



MASTER SOFTWARE LICENSE AND HOSTED SERVICES AGREEMENT

End User license agreement

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This Software License Subscription Agreement (this “**Agreement**”) is a legal agreement between the entity by whom you are employed, or whom you represent (“**Customer**”), and Kri-Tech Solutions, LLC (“**Kri-Tech Solutions**”), regarding the use of the Kri-Tech Solutions software identified in a “Sales Order” (defined below) to this Agreement, and Kri-Tech Solutions’ provision of related services for the software.

- BY INDICATING YOUR ASSENT TO THIS AGREEMENT (FOR EXAMPLE, BY SIGNING A SALES ORDER THAT REFERENCES THIS AGREEMENT, OR BY INDICATING YOUR AGREEMENT BY CLICKING ON AN “ACCEPT”, “AGREE” OR SIMILAR BUTTON, OR CHECKING A BOX INDICATING YOUR AGREEMENT TO THESE TERMS, IN A WEB FORM OR AS PART OF YOUR DOWNLOAD OR INSTALLATION OF KRI-TECH SOLUTIONS SOFTWARE OR AN ACTIVATION KEY, YOU ARE REPRESENTING AND AGREEING THAT: (1) YOU HAVE THE AUTHORITY TO BIND THE ENTITY BY WHOM YOU ARE EMPLOYED, OR WHOM YOU REPRESENT, TO THIS AGREEMENT; AND (2) THE ENTITY BY WHOM YOU ARE EMPLOYED, OR WHOM YOU REPRESENT, WILL BE BOUND BY, AND BECOMES A PARTY TO THIS AGREEMENT.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, (1) YOU MAY NOT SIGN THE SALES ORDER, OR INDICATE YOUR ASSENT IN A WEB FORM OR AS PART OF THE DOWNLOAD OR INSTALLATION PROCESS, AND (2) YOU MAY NOT INSTALL, USE, COPY OR DISTRIBUTE THE KRI-TECH SOLUTIONS SOFTWARE.
- IF YOU ALREADY HAVE POSSESSION OF THE SOFTWARE, BUT HAVE CHOSEN NOT TO AGREE TO THE TERMS OF THIS AGREEMENT, PLEASE DESTROY OR DELETE ALL COPIES IN YOUR POSSESSION.

Section 1. Rights To Use Software

1.1 Copying, Installation and Operation.

Kri-Tech Solutions hereby grants Customer the following non-exclusive, non-transferable, worldwide licenses, without right to sub-license, and periodically renewable, for the License Term, and subject to the Scope Limitations and the provisions of this Agreement, to use the software product specified in any Sales Order to distribute such copies to and install them on computers owned by Customer or under its control.

1.2 Open Source Components.

The Software includes software components provided by third parties that are subject to open-source copyright license agreements (“Open Source Components”). These Open Source components are identified in the Documentation. Customer’s use of the Open Source Components will be governed by and subject to the applicable open source license and not this Agreement.

1.3 Reservations.

All rights to the Software, Documentation and all related and other Intellectual Property Rights of Kri-Tech Solutions not expressly granted to Customer are reserved to Kri-Tech Solutions. Customer may not make the Software or Documentation available to any third parties as part of any rental, leasing, time-sharing, ASP, SaaS, or service bureau arrangement. Except to the extent otherwise specified in the Sales Order, Customer may use the Software and Documentation only for its internal business purposes. Customer may in addition reproduce the Software, but solely to the extent necessary for bona fide non-production testing, back-up or archival purposes. All Software provided under this Agreement is licensed, not sold.

1.4 Proprietary Rights; Reverse Engineering.

As between Kri-Tech Solutions and Customer, Kri-Tech Solutions will own all Intellectual Property Rights in or to the Software and Documentation, and any derivative works of or improvements or enhancements to any of the foregoing created or developed by or on behalf of Kri-Tech Solutions, or created or developed by or on behalf of Customer in violation of any of Kri-Tech Solutions’ Intellectual Property Rights. Customer acknowledges that the Software (including its structure, organization and code) and the Documentation constitute trade secrets and are the valuable property of Kri-Tech Solutions. Customer will not remove, obscure or alter any notice of copyright, patent, trade secret, trademark or other proprietary right or disclaimer appearing in or on any Software or Documentation. Except to the extent (if any) permitted by applicable law or required by Kri-Tech Solutions’ licensors, Customer will not decompile, or create or attempt to create, by reverse engineering or otherwise, the source code from the executable code supplied under this Agreement or use it to create a derivative work.

Section 2. Delivery Of Software

2.1 Software Delivery. If the Software is licensed for on premise use, Kri-Tech Solutions will make the Software and Documentation available for download from its California offices, on or before the delivery date, as specified in the applicable Sales Order, or as otherwise agreed to by the Parties and confirmed in writing. For purposes of this Agreement, the delivery date for the Software will be the first to occur of the date on which Kri-Tech Solutions notifies Customer that the Software is available for download, or the date on which Customer downloads the Software. If the Software is licensed for use in an environment operated by or on behalf of Kri-Tech Solutions, then Kri-Tech Solutions will make the Software available to Customer within such environment.

2.2 Related Services. Kri-Tech Solutions will provide Customer with the Support Program throughout the License Term.

Section 3. Fees

3.1 Payment of Fees. Customer will pay Kri-Tech Solutions the fees for the License to the Software and the subscription to the Support Program (collectively, "**Subscription Fees**"), by check, EFT or, as specified or required in the applicable Sales Order. If Customer subscribes via Kri-Tech Solutions' online checkout, then Customer will pay the Subscription Fees by credit card. Unless specified otherwise in the applicable Sales Order, Customer will make all payments in US dollars due upon receipt of Kri-Tech Solutions' invoice. Kri-Tech Solutions may impose a finance charge of 1.0% per month on amounts unpaid by Customer on their due date. No fees are due from Customer for authorized use of the Software under a Free Trial License.

3.2 Taxes, Etc. Customer will be responsible for any applicable sales, use, or any value added or similar taxes ("**Taxes**") payable with respect to the licensing of the Software to Customer, provision of the Support Program, or otherwise arising out of or in connection with this Agreement, other than taxes based upon Kri-Tech Solutions' personal property ownership or net income. Unless expressly specified otherwise in any Sales Order, all Subscription Fees, rates and estimates exclude Taxes. If Customer has tax-exempt status, Customer will provide written evidence of such status with its purchase orders.

3.3 Verification. Upon request by Kri-Tech Solutions, Customer will provide Kri-Tech Solutions with, or permit Kri-Tech Solutions to generate, a report generated by the Software indicating Customer's compliance with the Scope Limitations for the period specified in the request. Unless there is a material discrepancy showing that Customer has exceeded the Scope Limitations, Kri-Tech Solutions may make such requests at any point deemed necessary. In the event of any use in excess of the License rights for which Customer has paid, Customer will promptly pay Kri-Tech Solutions Subscription Fees for such excess use at the rates specified in the applicable Sales Order. Upon receipt of such Subscription Fees, Kri-Tech Solutions will extend the License to cover the excess.

3.4 Consumer Price Index. Kri-Tech Solutions reserves the right, on an annual basis and upon thirty (30) days prior notice to Customer, to increase the fees identified on any Sales Order Form. Any such fee increase shall be calculated at a rate of no more than one-hundred percent (100%) of the average inflation rate since the last increase applied by Kri-Tech Solutions, as stated by the Consumer Price Index (CPI-U, US City Average, all items, 1982-84=100) ("CPI Rate"). No fee increase will be applied by Kri-Tech Solutions unless the CPI Rate exceeds one percent (1%).

Section 4. Additional Rights And Obligations

4.1 Protection Against Unauthorized Use. Customer will promptly notify Kri-Tech Solutions of any unauthorized use of any Software of which Customer becomes aware. In the event of any unauthorized use by any User, Customer will use all commercially reasonable efforts to immediately terminate and prevent further occurrences of such unauthorized use.

Section 5. Kri-Tech Solutions' Warranties

5.1 Warranties. Kri-Tech Solutions warrants to Customer that:

5.1.1 Performance. The Software, in the form provided by Kri-Tech Solutions to Customer under this Agreement, will perform in all material respects in accordance with its applicable specifications set forth in the Documentation, for a period of 30 days following delivery, or such other warranty period as may be specified in the applicable Sales Order.

5.1.2 Viruses and Lock-Outs. Kri-Tech Solutions will use all commercially reasonable efforts, using then current versions of industry standard anti-virus software and tools, to ensure that the Software, in the form provided by Kri-Tech Solutions to Customer under this Agreement, contains no computer virus, Trojan horse, worm, time bomb, lock-out device, cancelbot, or other similar malicious code. Kri-Tech Solutions and Customer each acknowledge that the Software may require a license key from Kri-Tech Solutions to be operable by Customer; upon request, Kri-Tech Solutions will promptly provide keys as necessary for Customer to exercise its License rights.

5.1.3 Services. Kri-Tech Solutions will perform its obligations under the Support Program in a competent and professional manner, consistent with industry standards.

5.1.4 Infringement. The Software, as provided by Kri-Tech Solutions to Customer under this Agreement, does not infringe any Intellectual Property Rights of any third party existing under the laws of the United States and Canada.

5.1.5 Scope. The warranties in this Agreement are for the sole benefit of Customer, and may not be extended to any other person or entity.

5.2 Performance Remedy. If any Software fails to conform to the warranty set forth in Section 6.1.1 and Customer wishes to exercise its warranty rights, then Customer must notify Kri-Tech Solutions of the non-conformance within the warranty period. Kri-Tech Solutions will have 30 days from receipt of such notice in which to either repair or, at its option, replace any non-conforming Software with functionally equivalent Software at no additional charge, failing which Customer may exercise any of its rights under this Agreement and applicable law.

5.3 Services Remedy. If Kri-Tech Solutions' performance of its obligations under the Support Program fails to conform to the warranty set forth in Section 5.1.3 above, then Customer's exclusive remedy and Kri-Tech Solutions' sole obligation will be as follows: (a) following notice of non-conformance, Kri-Tech Solutions will have 30 days in which to correct the non-conformance at no additional charge; and (b) if Kri-Tech Solutions has not corrected the non-conformance within such period, then Kri-Tech Solutions will refund Customer the fees paid to Kri-Tech Solutions for the non-conforming services.

5.4 Infringement Remedy. Customer's sole and exclusive remedy for any non-conformance with the warranty in Section 6.1.4 above will be Kri-Tech Solutions' defense and indemnification obligations under Section 7 below.

5.5 Disclaimer Of Implied Warranties. Kri-Tech Solutions makes no representation or warranty in connection with the Software or the Support Program, except as set forth in Section 5.1. The warranties in Section 5.1.1 and 5.1.3 do not apply to a Free Trial. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 5 OR OTHERWISE EXPRESSLY WARRANTED BY KRI-TECH SOLUTIONS TO CUSTOMER, KRI-TECH SOLUTIONS DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTY OF NON-INFRINGEMENT OR IMPLIED OBLIGATION TO INDEMNIFY FOR INFRINGEMENT, ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE AND ANY STATUTORY REMEDY.**

Section 6. Kri-Tech Solutions' Infringement Indemnification

7.1 Defense and Indemnity. If any third party makes any claim against Customer that the Software, in the form provided by Kri-Tech Solutions to Customer, infringes any patent or trademark existing under the laws of the United States or Canada, or infringes any copyright, or results from any misappropriation of such third party's trade secrets by Kri-Tech Solutions (collectively, an "Infringement") then, upon notification of such claim, Kri-Tech Solutions will, at its sole cost and expense, defend Customer against such claim and any related proceeding brought by such third party against Customer. Kri-Tech Solutions will indemnify Customer from and against damages, (including taxes, fees, fines, penalties, and interest) (collectively "Damages") required to be paid by Customer to the third party as a result of the Infringement. Kri-Tech Solutions' obligations under this Section 7.1 are conditioned upon Customer's compliance with the "Indemnification Conditions" (defined below).

"Indemnification Conditions" means the following obligations of a party entitled to defense or indemnification under this Agreement: (i) the indemnified party notifies the indemnifying party in writing of any claim that might be the subject of indemnification promptly after any executive officer of the indemnified party or member of the indemnified party's legal department first knows of the claim, provided, however, that no failure to so notify an indemnifying party will relieve the indemnifying party of its obligations under this Agreement except to the extent that such failure materially prejudices defense of the claim, and except to the extent of damages incurred by the indemnifying party as a result of the delay; (ii) the indemnifying party is given primary control over the defense and settlement of the claim (subject to the foregoing, the indemnified party may nonetheless participate in the defense at its sole cost and expense); (iii) the indemnified party makes no admission of liability (except as required by applicable law) nor enters into any settlement without the indemnifying party's prior written

The person executing this Agreement on behalf of Customer hereby represents and warrants that he/she is duly authorized by Customer to enter into this Agreement on behalf of Customer. Execution of this Agreement by Customer confirms that Customer has received and was provided an opportunity to review the entire Agreement (all pages and Exhibits)

THIS AGREEMENT TAKES EFFECT ONLY UPON AGREEMENT BY AN AUTHORIZED REPRESENTATIVE OF KRI-TECH SOLUTIONS. KRI-TECH SOLUTIONS' TERRITORY REPRESENTATIVES AND THEIR AGENTS DO NOT HAVE THE AUTHORITY TO BIND KRI-TECH SOLUTIONS, WHETHER IN WRITING OR ORALLY.