

# *Fluke Networks Software License Agreement*

## *AirMagnet® Enterprise Version*

PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, RETURN THE UNUSED AIRMAGNET SOFTWARE WITHIN 30 DAYS TO THE PLACE WHERE YOU OBTAINED IT FOR A REFUND.

### **1. GRANT OF LICENSE.**

Fluke Networks, a division of Fluke Electronics Corporation grants you a non-exclusive right to install and use the AirMagnet Software on a single computer at a time. The software, documentation and any fonts accompanying this License whether on disk, in read only memory, on any other media or in any other form (the "AirMagnet Software") are licensed to you by Fluke Networks.

### **2. TITLE, COPYRIGHT AND TRADEMARK.**

Software is owned by Fluke Electronics Corporation and is protected by United States copyrights laws and international treaty provisions. Therefore you must treat the Software like any other copyrighted material. You own the media on which the AirMagnet Software is recorded but Fluke Networks and/or Fluke Networks' licensor(s) retain title to the AirMagnet Software. The AirMagnet Software in this package and any copies which this License authorizes you to make are subject to this License.

### **3. PERMITTED USES AND RESTRICTIONS.**

This License does not allow the AirMagnet Software to exist on more than one computer at a time. You may make one copy of the AirMagnet Software in machine-readable form for backup purposes only. The backup copy must include all copyright information contained on the original. Except as expressly permitted in this License, you may not decompile, reverse engineer, disassemble, modify, rent, lease, loan, sublicense, distribute or create derivative works based upon the AirMagnet Software in whole or part or transmit the AirMagnet Software over a network. You may not disclose any information relating to the performance or operation of the AirMagnet Software (including any benchmarking or other testing results) to any third party without Fluke Networks' express prior written consent. You may, however, transfer your rights under this License provided you transfer the related documentation, this License and a copy of the AirMagnet Software to a party who agrees to accept the terms of this License and destroy any other copies of the AirMagnet Software in your possession. You may not use or otherwise export or re-export the AirMagnet Software except as authorized by United States law and the laws of the jurisdiction in which the AirMagnet Software was obtained. In particular, but without limitation, the AirMagnet Software may not be exported or reexported (i) into (or to a national or resident of) any U.S. embargoed country or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders. By using the AirMagnet Software, you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list.

### **4. TERMINATION.**

Your rights under this License will terminate automatically without notice from Fluke Networks if you fail to comply with any term(s) of this License.

### **5. LIMITED WARRANTY.**

Fluke Network warrants the media on which the AirMagnet Software is recorded to be free from defects in materials and workmanship under normal use for a period of ninety (90) days from the date of original retail purchase. Fluke Networks does not warrant any downloading errors or that the Software will be error free or operate without interruption. Fluke Networks' entire liability and your exclusive remedy shall be, at Fluke Networks' option, a refund of the purchase price of the product containing the AirMagnet Software or replacement of the AirMagnet Software which is returned to Fluke Networks or an authorized representative with a copy of the receipt. This limited warranty is void if failure of the products has resulted from accident, abuse, or misapplication. Any replacement product will be warranted for the remainder of the 90 day original warranty period or 30 days, whichever is longer.

### **6. DISCLAIMER OF WARRANTY ON AIRMAGNET SOFTWARE.**

Other than as provided in the Limited Warranty above, The AirMagnet Software is provided "AS IS" and without further warranty. FLUKE NETWORKS EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO

THE SOFTWARE INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY OR SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. FLUKE NETWORKS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE AIRMAGNET SOFTWARE WILL MEET YOUR REQUIREMENTS, OR THAT THE OPERATION OF THE AIRMAGNET SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE AIRMAGNET SOFTWARE WILL BE CORRECTED. FURTHERMORE, FLUKE NETWORKS DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE AIRMAGNET SOFTWARE OR RELATED DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY AIRMAGNET OR AN AIRMAGNET AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

#### **7. LIMITATION OF LIABILITY.**

UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL FLUKE NETWORKS BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS LICENSE. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THIS LIMITATION MAY NOT APPLY TO YOU. In no event shall Fluke Networks total liability to you for all damages exceed the amounts paid by you hereunder.

#### **8. GOVERNMENT END USERS.**

If the AirMagnet Software is supplied to the United States Government, the AirMagnet Software is classified as "restricted computer software" as defined in clause 52.227-19 of the FAR. The United States Government's rights to the AirMagnet Software are as provided in clause 52.227-19 of the FAR.

#### **9. CONTROLLING LAW AND SEVERABILITY.**

This License shall be governed by the laws of the United States and the State of Washington, U.S.A. If for any reason a court of competent jurisdiction finds any provision, or portion thereof, to be unenforceable, the remainder of this License shall continue in full force and effect.

#### **10. COMPLETE AGREEMENT.**

This License constitutes the entire agreement between the parties with respect to the use of the AirMagnet Software and supersedes all prior or contemporaneous understandings regarding such subject matter. No amendment to or modification of this License will be binding unless in writing and signed by Fluke Networks.