

NetIQ® Identity Assurance Client 3.1 Software License Agreement

PLEASE READ THIS AGREEMENT CAREFULLY. BY INSTALLING, DOWNLOADING OR OTHERWISE USING THE SOFTWARE, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE WITH THESE TERMS, YOU ARE NOT PERMITTED TO DOWNLOAD, INSTALL OR USE THE SOFTWARE AND YOU SHOULD NOTIFY NETIQ TO OBTAIN A REFUND. THE SOFTWARE MAY NOT BE SOLD, TRANSFERRED, OR FURTHER DISTRIBUTED EXCEPT AS AUTHORIZED BY NETIQ.

This NetIQ Software License Agreement (“Agreement”) is a legal agreement between You (an entity or a person) and NetIQ Corporation (“NetIQ”). The software product identified in the title of this Agreement for which You have acquired licenses, any media and accompanying documentation (collectively the “Software”) is protected by the copyright laws and treaties of the United States (“U.S.”) and other countries and is subject to the terms of this Agreement. If the laws of Your country of origin require contracts to be in the local language to be enforceable, such local language version may be obtained from NetIQ upon written request and shall be deemed to govern Your purchase of licenses to the Software. Any update, mobile application, module or adapter or support release to the Software that You may download or receive that is not accompanied by a license agreement is Software and governed by this Agreement. If the Software is an update or support release, then You must have validly licensed the version and quantity of the Software being updated or supported in order to install or use the update or support release.

1. GRANT. NetIQ Corporation (“NetIQ”) hereby grants to You as licensee, a nonexclusive, nontransferable license, without right of sublicense, to install, use and execute the software identified in the purchase documentation issued to You by NetIQ, together with any updates and modifications to the foregoing, if any, provided to You by NetIQ (collectively “Software”). The Software is licensed solely in machine readable object code format and solely for Your internal business use, in accordance with the terms of this Agreement, the Purchase Documentation, the Documentation accompanying this Software, and the applicable product use rights and restrictions (“Product Use Rights”) as set forth in the Product Use Rights Appendix which is hereby attached to this Agreement and incorporated by reference.

2. EVALUATION USE. In the event that the Software is licensed only for Evaluation Use, the terms of this paragraph shall apply. Your license to use the Software commences on installation of the Software and, unless You and NetIQ agree to a different period, will terminate after a period of 90 days (the “Evaluation Period”). You may use the Software for an unlimited number of users and servers during the Evaluation Period. At the end of the Evaluation Period, Your license to use the Evaluation version of the Software is automatically terminated. You may not extend the time limits of the Software in any manner. At the end of the Evaluation Period You agree to de-install the Software and if required by NetIQ, return all copies or partial copies of the Software or certify to NetIQ that all copies or partial copies of the Software have been deleted from Your computer libraries and/or storage devices and have been destroyed. If You desire to continue Your use of the Software beyond the Evaluation Period, You must contact NetIQ to acquire a license to the Software for the applicable fee. EVALUATION SOFTWARE IS PROVIDED ON AN “AS IS” BASIS, WITHOUT WARRANTIES OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS OF TITLE OR NON-INFRINGEMENT.

3. RESTRICTIONS. The rights granted herein are subject to the restrictions in the Product Use Rights Appendix applicable to the Software specified on Your Purchase Documentation and for which You have paid NetIQ a fee and the following additional restrictions: (i) You may not copy (except for back-up purposes), modify, port, adapt, translate, localize, reverse engineer, de-compile, disassemble or otherwise attempt to discover the source code of the Software, except and only to the extent that it is expressly permitted by the law in effect in the jurisdiction in which You are located notwithstanding this limitation; (ii) You may not create derivative works based on the Software; (iii) You may not remove any patent, trademark, copyright, trade secret or other proprietary notices or labels on the Software or Documentation; (iv) You may not transfer,

lease, assign, sublicense, pledge, rent, share or distribute the Software or make it available for timesharing, service bureau or on-line use, unless previously agreed to in writing by NetIQ; and (v) You may not disclose the results of any performance, functional or other evaluation or benchmarking of the Software to any third party without the prior written permission of NetIQ.

4. SOFTWARE. If You receive Your first copy of the Software electronically, and a second copy on physical media, the second copy may be used for archival purposes only. This Agreement does not grant You any right to receive, or any license to, any enhancement or update of the Software, or any other NetIQ software.

5. TITLE. The Software and Documentation are confidential and proprietary information of NetIQ and/or its suppliers. Title, ownership rights, and intellectual property rights in and to the foregoing shall remain with NetIQ and/or its suppliers. The Software and Documentation are protected by the copyright laws of the United States and international copyright treaties. Title, ownership rights, and intellectual property rights in and to the content accessed through the Software are the property of the applicable content owner and may be protected by applicable copyright or other law. This license gives You no rights to such content. This license does not convey to You an interest in or to the Software, but only grants You a limited right of use, which may be revocable in accordance with the terms of this Agreement.

6. DISCLAIMER OF WARRANTIES. THE SOFTWARE IS PROVIDED TO YOU AS IS AND THERE ARE NO WARRANTIES, CLAIMS OR REPRESENTATIONS MADE BY NETIQ OR ITS SUPPLIERS, EITHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO THE SOFTWARE, INCLUDING WARRANTIES OR CONDITIONS OF TITLE, QUALITY, PERFORMANCE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, NOR ARE THERE ANY WARRANTIES CREATED BY COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE USAGE. NETIQ AND ITS SUPPLIERS DO NOT WARRANT THAT THE SOFTWARE WILL MEET YOUR NEEDS OR BE FREE FROM ERRORS, OR THAT THE OPERATIONS OF THE SOFTWARE WILL BE UNINTERRUPTED. NETIQ AND ITS SUPPLIERS DO NOT WARRANT THE ACCURACY OF THE REPORTS GENERATED. THE FOREGOING EXCLUSIONS AND DISCLAIMERS ARE AN ESSENTIAL PART OF THIS AGREEMENT AND FORMED THE BASIS FOR DETERMINING THE PRICE CHARGED FOR THE PRODUCTS. SOME STATES DO NOT ALLOW EXCLUSION OF AN IMPLIED WARRANTY, SO THIS DISCLAIMER MAY NOT APPLY TO YOU.

7. LIMITED WARRANTY ON PHYSICAL MEDIA. NetIQ guarantees DVDs and CD ROMs provided as physical media of Software is free of physical defects for ninety (90) days from date of Your purchase. Your only remedy of such defects is to return and exchange such physical media. NetIQ is not responsible for defects caused by accidents, inappropriate or illegal use of the media.

8. LIMITATION OF LIABILITY. NetIQ and its suppliers' cumulative liability to You or any other party for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Agreement shall not exceed the license fee paid to NetIQ for use of the Software.

9. EXCLUSION OF CONSEQUENTIAL AND OTHER DAMAGES. NETIQ AND ITS SUPPLIERS WILL NOT BE LIABLE TO YOU OR ANY THIRD-PARTY CLAIMANT FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, WHETHER BASED ON CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, INDEMNITY OR CONTRIBUTION, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE LIMITATIONS OR EXCLUSIONS IN THIS PARAGRAPH MAY NOT APPLY TO YOU.

10. PROVISIO. EACH OF THE DISCLAIMERS, LIMITATIONS AND EXCLUSIONS CONTAINED IN THE ABOVE PARAGRAPHS HEADED "DISCLAIMER OF WARRANTIES", "LIMITATION OF

LIABILITY” AND “EXCLUSION OF CONSEQUENTIAL AND OTHER DAMAGES” APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

11. OPEN SOURCE AND THIRD PARTY SOFTWARE. Nothing in this Agreement shall restrict, limit or otherwise affect any rights or obligations You may have, or conditions to which You may be subject, under any applicable open source licenses to any open source code contained in the Software. The Software may include or be bundled with other software programs licensed under different terms and/or licensed by a licensor other than NetIQ. Use of any software programs accompanied by a separate license agreement is governed by that separate license agreement. Any third party software that may be provided with the Software is included for use at Your option.

12. TERMINATION. Your license to use the Software continues until terminated. This license will terminate automatically if You fail to comply with any term hereof. No notice shall be required from NetIQ to effect such termination. You may also terminate this Agreement at any time by notifying NetIQ in writing of termination. On termination, You must destroy all copies of the Software and remove and uninstall all files and copies of the Software from your information technology systems. Your obligation to pay accrued charges and fees shall survive any termination of this Agreement.

13. PAYMENT. You are responsible for making full and timely payment for the Software license. You shall pay all of NetIQ’s reasonable fees, costs and expenses (including reasonable attorneys’ fees) if legal action is required to collect outstanding balances.

14. ASSIGNMENT. Neither this Agreement nor any rights granted hereunder may be sold, leased, assigned, or otherwise transferred, in whole or in part, by You, whether voluntary or by operation of law. Any such attempted assignment shall be void and of no effect without the prior written consent of NetIQ.

15. ENTIRE AGREEMENT. This Agreement represents the complete agreement concerning this license and supersedes (i) all prior agreements and representations with respect to its subject matter; and (ii) prevails over any conflicting or additional terms of any order, acknowledgment, or similar communication between the parties. It may be amended only by a writing executed by both parties.

16. SEVERABILITY. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable.

17. WAIVER. The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.

18. GOVERNING LAW/JURISDICTION. This Agreement shall be governed by and construed under Washington law as such law applies to agreements between Washington residents entered into and to be performed within Washington, except as governed by Federal law. If any term of this Agreement is inconsistent with any provision of the Uniform Computer Information Transactions Act (“UCITA”), as UCITA may be enacted in the state whose law applies, such term shall be enforced to the full extent allowed by law.

19. VERIFICATION. NetIQ has the right to verify Your compliance with this Agreement. You agree to: (i) Implement internal safeguards to prevent any unauthorized copying, distribution, installation, or use of, or access to, the Software; (ii) Keep records sufficient to certify Your compliance with this Agreement and, upon request of NetIQ, provide and certify metrics and/or reports based upon such records and account for both numbers of copies (by product and version) and network architectures as they may reasonably relate to Your licensing and deployment of the Software; and (iii) Allow a NetIQ representative or an independent auditor ("Auditor") to inspect and audit Your computers and records, during Your normal business hours, for compliance with the licensing terms for NetIQ’s software products. Upon NetIQ’s and Auditor’s presentation of their signed written confidentiality statement form to safeguard Your confidential information, You shall

fully cooperate with such audit and provide any necessary assistance and access to records and computers. If an audit reveals that You have or at any time have had unlicensed installation, use of, or access to the Software, You will, within 30 days, purchase sufficient licenses to cover any shortfall without benefit of any otherwise applicable discount and subject to license fees reflecting the duration of the shortfall. If a material license shortfall of 5% or more is found, You must reimburse NetIQ for the costs incurred in the audit.

20. EXPORT LAW ASSURANCES. You are responsible for complying with all trade regulations and laws both foreign and domestic. You acknowledge that this Software may only be exported or re-exported in accordance with U.S. Government Export Administration Regulations. Without authorization from the U.S. Government, You may not export or re-export the Software (i) to any prohibited country, person, entity, or end-user as specified by U.S. export controls or (ii) for use in the design, development or production of nuclear, chemical, or biological weapons, or missile technology, or any other prohibited use. **You warrant and represent that neither the Bureau of Export Administration of the U.S. Commerce Department nor any other U.S. Government entity or agency has suspended, revoked or denied, in whole or in part, Your export privileges.** For current information on U.S. export requirements and restrictions visit www.bis.doc.gov/.

21. FORCE MAJEURE. NetIQ and its suppliers shall not be liable in any respect for failures to perform hereunder due wholly or substantially to the elements, acts of God, labor disputes, acts of terrorism, acts of civil or military authority, fires, floods, epidemics, quarantine restrictions, armed hostilities, riots and other unavoidable events beyond the control of NetIQ or its suppliers, and the time for performance of obligations hereunder by NetIQ or its suppliers subject to such event shall be extended for the duration of such event.

22. U.S. GOVERNMENT RESTRICTED RIGHTS. By accepting delivery of or installing or using the Software, the U.S. Government or its prime contractor or subcontractor (at any tier) hereby agrees that notwithstanding anything to the contrary, and to the maximum extent possible under federal law: (a) the acquisition of such Software is governed by FAR Part 12 or DFAR 227.7202-4, as applicable and to the extent such provisions are consistent with this Agreement; (b) such Software qualifies as “commercial computer software” under the applicable procurement regulations; (c) any modifications provided by NetIQ in connection with such Software are either minor derivative modifications or are of a type generally available in the commercial marketplace; and (d) the U.S. Government will be bound by the commercial terms and conditions and restricted rights contained in this Agreement, and no other license terms shall be incorporated into this Agreement except by mutual written consent.

THE FOLLOWING APPENDIX IS INCORPORATED INTO THIS AGREEMENT BY REFERENCE.

NETIQ PRODUCT USE RIGHTS APPENDIX

COMMON TERMS - All Products

- **DEFINITIONS:** As used in this appendix, “Software” means a specific NetIQ software product for which You have Purchase Documentation issued to You by NetIQ or NetIQ’s agent. Unless defined in this appendix, capitalized terms have the meaning given in the parent Agreement.
- **STANDARD TERMS:** Use the Software family headers and the product and license type tags below to locate the Product Use Rights terms applicable to the Software. Your usage of the Software must be consistent with such terms and with the unit count on Your purchase documentation. Product use rights terms below for other license types or products do not apply to You.
- **LIMITED USE RESTRICTIONS:** Notwithstanding the standard terms below, Your rights may be limited by restrictions which were part of Your Software license acquisition. If such restrictions apply to Your license, then You must apply the restrictions in the broadest possible manner in interpreting Your product and license type rights below.

PRODUCT: NetIQ® Identity Assurance Client 3.1:

DEFINITIONS:

"User" means a user object in a single directory tree (or other class of object that contains data representing a person, such as objects containing credit card information or PIN numbers) that has (a) access or use rights to any portion of the Software, or (b) access or use rights to products (devices, hardware, or software) being managed by the Software, regardless of whether the user object is assigned to a person or device. User objects (or other classes of objects) representing the same person that are linked to each other within a single tree and/or linked across multiple trees count as only one User.

LICENSE GRANT:

You must acquire a user license for each User. Each person who accesses or uses the Software must have at least one user object uniquely assigned to that person and access the Software through the user object. Provided that You comply with the above requirements, You are authorized to use an unlimited number of copies of the Software.

Novell Client. NetIQ grants You the right to use the Novell Client product included with the Software for use solely in connection with the Software.

END OF PRODUCT USE RIGHTS APPENDIX

NetIQ is a registered trademark or trademark of NetIQ Corporation in certain jurisdictions. Novell is a registered trademark of Novell, Inc. in the United States and other countries.

NetIQ Corporation
1233 West Loop South
Houston, TX 77027
U.S.A.

(093013)