

AUTOMATION20 SUBSCRIPTION END USER LICENSE AGREEMENT

Licensor: NetBrain

This Automation20 Subscription End User License Agreement (“**Agreement**”) is between NetBrain Technologies, Inc., on behalf of itself and its subsidiaries (collectively “**NetBrain**”) and the person installing or using the NetBrain Programs (“**Customer**” or “**You**”). The terms and conditions of this Agreement will govern Your installation and use of the Programs.

IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS: (1) do not download, install, copy, access, or use the Programs; and (2) delete any Program materials from your computer and promptly (and in any event, within fourteen (14) days of receipt) return to NetBrain any media you have received from NetBrain and any other items provided that are part of the Programs.

1. **Definitions.** Whenever used in this Agreement, unless the context otherwise requires, the following terms have the following meanings below:
 - 1.1. “**Seat**” is a license allowing Customer to access the Programs, and which is granted solely to Customer and cannot be transferred to or used by any other person or entity.
 - 1.2. “**Documentation**” means collectively all user, technical, support, and other manuals, and all other written, printed, electronic, or other format materials published or otherwise made available by NetBrain that describe the functional, operational, and/or performance capabilities of the Programs. Documentation shall not include source code.
 - 1.3. “**Intellectual Property Rights**” means patents, inventions, utility models, petty patents, trademarks, service marks, trade and service names, copyrights, database rights and design rights (whether or not any of them are registered, and including applications for registration of any of them), rights in know-how, moral rights, trade secrets, rights of confidence, and all rights or forms of protection of a similar nature or having similar or equivalent effect which may exist anywhere in the world at the date of this Agreement, or in the future.
 - 1.4. “**License**” means the subscription license granted by NetBrain to Customer to use the Programs in accordance with the terms and conditions of this Agreement.
 - 1.5. “**Managed Elements**” means any combination of Nodes, Ports, and/or Processors licensed for use of the Programs. “**Nodes**” means any number of the following: layer 3 switches, layer 2 switches, firewalls, routers, load balancers, wireless access points, wireless access controllers, and WAN optimizers, including, for the avoidance of doubt, any of these used as part of a redundant standby network. The node can be a physical entity or a virtual entity. “**Port**” means the total number of physical ports on leaf switches, as well as fabric extenders, all within a Cisco ACI deployment. “**Processor**” means a single, physical chip that houses a central processing unit (CPU) that can execute computer programs. “**VPC**” means a single virtual private cloud that serves an isolated virtual network within the AWS cloud. “**VNET**” means a virtual network within the Azure cloud.
 - 1.6. “**Object Code**” means the binary machine-readable version of the Programs.
 - 1.7. “**Programs**” means all the programs and modules licensed to Customer by NetBrain, in machine-readable, Object Code form only, as well as all other ancillary software provided by NetBrain in connection therewith. Programs include NetBrain drivers, NetBrain Qapps, NetBrain Data View Templates, NetBrain Runbooks, NetBrain Plugins, and may also include any Third-Party Software integration.
 - 1.8. “**Third Party Software**” means any software other than that developed by NetBrain that NetBrain has sublicensed to Customer under this Agreement, including any open-source software. A list of Third-Party Software contained in, or relied upon by, the Programs will be distributed to Customer with the Product deployment.

2. **Programs Deliverables and License.**

2.1. **Grant of Limited Use License.** Subject to Your compliance with the provisions of this Agreement, NetBrain hereby grants You a limited use, revocable, nonexclusive, non-transferable, non-sublicensable License, for the Subscription Period, to:

2.1.1. Install and use the Programs for Your own personal testing, training, or evaluation, limited to one (1) Seat, twenty (20) Managed Elements, and the Automation Assurance and Preventive Automation Modules.

2.1.2. All rights not expressly granted in this Agreement are reserved by NetBrain.

2.2. **Limitations.** Notwithstanding anything to the contrary in this Agreement, NetBrain does not provide support services, warranties, or indemnification for the License.

2.3. **Acceptance.** The Programs, including without limitation the applicable Documentation, shall be deemed accepted by Customer upon delivery to Customer. Customer agrees that its decision to enter into this Agreement is based solely upon the availability of the features and functionality in the currently available version(s) of the Programs and is not contingent on the delivery of any future functionality or features, nor dependent on any oral or written, public or private, comments made by NetBrain regarding future functionality, features, or services.

2.4. **Restrictions.** Unless otherwise provided for by applicable law, Customer shall access and use the Programs only for the relevant purposes specified in Section 2.1, and in accordance with the following:

2.4.1. Customer shall not modify or prepare derivative works of the Programs or Documentation;

2.4.2. Customer shall not reverse engineer, disassemble, or decompile the Programs, or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats, or programming interfaces of the Programs by any means whatsoever;

2.4.3. Customer shall not remove, obscure, or alter any notice of patent, copyright, trade secret, trademark, or other proprietary rights notices present on or in the Programs or Documentation;

2.4.4. Customer shall not sublicense, sell, lend, rent, lease, distribute, or otherwise transfer (or attempt to do any of the foregoing) all or any portion of the Programs to any third party; and

2.4.5. Customer shall not use the Programs to provide services to third parties, including Customer's employer, or otherwise use the same on a "service business" basis.

2.5. **Proprietary Rights.** The Programs and Documentation contain valuable Intellectual Property Rights and other proprietary rights of NetBrain and constitute the sole and exclusive property of NetBrain. Except as expressly provided in this Agreement, nothing contained herein, including, but not limited to, Section 6, shall be construed to convey to Customer any other right, title, or interest in or to the Programs, Documentation, NetBrain Qapps, NetBrain Data View Templates, NetBrain Runbooks, or any other NetBrain Intellectual Property Rights or proprietary rights. In addition, NetBrain shall be free to use, without restriction, any and all suggestions, ideas, enhancement requests, feedback, or recommendations made by Customer, and any and all enhancements and modifications made to the Programs, Documentation, or other offerings of NetBrain shall continue to be owned solely and exclusively by NetBrain.

2.6. **License Use Verification.** During the Subscription Period and for a period of one (1) year thereafter, NetBrain may request Customer's cooperation to verify Customer's use and reproduction of the Programs and/or Documentation. Customer shall permit reasonable access to NetBrain to the Programs. All information disclosed by Customer during the verification shall be deemed Confidential Information subject to the provisions of Section 6, provided that the designation as Confidential Information shall not be construed to limit NetBrain's right to enforce this Agreement. In the event NetBrain determines there is a variance,

whether material or not, Customer will be liable to NetBrain for the then-current list price value of the Programs and/or Documentation not in compliance with the terms of this Agreement.

2.7. **Usage Statistics.** In accordance with the then-current version of NetBrain's Privacy Policy (located at: <https://www.netbraintech.com/privacy-policy/>), and to improve and ensure full utilization of the Programs, NetBrain reserves the right to monitor, collect, and use utilization-related information of Customer, such as, but not limited to: (a) percentage (%) of Managed Elements used; (b) applicable system and resource versions; (c) number of active users; and (d) success rate of certain key features. In addition, NetBrain reserves the right to collect other usage-related information from time-to-time, which will be anonymized and aggregated with information collected from other customers, used for internal research and development purposes only, and to electronically verify Customer's compliance with the license limitations set forth in this Agreement. By Customer's acceptance of the terms of this Agreement and/or use of the Programs, Customer authorizes the collection, use, and disclosure of this information for the purposes provided for in this Agreement and/or the Privacy Policy.

2.8. **Third Party and Open-Source Software Notice.** The NetBrain Programs contain, or rely upon, Third Party Software, which may include various open-source software components, originating from the open-source software communities, which are subject to additional restrictions. Any Third-Party Software in the Programs are distributed by NetBrain in accordance with the applicable Third-Party Software component's license terms and conditions. In the event of a conflict between an applicable Third-Party Software component's license and the other portions of this Agreement, the Third-Party Software component's license will take precedence (but solely with respect to the Third-Party Software component(s) to which the license relates). By installing or using any of the Programs provided by NetBrain, Customer agrees to be bound by the additional terms and conditions of all applicable Third-Party Software components. If Customer does not agree to be bound to such Third-Party Software component terms and conditions, Customer must immediately discontinue use of the Programs and remove all copies from its system. Where the specific license terms of the Third-Party Software component entitle Customer to receive a copy of the source code, that source code shall be made available upon Customer's written request made to NetBrain.

3. **Subscription Period and Termination.**

3.1. The License grant shall remain in effect for thirty (30) days and, if You complete Network Assessment Training provided by NetBrain through NetBrain University within that time period, the License may be extended until the earliest of: (a) one (1) year from date of License grant; (b) termination of this Agreement in accordance with the provisions herein; (c) Your termination of employment, for any reason, from the company You worked for when obtaining the License; or (d) the date You or Your employer become a competitor of NetBrain (the "**Subscription Period**").

3.2. **Termination by NetBrain for Cause.** NetBrain may, in addition to its other rights and remedies at law or in equity, terminate this Agreement immediately, upon written notice, without liability, if You default in the performance of, or compliance with any of Your material obligations under, this Agreement.

3.3. **Effect of Termination and Post Termination.** Upon expiration or termination of this Agreement, for any reason: (a) all License rights granted in this Agreement shall immediately terminate; and (b) You will return, delete, or destroy all copies of the Programs, Documentation, and any NetBrain Confidential Information in Your possession or control.

4. **Indemnification.**

4.1. **Customer's Indemnification Obligations.** Customer agrees, at its own expense, to indemnify and defend NetBrain and its respective directors, officers, employees, and agents, and their respective licensors and/or resellers from and against any and all third party claims, demands, litigation, liabilities, judgment, actions, or otherwise (collectively "**Claims**"), and any and all expenses, costs (including reasonable attorney's fees), judgments, damages, and/or other liabilities resulting from such Claims, that arise or result from Customer's:

(a) use or misuse of the Programs in violation of this Agreement; (b) violation of any material term herein; and/or (c) violation of any applicable law or regulation.

5. **DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.**

5.1. **DISCLAIMER OF WARRANTIES.** SO FAR AS IT IS PERMITTED TO DO SO UNDER APPLICABLE LAW, NETBRAIN MAKES NO WARRANTIES, WHETHER EXPRESSED, IMPLIED, OR STATUTORY, REGARDING, OR RELATING TO, THE PROGRAMS, DOCUMENTATION, OR ANY MATERIALS FURNISHED, OR PROVIDED, TO CUSTOMER UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE, TITLE, USE, OR NON-INFRINGEMENT. NETBRAIN SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SATISFACTORY QUALITY WITH RESPECT TO THE PROGRAMS, DOCUMENTATION, AND ANY OTHER MATERIALS FURNISHED, OR PROVIDED, BY NETBRAIN HEREUNDER, AND WITH RESPECT TO THE USE OF THE FOREGOING. WITHOUT LIMITING THE FOREGOING, EXCEPT AS EXPRESSLY SET FORTH HEREIN, NETBRAIN DOES NOT GUARANTEE THE ADEQUACY, ACCURACY, TIMELINESS, OR COMPLETENESS OF THE PROGRAMS OR DOCUMENTATION, OR THAT THEY WILL OPERATE WITHOUT INTERRUPTION, OR WILL OPERATE ERROR FREE. ALL PROGRAMS AND DOCUMENTATION ARE PROVIDED ON AN "AS IS", "WHERE IS", BASIS.

5.2. **LIMITATION OF LIABILITY.**

5.2.1. IN NO EVENT WILL NETBRAIN BE LIABLE FOR ANY DIRECT OR INDIRECT LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, LOSS OF GOODWILL, COST TO REPLACE, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH, OR ARISING OUT OF, THE FURNISHING, PERFORMANCE, OR USE OF THE PROGRAMS, DOCUMENTATION, OR ANY MATERIALS FURNISHED OR PROVIDED HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5.2.2. NETBRAIN'S MONETARY LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED TEN THOUSAND DOLLARS (\$10,000).

6. **Confidential Information.**

6.1. During the performance of this Agreement, the parties may have access to information that is confidential to one another ("**Confidential Information**"). Confidential Information will include, but is not limited to: all technical and business information, including without limitation all Programs and Documentation provided by NetBrain, including any Third Party Software included in or with the Programs, planning, pricing and offerings for products and services; other product information including, but not limited to, configuration and packaging details; terms and pricing under this Agreement; all information clearly identified or marked as confidential; all information identified elsewhere in this Agreement as Confidential Information; and all information a reasonable person would consider to be confidential, taking into account the circumstances surrounding its disclosure. A party's Confidential Information will not include information that: (a) is or becomes generally known to the public through no act or omission of the receiving party; (b) was in the receiving party's lawful possession prior to the disclosure and had not been obtained by the receiving party either directly or indirectly from the disclosing party, as can be evidenced by the written record; (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (d) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as can be evidenced by the written record.

6.2. The parties agree to hold each other's Confidential Information as Confidential during the term of this Agreement, and for a period of three (3) years thereafter. Notwithstanding the foregoing, Customer will keep the Programs and Documentation confidential indefinitely after termination or expiration of this Agreement; and the parties will maintain each other's trade secrets confidential for so long as they are trade secrets under applicable law. The parties agree, unless required by law or with the written consent of the other party, not to make each other's Confidential Information available in any form to any third party for any purpose except to the extent necessary to exercise its rights under this Agreement, and to treat

Confidential Information of the other party with the same degree of care with which it would treat its own Confidential Information of a like nature, but in no case with less than a reasonable degree of care.

- 6.3. It shall not be a breach of this section if Confidential Information is disclosed pursuant to subpoena or other compulsory judicial or administrative process, provided the party served with such request promptly notifies the other party in writing and provides reasonable assistance so the other party may seek a protective order against public disclosure (except if providing such notification is legally prohibited), and in the event such disclosure is necessary, then only the minimum required information may be disclosed.
- 6.4. Each party agrees to limit the disclosure of Confidential Information to those of its employees and agents who have a need to know such Confidential Information, and each party agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement, shall be liable for any such disclosure or distribution, and in the event such disclosure is necessary, then only the minimum required information may be disclosed.
- 6.5. Each party agrees not to use the other party's Confidential Information for any purpose other than the performance of this Agreement. Each party shall not disclose the terms of this Agreement except as required by law or governmental regulation without the other party's prior written consent, except that each party may disclose the terms of this Agreement on a confidential basis to its accountants, attorneys, and financial advisors and lenders.

7. Miscellaneous.

- 7.1. Export Regulations. Customer and NetBrain acknowledge that the Programs, Documentation, and all related technical information, documents, and materials may be subject to export controls under applicable law, including the U.S. Export Administration Regulations, and therefore, to the extent applicable, Customer and NetBrain shall at all times: (a) comply with all requirements set forth in such laws and regulations; and (b) reasonably cooperate with each other in any official, or unofficial, audit or inspection that relates to such export requirements. Without limiting the generality of the foregoing, Customer agrees that the Programs are prohibited for export or re-export to any person or entity on the U.S. Department of Commerce Denied Persons List, or on the U.S. Department of Treasury's List of Specially Designated Nationals, Specially Designated Narcotics Traffickers, or Specially Designated Terrorists or equivalent (collectively, "Sanctions Lists"), as such is changed from time to time. Should Customer become an entity or person on the Sanctions Lists, such event shall constitute a material default under this Agreement, and NetBrain may terminate this Agreement with immediate effect and the provisions of Section 3.3 shall apply.
- 7.2. Publicity. Notwithstanding the confidentiality provisions of this Agreement, Customer permits NetBrain to use Customer's name, trademark, logo, and/or likeness, and any statements or testimonials, whether written or recorded by audio or video ("**Customer Trademark(s)**") for marketing purposes, including, but not limited to, customer references, joint press releases, customer case studies, speaking to press and analysts, and other mutually agreed upon, in writing, joint marketing activities, for use in NetBrain marketing materials, or on NetBrain's website. NetBrain agrees not to use the Customer Trademarks in any offensive manner or any manner likely to confuse, mislead, or deceive the public, or which is adverse to the best interests of Customer. NetBrain understands and agrees that the Customer Trademarks are proprietary to Customer, and Customer retains all rights, title, and interest thereto. Customer will not use, register, or take other action with respect to any name, logo, trademark, service mark, or other identifier used anywhere in the world by NetBrain, or confusingly similar to one used by NetBrain and will promptly report to NetBrain any suspected infringing or unauthorized use or reproduction of the NetBrain Product or trademarks.
- 7.3. Notices. All notices, requests, demands, and other communications hereunder shall be in writing, and shall be personally delivered (including, without limitation, via overnight mail, or other similar service), or mailed by registered or certified mail, postage prepaid with return receipt requested, to the address of each party, or via email attachments, but emails or text messages alone will not be valid as notice or amendments, with the exception of termination notices under Section 3, which NetBrain may deliver through email. Notices shall be deemed received by: (a) the next business day, if sent by personal delivery,

email attachment, or email (when applicable); or (b) within five (5) business days if sent by certified or registered mail. Either party may change its address or facsimile number by giving written notice to the other party hereto in the same manner as specified in this Section.

- 7.4. Assignment. Customer may not assign or transfer, directly or otherwise, this Agreement, or any of its rights or obligations under this Agreement, without the prior written consent of NetBrain.
- 7.5. Non-Waiver. A failure of either party to insist upon or enforce performance by the other party of any of the provisions of, or to exercise any rights or remedies under, this Agreement, will not be interpreted or construed as a waiver or relinquishment of such party's right to assert or rely upon such provision, right, or remedy in that or any other instance.
- 7.6. Compliance with Laws. NetBrain and Customer shall each comply with all applicable laws, regulations, rules, orders, and other requirements, now or hereafter in effect, of any applicable governmental authority, applicable to it in their performance of this Agreement.
- 7.7. Governing Law, Jurisdiction, Mediation, and Arbitration; Class Waiver.
- 7.7.1. The rights and obligations of the parties under this Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods, but instead shall be governed by and construed under the laws of the country and/or state in which the relevant NetBrain contracting entity is incorporated. In the event of any controversy, claim, or dispute between ("**Claim**") the parties arising out of or relating to this Agreement, such Claim may be tried solely in the courts of the county and city in which the relevant NetBrain contracting entity's registered office is incorporated, and the parties hereby irrevocably consent to the jurisdiction, forum, and venue of such courts.
- 7.7.2. In the event of any Claim arising out of this Agreement, the parties agree to escalate the Claim to members of their respective senior management team, and such personnel shall negotiate in good faith to attempt to resolve the dispute. If the parties' senior managers are unable to resolve the Claim, except as otherwise provided in this Agreement, the matter must be submitted for non-binding mediation to a nationally recognized mediator or mediation service ("**Mediator**"), which will be chosen by agreement of the parties. Either party may commence mediation by providing a written request for mediation to the other party and to the Mediator, setting forth the subject of the Claim and the relief requested. The parties will cooperate with the Mediator and each other in selecting an individual mediator from Mediator's panel of neutrals, and in scheduling the mediation proceedings. The parties agree to: (a) participate in the mediation in good faith; (b) pay their respective attorneys' fees; and (c) share equally the costs of mediation. All conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the individual mediator and any employees of the Mediator, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any arbitration, litigation, or other proceeding between the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.
- 7.7.3. In the event the Mediator is unsuccessful, the parties agree to resolve all Claims solely by binding arbitration in the applicable jurisdiction before a single nationally recognized arbitrator or arbitration service ("**Arbitrator**"), which will be chosen at NetBrain's sole discretion, and on an individual basis only (i.e., neither party may bring a claim in arbitration or in court as a class action or in a representative capacity, nor participate as a member in any such class or representative action). This Section is a written agreement to arbitrate governed by the applicable laws of the designated jurisdiction and subject to the Federal Arbitration Act (9 U.S.C. §§1-16, 201-208, and 301-307). The parties agree to pay their respective attorneys' fees. The parties agree that any Claim, mediation, and/or arbitration (including the materials, proceedings, and existence thereof) are Confidential Information.
- 7.7.4. Notwithstanding the foregoing, either party may seek equitable relief from a court of competent jurisdiction prior to the mediation to protect its intellectual property rights and Confidential Information.

- 7.8. Force Majeure. Except for the parties' confidentiality obligations, any infringement of NetBrain's Intellectual Property Rights attributable to Customer, and Customer's indemnification obligations, neither party will be liable for default, or be considered to be in breach of, this Agreement as a result of any cause or condition beyond such party's reasonable control, including, but not limited to, acts of civil or military authority, national emergencies, third party labor difficulties, fire, flood or other catastrophe, acts of God, pandemic or epidemic, terrorism, any government authority's law, regulation, or act, insurrection, war, riots, failure of transportation or power supply, communications outage, internet outage, cyber-attack, or performance (or lack thereof) of third parties.
- 7.9. Severability. If any provision of this Agreement (or any portion hereof) is determined by a court of competent jurisdiction to be illegal, invalid, or otherwise unenforceable, such provision (or part thereof) will be enforced, to the extent possible, consistent with the stated intention of the parties, or, if incapable of such enforcement, will be deemed to be severed and deleted from this Agreement, while the remainder of this Agreement will continue in full force, and remain in effect according to its stated terms and conditions.
- 7.10. Relationship of the Parties. This Agreement shall not be construed as creating any agency, partnership, joint venture, or any other form of association, for tax purposes or otherwise, between the parties. The parties shall at all times be and remain independent entities. Except as expressly agreed to by the parties in writing, neither party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party, or to bind the other party in any respect whatsoever.
- 7.11. Language. This Agreement is in the English language only, which language shall be controlling in all respects, and all versions hereof in any other language shall not be binding on the parties hereto. All communications and notices to be made or given pursuant to this Agreement shall be in the English language.
- 7.12. Titles and Headings; Clerical Errors. The title and section headings of this Agreement are inserted for convenience only and are not intended to affect the meaning or interpretation of this Agreement. Clerical errors are subject to correction by mutual agreement of the parties.
- 7.13. No Rule of Strict Construction. The language used in this Agreement will be deemed to be the language jointly chosen by NetBrain and Customer to express their mutual intent, and no rule of strict construction will be applied against either party. No provision of this Agreement will be interpreted in favor of, or against, either of the parties hereto by reason of such party having drafted such provision or this Agreement.
- 7.14. Counterparts. Where the parties prefer to sign this Agreement, this Agreement may be signed in counterparts, with the same effect as if the signature on each counterpart were upon the same instrument. Each party agrees that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement, or such other documents, are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.
- 7.15. Entire Agreement. This Agreement, and any of its attachments or other documents referenced herein, constitutes the entire agreement, and supersedes any and all prior agreements, including any discussions, whether written or oral, between NetBrain and Customer relating to the Programs and Documentation, and/or other items subject to this Agreement. Any and all terms and conditions contained in any documents submitted by Customer in connection with this Agreement shall be of no force and effect, and NetBrain's subsequent provision of the Programs and Documentation shall not constitute acceptance of such terms. By entering into this Agreement, Customer acknowledges and agrees that it shall receive only the Programs, Documentation, and any other services (as applicable) contracted for under this Agreement, and available in the most current released versions of the Programs, and not any other product, feature, or functionality that the parties have discussed or that may appear in NetBrain public documents. For the avoidance of doubt, by entering into this Agreement, Customer acknowledges and agrees that all prior agreements between NetBrain and Customer are null and void.

- 7.16. Amendments. All amendments, modifications, or supplements to this Agreement must be in writing and signed by the authorized representatives of both parties. All such changes shall reference this Agreement and identify the specific section(s) or attachment(s) of this Agreement to be amended, modified, or supplemented.
- 7.17. Survival. All provisions which by their nature and context impose continuing obligations on a party or both parties shall survive any termination of this Agreement, including, but not limited to, Customer's payment obligations.

ATTACHMENT A
PRODUCT SPECIFIC TERMS AND CONDITIONS

1. Qapps, Data View Templates, and Runbooks.

1.1. The Programs and Documentation may permit Customer to query and parse information, including, but not limited to, device configurations, performance parameters, figures, statistics, and properties (“**Network Data**”) on Customer’s network by executing a “Qapp” or a “Data View Template.” A “**Qapp**”, designated by the file extension “.qapp”, is a series of commands, statements, if-then conditionals, or any other language, and embodied in any form, including, but not limited to, programming language, simple text, instructions, functions, scripts, code, data, or other material (collectively, “**Filters**”), which is recognized by the Programs to initiate a query, parse, and/or analyze Network Data. A “**Data View Template**” designated by the file extension “.xdvt”, is a container including a set of Network Data, display settings, conditionals, statements, drilldown actions, or commands, and embodied in any form of Filters which is recognized by the Programs to initiate a query, parse, and/or analyze Network Data, and display the data in a map or other user interface. In addition, the Programs and Documentation may permit Customer to compile, serialize, or otherwise configure routine networking procedures and operations, which a customer can execute systematically through the Programs, to address certain network problems (“**Runbooks**”).

1.2. Customer Qapps, Data View Templates, and Runbooks.

1.2.1. A “**Customer Qapp**” or a “**Customer Data View Template**” is a Qapp or Data View Template that is created by Customer using an original Filter, or set of Filters, developed by Customer, and which provides substantial functionality not contained in, or provided by, the Programs and Documentation, or any deliverable of the Programs and Documentation, including, without limitation, any data, Enhancements, Updates, Upgrades, modifications, Bypasses, or Fixes (each, a “**Program Deliverable**”).

1.2.2. A “**Customer Runbook**” is a Runbook that is compiled and/or configured by Customer, using a set of networking procedures and operations, which can be executed systematically through the Programs, and which provides substantial functionality not contained in, or provided by, the Programs and Documentation, or any Program Deliverable.

1.2.3. Customer acknowledges that the Programs and Documentation may be configured to permit Customer to develop Qapps, Data View Templates, and Runbooks with different levels of access control, which may permit access by individuals outside Customer’s organization. Customer has sole responsibility for determining the type of access controls that will apply to the Qapps, Data View Templates, and Runbooks that Customer may develop. Subject to the provisions of the Agreement, Customer retains all right, title, and interest in Customer Qapps, Customer Data View Templates, and Customer Runbooks.

1.3. NetBrain makes no representations or warranties of any kind that the Qapps, DataView Templates, and/or Runbooks developed by Customer will operate in accordance with the anticipated parameters of any of the access controls chosen by Customer. It shall be the sole responsibility of Customer to ensure that all Customer Qapps, Customer Data View Templates, and/or Customer Runbooks operate as intended, and Customer hereby forever releases NetBrain, its Affiliates, and their respective officers, directors, employees, agents, and representatives from any and all Claims, liabilities, or losses of every kind or nature arising out of, or related to, the failure of a Customer Qapp, Customer Data View Templates, and/or Customer Runbook to operate as intended.

1.4. Further, NetBrain accepts no responsibility or liability of any kind for any loss or damage caused by Customer Qapps, Customer Data View Templates, and/or Customer Runbooks, including, but not limited to, direct, indirect, special, incidental, punitive, or consequential damages, loss of profits, loss of use, business interruption, loss of data, loss of goodwill, cost to recover, or infringement of a third party’s Intellectual Property Rights.

1.5. NetBrain Qapps, Data View Templates, and Runbooks. NetBrain may also generate and distribute Qapps (“**NetBrain Qapps**”), Data View Templates (“**NetBrain Data View Templates**”), and/or Runbooks (“**NetBrain Runbooks**”). NetBrain Qapps, NetBrain Data View Templates, and NetBrain Runbooks include, but are not limited to, any Qapp, Data View Template, and/or Runbook which: (a) has been made generally available by NetBrain through the Programs and Documentation, an Evaluation License, any Program Deliverable, or any other distribution method; or (b) has been customized for Customer by NetBrain, in part or in whole. NetBrain retains all right, title, and interest in all NetBrain Qapps, NetBrain Data View Templates, and NetBrain Runbooks.

2. Change Management.

2.1. “**Change Management**” means the add-on module to the Programs that enables engineers to define network changes through one or more configuration templates. Those network changes can be applied to multiple devices and executed/rolled back automatically. The Change Management module enables engineers to verify the impact of the changes across the network to help ensure a safer change process.

2.2. Disclaimer of Network Changes. The nature of Change Management is such that the Programs may make substantial changes that have the potential to negatively impact Customer’s network. Any network changes derived from Change Management require the prior authorization of Customer, and therefore, Customer understands and acknowledges that any changes made to Customer’s network via Change Management are the sole responsibility of Customer, regardless of any direction, or otherwise, provided by NetBrain, the Programs, and/or Documentation. NetBrain makes no warranties, either express or implied, with respect to the use of Change Management, including the efficacy of Customer’s changes defined through Change Management. Customer will hold harmless and indemnify NetBrain, its Affiliates, and their respective officers, directors, employees, agents, and representatives from and against any and all liability, loss, costs, expenses, or damages caused by, or resulting from, Customer’s use of Change Management on a network sustained by Customer, its Affiliates, or any third party on its behalf. In the event of any failure of Customer’s network resulting from Change Management, NetBrain will reasonably endeavor to assist Customer in rectifying the problem in accordance with its Support Services obligations in Section 3 of this Agreement.

3. Knowledge Cloud.

3.1. “**Knowledge Cloud**” means the centralized resource base housing various types of common and customized resources. The Programs can download these NetBrain resources, such as drivers, Qapps, Runbooks, and Data View Templates from the customer portal provided by NetBrain, as they may be made available from time-to-time.

4. Application Assurance Module.

4.1. “**Application Assurance Module**” or “**AAM**” means the add-on module to the Programs that enables the Customer to manage application paths and verify that these application paths work properly in Customer’s environment.

4.2. “**Golden Baseline**” means NetBrain’s reference standard for the nominal status for various types of network data, to be used as a basis for network management analysis and comparison.

4.3. Customer can use AAM to define the Golden Baseline and to periodically verify that its in-use application path follows this Golden Baseline. Customer can also use AAM to analyze the impact of a network anomaly or obstruction on the application paths.

5. Preventive Automation Module.

5.1. “**Preventive Automation**” or “**PA**” means the add-on module to the Programs that enables the Customer to document the network design and automate network diagnosis. “**Network Intent**” or “**NI**” means an executable automation element to document and verify a network design. The Customer can use PA to create, manage, and execute NI. The Customer can also use PA to monitor the network status and trigger the execution of the corresponding NI.