

ReSTNSX End User License Agreement

Effective: May 22, 2017

Document ID: RSTNSX127

This is an agreement between You and the GSA Multiple Award Schedule (MAS) Contractor acting on behalf of ReSTNSX, Inc., and governs your Use of ReSTNSX Software. “**You**” and “**Your**” means the Government Customer (Agency) licensing the Software under this EULA and who, under the GSA Multiple Award Schedule Program, is the “Ordering Activity,” defined as an “entity authorized to order under GSA Schedule Contracts” as defined in GSA Order ADM4800.2I (“GSA Order”), as such order may be revised from time to time. “**Use**” or “**Using**” means to download, install, activate, access or otherwise use the Software. “**Software**” means the ReSTNSX computer programs and any Upgrades made available to You by an Approved Source and licensed to You by ReSTNSX. “**Documentation**” is the ReSTNSX user or technical manuals, training materials, specifications or other documentation applicable to the Software and made available to You by an Approved Source as an attachment to this agreement. “**Approved Source**” means (i) ReSTNSX or (ii) the ReSTNSX authorized reseller, distributor or systems integrator from whom you acquired the Software. “**Entitlement**” means the license detail; including license metric, duration, and quantity provided in a product ID (PID) published on ReSTNSX’s price list, claim certificate or right to use notification. “**Upgrades**” means all updates, upgrades, bug fixes, error corrections, enhancements and other modifications to the Software and backup copies thereof.

This agreement and the supplemental license terms attached to this agreement (collectively, the “**EULA**”) govern Your Use of the Software.

1. **Acceptance of Terms.** If you are entering into this EULA on behalf of an entity, you represent that you have authority to bind that entity. If you do not have such authority or you do not agree to the terms of the EULA, neither you nor the entity may Use the Software and it may be returned to the Approved Source for a refund within thirty (30) days of the date you acquired the Software or ReSTNSX product. Your right to return and refund applies only if you are the original end user licensee of the Software.
2. **License.** ReSTNSX grants You a limited, non-exclusive and non-transferable license to Use object code versions of the Software and the Documentation solely for Your internal operations and in accordance with the Entitlement and the Documentation. ReSTNSX licenses You the right to Use only the Software You acquire from an Approved Source. Unless contrary to applicable law, You are not licensed to Use the Software on secondhand or refurbished ReSTNSX equipment not authorized by ReSTNSX, or on ReSTNSX equipment not purchased through an Approved Source. In the event that ReSTNSX requires You to register as an end user, Your license is valid only if the registration is complete and accurate. The Software may contain open source software, subject to separate license terms made available with the ReSTNSX Software or Documentation as an attachment to this EULA.

If the Software is licensed for a specified term, Your license is valid solely for the applicable term in the Entitlement. Your right to Use the Software begins on the date the Software is made available for download or installation and continues until the end of the specified term, unless otherwise terminated in accordance with this Agreement.
3. **Evaluation License.** If You license the Software or receive ReSTNSX product(s) for evaluation purposes or other limited, temporary use as authorized by ReSTNSX (“Evaluation Product”), Your Use of the Evaluation Product is only permitted for the period limited by the license key or otherwise stated by ReSTNSX in writing. If no evaluation period is identified by the license key or in writing, then the evaluation license is valid for forty-five (45) days from the date the Software or ReSTNSX product is made available to You. The Evaluation Product is licensed “AS-IS” without support or warranty of any kind, expressed or implied. ReSTNSX does not assume any liability arising from any use of the Evaluation Product. You may not publish any results of benchmark tests run on the Evaluation Product without first obtaining written approval from ReSTNSX. You authorize ReSTNSX to use any feedback or ideas You provide ReSTNSX in connection with Your Use of the Evaluation Product.
4. **Ownership.** ReSTNSX or its licensors retain ownership of all intellectual property rights in and to the Software, including copies, improvements, enhancements, derivative works and modifications thereof. Your rights to Use the Software are limited to those expressly granted by this EULA. No other rights with respect to the Software or any related intellectual property rights are granted or implied.

5. **Limitations and Restrictions.** You will not and will not allow a third party to:
- transfer, sublicense, or assign Your rights under this license to any other person or entity (except as expressly provided in Section 12 below), unless expressly authorized by ReSTNSX in writing;
 - modify, adapt or create derivative works of the Software or Documentation;
 - reverse engineer, decompile, decrypt, disassemble or otherwise attempt to derive the source code for the Software, except as provided in Section 16 below;
 - make the functionality of the Software available to third parties, whether as an application service provider, or on a rental, service bureau, cloud service, hosted service, or other similar basis unless expressly authorized by ReSTNSX in writing;
 - Use Software that is licensed for a specific device, whether physical or virtual, on another device, unless expressly authorized by ReSTNSX in writing; or
 - remove, modify, or conceal any product identification, copyright, proprietary, intellectual property notices or other marks on or within the Software;
6. **Third Party Use of Software.** You may permit a third party to Use the Software licensed to You under this EULA if such Use is solely (i) on Your behalf, (ii) for Your internal operations, and (iii) in compliance with this EULA. You agree that you are liable for any breach of this EULA by that third party.
7. **Limited Warranty and Disclaimer.**
- Limited Warranty.** ReSTNSX warrants that the Software will substantially conform to the applicable Documentation for the longer of (i) ninety (90) days following the date the Software is made available to You for your use. This warranty does not apply if the Software, ReSTNSX product or any other equipment upon which the Software is authorized to be used: (i) has been altered, except by ReSTNSX or its authorized representative, (ii) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by ReSTNSX, (iii) has been subjected to abnormal physical or electrical stress, abnormal environmental conditions, misuse, negligence, or accident; (iv) is licensed for beta, evaluation, testing or demonstration purposes or other circumstances for which the Approved Source does not receive a payment of a purchase price or license fee; or (v) has not been provided by an Approved Source. ReSTNSX will use commercially reasonable efforts to deliver to You Software free from any viruses, programs, or programming devices designed to modify, delete, damage or disable the Software or Your data.
 - Exclusive Remedy.** At ReSTNSX's option and expense, ReSTNSX shall repair, replace, or cause the refund of the license fees paid for the non-conforming Software. This remedy is conditioned on You reporting the non-conformance in writing to Your Approved Source within the warranty period. The Approved Source may ask You to return the Software, the ReSTNSX product, and/or Documentation as a condition of this remedy. This Section is Your exclusive remedy under the warranty.
 - Disclaimer.**
- Except as expressly set forth above, ReSTNSX and its licensors provide Software "as is" and expressly disclaim all warranties, conditions or other terms, whether express, implied or statutory, including without limitation, warranties, conditions or other terms regarding merchantability, fitness for a particular purpose, design, condition, capacity, performance, title, and non-infringement. ReSTNSX does not warrant that the Software will operate uninterrupted or error-free or that all errors will be corrected. In addition, ReSTNSX does not warrant that the Software or any equipment, system or network on which the Software is used will be free of vulnerability to intrusion or attack.**
8. **Limitations and Exclusions of Liability.** In no event will ReSTNSX or its licensors be liable for the following, regardless of the theory of liability or whether arising out of the use or inability to use the Software or otherwise, even if a party been advised of the possibility of such damages: (a) indirect, incidental, exemplary, special or consequential damages; (b) loss or corruption of data or interrupted or loss of business; or (c) loss of revenue, profits, goodwill or anticipated sales or savings. All liability of ReSTNSX, its affiliates, officers, directors, employees, agents, suppliers and licensors collectively, to You, whether based in warranty, contract, tort (including negligence), or otherwise, shall not exceed the license fees paid by You to any Approved Source for the Software that gave rise to the claim. This limitation of liability for Software is cumulative and not per incident. Nothing in this Agreement limits or excludes any liability that cannot be limited or excluded under applicable law.
9. **Upgrades and Additional Copies of Software.** Notwithstanding any other provision of this EULA, You are not permitted to Use Upgrades unless You, at the time of acquiring such Upgrade:
- already hold a valid license to the original version of the Software, are in compliance with such license, and have paid the applicable fee for the Upgrade; and

- b. limit Your Use of Upgrades or copies to Use on devices You own or lease; and
 - c. unless otherwise provided in the Documentation, make and Use additional copies *solely* for backup purposes, where backup is limited to archiving for restoration purposes.
10. **Audit.** During the license term for the Software and for a period of three (3) years after its expiration or termination, You will take reasonable steps to maintain complete and accurate records of Your use of the Software sufficient to verify compliance with this EULA. No more than once per twelve (12) month period, You will allow ReSTNSX and its auditors the right to examine such records and any applicable books, systems (including ReSTNSX product(s) or other equipment), and accounts, upon reasonable advanced notice, during Your normal business hours. Any such audit is contingent upon prior written notice and adherence to Your security measures, including any requirements for personnel to be cleared prior to accessing sensitive facilities. The GSA MAS Contractor, on behalf of ReSTNSX, will give You written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"). If Your security requirements are not met and upon ReSTNSX's request, You will run a self-assessment with tools provided by and at the direction of ReSTNSX ("Self-Assessment") to verify Your compliance with this EULA. If the audit discloses underpayment of license fees, the GSA MAS Contractor may invoice You for the underpayment.
11. **Term and Termination.** This EULA shall remain effective until the expiration of the applicable license or subscription term. You may terminate the EULA at any time by ceasing use of or destroying all copies of Software or in accordance with GSAR 552.212-4. Upon termination of this EULA, You shall destroy all copies of Software in Your possession or control.
12. **Reserved.**
13. **US Government End Users.** The Software and Documentation are "commercial items," as defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software) and Defense Federal Acquisition Regulation Supplement ("DFAR") 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this EULA may be incorporated, Government end users will acquire the Software and Documentation with only those rights set forth in this EULA. Any license provisions that are inconsistent with federal procurement regulations are not enforceable against the U.S. Government.
14. **Export.** ReSTNSX Software, products, technology and services are subject to local and extraterritorial export control laws and regulations. You and ReSTNSX each will comply with such laws and regulations governing use, export, re-export, and transfer of Software, products and technology and will obtain all required local and extraterritorial authorizations, permits or licenses.
15. **Survival.** Sections 4, 5, the warranty limitation in 7(a), 7(b) 7(c), 8, 10, 11, 12, 13, 14 16 and 17 shall survive termination or expiration of this EULA.
16. **Interoperability.** To the extent required by applicable law, ReSTNSX shall provide You with the interface information needed to achieve interoperability between the Software and another independently created program. ReSTNSX will provide this interface information at Your written request after you pay ReSTNSX's licensing fees (if any). You will keep this information in strict confidence and strictly follow any applicable terms and conditions upon which ReSTNSX makes such information available.
17. **Governing Law, Jurisdiction and Venue.**
This EULA shall be governed exclusively by the Federal laws of the United States of America (notwithstanding any conflict of laws provision). The parties specifically disclaim the application of the UN Convention on Contracts for the International Sale of Goods. In addition, no person who is not a party to the EULA shall be entitled to enforce or take the benefit of any of its terms under the Contracts (Rights of Third Parties) Act 1999.
18. **Integration.** If any portion of this EULA is found to be void or unenforceable, the remaining provisions of the EULA shall remain in full force and effect. Except as expressly stated or as expressly amended in an agreement signed by the GSA Contracting Officer and the GSA MAS Contractor, the EULA constitutes the entire agreement between the parties with respect to the license of the Software and supersedes any conflicting or additional terms contained in any purchase order or elsewhere, all of which terms are excluded. The parties agree that the English version of the EULA will govern in the event of a conflict between it and any version translated into another language.

ReSTNSX, Inc.

Supplemental End User License Agreement for ReSTNSX Software

IMPORTANT: READ CAREFULLY

This Supplemental End User License Agreement ("SEULA") contains additional terms and conditions for the Software Product licensed under the ReSTNSX, Inc. End User License Agreement ("EULA") between You and the GSA MAS Contractor acting on behalf of ReSTNSX (collectively, the "Agreement"). Capitalized terms used in this SEULA but not defined will have the meanings assigned to them in the EULA. To the extent that there is a conflict between the terms and conditions of the EULA and this SEULA, the terms and conditions of this SEULA will take precedence.

In addition to the limitations set forth in the EULA on your access and use of the Software, You agree to comply at all times with the terms and conditions provided in this SEULA. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THE AGREEMENT, THEN RESTNSX IS UNWILLING TO LICENSE THE SOFTWARE TO YOU AND (A) YOU MAY NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE, AND (B) YOU MAY RETURN THE SOFTWARE (INCLUDING ANY UNOPENED CD PACKAGE AND ANY WRITTEN MATERIALS) FOR A FULL REFUND, OR, IF THE SOFTWARE AND WRITTEN MATERIALS ARE SUPPLIED AS PART OF ANOTHER PRODUCT, YOU MAY RETURN THE ENTIRE PRODUCT FOR A FULL REFUND. YOUR RIGHT TO RETURN AND REFUND EXPIRES 30 DAYS AFTER PURCHASE FROM RESTNSX OR AN AUTHORIZED RESTNSX RESELLER, AND APPLIES ONLY IF YOU ARE THE ORIGINAL END USER PURCHASER.

ADDITIONAL LICENSE RESTRICTIONS

Device Restricted Versions: Customer may install and run the Software on a single server to manage up to the cumulative device count specified in the original sales order. When used anywhere in this SEULA, a "device" means any device in the Customer's server environment which has its own CPU or "socket".

Customers whose requirements exceed the license limit of devices must purchase additional incremental licenses. Device restrictions are enforced by license registration and through serial key installation.

Installation and Use

The Software components are provided to Customer solely to install, update, supplement, or replace existing functionality of the applicable Network Management Software product. Some license terms, such as device count and proof of preexisting licenses may be electronically enforced. Customer may install and use the following Software components:

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ReSTNSX: May be installed on one (1) server in Customer's network management environment. Installing the Software and applying a single serial license key to two (2) servers are supported but the cumulative total number of devices supports cannot exceed purchases license quantity. When two servers are used to host ReSTNSX, each server should have a copy of the original license key installed on it. Customers should not modify the license file.