

End User License Agreement (EULA)

Savision Inc. 2017



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SAVISION, Inc., a Delaware corporation, with offices at 320 Decker Drive, Suite 100, Irving, TX 75062, hereinafter referred to as 'SAVISION', either directly or through its Reseller, grants the party using the Licensed Products (the "CUSTOMER") the license set forth in this Agreement, subject to the rights and obligations as specified herein.

You should carefully read the following terms and conditions before using the software. By clicking "I agree" or otherwise using the software you accept these terms and conditions. If you do not agree with these terms and conditions, then do not use the software. By installing, downloading, copying, or otherwise using the software, you acknowledge that you have read these terms and conditions, understand them, and agree to be bound by them. If you do not agree to these terms and conditions, you are not authorized and may not use the software.

1. Definitions

In this Agreement, the following terms, whether used in the singular or the plural, shall have the following meaning:

‘Agreement’:	this EULA, Order form, the Purchase Order or invoice and any and all Attachments.
‘Attachment’:	an attachment or schedule to this EULA.
‘Customer’:	the end-user of the Licensed Products.
‘EULA’:	this End-User License Agreement.
‘Intellectual Property Rights’:	SAVISION’s intellectual property rights in the Licensed Products, including but not limited to patents, copyrights, trade name rights, trademark rights, database rights, know-how and in whatever form.
‘License Fee’:	the fee due to use the Licensed Products as specified in the Purchase Order, the invoice or the Attachment.
‘Licensed Products’:	Software and Documentation as set forth in the Purchase Order or an Attachment to this Agreement.
‘Purchase Order’:	the purchase order or invoice, which details the Licensed Products, the Support, and the License Fee.
‘Reseller’:	the Party through whom CUSTOMER has obtained the Licensed Products.
‘Software’:	those software programs developed or owned by SAVISION, and as specified in the Purchase Order.
‘Support and Maintenance’:	the support and maintenance services provided by SAVISION pursuant to a Support and Maintenance Agreement or other appropriate support agreement, and which may include the provision of upgrades, updates, new versions and help desk support.
‘Support and Maintenance Fee’:	the fee due for Support and Maintenance as specified in the Purchase Order, the invoice or the Attachment.
‘Documentation’:	documentation, whether in written or electronic form, developed or owned by SAVISION that accompanies the Software.

2. License Grant and Restrictions

- 2.1 The Software is licensed, not sold. Pursuant to the terms and conditions of this EULA, SAVISION grants to CUSTOMER a non-transferable, non-exclusive, non-assignable right to use, display, copy, load and run the Software, either (i) on any compatible computer platform at CUSTOMER's location and use the Documentation for its internal business purposes, or (ii) as Parties may agree otherwise, for instance pursuant to a software as a service license model. CUSTOMER shall not lend, lease or rent out the Software. Some of SAVISION's Software use is restricted to the Microsoft System Center Operations Manager 2007 or Microsoft System Center Operations Manager 2012 management group and all subsequent versions of that product. All other such licensing restrictions will be specified within the Order Form, License Key email, or Purchase Order accompanying this EULA at the time of purchase. CUSTOMER shall use the Software only in full compliance with the agreed scope of the license terms
- 2.2 Unless the Parties agree otherwise in an Attachment, a Purchase Order, a Signed Order Form and/or an invoice, the CUSTOMER obtains a temporary license for a maximum of sixty (60) days. Upon completion of payment a perpetual license will be issued for an indefinite period of time. For termed licenses, then the use of the Software and the license grant pursuant to this EULA will expire automatically at the moment the term expires, and without any notice being due.
- 2.3 CUSTOMER is entitled to make one (1) back-up copy of the Software. CUSTOMER is not entitled to make more copies of the Software than specified in this EULA, unless specifically allowed by applicable law.
- 2.4 CUSTOMER shall not modify, translate, reverse engineer, reverse compile, decompile, disassemble, decode or otherwise reduce the Software to human perceivable form except to the extent that such activities may not be prohibited under applicable law. CUSTOMER shall not copy or create derivative works of the Software or Documentation. Customers shall not by-pass or delete any of the copy protection methods that prevent the unauthorized copying or use of the Software. Customer shall not license, timeshare, electronically distribute, rent or otherwise transfer the Software or Documentation, or export or import the Software and Documentation in violation of applicable law.
- 2.5 If a license to use the Licensed Products was issued to CUSTOMER for an evaluation period, then such evaluation period commences on the date of delivery of the Software to CUSTOMER and automatically expires no more than sixty (60) days later at no charge to the CUSTOMER, or, if CUSTOMER advises SAVISION it no longer wishes to evaluate the Licensed Products, upon SAVISION receiving such notice. CUSTOMER expressly acknowledges that the Licensed Products will be rendered inoperative upon expiration of the evaluation period and will be responsible to delete these from its systems. Should CUSTOMER continue use of the Licensed Products after the evaluation period, then the License Fee shall be due and payable, the terms of this Agreement shall govern such use and SAVISION shall provide CUSTOMER a permanent key to enable CUSTOMER using the Licensed Product.
- 2.6 In order to ensure that the Software functions properly, from time to time SAVISION publishes updates to the Licensed Products on its web pages. These updates improve the workings of the Software, ensure the Licensed Products comply with minor Microsoft updates or remove any bugs known to SAVISION at the time of issuing of the update. CUSTOMER is entitled to receive such updates if it has entered into a Software and Maintenance agreement with SAVISION.



- 2.7 SAVISION does not represent that it will continue to manufacture or support any version of its Licensed Products indefinitely or for a specific period of time. SAVISION reserves the right to modify any of the specifications or characteristics of the Licensed Products, to remove any Licensed Products from the market, and/or to cease manufacturing or supporting it, and shall provide CUSTOMER reasonable advance written notice should it have the intention to do so.
- 2.8 The Software is not specifically developed, intended or licensed for use in any nuclear, aviation, mass transit or medical application or in any other inherently dangerous applications. SAVISION AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM SUCH USE IF THE CUSTOMER OR ANY OTHER PERSON OR ENTITY USES THE SOFTWARE FOR SUCH PURPOSES.
- 2.9 SAVISION may, from time to time, give CUSTOMER written notice of amendments to this Agreement. Any such amendment will automatically become a part of this Agreement thirty (30) days from the date of such notice, unless otherwise specified in the notice.
- 2.10 The Geographic maps feature is sub-licensed by SAVISION from Microsoft BING. If CUSTOMER makes use of geographic maps feature in any SAVISION product, then they will be limited to a maximum of 10 Users. By signing this EULA, the CUSTOMER agrees that they will limit use of the Geographic maps feature to not more than 10 persons. Should a CUSTOMER require more than 10 users, then it is their responsibility to license more users from Microsoft themselves. It is not SAVISION's responsibility to police the number of users, and CUSTOMER agrees to indemnify SAVISION in the case there is a breach of BING licensing.

3. License Fee

- 3.1 CUSTOMER will pay SAVISION or RESELLER – as the case may be – the applicable License Fee for the Licensed Products within thirty (30) days of receipt of an invoice.
- 3.2 CUSTOMER will pay SAVISION or RESELLER – as the case may be – the applicable Support and Maintenance Fee annually within thirty (30) days of receipt of the invoice.
- 3.3 Should CUSTOMER not pay the applicable License Fee and/or Support and Maintenance Fee in time, then SAVISION shall be entitled to charge CUSTOMER the commercial legal interest on the outstanding amounts.

4. Intellectual Property Rights and Confidential Information

- 4.1 CUSTOMER acknowledges that any and all of the Intellectual Property Rights used or embodied in or in connection with the Licensed Products shall be and remain the exclusive property of SAVISION. This Agreement transfers to CUSTOMER neither title nor any Intellectual Property Rights to any of the Software, Documentation, or any copyrights, patents, or trademarks, embodied or used in connection therewith, except for the rights expressly granted herein. All rights not expressly granted are hereby reserved to SAVISION.



- 4.2 "Confidential Information" shall mean any trade secrets, confidential data or other confidential information relating to or used in the Licensed Products (the "Confidential Information"). CUSTOMER agrees not to use any Confidential Information for any purpose not authorized under this Agreement, and not to disclose to third parties any such Confidential Information except as reasonably necessary to exercise the rights granted under this Agreement. Confidential Information shall not include any information which is generally available to the public without a breach of confidentiality obligations.
- 4.3 CUSTOMER shall not remove, cover, or alter any SAVISION proprietary rights notice, such as designations, logos, trade names or trade-marks on the Licensed Products or any copies thereof.

5. Limited Warranty

- 5.1 SAVISION warrants that, for a period of thirty (30) days from the date of delivery of the Software to CUSTOMER, the Software will operate substantially and perform in accordance with the functional specifications and the Documentation.
- 5.2 If the Software does not conform to the warranty in Section 5.1, then, upon notification of such nonconformance from CUSTOMER, SAVISION shall use all reasonable efforts to correct defects or nonconformities, and, in the event that SAVISION is unable to correct any defect or nonconformity that significantly restricts use of the Software, then SAVISION shall refund to CUSTOMER the amounts paid for the defective Software and terminate this Agreement.
- The foregoing provisions of this section 5.2 state customer's sole and exclusive remedy, and SAVISION's entire liability, for any breach of the warranty in section 5.1 above.
- 5.3 SAVISION does not warrant that the software will operate uninterrupted or that it will be free from all defects or errors or that the applications contained in the software are designed to meet all customer's business requirements. Except as specifically set forth in this section 5, SAVISION and its licensors disclaim all other warranties, or conditions, express, statutory, or implied, including without limitation, any implied warranties or conditions of merchantability, no infringement or fitness for a particular purpose.
- 5.4 In addition to this Limited Warranty, if a customer is under valid Support & Maintenance, then SAVISION shall use all reasonable efforts to ensure that the product functions accordingly.

6. Intellectual Property Infringement

In the event that a claim alleging infringement of an intellectual property right (including but not limited to patent, trade secret, copyright or trademark rights) arises concerning the Software, SAVISION in its sole discretion may elect to defend or settle such claim. SAVISION in the event of such a claim may also in its sole discretion elect to terminate this Agreement and all rights to use the Software, and require the return or destruction of the Software, with a refund of the fees paid for use of the Software less a reasonable allowance for use and shipping.



The foregoing are SAVISION's sole and exclusive obligations, and customer's sole and exclusive remedies, with respect to infringement or misappropriation of any patent, copyright, trade secret or other proprietary right.

7. Limitation of Liability

Savision and its suppliers' total liability with respect to the software licensed under this agreement will be limited to the amount paid by customer under this agreement. In no event will SAVISION or its suppliers be liable to customer under this agreement for any special, incidental, or consequential damages, whether based on breach of contract, tort (including negligence), product liability, or otherwise, and whether or not SAVISION has been advised of the possibility of such damage. The parties have agreed that the limitations specified in this section 7 will survive and apply even if any limited remedy specified in this agreement is found to have failed of its essential purpose.

8. Term and Termination

- 8.1 This Agreement between CUSTOMER and SAVISION shall be effective upon the earlier occurrence of one of the following events: (i) CUSTOMER installs or uses the Licensed Products, whether or not having paid a License Fee; (ii) SAVISION enters into an agreement with CUSTOMER, for instance by returning a signed Purchase Order, pursuant to which CUSTOMER obtains (the right to use) the Licensed Products, or (iii) CUSTOMER enters into an agreement with RESELLER pursuant to which CUSTOMER obtains (the right to use) the Licensed Products. This Agreement shall remain in force for an indefinite period of time, until terminated as set forth below. The term of the license may be specified in Purchase Order or the applicable Attachment for the Licensed Products.
- 8.2 Unless CUSTOMER terminates any Subscription License or Maintenance & Support contract not later than one (1) month prior to its annual expiration date, then the License or Maintenance & Support contract and the EULA shall be renewed automatically for a period of one (1) year.
- 8.3 Notwithstanding any provisions contained herein, this Agreement may be terminated with immediate effect by either party upon written notification by the party not in default if any of the following events take place: (i) if the other party is, at any time, in default under this Agreement and, if such default is capable of cure, fails to cure such default within thirty (30) days upon the receipt of a written notification from the other party specifying such default; (ii) if either party is for any reason (other than a reason directly attributable to the other party) prevented from performing its obligations hereunder for a period of 3 (three) months or for a total period of six (6) months in any period of twelve (12) consecutive months; (iii) if CUSTOMER becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of its creditors, files or has filed against it by a third party any petition under any bankruptcy act, or an application for a receiver of CUSTOMER is made by anyone and such petition or application is not resolved in favor of CUSTOMER within 60 (sixty) days; (iv) if CUSTOMER does not pay the License Fees or pays later than sixty (60) days

after the date the License Fees are due and payable, and without prejudice to any other rights SAVISION may have under his Agreement or the law.

- 8.4 If any of these events occur, termination shall become effective forthwith or on the date set forth in the written notice of termination.
- 8.5 The expiry or termination of this Agreement shall be without prejudice to the rights of the parties accrued up to the date of such expiry or termination. Upon expiry or termination of this Agreement as a result of CUSTOMER not renewing the license or not paying the applicable license fee, CUSTOMER shall return or destroy (as SAVISION shall instruct) no later than fourteen (14) days thereafter any documentation, technical information and any other data in respect of the Licensed Products supplied to CUSTOMER during the term of this Agreement and all and any copies made in whole or in part of the same, and at SAVISION's request, CUSTOMER shall furnish SAVISION with a statement certifying that the same has been done. The following sections shall survive any termination or expiration of this Agreement: 2.2, 2.5, 2.6, 4.5, 6, 7, 8.5, and 9.

9. Miscellaneous

- 9.1 Force Majeure. Neither party to this Agreement shall be liable to the extent that performance is rendered impossible by strike, fire, flood, governmental acts, failure of supply or orders or restrictions, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing party. The parties to this Agreement agree that force majeure of SAVISION shall include (but shall not be limited to): inability of SAVISION to supply the Licensed Products, material breakdown of its equipment, labor disputes of whatever nature or cause, and any other circumstances reasonably beyond the control of SAVISION.
- 9.2 Partial Invalidity. In the event that any terms, conditions or provision contained in this Agreement or any part thereof are found to be invalid, unlawful or unenforceable to any extent the parties shall endeavor to agree such amendments which shall in so far as possible effect the intentions expressed therein. In default of such agreement, such invalid term, condition or provision shall be severed from the remaining terms, conditions and provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.
- 9.3 Assignment. CUSTOMER may not assign this Agreement or any rights or obligations hereunder, directly or indirectly, by operation of law or otherwise, without the prior written consent of SAVISION. SAVISION may freely assign this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.
- 9.4 Waiver. Failure or neglect by SAVISION to enforce any of the provisions hereof at any time shall not be construed or deemed to be a waiver of SAVISION's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice SAVISION's rights to take subsequent action.
- 9.5 Publicity. Neither party shall (i) disclose the existence or terms of this Agreement to any third party or make any press release or other public communication (other than to an Affiliate or except where required by applicable law or regulation) or (ii) use the names or marks of the other party, without the prior written consent of the non-disclosing party, such consent to be in the non-disclosing party's sole and absolute discretion.



- 9.6 Notices. Notices under this Agreement must be sent by electronic mail to the appropriate party at its address stated in this Agreement (or a new address as the other party has been notified) with a copy thereof by registered mail.
- 9.7 Third Party Beneficiary. SAVISION's Reseller is a third party beneficiary to the rights reserved for SAVISION under this Agreement, and by executing this Agreement, SAVISION shall be deemed to have accepted such on behalf of its Reseller. Except to the extent expressly set forth herein, there are no third party beneficiaries to this Agreement.
- 9.8 Relationship of the Parties. Nothing contained in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. The relationship between the parties shall at all times be that of independent contractors. Neither party shall have authority to contract for or bind the other in any manner whatsoever.
- 9.9 Government Use. The Software and Documentation are deemed to be "commercial computer software" and "commercial computer software documentation", respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying or disclosing of the software and accompanying documentation by the U.S. Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.
- 9.10 Export Regulations. Customer understands that the Licensed Products are subject to regulation by agencies of the United States government, including, but not limited to, the United States Department of Commerce, which prohibit export or diversion of certain technical products to certain countries. Customer warrants that it will comply in all respects with the Export Administration Regulations and all other export and re-export restrictions applicable to the technology and documentation licensed hereunder.
- 9.11 Governing Law. This Agreement shall be construed under and governed by the laws of New York, including its Uniform Commercial Code, without reference to conflict of laws principles. The parties agree that none of the obligations herein will be governed by the United Nations Convention on Contracts for the International Sale of Goods.
- 9.12 Arbitration. In the event a dispute arises between the parties hereto arising out of or in connection with or with respect to this Agreement or any breach thereof, such dispute shall be determined and settled by arbitration in New York, New York, in accordance with the rules of the American Arbitration Association ("AAA"). The award rendered thereon by the arbitrator shall be final and binding on the parties thereto, and judgment thereon may be entered in any court of competent jurisdiction. Nothing in this Section shall prevent either party from applying to a court of competent jurisdiction for equitable or injunctive relief.
- 9.13 Entire Agreement. This Agreement (including any Attachments) constitutes the entire agreement between the parties and supersedes all prior or contemporaneous communications, agreements and understandings, written or oral, with respect to the subject matter hereof including without limitation the terms of any order form or purchase order issued in connection with this Agreement.