

End User License and Limited Warranty Agreement

IMPORTANT - READ CAREFULLY: THIS SOFTWARE LICENSE AGREEMENT ("LICENSE AGREEMENT") IS A LEGAL AGREEMENT BETWEEN PARABLU INC. A CALIFORNIA CORPORATION, HEREINAFTER REFERRED TO AS THE "COMPANY", "Parablu", "Parablu", "PARABLU", "WE", "US" OR "OUR" (WHICH EXPRESSION UNLESS REPUGNANT TO, OR INCONSISTENT WITH THE CONTEXT OR MEANING THEREOF, SHALL INCLUDE ITS SUCCESSORS IN INTEREST, AFFILIATES AND ASSIGNS) AND ANY PERSON, COMPANY OR BUSINESS ENTITY WHO IS USING PARABLU'S SOFTWARE PRODUCT(S), WHICH INCLUDES COMPUTER SOFTWARE AND MAY INCLUDE ASSOCIATED MEDIA, AND "ONLINE" OR ELECTRONIC DOCUMENTATION ("SOFTWARE") AND/ OR HAS LICENSED THIS SOFTWARE (HEREINAFTER REFERRED TO AS THE "CUSTOMER", "YOU", OR "YOUR" (WHICH EXPRESSION UNLESS REPUGNANT TO, OR INCONSISTENT WITH THE CONTEXT OR MEANING THEREOF, SHALL INCLUDE ITS SUCCESSORS IN INTEREST, AFFILIATES AND ASSIGNS). BY INSTALLING, COPYING OR OTHERWISE USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS OF THIS LICENSE AGREEMENT AND ANY FUTURE AMENDMENTS AND ADDITIONS TO THIS LICENSE AGREEMENT AS PUBLISHED FROM TIME TO TIME AT HTTPS://WWW.PARABLU.COM/LEGAL OR AS OTHERWISE NOTIFIED BY THE COMPANY. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE AGREEMENT, DO NOT INSTALL OR USE THE SOFTWARE. YOU SHALL INFORM ALL USERS OF THE SOFTWARE OF THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT.

Definitions

"Affiliate" shall mean and be limited to, with respect to either party, any legal entity that directly or indirectly Controls, is Controlled by or is under common Control with such party;

"Control" means (a) ownership of more than 50% of the equity of such party or entity or

(b) the power to direct or cause the direction of the management of such party or entity.

"Software Function" shall mean and be limited to the function provided by the SOFTWARE which assists in identifying new or modified objects on Your source systems and transporting them to a backup storage destination in an encrypted form. Further,



when such objects need to be restored back to the Your source systems, the SOFTWARE will provide a reciprocal function which identifies the right object (or objects) on the aforementioned backup storage and transports them to the desired destination systems in a decrypted form.

Provided however, in the aforesaid process the SOFTWARE depends on the Your source and destination systems, storage sub-systems, network, the public internet, and storage platform to be functioning as expected and such dependencies are hereby expressly excluded from the definition of Software Function.

License

This LICENSE AGREEMENT grants You a non-exclusive, non-transferable, non-sublicensable, fee-bearing, limited license to use the SOFTWARE which is the property of Parablu, under the terms and conditions stated herein. You agree that this SOFTWARE is licensed, not sold to You. You agree that all upgrades, enhancements, adaptations, modifications, translations, maintenance releases, patches, bug-fixes or other modifications to the SOFTWARE provided to You shall be governed by the terms and conditions, including the Limited Warranty (defined hereinafter), exclusive remedies and limitations of liability provisions, contained in this LICENSE AGREEMENT, or the then current version. The Company reserves the sole right to modify the terms and conditions of this LICENSE AGREEMENT and its policies relating to the SOFTWARE at any time, effective upon posting of an updated version of this LICENSE AGREEMENT on PARABLU's website or upon other notification. Continued use of the SOFTWARE after any such changes shall constitute Your consent to all such changes. Except as otherwise provided herein, the license granted herein shall be for the period of time as specified in the invoice ("Term") issued to You.

This LICENSE AGREEMENT shall be in effect for the Term or until terminated except as expressly otherwise provided herein. You may terminate this LICENSE AGREEMENT at any time by destroying all copies of the SOFTWARE. This LICENSE AGREEMENT will terminate immediately without notice from Parablu if You fail to comply with any provisions of this LICENSE AGREEMENT. The SOFTWARE may automatically deactivate and become nonoperational at the end of the Term, or upon non-payment of the subscription fee per the terms of the invoice, and You will not be entitled to receive any feature or content updates to the SOFTWARE unless the license subscription is renewed.



termination, You must destroy all copies of SOFTWARE in Your possession or control with immediate effect.

Upon expiration or termination of this LICENSE AGREEMENT, PARABLU will have no obligation to provide access to any of Your backed up data via the Software Function or through any other means. In the event of a fully hosted subscription, where compute infrastructure and/or computer storage required for the Software Function is being provided by Parablu, upon expiration of termination of this LICENSE AGREEMENT Parablu shall, unless legally prohibited, delete all Your data in its possession or control.

Consideration

In consideration of the rights grant to use the SOFTWARE under this LICENSE AGREEMENT, You shall pay to Parablu or the licensor from whom you licensed the SOFTWARE, a perpetual license price or the periodic subscription amount in accordance with the invoice issued to You. You expressly agree that all payments made by You under this LICENSE AGREEMENT are firm and not refundable.

You may: (i) use the SOFTWARE, in numbers equal to the number of licenses purchased for all items; (ii) make copies of the SOFTWARE, documentation or other user information accompanying the SOFTWARE solely for back-up purposes, provided such back-up copies are only utilized as a replacement for the original copy; and, (iii) make a copy or print documentation provided in electronic form for internal use. You must incorporate all copyright and other notices included on the materials on any copies or partial copies that You make, (iv) use the SOFTWARE only for lawful purposes and not use the SOFTWARE for any fraudulent purposes, (v) keep secure and confidential your account password or any identification PARABLU provides you which allows access to the SOFTWARE.

You shall not: (i) make a copy of any of the SOFTWARE for any purpose not explicitly permitted herein; (ii) provide commercial hosting services, sell, sublicense, rent, loan or lease the SOFTWARE to another party, without the prior written consent of Parablu; (iii) except to the extent that such a prohibition is expressly prohibited by law, You shall not translate, recreate, decompile, disassemble, reverse engineer or modify the SOFTWARE, in any manner, even partially, or attempt to or enable third parties to perform such acts on the SOFTWARE; (iv) transfer or assign your rights to use the



SOFTWARE; (v) use the SOFTWARE in violation of applicable local, federal or other laws or regulations; (vi) use the SOFTWARE for any purpose other than as permitted in this LICENSE AGREEMENT, (vii) use someone else's copyrighted or trademarked work with the SOFTWARE, if you are not permitted to use it, (viii) use any pirated version of the SOFTWARE or share the SOFTWARE with a third party without the prior written permission of Parablu, (ix) attempt to impair the operation of the SOFTWARE, (x) try to harm the SOFTWARE in any way whatsoever, (xi) modify, alter or remove the copyright identifications, the trademarks, or any other intellectual property notice appearing on or included in the SOFTWARE or which enables identification of the SOFTWARE.

Any SOFTWARE Parablu and/or its licensors may provide You as part of the subscription are governed by this LICENSE AGREEMENT, unless separate terms are agreed and provided to You. You agree that Parablu and/or its licensors may, for business purposes, collect, process, and use technical information gathered as part of any technical support services provided to You related to the SOFTWARE and any other technical information You provide to Parablu.

Acceptance of the SOFTWARE occurs upon grant of a license certificate by Parablu. Parablu and/or its licensors retain ownership of the SOFTWARE. No rights are granted to You other than a license to use the SOFTWARE upon the terms expressly set forth in this LICENSE AGREEMENT. Such licensors, in addition to any other rights or remedies available to them, are third party beneficiaries of this LICENSE AGREEMENT for their respective software and may have the right to enforce such terms against You. The structure, sequence, organization and source code of the SOFTWARE are valuable trade secrets of Parablu and/or its licensors. Any reports regarding Your use of the SOFTWARE and any other usage information, results, comments, or suggestions provided by You to Parablu regarding the SOFTWARE (collectively, the "Feedback") may be used by Parablu to improve the SOFTWARE and its performance and also to prepare data analysis on the usage of the SOFTWARE among its users. By using the SOFTWARE you agree that Parablu shall on occasions, at its sole discretion, provide the Feedback information to third parties during its business operations. By providing Feedback, You grant and assign to Parablu, under Your intellectual property rights and other ownership rights, a worldwide, royalty-free, irrevocable, and nonexclusive license, with the right to sublicense to Parablu's Licensees and customers, the rights to use and disclose the Feedback in any manner Parablu chooses, and to display, perform, copy, make, have made, use, sell, and



otherwise dispose of Parablu's products embodying the Feedback in any manner and via any media Parablu or its sub-licensees choose, without obligation to You. To the extent that You may acquire by operation of law or equity, any right, title, or interest, including any intellectual property rights, in or to the Feedback, or any modifications, or developments related thereto, You hereby assign to Parablu Your entire right, title, and interest, including all intellectual property rights, therein and thereto, and agree to execute any necessary documents as reasonably required and requested by Parablu in connection with the foregoing.

Intellectual Property Ownership

All title and intellectual property rights in and to the SOFTWARE, and any copies You are permitted to make herein, are owned by Parablu and/or its licensors and are protected by United States and other country patent, copyright, trade secret, and other laws and by international treaty provisions.

Parablu alone shall own all right, title and interest, including all related intellectual property rights to any suggestions, adaptation, translation, modification, ideas, enhancement requests, Feedback, recommendations or other information provided by You relating to the SOFTWARE. This LICENSE AGREEMENT is not a sale and does not convey to You any rights of ownership in or related to the SOFTWARE, or any intellectual property rights owned by Parablu. The Company name, the Company logo, and the product names associated with the SOFTWARE are trademarks of the Company or third parties, and no right or license is granted to You to use them. All rights not expressly granted hereunder are expressly reserved by Parablu.

The above provisions and rights granted regarding title and intellectual property rights associated with the SOFTWARE and the Feedback shall survive termination of this LICENSE AGREEMENT.

Third Party Interactions

During use of the SOFTWARE, You may enter into correspondence or an activity with the third parties. Any such activity, and any terms, conditions, warranties or representations associated with such activity, is solely between You and the applicable third-party. The Company and its licensors shall have no liability, obligation or responsibility for any



such correspondence, purchase, transaction between You and any such thirdparty. The Company does not endorse any sites on the Internet that may be linked through the SOFTWARE, and in no event shall the Company or its licensors be responsible for any content, services or other materials on or available from such sites or third parties. The Company provides the SOFTWARE to you pursuant to the terms and conditions of this LICENSE AGREEMENT. You recognize, however, that certain third parties may require your agreement to additional or different terms and conditions prior to your use of or access to their services, and the Company disclaims any and all responsibility or liability arising from such agreements between you and the third parties.

Audit Rights

Parablu. You agree that upon written notice provided by Parablu, no earlier than three

(3) business days prior, Parablu and or a third party appointed by Parablu, may at its own cost, inspect and audit Your records and/or premises to ensure that Your user of the SOFTWARE complies with the terms and conditions of the license granted under the terms of this LICENSE AGREEMENT. You agree to cooperate with Parablu, or the third party appointed by Parablu so that such an audit can be carried out. In the event You do not cooperate with Parablu or the third party appointed by Parablu for such a audit, Parablu shall determine the extent of unauthorized usage based on the information available and such an audit report shall be final and binding on You.

If the audit reveals any unauthorized use of the SOFTWARE, You shall immediately take steps to correct such use and pay the due amount for the additional time or licenses that would have been necessary for Your use of the SOFTWARE in compliance with the terms of this LICENSE AGREEMENT, the due amount being computed based on the then current price of such additional time or licenses. You agree that Parablu's right of raising invoices for unauthorized use of the SOFTWARE is without prejudice to any other legal remedies available to Parablu under law. The audit right as defined in this section shall remain in force to two (2) years after the termination or expiration of this LICENSE AGREEMENT.

Indemnification

By entering into LICENSE AGREEMENT and using the SOFTWARE, you agree that you shall



defend, indemnify and hold the Company, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, members, employees, attorneys, assigns and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

- 1. Your violation or breach of any terms of this LICENSE AGREEMENT or any applicable law or regulation, whether or not referenced herein; or
- 2. Your violation of any rights of any third party while using the SOFTWARE; or
- 3. Your use of the SOFTWARE in a manner that is not in accordance with the terms of this LICENSE AGREEMENT.
- 4. Injuries or death to persons or damage to tangible property in any way arising out of or caused by Your negligence.

SOFTWARE provided as "NOT FOR RESALE" / "BETA" / "DEMONSTRATION" / "TEST" / "EVALUATION"

If the SOFTWARE is provided to you for beta, demonstration, test or evaluation purposes or is labelled "Not for Resale," then, notwithstanding anything to the contrary in this LICENSE AGREEMENT: (i) The licenses granted herein shall be for a term of fifteen (15) days (the "Evaluation Period") unless otherwise agreed to in writing by Parablu, and Parablu reserves the right to terminate this LICENSE AGREEMENT or any licenses granted hereunder immediately upon written notice at its convenience; (ii) Your use of the SOFTWARE is limited to use for demonstration, test or evaluation purposes, and you may not resell or otherwise transfer the SOFTWARE; (iii) You agree to keep confidential and not to disclose or otherwise make publicly available any information related to the SOFTWARE, including, but not limited to test results, characteristics, and performance of the SOFTWARE; (iv) You agree not to copy the SOFTWARE and not to provide a copy of the SOFTWARE to any other party; (v) You agree not to use the SOFTWARE in a production environment or for production data processing purposes, and that any use of the SOFTWARE in a production environment or for production data processing purposes is at your sole risk; and (vi) You agree to immediately, on or before the end of the Evaluation Period, promptly remove, destroy, and erase from computer memory and storage media any installed copy of the SOFTWARE, and return the SOFTWARE to Parablu together with all documentation and other materials provided by Parablu. Limited duration licenses, site licenses, beta, evaluation, test or demonstration SOFTWARE products are



delivered "AS IS" without a warranty of any kind. Parablu shall have no obligation to support, maintain, or provide other assistance regarding any limited duration licenses, site licenses, beta, evaluation, test, or demonstration licenses of the SOFTWARE. IF THE SOFTWARE IS PROVIDED TO YOU FOR BETA, DEMONSTRATION, TEST, OR EVALUATION PURPOSES OR IS LABELED "NOT FOR RESALE," IN NO EVENT WILL Parablu BE LIABLE FOR ANY DAMAGES FOR ANY CAUSE OR FOR ANY CLAIM BY BORROWER OR FOR ANY THIRD PARTY CLAIM, INCLUDING BUT NOT LIMITED TO ANY DIRECT DAMAGES, ACTUAL DAMAGES, LOST PROFITS, LOST DATA, LOST SAVINGS, OR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, EVEN IF PARABLU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Note on Java Support

THIS SOFTWARE PRODUCT MAY CONTAIN SUPPORT FOR PROGRAMS WRITTEN IN JAVA. JAVA TECHNOLOGY IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE AS ONLINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF JAVA TECHNOLOGY COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

Prerequisites

You acknowledge that you have been made aware of the technical pre-requisites such as hardware and software required to run the SOFTWARE, prior to the conclusion of this LICENSE AGREEMENT. You are responsible for and in charge of the purchase, the use, and the upgrade/ maintenance of any third party's software license/ hardware required for the running of the SOFTWARE.

Limited Warranty

With the exception of SOFTWARE provided to You for beta, demonstration, test or evaluation purposes or that is labelled "Not for Resale", Parablu warrants that the SOFTWARE licensed hereunder shall be new and shall operate substantially in accordance with the capabilities as advertised, for a period of thirty (30) days from the date of the grant of license by Parablu (hereinafter the "Warranty Period"). If, during the Warranty Period, You believe the SOFTWARE to be defective, You must immediately notify Parablu in writing and follow Parablu's instructions regarding the



return of the SOFTWARE. Parablu's sole liability to You, and Your sole remedy, shall be, at Parablu's option, (i) repair or replacement of the SOFTWARE which does not comply with this Limited Warranty, or (ii) return of the amount paid by You for the SOFTWARE which does not comply with the Limited Warranty. In the event Parablu determines that the SOFTWARE is in compliance with this Limited Warranty, You shall pay the cost of all charges associated with the inspection and shipment of such SOFTWARE by Parablu.

Non-Solitication

You shall not solicit or employ, directly or indirectly, any Parablu personnel during the Term of his LICENSE AGREEMENT and for a period of two (2) years after expiration of termination of the LICENSE AGREEMENT, without prior written consent from Parablu.

Governing Law and Jurisdiction

The export of the SOFTWARE may be restricted by the export control laws of the United States of America and other countries. You agree to comply strictly with all such regulations and acknowledge that You have the responsibility to obtain licenses to export, re-export, or import SOFTWARE. This LICENSE AGREEMENT shall be governed by the laws of California, USA without regard to any provisions concerning the applicability of the laws of other jurisdictions. Unless You have a separate licensing agreement in effect with Parablu, this LICENSE AGREEMENT is the complete and exclusive statement of Your agreement with Parablu with respect to the subject matter hereof and supersedes all prior agreements.

You and the Company agree that any legal disputes or claims arising out of or related to LICENSE AGREEMENT (including but not limited to the use of the SOFTWARE, or the interpretation, enforceability, revocability, or validity of the LICENSE AGREEMENT, or the arbitrability of any dispute), that cannot be resolved informally shall be submitted to binding arbitration in the state in which the LICENSE AGREEMENT is governed. The arbitration shall be conducted by the American Arbitration Association under its Commercial Arbitration Rules, or as otherwise mutually agreed by You and the Company. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Claims shall be brought within the time required by applicable law. You and the Company agree that any claim, action or proceeding arising out of or related LICENSE AGREEMENT must be brought in Your



individual capacity, and not as a plaintiff or class member in any purported class, collective, or representative proceeding. The arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative, collective, or class proceeding.

Severability

If any provision of this LICENSE AGREEMENT is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this LICENSE AGREEMENT shall remain in full force and effect.

Disclaimer

PARABLU DOES NOT WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR FREE. THE LIMITED WARRANTY PROVIDED HEREIN IS IN LIEU OF ALL OTHER WARRANTIES. PARABLU AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, AND PARABLU AND ITS LICENSORS EXPRESSLY EXCLUDE AND DISCLAIM ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, LACK OF VIRUSES OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. THE PROVISIONS SET FORTH ABOVE STATE PARABLU'S AND ITS LICENSORS' ENTIRE RESPONSIBILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY BREACH OF ANY WARRANTY.

Confidential Information

Both parties recognize the importance of maintaining appropriate safeguards against improper disclosure of each party's Confidential Information and recognizes that such damage the owner of the disclosure mav result in to Information. Accordingly, both parties agree to maintain the confidentiality all Confidential Information of the other party and to use such Confidential Information only in furtherance of the purposes of this LICENSE AGREEMENT. Each party undertakes on its own behalf and on behalf of its officers, not to disclose to any person or third party directly or indirectly any confidential information obtained directly as a result of the performance of this agreement unless required to do so by law or any Regulatory authority.

"Confidential Information" shall include but not be limited to techniques, schematics, designs, contracts, financial information, sales and marketing plans, software,



emails, business plans, business affairs, operations, strategies, inventions, methodologies, technologies, employees, subcontractors, pricing, methods of operations, procedures, products and/or services.

Confidential Information does not include information that is or becomes publicly available through no wrongful act of the receiving party; was lawfully obtained by the receiving party from a third party without any obligation to maintain the Confidential Information as confidential; was previously known to the receiving party without any obligation to keep it confidential; or was independently developed by the receiving party without use of or reliance upon the Confidential Information.

Your Confidential Information specifically does not include Feedback as defined in this LICENSE AGREEMENT.

The obligations under this Confidential Information provision will be in force for a period of two (2) years after termination or expiration of this LICENSE AGREEMENT.

No Consequential Damages

NEITHER PARABLU, NOR ANY OF ITS LICENSORS, WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO YOU OR ANY OTHER PARTY, FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, LOST PROFITS, LOSS OF INFORMATION OR DATA OR ANY OTHER SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF CONFIDENTIAL OR OTHER INFORMATION, FOR FAILURE TO MEET ANY DUTY INCLUDING GOOD FAITH OR REASONABLE CARE, FOR NEGLIGENCE, FOR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) REGARDLESS OF THE FORM OF ACTION OR RESULTING FROM THE LICENSE OF SOFTWARE PRODUCTS OR USE BY YOU OR ANY OTHER PARTY OF SUCH PRODUCTS, OR INABILITY TO USE THE SOFTWARE AND EVEN IF PARABLU OR ANOTHER PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE.

Limitation of Liability

IN THE EVENT PARABLU OR ITS LICENSORS ARE SUBJECT TO ANY LIABILITY IN CONNECTION WITH THE SOFTWARE FOR ANY REASON WHATSOEVER WHETHER ARISING FROM NEGLIGENCE,



BREACH OF CONTRACT OR OTHERWISE NEITHER PARABLU'S LIABILITY NOR THE LIABILITY OF ITS LICENSORS SHALL EXCEED THE SUM PAID BY YOU TO PARABLU OR THE LICENSOR FOR THE SOFTWARE WHICH WAS FOUND TO HAVE NOT COMPLIED WITH THE LIMITED WARRANTY. THIS LIMITATION SHALL APPLY EVEN IF PARABLU OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE.

Force Majeure

Parablu will be excused from performance of its obligations under this LICENSE AGREEMENT to the extent that performance is rendered impossible by earthquakes, fires, floods, governmental actions, pandemics, labor disruptions, supplier failures, or any other events or circumstances beyond Parablu's reasonable control.