

Software License Agreement

Entuity End User License Agreement

This agreement (the “Agreement”) defines the terms and conditions for using the proprietary Entuity software product together with any third party software products included therein (collectively, the “Software”) and associated operating guides (the “Documentation”) owned by Entuity Limited and its licensors. Unless you have negotiated specific terms and conditions for such use then the following shall apply.

1. License Term and Charges.

- a. Upon your purchase of the Software, Entuity Limited whose principle place of business is at 5910 Landerbrook Dr., Mayfield Heights, Ohio (the “Company”) hereby grants to you a licensee, a non-exclusive, non-transferable license to use the Software in object code form solely for your own business operation. The term of this license commences when you open the package containing the Software (the “CD”) or download the Software from a legitimate Company source and shall continue until terminated upon default or as otherwise set forth herein. By installing the Software, you ratify your assent to this Agreement. The Software may only be used on one server at a time, unless additional copies of the Software are purchased and licensed. The Software will only be usable by you for a limited period unless you obtain and apply a new license key from Company or its representatives. The license key will enable you to manage the number of network elements for the term specified on your purchase order. If you wish to increase the number of elements, extend the term or require additional features of the Software to be licensed, you may do so by notifying Company or its representatives and paying the applicable upgrade price. Company will then issue a new license key enabling you to manage such additional elements and/or use the additional features of the Software. Such license upgrades shall form part of the Software and be subject to the terms of this Agreement. You agree that your violation of the license rights provided in this Agreement shall permit Company to take any and all necessary legal actions permitted by law, including injunctive relief and recovery of damages.

2. Restrictions.

- a. You shall not and you shall not permit other persons or entities to: (i) directly or indirectly, by electronic means, reproduce (except one copy for archival purposes), publish, distribute, rent, lease, sell, sublicense, assign or otherwise transfer the Software or any part thereof or this Agreement; (ii) attempt to disable or circumvent any of the licensing mechanisms in the Software or use the software to manage more network elements or for a longer period than you have purchased or licensed, (iii) reverse-engineer, decompile, disassemble, merge, modify, create derivative works of, or translate the Software or use any part of the Software outside the scope of the intended use of the Software; (iv) use the Software for any purpose other than internal business purposes or permit sublicensing, time sharing, rental, facility management, service bureau or application development use of the Software or permit publication or distribution of results of any benchmark tests run on the Software, or (v) remove or obscure any copyright, trademark or other proprietary notices or legends from any portion of the Software or any associated documentation. This Agreement and your rights hereunder shall automatically terminate if you fail to comply with any provision of this agreement. Upon such termination, you agree to destroy all copies of the Software and return to Company all proprietary materials that are in your possession or under your control.

3. Limited Warranty and Limited Liability.

- a. Company warrants that for a period of 90 days from its delivery to you, the Software, if operated as instructed, shall perform substantially in accordance with the documentation and shall substantially achieve the functionality described therein. Company’s obligation under this warranty shall be limited as set forth below. Company does not warrant that the Software, due to its complex nature, is totally free from error or omission.

or that operation shall be uninterrupted. All warranty obligations are void if the Software has been modified by any person other than Company and its licensors.

- b. Company's entire liability and your sole remedy shall be limited, at the election of Company, to (i) replacement of the CD, (ii) refund of your license fee, or (iii) use of Company's reasonable efforts to correct, at no charge, Software errors of which Company is the cause. Company shall have no liability if failure of the Software is wholly or partly the result of abuse, misapplication or accident. Any replacement CD or downloaded copy of the Software shall be warranted on the same terms for the remainder of the original warranty period or 30 days, whichever is longer.
- c. EXCEPT AS SPECIFICALLY STATED ABOVE, THE LICENSED SOFTWARE AND ASSOCIATED DOCUMENTATION IS PROVIDED WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOFTWARE IS ASSUMED BY YOU. COMPANY ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OR APPLICATION OF OR ERRORS OR OMISSIONS IN THE SOFTWARE AND ASSOCIATED DOCUMENTATION. COMPANY AND ITS LICENSORS SHALL HAVE NO LIABILITY FOR ANY LOSSES OR DAMAGES WHICH MAY BE SUFFERED BY THE LICENSEE (OR ANY PERSON CLAIMING UNDER OR THROUGH IT) IN CONTRACT, IN TORT OR OTHERWISE WHETHER THE SAME ARE SUFFERED DIRECTLY OR INDIRECTLY OR ARE IMMEDIATE OR CONSEQUENTIAL, WHICH FALL WITHIN THE FOLLOWING CATEGORIES: SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES; LOSS OF REVENUE OR PROFITS; ANTICIPATED SAVINGS; BUSINESS OPPORTUNITY OR GOODWILL, EVEN THOUGH COMPANY OR ITS LICENSORS MAY HAVE BEEN AWARE OF THE CIRCUMSTANCES IN WHICH SUCH LOSSES OR DAMAGES COULD ARISE. COMPANY'S ENTIRE LIABILITY FOR ANY BREACH OF ITS OBLIGATIONS UNDER OR IN CONNECTION WITH THIS AGREEMENT, HOWEVER ARISING, SHALL BE LIMITED TO A SUM EQUAL TO THE AGGREGATE AMOUNTS PAID BY THE LICENSEE TO COMPANY OR ITS REPRESENTATIVES HEREUNDER.
- d. The warranty and remedy set forth herein are exclusive and in lieu of all others, oral or written, expressed or implied. No Company agent or employee or third party is authorized to make any modification or addition to this warranty.

4. Intellectual Property.

- a. The copyright, trademark and other intellectual property rights in the Software and the Documentation are and shall remain the exclusive property of Company and its licensors. You shall not remove or alter any copyright, trademark or other proprietary notice set out in the Software or the Documentation.

5. U.S. Government Restricted Rights.

- a. The Software is licensed subject to Restricted Rights. If the licensee is an agency or instrumentality of the United States Government, the Software and Documentation are "commercial computer software" and "commercial computer software documentation" and, pursuant to FAR 12.212 or DFARS 227.7202 and their successors as applicable, use, reproduction and disclosure of the Software and Documentation are governed by the terms of this Agreement.

6. General Provisions.

- a. Company retains all rights not expressly granted. Nothing in this Agreement constitutes a waiver of Company's rights under international copyright laws or any other federal, state, local, or foreign law or grants you any rights in source code. You are responsible for installation, management and operation of the Software. This Agreement shall be construed, interpreted and governed by the laws of the State of Ohio, U.S.A.