



## NETRISE END USER LICENSE AGREEMENT

**BY EXECUTING A WRITTEN ORDER FOR THE SOFTWARE (AS DEFINED BELOW), YOU AGREE TO THE TERMS OF THIS END USER LICENSE AGREEMENT. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF ANOTHER PERSON OR COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND THAT PERSON, COMPANY OR LEGAL ENTITY TO THESE TERMS.**

**IF YOU DO NOT AGREE TO THESE TERMS:**

**DO NOT ACCESS OR USE THE SOFTWARE.**

### **I. Definitions**

- a) “NETRISE” means NETRISE Inc. with offices located at 1806 Ferdinand Street Unit 1, Austin, TX 78702.
- b) “Documentation” means explanatory materials in printed, electronic, or online form accompanying the Software and provided to you hereunder, together with any and all updates furnished by NETRISE to you in connection with the Software.
- c) “Software” means the NETRISE Software made available to you by NETRISE.
- d) “EULA” means this NETRISE End User License Agreement.
- e) “Subsidiary” means any entity controlled by you through greater than fifty per cent (50%) ownership of the voting securities.
- f) “Support” means the support services provided by NETRISE to you for the support and maintenance of the Software pursuant to the NETRISE Technical Support and Maintenance Terms.
- g) “Updates” has the meaning set forth in the NETRISE Technical Support and Maintenance Terms.
- h) “Upgrade” has the meaning set forth in the NETRISE Technical Support and Maintenance Terms.

## II. Use Rights.

Right to Use the Software: Subject to the terms and conditions of this EULA, including but not limited to payment of all relevant fees, you may (i) access and use the Software solely for your own internal business operations; and (ii) reproduce the Documentation for the Software ordered by Customer hereunder and/or incorporate all or any portion of the Documentation in training materials prepared by you, in each case solely for your own internal business operations.

Subsidiaries; Managing Parties: You may permit use of the Software during the Term in accordance with the terms of this EULA by a Subsidiary only for so long as such entity remains your Subsidiary. You also may permit a third party with which you enter into a contract to manage your information technology resources ("Managing Party") to use the Software, provided that (i) the Managing Party only uses the Software for your internal operations and not for the benefit of any other third party or the Managing Party, (ii) the Managing Party agrees to comply with the terms and conditions of this EULA and (iii) you provide NETRISE with written notice that a Managing Party will be using the Software on your behalf. You shall be responsible and fully liable for each Subsidiary's and Managing Party's compliance with and/or any breach of the terms of this EULA.

Limitations on Use: You may not, and you may not cause or allow any third party, including any subsidiary of Managing Party, to: (i) decompile, disassemble or reverse-engineer the Software; or create or recreate the source code for the Software; (ii) remove, erase, obscure, or tamper with any copyright or any other product identification or proprietary rights notices, seal, or instructional label printed or stamped on, affixed to, or encoded or recorded in or on any Software or Documentation; or fail to preserve all copyright and other proprietary notices in all copies of the Software and Documentation made by you (including, without limitation, any attribution notice or reference to NETRISE in any routine, script, code, or program in the Software or any output of the Software); (iii) lease, lend or use the Software for timesharing or service bureau purposes; sell, market, license, sublicense, distribute, or otherwise grant to any person or entity any right to use the Software except to the extent expressly permitted in this EULA; or use the Software to provide, alone or in combination with any other product or service, any product or service to any person or entity, whether on a fee basis or otherwise; (iv) modify, adapt, tamper with, translate, or create derivative works of the Software or the Documentation; combine or merge any part of the Software or Documentation with or into any other software or documentation; or refer to or otherwise use the Software as part of any effort to develop software (including, without limitation, any routine, script, code, or program) having any functional attributes, visual expressions, or other features similar to those of the Software or to compete with NETRISE; or (v) except with NETRISE's prior written permission, publish any performance or benchmark tests or analysis relating to the Software.

Attribution Notice: You shall retain any attribution notice or reference to NETRISE in any data, screenshot or other output generated by the Software (including, without limitation, application inventories or software bills of materials generated for third parties). Where no such attribution notice or reference exists, you shall add an attribution notice or reference identifying NETRISE as the source.

Intellectual Property Rights: The Software, including, without limitation, its object code and source code, whether or not provided to you, is strictly confidential to, and the sole property of, NETRISE. NETRISE exclusively owns right, title, and interest in and to the Software, including, without limitation, all intellectual property rights in and to the Software, including its object code and source code. This EULA is not an agreement of sale, and no title, intellectual property rights, or ownership rights in, to or under the Software

are transferred to you pursuant to this EULA. You acknowledge and agree that the Software and all ideas, methods, algorithms, formulae, processes, and concepts used in developing or incorporated into the Software, all future Updates and Upgrades, and all other improvements, revisions, corrections, bug-fixes, hot-fixes, patches, modifications, enhancements, releases, signature sets, upgrades, and policy and database updates and other updates in, of, or to the Software, all derivative works based upon any of the foregoing, and all copies of the foregoing are trade secrets and the confidential proprietary information of NETRISE, having great commercial value to NETRISE.

### **III. Term and Termination.**

Term: The license is effective for the limited period of time set forth in a purchase order or other agreement, as applicable (the “Term”).

Termination: Without prejudice to your payment obligations, you may terminate your license at any time prior to the end of the Term by ceasing access to and use of the Software and Documentation and notifying NETRISE in writing of your desire to terminate the license and this EULA. In the event you notify NETRISE of any material breach of this EULA by NETRISE or its third party partners or licensors and such breach is not cured within thirty (30) days of NETRISE receiving notice of such breach, NETRISE shall provide a refund of any pre-paid license fees paid by you on a pro-rata basis up to the date of notification of material breach delivered to NETRISE and in accordance with the terms of this EULA. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, NETRISE shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Upon such termination, NETRISE will revoke all access to the Software and Documentation and you agree to cease any and all use of and access to the Software and Documentation and to promptly return or destroy all copies of the Documentation to NETRISE. You hereby agree that, except in the case of termination by you due to material breach of this EULA by NETRISE, any fees paid to NETRISE by you hereunder are nonrefundable.

### **IV. Technical Support and Maintenance**

NETRISE shall provide you with the Support specified in the relevant purchase order for the Software you have purchased in accordance with the terms and conditions of NETRISE’s Technical Support and Maintenance Terms. After any support or service subscription period has expired, you have no further rights to receive any Support including Upgrades, Updates and telephone support. You will secure any and all privacy-related rights and permissions from individual persons as may be required by regulation, statute, or other law or your internal policies or guidelines in order to disclose to NETRISE, in connection with NETRISE’s performance of Support or otherwise under this EULA, applicable personally identifiable information, data, and material.

### **V. Limited Warranty and Disclaimer.**

Limited Warranty: NETRISE warrants that, for a period of thirty (30) days from the purchase date (“Warranty Period”), the Software licensed hereunder will perform substantially in accordance with the Documentation (the “Limited Warranty”).

Exclusive Remedy: In case of any breach of the Limited Warranty during the Warranty Period, as your exclusive remedy and NETRISE’s entire obligation and liability, NETRISE will (i) at NETRISE’s sole discretion, repair or replace the Software or (ii) if such repair or replacement would, in NETRISE’s sole opinion be commercially unreasonable, upon NETRISE’s receipt of your confirmation that the Software

and Documentation has been returned to NETRISE or destroyed, NETRISE will refund the price paid by you for the Software.

Exclusion of Warranty: THE LIMITED WARRANTY WILL NOT APPLY IF: (i) THE SOFTWARE IS NOT USED IN ACCORDANCE WITH THIS EULA OR THE DOCUMENTATION, (ii) THE SOFTWARE OR ANY PART THEREOF HAS BEEN MODIFIED BY OR ON BEHALF OF YOU, OR (iii) THE BREACH OF THE LIMITED WARRANTY HAS BEEN CAUSED BY ANY EQUIPMENT OR SOFTWARE NOT SUPPLIED BY NETRISE.

Disclaimer: EXCEPT FOR THE LIMITED WARRANTY, THE SOFTWARE IS PROVIDED “AS IS” AND NETRISE MAKES NO REPRESENTATIONS OR WARRANTIES, AND NETRISE DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN TRADE, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR SYSTEMS INTEGRATION. WITHOUT LIMITING THE FOREGOING, NETRISE MAKES NO WARRANTY, REPRESENTATION, OR GUARANTEE AS TO THE SOFTWARE’S USE OR PERFORMANCE AND DOES NOT WARRANT, REPRESENT, OR GUARANTEE THAT THE OPERATION OF THE SOFTWARE WILL BE FAIL-SAFE, UNINTERRUPTED, OR FREE FROM ERRORS OR DEFECTS OR THAT THE SOFTWARE WILL PROTECT AGAINST POSSIBLE THREATS.

High Risk Systems Terms: THE SOFTWARE MAY FAIL AND IS NOT DESIGNED, DEVELOPED, TESTED, OR INTENDED TO BE RELIABLE IN THE CONTEXT OF HIGH RISK SYSTEMS. WITHOUT LIMITING ANYTHING ELSE, NETRISE HAS NO RESPONSIBILITY FOR, AND YOU WILL INDEMNIFY AND HOLD HARMLESS NETRISE FROM, ALL CLAIMS, SUITS, DEMANDS, AND PROCEEDINGS ALLEGING, CLAIMING, SEEKING, OR ASSERTING, ANY LIABILITY, LOSS, OBLIGATION, RISK, COST, DAMAGE, AWARD, PENALTY, SETTLEMENT, JUDGMENT, FINE, OR EXPENSES (INCLUDING ATTORNEYS FEES) ARISING FROM OR IN CONNECTION WITH YOUR USE OF, AND ANY OF YOUR SUBSIDIARIES’ OR MANAGING PARTIES’ USE OF, THE SOFTWARE ON OR IN A HIGH RISK SYSTEM, INCLUDING, WITHOUT LIMITATION, THOSE THAT (i) COULD HAVE BEEN PREVENTED BY DEPLOYMENT OF FAIL-SAFE OR FAULT-TOLERANT FEATURES TO THE HIGH RISK SYSTEM, (ii) ARE BASED ON A CLAIM, ALLEGATION, OR ASSERTION THAT THE FUNCTIONING OF THE HIGH RISK SYSTEM DEPENDS OR DEPENDED ON THE FUNCTIONING OF THE SOFTWARE OR THAT THE FAILURE OF THE SOFTWARE CAUSED A HIGH RISK SYSTEM TO FAIL.

## **VI. Limitation of Remedies and Damages.**

NEITHER PARTY SHALL BE LIABLE TO THE OTHER UNDER THIS EULA OR IN CONNECTION WITH ITS SUBJECT MATTER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR EXTRA-CONTRACTUAL DAMAGES OF ANY KIND, LOSS OF GOODWILL, LOSS OF PERSONNEL SALARIES, LOST PROFITS OR REVENUE, DAMAGES DUE TO WORK STOPPAGE AND/OR COMPUTER FAILURE OR MALFUNCTION, WHETHER OR NOT FORESEEABLE, EVEN IF THE EXCLUSIVE REMEDIES PROVIDED BY THIS EULA FAIL OF THEIR ESSENTIAL PURPOSE AND EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES. NOTWITHSTANDING THE

FOREGOING, ANY DAMAGES RESULTING FROM NETRISE'S INDEMNIFICATION OBLIGATIONS ARE DEEMED DIRECT DAMAGES.

REGARDLESS OF WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT, TORT AND/OR ANY OTHER LEGAL THEORY, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS EULA OR IN CONNECTION WITH ITS SUBJECT MATTER EXCEED THE AMOUNT OF TOTAL FEES PAID OR PAYABLE BY YOU FOR THE SOFTWARE GIVING RISE TO SUCH CLAIM DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. NO PROVISION OF THIS EULA SHALL EXCLUDE OR LIMIT IN ANY WAY (i) THE LIABILITY OF EITHER PARTY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE OR (ii) YOUR LIABILITY FOR EXCESS USAGE OF AND/OR ANY BREACH OF NETRISE'S INTELLECTUAL PROPERTY RIGHTS IN THE SOFTWARE OR DOCUMENTATION OR FRAUD.

THE LIMITATION OF LIABILITY IN THIS SECTION IS BASED ON THE FACT THAT END USERS USE THEIR COMPUTERS FOR DIFFERENT PURPOSES. THEREFORE, ONLY YOU CAN IMPLEMENT BACK-UP PLANS AND SAFEGUARDS APPROPRIATE TO YOUR NEEDS IN THE EVENT THAT AN ERROR IN THE SOFTWARE CAUSES COMPUTER PROBLEMS AND RELATED DATA LOSSES. FOR THESE BUSINESS REASONS, YOU AGREE TO THE LIMITATIONS OF LIABILITY IN THIS SECTION AND ACKNOWLEDGE THAT WITHOUT YOUR AGREEMENT TO THIS PROVISION, THE FEE CHARGED FOR THE SOFTWARE WOULD BE HIGHER.

## **VII. Intellectual Property Indemnity.**

By NETRISE: NETRISE will indemnify, have the right to intervene to defend and hold you harmless from any and all liabilities, losses, damages and expenses incurred by you to the extent arising out of or related to a claim that the Software infringes any valid United States intellectual property; provided that you: (i) notify NETRISE promptly in writing of such action, (ii) give NETRISE control of the defense and/or settlement of such action, and

(iii) give NETRISE all reasonable information and assistance in connection with such action. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516. Should the Software become, or in the opinion of NETRISE, be likely to become, the subject of such an infringement claim, NETRISE may, at its sole option and at its expense: (i) procure for you the right to continue using the Software, (ii) replace the Software with a non-infringing Software, or (iii) modify the Software so that it becomes non-infringing. Notwithstanding the foregoing, NETRISE assumes no liability for infringement claims with respect to Software (A) not supplied by NETRISE, (B) made in whole or in part in accordance to your specifications to the extent the infringement claim(s) relates to the part of the Software made in accordance to your specifications, (C) that is modified by you or a third-party after delivery by NETRISE, (D) combined with other products, processes or materials provided by you or a third-party where the alleged infringement relates to such combination, or any claims (E) where you continue the allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement where the modification necessary to avoid the infringement can be readily installed by NETRISE, or (F) where your use of the Software is not strictly in accordance with this EULA. The foregoing indemnity is personal to you. You may not transfer such indemnity to any third party, including your customers. This section states NETRISE's entire obligation and your exclusive remedy for claims that the Software infringes any valid United States intellectual property.

## **VIII. Notice to U.S. Government End Users**

The Software and accompanying Documentation are deemed to be “commercial computer software” and “commercial computer software documentation”, respectively, pursuant to DFAR and FAR, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software and accompanying Documentation by the United States Government shall be governed solely by the terms of this EULA and shall be prohibited except to the extent expressly permitted by the terms of this EULA.

## **X. Privacy and Collection of Personal or System Information**

The Software, Support or service subscription may employ applications and tools to collect personally identifiable, sensitive or other information about you and users (e.g., including, without limitation, your and users’ name, address, e-mail address and payment details), their computers, files stored on their computers, or their computers’ interactions with other computers (e.g., including, without limitation, information regarding network, licenses used, hardware type, model, hard disk size, CPU type, disk type, RAM size, 32 or 64 bit architecture, operating system types, versions, locale, BIOS version, BIOS model, total scanners deployed, database size, system telemetry, device ID, IP address, location, content, processes and services information, frequency, information about third party products installed, extracts of logs created by NETRISE, usage patterns of NETRISE products and specific features, etc.) (collectively, “Data”).

The collection of this Data may be necessary to provide you and users with the relevant Software, Support or service subscription functionalities as ordered (e.g., including, without limitation, detecting and reporting threats and vulnerabilities on your and users’ computer network), to enable NETRISE or its licensors to improve the Software, Support or service subscription (e.g., including, without limitation, content synchronization, device tracking, troubleshooting, etc.), and to further or improve overall security for you and users. You may be required to uninstall the Software or disable Support or its service subscription to stop further Data collection that supports these functions.

By entering into this EULA, or using the Software, Support or service subscription, you and users agree to the NETRISE privacy policy on the NETRISE website and to the collection, processing, copying, backup, storage, transfer and use of this Data by NETRISE and its licensors and service providers, in, from and to the United States, Europe, or other countries or jurisdictions potentially outside of your or user’s own as part of the Software, Support or service subscription. NETRISE will only collect, process, copy, backup, store, transfer and use personally identifiable information in accordance with the NETRISE privacy policy on the NETRISE website.

## **XI. Governing Law.**

All disputes arising out of or relating to this EULA or its subject matter will be governed by the substantive Federal laws of the United States without reference to its principles of conflicts of laws

This EULA will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. The Uniform Computer Information Transactions Act as enacted shall not apply.

## **XII. Confidentiality.**

Each party hereto acknowledges that by reason of its relationship with the other party hereunder, it may have access to confidential information and materials concerning the other party's business, technology, and/or products that is confidential to the other party ("Confidential Information"). Each party's Confidential Information is of substantial value to the party, which value could be impaired if such information was disclosed to third parties or used in violation of this EULA. Written or other tangible Confidential Information must at the time of disclosure be identified and labeled as Confidential Information belonging to the disclosing party. When disclosed orally or visually, Confidential Information must be identified as confidential at the time of the disclosure, with subsequent confirmation in writing within fifteen (15) days after disclosure. Each party agrees that it will not use in any way for its own account or the account of any third party, such Confidential Information, except as authorized under this EULA, and will protect Confidential Information at least to the same extent as it protects its own Confidential Information and to the same extent that a reasonable person would protect such Confidential Information. Neither party may use the other party's Confidential Information except to perform its duties or exercise its rights under this EULA. The Confidential Information restrictions will not apply to Confidential Information that is (i) already known to the receiving party at the time of access hereunder, (ii) becomes publicly available through no wrongful act of the receiving party, (iii) independently developed by the receiving party without benefit of the disclosing party's Confidential Information, (iv) has been rightfully received from a third party not under obligation of confidentiality or (v) is required to be disclosed by law, provided the party compelled to disclose the Confidential Information provides the party owning the Confidential Information with prior written notice of disclosure adequate for the owning party to take reasonable action to prevent such disclosure, where reasonably possible. Unless otherwise agreed to by both parties, upon termination of this EULA or an applicable addendum to this EULA, each party will return the other party's Confidential Information upon the expiration or earlier termination of this EULA. NETRISE recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

## **XIII. Miscellaneous.**

Survival: Any terms of this EULA, which by their nature should survive the termination of this EULA, shall survive such termination including, but not limited to Section XI (Confidentiality).

Assignment: NETRISE may assign or transfer this EULA, in whole or in part, at any time, subject to your receiving prior written notice. You may not assign or transfer this EULA or any rights or obligations thereunder without the prior written consent of NETRISE. Any assignment or

transfer of you made in contravention of the terms hereof shall be null and void. Subject to the foregoing, this EULA shall be binding on and inure to the benefit of the parties' respective successors and permitted assigns.

Entire Agreement; Modifications: This EULA, including all documents incorporated by reference and attached hereto, represents the entire agreement between the parties and expressly supersedes and cancels any other communication, representation or advertising whether oral or written, on the subjects herein. If you issue an order to NETRISE and the terms and conditions of the order conflict with the terms and conditions of this EULA, then the terms and conditions specified in this EULA shall control. No terms or conditions of any pre-printed or boilerplate purchase order of yours or other document of yours will govern the transactions contemplated by this EULA. This EULA may not be modified except by a written addendum issued by a duly authorized representative of NETRISE. No provision hereof shall be deemed waived unless such waiver shall be in writing and signed by NETRISE. If any provision of this EULA is held invalid, unenforceable, or prohibited under law, then such provision will be deemed restated to reflect the original intention of the parties as nearly as possible in accordance with applicable law and the remainder of this EULA shall continue in full force and effect.

Notices: All notices, requests, demands and determinations for NETRISE under this EULA (other than routine operational communications) shall be sent to:

NETRISE  
1806 Ferdinand Street Unit 1  
Austin, TX 78702

and to you at the address provided on the purchase order for the Software.

Counterparts: This EULA may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

[SIGNATURE PAGE TO FOLLOW]



IN WITNESS WHEREOF, the parties have executed this EULA effective as of the date of the later signature below:

Customer	NETRISE
Signature :	Signature :
Name :	Name :
Title :	Title :
Date :	Date :