

Software License Agreement

1. Introduction and Acceptance. This Software License Agreement is a legal agreement between you (either an individual or an entity) and Likewise Software regarding the use of the **Likewise Enterprise 4.1** software accompanying this Agreement, which includes user documentation provided in “online” or electronic form (together, the “**Software**”). BEFORE YOU CLICK “I ACCEPT AND AGREE”, CAREFULLY READ THE TERMS OF THIS AGREEMENT. BY CLICKING ON THE “I ACCEPT AND AGREE” SELECTION, YOU ARE AGREEING TO BE BOUND BY AND ARE BECOMING A PARTY TO THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, CLICK THE “I DECLINE” SELECTION AND THE SOFTWARE WILL NOT BE INSTALLED. IF YOU DO NOT INSTALL THIS SOFTWARE, PLEASE DESTROY OR DELETE ALL COPIES IN YOUR POSSESSION.

2. License to Install and Use the Software. Subject to the restrictions set forth in this Agreement, Likewise hereby grants to you a non-exclusive copyright license to install and use the number of instances of the Software (in object code format) for which you have been granted a license by Likewise (see Section 3). An instance of the Software is “in use” on a computer (or virtual computer or virtual machine) when it is loaded into the temporary memory (i.e., RAM) or installed into the permanent memory (e.g., hard disk, CD-ROM, or other storage device) used by that computer (or virtual computer or virtual machine). The use of multiple instances of the Software on a single computer requires multiple licenses.

3. Number of Licenses. You are granted a license to install up to five instances of Likewise Enterprise 4.1 on either physical or virtual machines, comprising of:

- the Likewise Enterprise Agent (Linux/UNIX/Mac side)
- the Likewise Enterprise Agent Tools (Linux/UNIX/Mac side)
- the Likewise Enterprise MMC Extensions (Windows side)
- and the Likewise Enterprise Console (Windows side)

for 30 days from the date of installation. If you wish to use the Software after the 30-day trial period, you must purchase a commercial license for each instance installed during the trial period, plus licenses for additional instances. Please email Likewise at sales@likewiseoftware.com to purchase licenses and you will be granted licenses for the number of Server instances and Workstation instances of the Likewise Enterprise Agent specified by your Likewise sales order and activated by a Likewise Enterprise license file.

4. Prohibited Users. Unless otherwise agreed to in writing by you and Likewise, you may not install, use, or access the Software (including related documentation) if you are (a) an entity or individual that markets, distributes, or provides identity management, configuration, or Windows-Linux/UNIX/Mac interoperability software or services or (b) an entity or individual that will access or use the Software (including related documentation) on behalf of an entity or individual that markets, distributes, or provides identity management, configuration, or Windows-Linux/UNIX/Mac interoperability software or services. The license in Section 2 is void if you are in violation of this Section 4.

5. Special Provisions Regarding Open Source and Third Party Software. The Software may contain or be distributed with third party software covered by an open source software license (“**Open Source Software**”) or other third party software (“**Third Party Software**”) which may be covered by a different license. If Open Source Software is included the terms and conditions of this license do not apply to the Open Source Software. If Third Party Software is included the terms and conditions of this license may not apply to Third Party Software. Information concerning the inclusion of the Open Source Software and Third Party

Software, if any, and the notices, license terms, and disclaimers applicable to that software is contained in the Licenses.txt file provided with the Software.

6. License Restrictions. YOU MAY NOT RENT, LEASE, SUBLICENSE, SELL, ASSIGN, LOAN, OR OTHERWISE TRANSFER THE SOFTWARE OR ANY OF YOUR RIGHTS AND OBLIGATIONS UNDER THIS AGREEMENT. You may not remove or destroy any copyright notices or other proprietary markings. You may not modify or adapt the Software, merge the Software into another program, or create derivative works based on the Software. You may not use, copy, or distribute the Software without Likewise's authorization, except that you may make one copy of the Software for archival or back-up purposes only. You may use, copy, and distribute user documentation provided in "online" or electronic form within your private organization solely to support your authorized use of the Software, but you are not authorized to publicly display or transmit the documentation or use the documentation for any other purpose.

7. Ownership. The license granted to you in Section 2 is not a transfer or sale of Likewise's ownership rights in or to the Software. Except for the license granted in Section 2, Likewise and its suppliers retain all right, title and interest (including all intellectual property rights) in and to the Software. The Software is protected by applicable intellectual property laws, including United States copyright laws and international treaties.

8. Customer Reference. You hereby grant Likewise the right to use your organization's name or your corporate logo or both in connection with Likewise's promotional materials and website solely to identify you as a customer of Likewise. If, at any time, you do not wish for Likewise to use your trade name or corporate logo in such a manner, you may notify Likewise at reference@likewisoftware.com.

9. Confidentiality. In order to protect the trade secrets and proprietary know-how contained in Software, you will not decompile, disassemble, or reverse engineer the Software. If you are participating in a Trial Program, you will maintain the confidentiality of and not disclose to any third party: (a) all non-public information disclosed by Likewise to you regarding Trial Versions of the Software or the Trial Program, and (b) all Feedback, Software performance data, and all other information obtained through evaluation of the Software as part of the Trial Program.

10. Termination. This Agreement will be effective upon installation of the Software and will terminate upon the earlier of: (a) your failure to comply with any term of this Agreement; (b) return, destruction, or deletion of all instances and copies of the Software in your possession; or, (c) if you are using a Trial Version of the Software, upon completion of the Trial Program as specified by Likewise. Likewise's rights and your obligations will survive the termination of this Agreement. Upon termination of this Agreement by Likewise, you will certify in writing to Likewise that all instances and copies of the Software, or any portion thereof, have either been returned to Likewise or otherwise destroyed or deleted from any of your computers or storage devices.

11. Limited Warranty

(a) **"No Questions Asked" Warranty for Commercial Versions.** You may return a Commercial Version of the Software for a refund within 30 days of purchase for any reason. To request a refund, you must contact Likewise (via US Postal mail or email sales@likewisoftware.com) and identify the reason for your return. Prior to receiving your

refund, you must certify in writing to Likewise that all copies of the Software, or any portion thereof, have either been returned to Likewise or otherwise destroyed or deleted from any of your computers or storage devices.

(b) Performance Warranty for Commercial Versions. Likewise warrants that Commercial Versions of the Software will perform substantially in accordance with the documentation accompanying the Software for a period of 90 days after receipt by you. Likewise's entire liability and your exclusive remedy for breach of this warranty will be, at Likewise's option, either (a) refund of the license fee paid by you; or (b) repair or replacement of the Software that does not meet this warranty and that is returned to Likewise. This limited warranty will be void if failure of the Software has resulted from any accident, abuse, misuse, or misapplication by you. Replacement Software will be warranted for the remainder of the original warranty period or 30 days, whichever is longer.

12. NO OTHER WARRANTIES. EXCEPT AS SET FORTH IN SECTION 11, THE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS. YOU ASSUME ALL RESPONSIBILITIES FOR SELECTION OF THE SOFTWARE TO ACHIEVE YOUR INTENDED RESULTS, AND FOR THE INSTALLATION OF, USE OF, AND RESULTS OBTAINED FROM THE SOFTWARE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LIKewise DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, ACCURACY, TITLE, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE AND THE ACCOMPANYING WRITTEN MATERIALS. THERE IS NO WARRANTY AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SOFTWARE OR AGAINST INFRINGEMENT. THERE IS NO WARRANTY THAT THE SOFTWARE OR LIKewise'S EFFORTS WILL FULFILL ANY OF YOUR PARTICULAR PURPOSES OR NEEDS.

13. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES WILL LIKewise BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF DATA OR OTHER SUCH PECUNIARY LOSS) ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, EVEN IF LIKewise HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS ARE INDEPENDENT OF THE EXCLUSIVE REMEDY PROVIDED IN SECTION 11 AND WILL APPLY NOTWITHSTANDING ANY FAILURE OF SUCH EXCLUSIVE REMEDY. IN NO EVENT WILL LIKewise'S AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT EXCEED THE FEES PAID BY YOU FOR THE SOFTWARE. THE FOREGOING EXCLUSIONS AND LIMITATIONS OF LIABILITY AND DAMAGES WILL NOT APPLY TO CONSEQUENTIAL DAMAGES FOR PERSONAL INJURY.

14. Audit. You must keep current, complete, and accurate records regarding the reproduction, installation, and use of Software. You will provide such information to Likewise and certify that you have paid all related fees within five business days of any written request, so long as Likewise does not make more than three requests during any 12-month period. You will, after a two week prior notice from Likewise, provide Likewise with reasonable access to your premises, records, and personnel so that Likewise may audit and confirm that you comply with this Agreement. If an audit reveals any reproduction, installation, or use of the Software that is not compliant with this Agreement, you will promptly comply with this Agreement and pay the additional fees (at Likewise's then-current rates) due plus interest at the rate of 1.5% per

month. You will also promptly reimburse Likewise for its reasonable costs of conducting the audit if the audit reveals any noncompliance.

15. Indemnification. You will indemnify and hold harmless Likewise (including all of its officers, employees, directors, subsidiaries, representatives, affiliates, and agents) from and against any damages (including attorney's fees and expenses), claims, and lawsuits that arise or result from your use of the Software.

16. Trademarks. Certain of the product and Likewise names used in this Agreement, the Software may constitute trademarks of Likewise or third parties. You are not authorized to use any such trademarks.

17. Export Restrictions. You may not export or re-export the Software without complying with applicable export control laws and obtaining any necessary permits and licenses.

18. Arbitration. Except for the right of Likewise to apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm, any dispute as to the interpretation, enforcement, breach, or termination of this Agreement will be settled by binding arbitration in Seattle, Washington, U.S.A. under the Rules of the American Arbitration Association by one arbitrator appointed in accordance with the Rules. All other disputes will be resolved by a court specified in Section 19. Judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The prevailing party will be entitled to receive from the other party its attorneys' fees and costs incurred in connection with any arbitration.

19. General. This Agreement is governed by the laws of the State of Washington, without reference to its conflict of laws principles. Except as set forth in Section 18, any dispute between you and Likewise regarding this Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in King County, Washington in connection with any action arising under this Agreement. This Agreement is the entire agreement between you and Likewise and supersedes any other communications with respect to the Software. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will continue in full force and effect.