounts specified in each Order within thirty (30) days of the date of each ObservIQ (or Authorized Reseller) invoice unless otherwise specified in the Order. All amounts shall be paid in U.S. dollars and shall be fully earned when paid and non-refundable. You must assert any payment dispute in writing within ten (10) days of Your receipt of the invoice giving rise to the dispute. ObservIQ will not exercise its termination rights or apply interest on late payments if You dispute the applicable charges reasonably and in good faith and provide reasonable cooperation to resolve the dispute. Except in the event of such good faith disputes, all unpaid invoices past due are subject to a late charge equal to the lesser of 1.5% per month or the maximum interest allowed by law.

4.3. Authorized Reseller Orders. If You Order the Software through an Authorized Reseller, the terms of Your subscription with such Authorized Reseller will control with respect to all pricing and fees; provided, however, that ObservIQ may suspend or terminate Your access to the Software if such Authorized Reseller has not paid ObservIQ the applicable fees relating to Your Use.

4.4. Payment Methods. If You pay using a credit card or any digital payment method supported by ObservIQ, You authorize ObservIQ to charge Your account for the Software using that payment method. You must keep all information in Your billing account current to ensure that all amounts are charged to the appropriate account and are timely paid.

4.5. Taxes. All fees and amounts set forth in the Orders are exclusive of taxes, levies, duties or charges imposed by government authorities (collectively, "Taxes"). You shall be solely responsible for all sales, service, value-added, use, excise, consumption and any other Taxes on amounts payable by You under the Orders and this EULA (other than any Taxes on ObservIQ's income). If You are required to deduct or withhold any Tax under applicable law, You must pay the amount deducted or withheld as required by applicable law and pay ObservIQ an additional amount so that ObservIQ receives payment in full of amounts due under the Order as if there were no deduction or withholding.

4.6. Overage Policy. Our pricing is based on the volume of data ingested, measured in TB per day. Your license allows for a specified daily average ingestion over each monthly billing period. This model provides flexibility for usage spikes, as long as your monthly average remains within your license limit. If your usage exceeds your licensed limit, you will be charged for the overage at your current rate. This ensures a straightforward and consistent approach to billing, regardless of the extent of the overage. We provide tools to help you monitor your usage and will provide regular usage reports. For self-hosted deployments, usage audits may be required on a regular basis. Any overages identified during these audits will be invoiced accordingly. We are committed to transparent pricing and will work with you to ensure you have the most cost-effective solution for your needs. If you consistently exceed your current license limit, we recommend discussing an upgrade to a higher tier to better suit your usage patterns.

5. RECORDS AND AUDIT. During the Term for Software and for two (2) years after its expiration or termination, You will maintain accurate records of Your use of the Software sufficient to show compliance with the terms of this EULA. observIQ will have the right to audit Your use of the Software to confirm compliance with the terms of this EULA. That audit is subject to reasonable notice by observIQ and will not unreasonably interfere with Your business activities. observIQ may conduct no more than one (1) audit in any twelve (12) month period, and only during normal business hours. You will reasonably cooperate with observIQ and any third party auditor and will, without prejudice to other rights of observIQ, address any non-compliance identified by the audit by promptly paying additional fees. You will promptly reimburse observIQ for all reasonable costs of the audit if the audit reveals either underpayment of more than five (5%) percent of the Software fees payable by You for the period audited, or if You have materially failed to maintain accurate records of Software use.

6. SUPPORT AND SUBSCRIPTION SERVICES. observIQ does not provide any support or subscription services for the Software unless specified in the Order. You have no rights to any updates, extensions or enhancements to the Software unless observIQ support and subscription services are included in the Order. Support or subscription services are subject to the Support Services Terms posted at <https://docs.bindplane.com/support>.

7. WARRANTIES.

7.1. Software Warranty, Duration and Remedy. observIQ warrants to You that the Software will, for a period of ninety (90) days following commencement of the Term (“Warranty Period”), substantially conform to the applicable Documentation, provided that the Software: (a) has been properly installed and used at all times in accordance with the applicable Documentation; and (b) has not been modified or altered by persons other than observIQ or its Third Party Agents. observIQ will, at its own expense and as its sole obligation and Your exclusive remedy for any breach of this warranty, use commercially reasonable efforts to either replace that Software or correct any reproducible error in that Software reported to observIQ by You in writing during the Warranty Period.

7.2. Disclaimer of Warranty. OTHER THAN THE WARRANTY ABOVE, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OBSERVIQ AND ITS SUPPLIERS MAKE NO OTHER EXPRESS WARRANTIES, AND DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE. OBSERVIQ AND ITS LICENSORS DO NOT WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR THAT IT WILL BE FREE FROM DEFECTS OR THAT IT WILL MEET YOUR REQUIREMENTS.

8. INTELLECTUAL PROPERTY INDEMNIFICATION.

8.1. Defense and Indemnification. observIQ shall indemnify You against any third party claim that the Software infringes any patent, trademark or copyright of such third party, or misappropriates a trade secret (but only to the extent that the infringement or misappropriation is not a result of Your actions) under the laws of the United States (“Infringement Claim”). The foregoing obligations are applicable only if You: (i) promptly notify observIQ in writing of the Infringement Claim; (ii) allow observIQ sole control over the defense of the claim and any settlement; and (iii) reasonably cooperate in response to observIQ requests for assistance. You may not settle or compromise any Infringement Claim without the prior written consent of observIQ.

8.2. Remedies. If the alleged infringing Software becomes, or in observIQ opinion is likely to become, the subject of an Infringement Claim, observIQ will, at observIQ's option and expense, do one of the following: (a) procure the rights necessary for You to make continued Use of the affected Software; (b) replace or modify the affected Software to make it non-infringing; or (c) terminate the License to the affected Software and discontinue the related support services, and, upon Your certified deletion of the affected Software, refund: (i) the fees paid by You for the License to the affected Software, less straight-line depreciation over a three (3) year useful life beginning on the date such Software was delivered; and (ii) any pre-paid service fee attributable to related support services to be delivered after the date such service is stopped.

8.3. Exclusions. Notwithstanding the foregoing, observIQ will have no obligation under this Intellectual Property Indemnification Section or otherwise with respect to any claim based on: (a) a combination of Software with non-observIQ products (other than non-observIQ products that are approved in the Documentation and used in an unmodified form); (b) use for a purpose or in a manner for which the Software was not designed; (c) use of any older version of the Software when use of a newer observIQ version would have avoided the infringement; (d) any modification to the Software made without observIQ's express written approval; (e) any claim that relates to Open Source Software or any derivatives or other adaptations thereof that is not embedded by observIQ into the Software; or (f) any Software provided on a no charge, beta or evaluation basis. THIS INTELLECTUAL PROPERTY INDEMNIFICATION SECTION STATES YOUR SOLE AND EXCLUSIVE REMEDY AND OBSERVIQ'S ENTIRE LIABILITY FOR ANY INFRINGEMENT CLAIMS OR ACTIONS.

## 9. LIMITATION OF LIABILITY.

9.1. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL OBSERVIQ OR ITS LICENSORS BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE. OBSERVIQ'S AND ITS LICENSORS' LIABILITY UNDER THIS EULA WILL NOT, IN ANY EVENT, REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, EXCEED THE GREATER OF THE LICENSE FEES YOU PAID FOR THE SOFTWARE GIVING RISE TO THE CLAIM IN THE PRIOR TWELVE (12) MONTHS OR \$1000. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER OBSERVIQ OR ITS

LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

9.2. Further Limitations. observIQ's licensors shall have no liability of any kind under this EULA. observIQ's shall have no liability with respect to any third party software or materials used in conjunction with the Software. You may not bring a claim under this EULA more than eighteen (18) months after the cause of action arises.

## 10. TERMINATION.

10.1. EULA Term. The Term of this EULA begins on the earlier of the notice of availability for electronic download, delivery of the Software or the date of first USE ("Effective Date") and continues until expiration of the Order or this EULA is terminated in accordance with this Termination Section.

10.2. Termination for Breach. observIQ may terminate this EULA effective immediately upon notice to You if: (a) You fail to pay any portion of the fees under an applicable Order within ten (10) days after receiving written notice that payment is past due; or (b) You breach any other provision of this EULA and fail to cure within thirty (30) days after receipt of observIQ's written notice thereof.

10.3. Termination for Insolvency. observIQ may terminate this EULA effective immediately upon notice to You if You: (a) terminate or suspend Your business; (b) become insolvent, unable to pay Your debts, make an assignment for the benefit of creditors, or become subject to control of a trustee, receiver or similar authority; or (c) become subject to any bankruptcy or insolvency proceeding.

10.4. Effect of Termination. Upon termination of this EULA: (a) all rights to the Software granted to You under this EULA shall immediately cease; and (b) You must cease all Use of all Software, and return or certify destruction of all Software and License Keys (including copies) to observIQ, and return, or if requested by observIQ, destroy, any related observIQ Confidential Information in Your possession or control and certify in writing to observIQ that You have fully complied with these requirements. Any provision will survive any termination or expiration if by its nature and context it is intended to survive, including any payment obligations incurred prior to termination and Sections 1 (Definitions), 2.6 (Open Source Software), 3 (Restrictions; Ownership), 5 (Records and Audit), 7.2 (Software Disclaimer of Warranty), 9 (Limitation of Liability), 10 (Termination), 11 (Confidential Information) and 12 (General).

## 11. CONFIDENTIAL INFORMATION.

11.1. Definition. "Confidential Information" means information or materials provided by one party ("Discloser") to the other party ("Recipient") which are in tangible form and labeled "confidential" or the like, or information which a

reasonable person knew or should have known to be confidential. The following information shall be considered Confidential Information whether or not marked or identified as such: (a) License Keys; (b) information regarding observIQ's pricing, product roadmaps or strategic marketing plans; and (c) non-public materials, including the Software code and information relating to the Software.

11.2. Protection. Recipient may use Confidential Information of Discloser; (a) to exercise its rights and perform its obligations under this EULA; or (b) in connection with the parties' ongoing business relationship. Recipient will not use any Confidential Information of Discloser for any purpose not expressly permitted by this EULA and will disclose the Confidential Information of Discloser only to Third Party Agents of Recipient who have a need to know such Confidential Information for purposes of this EULA and who are under a duty of confidentiality no less restrictive than Recipient's duty hereunder. Recipient will protect Confidential Information from unauthorized use, access, or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature but with no less than reasonable care.

11.3. Exceptions. Confidential Information does not include information Recipient can show by written records: (a) was already known to Recipient at the time of disclosure; (b) was disclosed to Recipient by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) that is, or through no fault of Recipient has become, generally available to the public; or (d) was independently developed by Recipient without access to, or use of, Discloser's Information. In addition, Recipient will be allowed to disclose Confidential Information to the extent that such disclosure is required by law, provided that Recipient (unless prevented by law) notifies Discloser of such required disclosure promptly in writing and cooperates with Discloser, at Discloser's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

11.4. Data Privacy. You agree that observIQ and its Third Party Agents may process or control Customer Data and technical and related information about Your use of the Software which may include but is not limited to internet protocol addresses, hardware identification, operating system, application software, peripheral hardware, and Software usage statistics to facilitate the provisioning of updates, support, invoicing or services. To the extent that this information constitutes personal data (for example, to authenticate Your authorized users), You consent to observIQ's processing and/or controlling such personal data. Except for such limited personal data, You acknowledge the Software is not intended to transfer, process, use or store information relating to an identified or identifiable natural

person or for sensitive personal data (for example, health or financial data), and You agree not to use the Software for such purpose. To the extent required by applicable law, each party shall comply at all times with its obligations under applicable data protection legislation. observIQ shall maintain throughout the Term an industry-standard information security program, including physical and technical security policies and procedures, with respect to Customer Data. The program shall include measures: (a) to protect Customer Data from accidental loss and from unauthorized access, use, alteration or disclosure; and (b) which provide a level of security appropriate to the nature of the data and the risk represented by its transfer, processing, use and storage.

11.5. Use of Customer Data for AI-powered Features. When AI features are enabled, Customer Data may be collected, retained, and used by observIQ for the purpose of developing, improving, and evaluating AI-powered features and machine learning capabilities. All such data will be anonymized and de-identified prior to use, and observIQ will not use identifiable personal information for these purposes. You acknowledge and agree that input data may be processed by third-party AI providers (including but not limited to Google Gemini, OpenAI, and Anthropic). You are responsible for reviewing and validating any AI-generated suggestions before use.

## 12. GENERAL.

12.1. Transfers; Assignment. You shall not assign this EULA, any Order, or any right or obligation or delegate any performance herein without observIQ's prior written consent, which consent will not be unreasonably withheld. Any other attempted assignment or transfer by You will be void. You and Your Affiliates shall be jointly and severally liable for the Use of Software by Your Affiliates. observIQ may use its Affiliates, Third Party Agents or other sufficiently qualified subcontractors to provide services to You, provided that observIQ remains responsible for the performance of the services.

12.2. Notices. Any notices delivered by You under this EULA will be delivered via both email to [legal@bindplane.com](mailto:legal@bindplane.com) and certified or registered mail to observIQ, Inc. DBA Bindplane, PO Box 1641, Grand Rapids, MI 49501-1641, United States of America, Attention: Legal Department.

12.3. Waiver. Failure to enforce a provision of this EULA will not constitute a waiver.

12.4. Severability. If any part of this EULA is held unenforceable, the validity of all remaining parts will not be affected.

12.5. Compliance with Laws; Export Control; Government Regulations. Each party shall comply with all laws applicable to the actions contemplated by this EULA. You acknowledge that the Software is of United States origin, is provided subject to the

U.S. Export Administration Regulations, may be subject to the export control laws of the applicable Territory, and that distribution contrary to applicable export control laws is prohibited. You represent that (1) You are not, and are not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (2) You will not permit the Software to be used for, any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons.

12.6. Government Use. The Software and accompanying Documentation are deemed to be “commercial computer software” and “commercial computer software documentation”, respectively, pursuant to DFARS Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying or disclosing of the Software and Documentation by or for the U.S. Government shall be governed solely by the terms and conditions of this EULA to the maximum extent permitted by law.

12.7. Publicity. You authorize observIQ to use Your company’s name in any routine list of observIQ clients unless and until objected by You. With Your prior written consent, observIQ may use Your company as a reference, publicize in its marketing and advertising material, and may reproduce Your company name, logo, trademark, trade name, service mark, or other commercial or product designations in connection therewith.

12.8. Construction. The headings of sections of this EULA are for convenience and are not to be used in interpreting this EULA. As used in this EULA, the word “including” means “including but not limited to”.

12.9. Governing Law. This EULA is governed by the laws of the State of Michigan, United States of America (excluding its conflict of law rules), and the federal laws of the United States. The state and federal courts located in Kent County, Michigan will be the exclusive jurisdiction for disputes arising out of or in connection with this EULA. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

12.10. Third Party Rights. Other than as expressly set out in this EULA, this EULA does not create any rights for any person who is not a party to it, and no person who is not a party to this EULA may enforce any of its terms or rely on any exclusion or limitation contained in it.

12.11. Order of Precedence. In the event of conflict or inconsistency among the

Product Guide, this EULA and the Order, the following order of precedence shall apply: (a) this EULA, (b) the Product Guide and (c) the Order. With respect to any inconsistency between this EULA and an Order, the terms of this EULA shall supersede and control over any conflicting or additional terms and conditions of any Order, acknowledgment or confirmation or other document issued by You, unless observIQ acknowledges in writing the Order terms specifically prevail.

12.12. Entire Agreement. This EULA, including accepted Orders and any written amendments hereto, contain the entire agreement of the parties with respect to the subject matter of this EULA and supersede all previous or contemporaneous communications, representations, proposals, commitments, understandings and agreements, whether written or oral, between the parties regarding the subject matter hereof.