



MAINTENANCE AGREEMENT FOR NETWITNESS PRODUCTS

IMPORTANT

THIS MAINTENANCE AGREEMENT ("AGREEMENT") IS EFFECTIVE AS OF THE DATE OF THE CUSTOMER'S SIGNED ACCEPTANCE OF THE APPLICABLE ORDERING DOCUMENT MAKING REFERENCE TO THESE TERMS.

ANY AND ALL REFERENCES TO "**CUSTOMER**" SHALL BE DEEMED TO MEAN THE CUSTOMER SET FORTH IN AN APPLICABLE ORDERING DOCUMENT.

THIS AGREEMENT IS A LEGALLY BINDING DOCUMENT BETWEEN YOU (MEANING THE INDIVIDUAL PERSON OR THE ENTITY THAT THE INDIVIDUAL REPRESENTS THAT HAS OBTAINED THE SOFTWARE AND HARDWARE FOR ITS INTERNAL PRODUCTIVE USE AND NOT FOR OUTRIGHT RESALE) (THE "CUSTOMER") AND NETWITNESS (WHICH MEANS (I) NETWITNESS SECURITY LLC, IF CUSTOMER IS LOCATED IN THE UNITED STATES; OR (II) NETWITNESS LIMITED IF THE CUSTOMER IS LOCATED OUTSIDE THE UNITED STATES).

THIS AGREEMENT SETS FORTH THE GENERAL TERMS AND CONDITIONS UNDER WHICH NETWITNESS WILL PROVIDE AND CUSTOMER WILL RECEIVE MAINTENANCE SERVICES DESCRIBED HEREIN.

GENERAL TERMS AND CONDITIONS

1 **DEFINITIONS.** The Parties agree that unless otherwise defined herein, the existing definitions set forth in any applicable license agreement between NetWitness and Customer shall apply to this Agreement to the extent such terms are used herein.

- A. **"Customer Contacts"** means identified Customer personnel who are familiar with Customer's software environment and will coordinate all technical support calls to NetWitness.
- B. **"Documentation"** means the then-current, generally available, written user manuals and online help and guides for any Software and/or Hardware provided by NetWitness.
- C. **"Error"** shall mean any reported malfunction, error or other defect in the Product that can be reproduced by NetWitness and constitutes a non-conformity from the Product Documentation. Each Error will be assigned a severity level as further detailed in Section 3(A) below.
- D. **"Hardware"** means the hardware product that the Software is incorporated in or bundled with and sold as a unit.
- E. **"Product"** means Hardware and/or Software. Products do not include Evaluation Products.
- F. **"Production System"** shall mean a computer system, including any Hardware where applicable, upon which the Software is installed and resident and which is used by Customer for purposes other than development, quality, assurance, disaster recovery or testing.
- G. **"Relief"** shall mean an intervention by NetWitness that restores Product operations impacted by an Error. Examples may include without limitation: (i) a solution or workaround has been provided to resolve the Product issue; (ii) Customer's Production System is operational and Customer is able to perform business critical operations that relate to the Product; and/or (iii) the identified Error does not originate from the Product.
- H. **"Service Request"** shall mean a ticket that has been opened, documented, and is being managed by NetWitness in response to a Customer's report of an Error.
- I. **"Software"** shall mean the software licensed by Customer under this Agreement, consisting of a series of instructions or statements in machine-readable, object code form only, including without limitation firmware incorporated in any Hardware.
- J. **"Software Release"** means any subsequent version of Software that NetWitness makes generally available to its customers who are current on their Maintenance Services fees but does not mean new Software.

2 **MAINTENANCE SERVICES**

- A. **Basic and Enhanced Support Coverage.** Customers may purchase the following Maintenance Services:
- (i) **“Basic Support Coverage”** shall include the following Maintenance Services: (a) Telephone Support during the hours of 8:00 AM through 5:00 PM, local Customer time, Monday through Friday (except for any NetWitness-designated company holidays); and (b) Web Support.
 - (ii) **“Enhanced Support Coverage”** shall include the following Maintenance Services: (a) Telephone Support on a 24 x 7 x 365 basis, with rapid resolution by global network of support centers; and (b) Web Support.
 - (iii) Hours of support for Basic Support Coverage and Enhanced Support Coverage are subject to change by NetWitness upon prior written notice.
- B. **Maintenance Services.**
- (i) Except as otherwise provided in Section D below (Personalized Support Options), all Maintenance Services are provided remotely from NetWitness’ premises as follows:
 - (a) **Web Support.** NetWitness shall provide Customer with access, through a separate registration process, to (i) for Customers who have licensed NetWitness product where such resources are available, such NetWitness product’s community offering Blogs, Discussion Forums, and download of patches and bug fixes, and (ii) for all other Customers, NetWitness’ online technical support knowledge database, offering Customer the ability on a 24 x 7 basis (24 hours a day, seven days a week) to raise issues, monitor Services Requests, and download patches and bug fixes.
 - (b) **Telephone Support.** NetWitness shall provide telephone support to Customer.
 - (ii) In the performance of the Maintenance Services, NetWitness will:
 - (a) Use good-faith, commercially reasonable efforts to aid in the diagnosis of, and correct, Errors in the Software and/or Hardware; and
 - (b) Provide advice on how to use the Products by way of telephone, e-mail, and web-based technical assistance.
- C. **Software and Hardware Operating System Upgrades.** Customers who are current on payment of Maintenance Service fees, shall also receive the following software and hardware upgrades:
- (i) **Software Upgrades.** All Software Releases (including all Error corrections made available pursuant to this Agreement) that NetWitness in its sole discretion: (a) deems to be logical improvements to the Software; (b) make generally available to all licensees of the Software; and (c) does not separately price or market.
 - (ii) **Hardware Operating System Upgrade.** NetWitness shall also provide all core Hardware operation system upgrades. This does not include additional software or operating system variants that are required for optional capabilities. The application of a new operating system to the Hardware may require that Customer re-images the Hardware so that the updates apply properly. Application or use of any operating system, or other software or equipment with the Hardware, other than that provided by NetWitness, shall void Customer’s Hardware warranty and NetWitness’ maintenance obligations.
- D. **Personalized Support Options.** Customers who pay for Enhanced Support Coverage, and who are current on payment of Maintenance Services fees, may purchase the Personalized Support Options described herein at an additional fee and as ordered in a Quote, Schedule, or Customer Purchase Order, and such personalized support options may be subject to additional terms located in a Service Brief, SOW or similar document.

In addition to the TAM and DSE support services specified below, all Personalized Support Options will include the following services:

- (1) Review, reporting, and management of Service Requests;
 - (2) Monitoring and notification to client of Service Request trends;
 - (3) Technical escalation management;
 - (4) Bi-annual on-site account reviews;
 - (5) Conference calls, scheduled as necessary, to discuss support-related matters; and
 - (6) If the TAM or DSE is unavailable, Customer may access NetWitness’ 24x7x365 Telephone Support
- (i) **Technical Account Manager (TAM) Support Services.**

- (a) Technical Account Manager. NetWitness shall provide a Technical Account Manager (“**TAM**”) who shall act as the Customer’s designated point of contact within NetWitness for technical account management and escalation of Service Requests. The TAM shall be responsible for overseeing the Maintenance Services delivered and will work closely with Customer to ensure that appropriate resources are engaged to resolve Service Requests in a timely manner.
- (b) Limitations.
- (1) TAM support services shall be provided in English language only
 - (2) Each TAM will be assigned to one Product and one geographical region only, to be selected by Customer (i.e. North America, Europe Middle East Africa, and Asia Pacific Japan). Customer must purchase additional TAM support for additional Products and/or geographical regions.
- (ii) **Designated Support Engineer (DSE) Support Services.**
- (a) Designated Support Engineer. NetWitness shall provide a senior Designated Support Engineer (“**DSE**”) who will act as Customer’s single and direct point of contact on all technical issues associated with an assigned Product. The DSE will become familiar with Customer’s technical environment, staff and unique support issues and will work directly with the Customer Contacts to resolve issues, manage technical escalations, and deliver business reviews. The DSE shall be reasonably available by telephone during Standard Support Hours.
- (b) Limitations
- (1) DSE Support Services shall be provided in English language only.
 - (2) Each DSE will be assigned to one Product and one regional time zone only, to be selected by Customer (i.e. North America (EST or PST), Europe Middle East Africa, and Asia Pacific Japan). Customer must purchase additional DSE support for additional Products and/or regional time zones.
 - (3) Customer shall be required to identify a maximum of four (4) Customer Contacts, who are familiar with Customer’s software environment, to coordinate all technical support calls and/or interaction with the identified DSE as set forth above.

3 SOFTWARE ERROR SEVERITY CLASSIFICATIONS AND SERVICE REQUEST RESOLUTION PROCESS.

- A. **Software Error Severity Classifications.** All Software Errors shall be classified by NetWitness as follows:

Error Severity	Definition	Examples
1 (“S1”)	Critical: Severe problem preventing Customer or workgroup from performing critical business functions	<ul style="list-style-type: none"> ▪ Production System data corruption (data loss, data unavailable) ▪ Production System crash or hang ▪ Production Systems significantly impacted, such as severe performance degradation ▪ Production System and/or data is at high risk of potential loss or interruption ▪ Production System workaround is required immediately ▪ Time critical Production cutover impacted
2 (“S2”)	High: Customer or workgroup able to perform job function, but performance of job function degraded or severely limited	<ul style="list-style-type: none"> ▪ Production System adversely impacted ▪ Non-Production System data corruption (data loss, data unavailable) ▪ Non-Production System crash or hang ▪ Non-Production System and/or data is at high risk of potential loss or interruption ▪ Non-Production System workaround is required immediately ▪ Development system(s) is inoperative
3 (“S3”)	Medium: Customer or workgroup performance of job function is largely unaffected	<ul style="list-style-type: none"> ▪ Production or development system has encountered a non-critical problem or defect and/or questions have arisen on product use.
4 (“S4”)	Request: Minimal system impact; includes feature requests and other non-critical questions	<ul style="list-style-type: none"> ▪ No Customer business impact ▪ Requests for enhancements by Customer

- B. **Software Support Service Level Objectives (SLOs).** NetWitness will use reasonable commercial efforts to provide customers with technical advice and assistance in connection with their use of the Software according to severity level. The table below sets forth NetWitness' targets for support responses to Software Errors based on Severity Level:

SUPPORT LEVEL	SEVERITY LEVEL	INITIAL TARGET RESPONSE	TARGET WORK EFFORT	TARGET COMMUNICATION FREQUENCY
BASIC (9 x 5)	S1	2 hours (9x5)	Continuous during business hours (9x5) until Relief identified	Once per day (business day only)
	S2	4 hours (9x5)	Daily, during Customer business hours only	Once every 2-3 days (business day only)
	S3	8 hours (9x5)	Weekly during business hours	Once a week
	S4	12 hours (9x5)	Every other week during business hours	Once a month
ENHANCED (24 x 7)	S1	1 hour (24 x 7)	Continuous 24x7 until Relief identified	Every 3-4 hours, 7 days/week
	S2	3 hours (24 x 7)	Daily, during Customer business hours*	Once per day, business hours*
	S3	4 hours (9x5)	Weekly during business hours	Once a week
	S4	10 hours (9x5)	Every other week during business hours	Twice a month

* Available weekends and evenings per Customer request

C. **Software Service Request Resolution Process**

- (i) **Process.** NetWitness handles all Customer support Service Requests on a **first-in-first-out** basis. NetWitness shall prioritize all Errors according to their impact to Customer using the severity definitions described in Section 3(A) above. NetWitness may upgrade or downgrade the severity of an Error depending on developments during the resolution process. For example, if available, a temporary resolution may be provided to mitigate the material impact of a given Error resulting in the reduction of the severity of a Service Request.
- (ii) **Escalation.** If Customer and NetWitness are unable to mutually agree upon a resolution plan for S1 and S2 Errors, then the parties shall escalate the Service Request in accordance with NetWitness' escalation process. Once the escalation process has been initiated, NetWitness shall provide Customer with Service Request progress updates via phone or email on a mutually agreed upon schedule. Such progress updates shall include information about the Error description, daily progress, root cause (if known) and overall plan to resolve the Error.

4 HARDWARE SUPPORT. If an Error is identified in the Hardware, NetWitness shall use commercially reasonable efforts to provide one of the following remedies at NetWitness' sole and exclusive discretion: (a) an electronic remedy; (b) spare part replacement; or (c) Advance Replacement of Hardware.

- A. **Advance Replacement of Hardware.** An "Advance Replacement" occurs when NetWitness authorizes shipment of a replacement Hardware component to Customer prior to the defective Hardware component being returned to NetWitness for repair. Solely on the approval of a NetWitness customer care representative and subject to the NetWitness Return Material Authorization ("RMA") Process, NetWitness shall use commercially reasonable efforts to provide an Advance Replacement if an Error is identified in the Hardware. Any Hardware shipped under NetWitness' RMA process shall have the same licensed capacity as the original Product regardless of whether such replacement is a newer model of the defective Hardware. NetWitness posts additional information regarding its Advance Replacement policy on its Support Website.

- B. **Return Material Authorization ("RMA") Process.** If NetWitness determines that it is necessary for the Customer to

return Hardware to NetWitness for repair or replacement, Customer must provide NetWitness with the Hardware component model, serial number, and failure information to initiate the RMA Process. Customer must return Hardware within fifteen (15) calendar days for all other Hardware or Customer will be charged for the Advanced Replacement.

5 CUSTOMER OBLIGATIONS.

- A. **Documenting Errors.** Customer shall use good-faith, reasonable efforts to isolate and document Errors to enable NetWitness to fulfill its obligations herein. Once a Service Request has been initiated, Customer will be asked to provide necessary Error data which may include but not be limited to, applicable identification number for Software or Hardware, description of Error, any error messages, and any requested support files.
- B. **Maintaining Product Integrity.** Customer will follow NetWitness best practices guidelines, which include maintaining an onsite disaster recovery for each Hardware appliance to enable NetWitness to restore the appliance in accordance with Customer's configuration. Customer agrees to not install any third party non-certified software or modify any existing software or firmware on the Hardware without notification to, and prior authorization by, NetWitness technical support in order to ensure that NetWitness' ability to maintain accurate records of Customer's existing environment.

6 ADDITIONAL EXCLUSIONS.

- A. **Use.** Maintenance Services specifically **excludes** support for any Errors caused by (i) operator error or use of the Software and/or Hardware in a manner not in accordance with the Product Documentation; (ii) use of the Software and/or Hardware with software and/or hardware other than that for which the Software and/or Hardware was originally licensed; (iii) Errors caused by any fault in the Customer's environment, hardware, or in any software used in conjunction with the Software or Hardware but not provided by or approved by NetWitness; (iv) any integration, modification, or repair of the Software and/or Hardware made by any person other than NetWitness; (v) installation of any appliance, firmware, or operating system on the Hardware other than that provided by NetWitness; (vi) unusual physical, electrical or electromagnetic stress, fluctuations in electrical power beyond Product specifications, or failure of air conditioning or humidity control; and (vii) accident, misuse, or neglect or causes not attributable to normal wear and tear. In addition, support excludes any Errors for which a correction is available in a subsequent Software Release than that currently operated by Customer and which has been made available to Customer by NetWitness.
- B. **Supported Versions.** Maintenance Services also specifically **excludes** support for any version of the Software released by NetWitness which has reached its "end of primary support" (EOPS) date, as determined by NetWitness. Each Software Release will reach its EOPS date after a period of not less than twenty-four (24) months following the date of that Software Release's "General Availability" (or "GA" release date, as this term is generally understood in the software industry), unless another EOPS date is set forth at <https://community.netwitness.com/s/article/Product-Version-Life-Cycle-for-NetWitness-Platform>. This time period may be extended by NetWitness at its sole discretion. In order to continue to receive ongoing Maintenance Services hereunder for any Software Release which is beyond its EOPS date, Customers must upgrade to a currently supported Software Release. For certain Software Products, Customers may enter into an Extended Support agreement for a period of one or two years to obtain Maintenance Services for Software which has already reached its EOPS date. For additional information on Software EOPS dates and the availability of Extended Support agreements for such Software, please go to <https://community.netwitness.com/s/article/Product-Version-Life-Cycle-for-NetWitness-Platform>.

- 7 **REINSTATEMENT OF LAPSED SUPPORT.** If the Maintenance Services expire or are terminated, and Customer subsequently seeks to reinstate Maintenance Services, Customer shall pay: (a) the cumulative Maintenance Services fees applicable for the period during which support lapsed; (b) the annual support fees for the current period; and (c) the then-current reinstatement fee, as quoted by an authorized NetWitness representative, distributor, or reseller.

8 PAYMENT

- A. **Payment.** Customer shall pay the fees set out in an exhibit attached hereto or a Quote including Personalized Support Options annually in advance. Customer shall pay the applicable support fee for such support net 30 days from the date of invoice, unless otherwise agreed to by the parties in writing.
- B. **Renewal Fees.** Each time Customer renews annual Maintenance Services as set forth in Section 9(A) below, Customer shall pay NetWitness' then-applicable support fees, as quoted by an authorized NetWitness representative, distributor, or reseller, in advance for the upcoming year, net 30 days from the date of invoice.
- C. **Overdue Payments and Taxes.** Overdue payments hereunder are subject to a finance charge of 1% per month (12% per year), plus all expenses incurred by NetWitness in collecting such overdue amounts. Prices are exclusive of all taxes now in force or enacted in the future, and Customer shall pay such taxes, except for taxes imposed on NetWitness' income. Customer is responsible for obtaining and providing to NetWitness any certificate of exemption or similar document required to exempt Customer from any tax liability.

9 TERM AND TERMINATION.

- A. **Term and Renewal.** Unless otherwise terminated in accordance with this Section 9, Maintenance Services shall be provided for an initial term of one year from the date of shipment of the Product or when the Software is first made available electronically (the “**Initial Term**”). Customer may thereafter renew Maintenance Services on an annual basis by paying NetWitness the applicable support fees, unless NetWitness notifies Customer at least 60 days before the expiration of the Initial Term or any renewal term of its intent not to renew Maintenance Services.
- B. **Termination for Breach.** Either party may terminate Maintenance Services upon written notice to the other party of the defaulting party’s material breach of its obligations hereunder, which breach is not cured within 30 days after such notice.
- C. **Termination of License Agreement.** Maintenance Services for Software shall automatically terminate upon the termination of Customer’s right to use the Software pursuant to the applicable license agreement. In the event that the applicable license agreement terminates prior to expiration of the current term for Maintenance Services, Customer shall have no right to a refund of any previously-paid Maintenance Services fees.

10 WARRANTY.

- A. **Services Warranty.** NetWitness warrants that such Maintenance Services provided hereunder shall be performed in a workmanlike manner consistent with generally accepted industry standards. Customer must notify NetWitness of any such warranty failure within ten (10) days from the date of performance of such Maintenance Services. Notwithstanding anything to the contrary contained herein, NetWitness does not warrant or represent that all Errors, whether in Software or Hardware, can or will be corrected. NetWitness’ entire liability and Customer’s exclusive remedy under the foregoing warranty shall be for NetWitness to use reasonable efforts to (i) re-perform the deficient services within a reasonable time, or (ii) replace any replacement parts which become defective during a period in which the Product containing the replacement part is covered by warranty or Maintenance Services, or sixty (60) days after installation thereof, whichever occurs later. If, after reasonable efforts, NetWitness is not able to correct such deficiencies then Customer has the right to terminate for breach in accordance with Section 9(B) herein.
 - B. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY STATED IN THIS WARRANTY SECTION, NETWITNESS PROVIDES MAINTENANCE SERVICES “AS IS” AND MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON- INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.
- 11 **GENERAL.** All Releases or other enhancements, modifications or fixes to the Software provided to Customer pursuant to this Agreement constitute Software licensed to Customer under any applicable license agreement between NetWitness and Customer (the “License Agreement”). This Agreement is not an amendment to any such License Agreement but is a separate binding agreement that incorporates terms of any such License Agreement relating to license and ownership rights, use limitations, limitation of liability, and confidentiality and non-disclosure obligations. Additionally, this Agreement incorporates by reference any “Miscellaneous” or “General” provisions of any such License Agreement in their entirety.
