Software Transaction Agreement

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THIS PRODUCT. BY DOWNLOADING, INSTALLING OR USING THIS PRODUCT, YOU ACCEPT AND AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT DOWNLOAD, INSTALL OR USE THIS PRODUCT.

This Software Transaction Agreement is made between you, the Customer and the Provider, as defined below.

1. Software License.
Subject to the terms of this Agreement, Provider grants to Customer, and Customer accepts from Provider, a non-exclusive, non-transferable and non-sublicensable license to access and use the quantities of each item of Software purchased from Provider or a Partner within the parameters of the Product Terms associated with the applicable Software and License Type. Customer shall only use the Software to support the internal business operations of itself and its worldwide Affiliates. The number of existing software copies should not exceed the number of licenses purchased by the customer. Purchased licences are valid for one year and need to be renewed annually every one year from the date of purchase.

Licenses purchased by the customer can be used in the following manner and subject to the terms of this agreement.

On-Premise Software: Use of software by customers accessing their own equipment.
Software as a Service: Use of software by customers accessing equipment operated by provider or its suppliers.
Managed Service Provider: Use of software by managed service providers accessing their customer's equipment.
Evaluation License: Free trial licenses are subject to the usage terms of On-Premise, SaaS and MSP conditions.

Software licenses for RIYOSU products are purchased on a per user basis. Licenses cannot be shared.

2. Restrictions.
Customer may not:
a. Reverse engineer, decompile, disassemble, or attempt to discover or modify in any way the underlying source code of the Software.
b. Modify, translate, localize, adapt, rent, lease, loan, create or prepare derivative works of, or create a patent based on the Products, Documentation or any part thereof.
c. Resell, sublicense or distribute the Products or Documentation.
d. Provide, make available to, or permit use of the Products, in whole or in part, by any third party.
e. use the Products or Documentation to create or enhance a competitive offering or for any other purpose which is competitive to Provider.
f. Perform or fail to perform any other act which would result in a misappropriation or infringement of Provider's intellectual property rights in the Products or Documentation.
g. Customer understands and agrees that the Products may work in conjunction with third party products and Customer agrees to be responsible for ensuring that it is properly licensed to use such third party products.
h. Notwithstanding anything otherwise set forth in this Agreement, the terms and restrictions set forth herein shall not prevent or restrict Customer from exercising additional or different rights to any open source software that may be contained in or provided with the Products in accordance with the applicable open source software licenses which shall be either included with the Products or made available to Customer upon request.

3. Proprietary Rights.
Customer understands and agrees that:
a. The Products are protected by copyright and other intellectual property laws and treaties.
b. Provider, its Affiliates and/or its licensors own the copyright, and other intellectual property rights in the Products.
c. The Software is licensed, and not sold.
d. This Agreement does not grant Customer any rights to Provider's trademarks or service marks
e. Provider reserves any and all rights, implied or otherwise, which are not expressly granted to Customer in this Agreement.

4. Title, Risk of Loss and Delivery.
Provider, its Affiliates and/or its licensors own the title to all Software. Title and risk of loss to an Appliance shall pass from Provider to Customer upon purchase. Delivery of Products shall be by electronic download.

5. Payment.
Customer agrees to pay to Provider (or, if applicable, the Partner) the fees specified in each Order. Customer will pay fees at the point of sale or download.

6. Taxes.
The fees stated in an Order may not include taxes. If Provider is required to pay sales, use, property, value-added or other taxes based on the Products or Maintenance Services provided under this Agreement or on Customer's use of Products or Maintenance Services, then such taxes shall be billed to and paid by Customer. This Section does not apply to taxes based on Provider's income.

7. Termination.
This Agreement or the Licenses granted hereunder may be terminated:
a. By mutual written agreement of Provider and Customer or
b. By either party for a breach of this Agreement by the other party (or a Third Party User) that the breaching party fails to cure to the non-breaching party's reasonable satisfaction within thirty (30) days following its receipt of notice of the breach.
Upon termination of this Agreement or expiration or termination of a License for any reason, all rights granted to Customer for the applicable Software shall immediately cease and Customer shall immediately:
c. Cease using the applicable Software and Documentation
d. Remove all copies, installations, and instances of the applicable Software from all Customer computers and any other devices on which the Software was installed, and ensure that all applicable Third Party Users and Clients do the same.
e. Return the applicable Software to Provider together with all Documentation and other materials associated with the Software and all copies of any of the foregoing, or destroy such items.
f. Cease using the Maintenance Services associated with the applicable Software.
g. Pay Provider or the applicable Partner all amounts due and payable up to the date of termination, and
h. Give Provider a written certification, within ten (10) days, that Customer, Third Party Users, and Clients, as applicable, have complied with all of the foregoing obligations.

8. Export.
Customer acknowledges that the Products and Maintenance Services are subject to the export control laws, rules, regulations, restrictions and national security controls of the country of the providers registered business address and agrees to abide by the Export Controls. Customer hereby agrees to use the Products and Maintenance Services in accordance with the Export Controls, and shall not export, re-export, sell, lease or otherwise transfer the Products or any copy, portion or direct product of the foregoing in violation of the Export Controls. Customer is solely responsible for obtaining all necessary licenses or authorizations relating to the export, re-export, sale, lease or transfer of the Products and for ensuring compliance with the requirements of such licenses or authorizations. Customer hereby:
Represents that Customer is not an entity or person to which shipment of Products, or provision of Maintenance Services, is prohibited by the Export Controls; and
a. Agrees that it shall not export, re-export or otherwise transfer the Products to:
- Any country subject to a trade embargo affiliated with the country of the providers registered business address.
- A national or resident of any country subject to trade embargos affiliated with the country of the providers registered business address.
- Any person or entity to which shipment of Products is prohibited by the Export Controls, or
- Anyone who is engaged in activities related to the design, development, production, or use of nuclear materials, nuclear facilities, nuclear weapons, missiles or chemical or biological weapons.
Customer shall, at its expense, defend Provider and its Affiliates from any third party claim or action arising out of any inaccurate representation made by Customer regarding the existence of an export license, Customer's failure to provide information to Provider to obtain an export license, or any allegation made against Provider due to Customer's violation or alleged violation of the Export Controls and shall pay any judgments or settlements reached in connection with the Export Claim as well as Provider's costs of responding to the Export Claim.

9. Maintenance Services and Product Support.
Free maintenance and product support is provided from the point of license sale for one year. Except as otherwise stated in a Signed Order or Governing Quotation, or an amendment to this Agreement, during any Maintenance Period the provider shall:
a. Make available to Customer new versions and releases of the Software, including Software corrections, enhancements and upgrades, if and when Provider makes them generally available.
b. Respond to communications from Customer that report Software failures not previously reported to Provider by Customer. Nothing in the foregoing shall operate to limit or restrict follow up communication by Customer regarding Software failures.

c. Respond to requests from Customer's technical coordinators for assistance with the operational/technical aspects of the Software unrelated to a Software failure. Provider shall have the right to limit such responses if Provider reasonably determines that the volume of such non-error related requests for assistance is excessive or overly repetitive in nature.
d. Provide access to Provider's software support web site at www.riyosu.com
e. Provide a channel of communication for customer to contact provider.

10. Warranties and Remedies.
Provider warrants that, during the applicable Warranty Period:
(Warranty a) The operation of the Software, as provided by Provider, will substantially conform to its Documentation.
(Remedy a) Provider shall correct or provide a workaround for reproducible errors in the Software that caused the breach which adheres to the providers software release schedule or, at Provider's option, refund the license fees paid for the nonconforming Software upon return of such Software to Provider and termination of the related License(s) hereunder.

(Warranty b) The Software, as provided by Provider, will not contain any viruses, worms, Trojan Horses, or other malicious or destructive code designed by Provider to allow unauthorized intrusion upon, disabling of, or erasure of the Software, except that the Software may contain a key limiting its use to the scope of the License granted, and license keys issued by Provider for temporary use are time-sensitive.
(**Remedy b)** For a breach of the Media Warranty, Provider shall, at its expense, replace the defective media.

(Warranty c) The media provided by Provider, if any, will be free from material defects.
(Remedy c) Provider shall, at its expense, replace the defective media.

Warranty Period:
The warranty period for each of the above warranties shall be thirty (30) days from the point of sale or download.

Exclusions:
The warranties set forth in this Section shall not apply to any non-conformance
a. That Provider cannot recreate after exercising commercially reasonable efforts to attempt to do so
b. Caused by misuse of the applicable Product or by using the Product in a manner that is inconsistent with this Agreement or the Documentation
c. Arising from the modification of the Product by anyone other than Provider.

Third Party Products:
Certain Software may contain features designed to interoperate with third-party products. If the third-party product or any of its feature are no longer made available by the applicable provider, Provider may discontinue the related product feature. Provider shall notify Customer of any such discontinuation, however Customer will not be entitled to any refund, credit or other compensation as a result of the discontinuation.

Warranty Disclaimer:
THE EXPRESS WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION OR IN A SIGNED ORDER OR GOVERNING QUOTATION ARE THE ONLY WARRANTIES AND REMEDIES PROVIDED BY PROVIDER HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES OR REMEDIES ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, AND ANY WARRANTIES ARISING FROM USAGE OF TRADE OR COURSE OF DEALING OR PERFORMANCE. PROVIDER DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE PRODUCTS.

High-Risk Disclaimer:
CUSTOMER UNDERSTANDS AND AGREES THAT THE PRODUCTS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HIGH-RISK OR HAZARDOUS ENVIRONMENT, INCLUDING WITHOUT LIMITATION, THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, AIR TRAFFIC CONTROL, LIFE SUPPORT MACHINES, WEAPONS SYSTEMS, OR ANY OTHER APPLICATION WHERE THE FAILURE OR MALFUNCTION OF ANY PRODUCT CAN REASONABLY BE EXPECTED TO RESULT IN DEATH, PERSONAL INJURY, SEVERE PROPERTY DAMAGE OR SEVERE ENVIRONMENTAL HARM. ACCORDINGLY:
a. CUSTOMER SHOULD NOT USE THE PRODUCTS IN A HIGH RISK ENVIRONMENT
b. ANY USE OF THE PRODUCTS BY CUSTOMER IN A HIGH RISK ENVIRONMENT IS AT CUSTOMER'S OWN RISK
c. PROVIDER, ITS AFFILIATES AND SUPPLIERS SHALL NOT BE LIABLE TO CUSTOMER IN ANY WAY FOR USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT, AND
d. PROVIDER MAKES NO WARRANTIES OR ASSURANCES, EXPRESS OR IMPLIED, REGARDING USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT.

11. Limitation of Liability.
IN NO EVENT SHALL PROVIDER, ITS AFFILIATES OR SUPPLIERS BE LIABLE FOR
(X) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND FROM THE USAGE OF SOFTWARE PROVIDED.
(Y) LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF GOODWILL OR REPUTATION, LOSS OF ANTICIPATED SAVINGS, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA, HOWSOEVER ARISING, FROM THE USAGE OF SOFTWARE PROVIDED.

14. Confidential Information.
Definition:
"Confidential Information" means information or materials disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party") that are not generally available to the public and which, due to their character and nature, a reasonable person under like circumstances would treat as confidential, including, without limitation, financial, marketing, and pricing information, trade secrets, know-how, proprietary tools, knowledge and methodologies, the Software (in source code and/or object code form), information or benchmark test results regarding the functionality and performance of the Software, any Software license keys provided to Customer, and the terms and conditions of this Agreement.
Confidential Information shall not include information or materials that are generally known to the public

Obligations:
The Receiving Party shall:
a. Not disclose the Disclosing Party's Confidential Information to any third party, except as permitted in subsection "Permitted Disclosures".
b. Protect the Disclosing Party's Confidential Information from unauthorized use or disclosure by exercising at least the same degree of care it uses to protect its own similar information, but in no event less than a reasonable degree of care. The Receiving Party shall promptly notify the Disclosing Party of any known unauthorized use or disclosure of the Disclosing Party's Confidential Information and will cooperate with the Disclosing Party in any litigation brought by the Disclosing Party against third parties to protect its proprietary rights. For the avoidance of doubt, this Section shall apply to all disclosures of the

Permitted Disclosures:
Notwithstanding the foregoing, the Receiving Party may disclose the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent to any of its Affiliates, directors, officers, employees, consultants, contractors or representatives (collectively, the "Representatives"), but only to those Representatives that
a. Have a "need to know" in order to carry out the purposes of this Agreement or to provide professional advice in connection with this Agreement.
b. Are legally bound to the Receiving Party to protect information such as the Confidential Information under terms at least as restrictive as those provided herein, and
c. Have been informed by the Receiving Party of the confidential nature of the Confidential Information and the requirements regarding restrictions on disclosure and use as set forth in this Section. The Receiving Party shall be liable to the Disclosing Party for the acts or omissions of any Representatives to which it discloses Confidential Information which, if done by the Receiving Party, would be a breach of this Agreement.
Additionally, it shall not be a breach of this Section for the Receiving Party to disclose the Disclosing Party's Confidential Information as may be required by operation of law or legal process, provided that the Receiving Party provides prior notice of such disclosure to the Disclosing Party unless expressly prohibited from doing so by a court, arbitration panel or other legal authority of competent jurisdiction.