

A decorative network graphic in the top right corner of the page. It consists of a series of interconnected nodes (small circles) and lines (edges) forming a complex, web-like structure. The nodes and lines are a light gray color, contrasting with the dark red background.

# Red Piranha®

## Product and End User License Agreement (EULA)

Document Version  
2.9.26.0116

## Red Piranha Product and End User License Agreement (EULA)

### Trademarks and Copyright Statement

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The contents and terms contained within this document are subject to change by Red Piranha without prior notice.

Rights are granted to the use of Red Piranha trademarks and trade names solely in connection with the promotion and communication of the utilisation of Red Piranha Products and Services. Red Piranha reserves the right to communicate appropriate guidelines and preferred artwork periodically.

### Product and End User License Agreement

The parties to Red Piranha's Product and End User License Agreement are You (the Partner and/or End User customer) and, depending on the location of your product purchase, either (i) Red Piranha Limited if your Product was acquired outside of India, or (ii) Red Piranha Private Limited where you have purchased your Product inside of India, Red Piranha (each referred to herein as "Red Piranha").

Please carefully review the following legally binding Agreement, referred to herein as the "Agreement, or "EULA". The use or installation of Red Piranha product(s) and any subsequent updates, including hardware appliance products, software, including cloud software ("Software"), hardware, including infrastructure, whether cloud or otherwise ("Hardware") and firmware incorporated into them by Red Piranha, as well as stand-alone software products or softwares sold by Red Piranha (collectively, the "Products") constitutes acceptance by you of the terms and conditions outlined in this Agreement. This Agreement may be amended or updated at the discretion of Red Piranha, with any changes being published in an amended or updated version at <https://www.redpiranha.net/legal-documents>.

If you do not agree to all of the terms of this Agreement, do not under any circumstances commence the installation process or commence use of the Products and immediately notify Red Piranha in writing at [legal@redpiranha.net](mailto:legal@redpiranha.net) of requested changes to this Agreement.

#### 1. License Grant

- 1.1. This is a license, not a sales agreement, between You and Red Piranha. The terms Software and Hardware, firmware and appliance as used throughout this Agreement, includes all Red Piranha and third party firmware, hardware and software provided to you with, or incorporated into, Red Piranha appliance, hardware and any stand-alone software provided to you by Red Piranha, with the exception of any open source software contained in Red Piranha's Products which is discussed in detail in clause 16 below, and the terms Software and Hardware include any accompanying documentation, any updates and enhancements of the software, hardware or firmware provided to you by Red Piranha from time to time, at its option.
- 1.2. Red Piranha grants you a non-transferable (except as provided in clause 5 ("Transfer and Resale") and clause 16 ("Open Source Software") below), non-exclusive, revocable license to use the Software solely for your internal business purposes (provided, if (a) agreed by Red Piranha in writing, (b) a substantial portion of your business is to provide managed service provided services to your end customers, and (c) you have duly acquired the relevant VAR, Premium, or Channel Partner license), you are authorised to use the Software and/or Software integrated into the Red Piranha Hardware and its supporting hardware appliances for the provision of those services. This usage is subject to the conditions specified in this Agreement, along with any additional constraints outlined in Red Piranha's documentation (which includes license term limitations). You may use the Software exclusively on the Red Piranha appliance. In the case of Hardware, appliances, CPUs, or databases, you can use the Software on the

Hardware or appliance, CPU, cloud platform, or database, where Red Piranha initially installed the Software. For stand-alone Software, it is permissible solely on a single computer running copy of the corresponding operating system with a fully paid up and valid license, unless specified otherwise in the published documentation. In situations involving Hardware and appliances, CPUs, or databases, you should adhere to the terms pertaining to the Hardware or appliance, CPU, or database.

- 1.3. For clarity, notwithstanding anything to the contrary, all licenses of Software to be installed on Hardware and appliances, CPUs, cloud platforms, or databases are licensed on a per Hardware, appliance, or cloud-instance basis, solely for one Hardware, appliance, or cloud instance, and not for multiple Hardware, appliances, or cloud instances that may be installed in a chassis, per single CPU, per cloud-instance, or per single database basis, as applicable.
- 1.4. The Hardware, appliance, and Software is "in use" on any Red Piranha appliance or cloud products when it is loaded into temporary memory (i.e., RAM). It is understood and agreed that, apart from the restricted and licensing rights provided in this clause 1, no additional licensing rights to the Software are granted beyond this clause 1.

#### 2. Limitation on Use

- 2.1. You are prohibited from attempting, and if you are a corporation, you are obligated to prevent, your employees and contractors from attempting to do the following: (a) alter, translate, reverse engineer, decompile, disassemble, create derivative works from, grant sublicenses for, or distribute the Software, Hardware, or appliance, (b) lease or rent any rights pertaining to the Software, Hardware, or appliance to any third-party or in any way make the Software, Hardware, or appliance accessible to third parties, (c) unless allowed in clause 5, transfer, assign, or sublicense rights to any other individual or entity, (d) erase any proprietary notices, labels, or markings on the Software, Hardware, appliance, Products, or containers, or (e) employ the Software, Hardware, appliance, or Products for third-party training, commercial time-sharing, service desk usage, or to provide services to third parties unless explicitly stated in this Agreement.
- 2.2. If Red Piranha provides You with a Product for beta testing purposes as part of a beta testing program ('Beta Product'), You may use the Product for evaluation purposes only for the period specified by Red Piranha ('Beta Testing Period'). You shall test the Beta Product in accordance with any conditions specified in an applicable readme file for the software, and/or any associated documentation and shall gather and report test data and other feedback to Red Piranha. The Beta Product must only be used in a non-production test environment unless expressly approved otherwise by Red Piranha. Your right to use the Beta Product shall terminate upon expiry of the Beta Testing Period. Red Piranha does not warrant that it will release a commercial version of the Beta Product, or that a commercial version will contain the same or similar features as the Beta Product. Any Beta Testing and accompanying documentation shall be considered Red Piranha's confidential information as set forth in Clause 14.
- 2.3. If Red Piranha provides You with a Product and any Software installed on the Product as Not-for-Retail ("NFR Product" or "NFR"), You may use the NFR Product for demonstration ("Demo") and testing purposes only. The NFR Product including any accompanying Software must be used in a non-production test environment unless expressly approved otherwise in writing by Red Piranha. Your right to use the NFR Product shall terminate upon expiry of the NFR licensing period unless or until otherwise renewed. Any NFR Product and accompanying documentation shall be considered Red Piranha's confidential information as set forth in Clause 14.



### 3. Proprietary Rights

- 3.1. All rights, title, interest, and all copyrights to the Software, Hardware and appliances, or Products and any copies made by you or to any Product remain the rights, titles, interests, and copyrights, of Red Piranha. You acknowledge that you are not transferred any title to the intellectual property and intellectual property rights in the Software, Hardware and appliances or other Products, nor will You acquire any rights to the Software, Hardware or appliances or other Products except as pertaining to the specific license expressed in clause 1 ("License Grant") above, and you expressly agree and acknowledge the same.
- 3.2. You agree to keep confidential all Red Piranha confidential information and only to use such information for the purposes for which Red Piranha disclosed it.
- 3.3. Some material may be licensed from third parties, and such third-party material is also covered by this Agreement. Breach or attempted breach (at the discretion of Red Piranha) will be considered grounds for termination of this Agreement, and termination of service.

### 4. Term and Termination

- 4.1. Except for (a) evaluation, demonstration ("Demo"), NFR and Beta Testing licenses where the term of the license is limited per the evaluation, Demo, NFR, Beta Product or other agreement or subscription or education licenses where limited pre the ordering documents, other Red Piranha documentation or otherwise, the term of the license is for the duration of Red Piranha's copyright in the Software, Hardware and appliances or Products.
- 4.2. Red Piranha may terminate this Agreement, and the licenses and other rights herein, immediately without notice if you breach or fail to comply with any of the terms and conditions of this Agreement or for other reasons as stated in Red Piranha's other documentation, or you are declared insolvent or bankrupt.
- 4.3. You agree that, upon such termination, you will cease using the Software, Hardware and appliances and any Product and either destroy all copies of the Red Piranha documentation or return all materials to Red Piranha at its option, as soon as practicable thereafter.
- 4.4. Subject to this clause 4, you may terminate the license for the applicable licensed Product(s) at any time by contacting Red Piranha in writing, uninstalling the relevant Product(s), and destroying all accompanying documentation. At such termination of this Agreement, all outstanding fees or costs shall become immediately payable for the remaining duration of the Agreement term unless Red Piranha has materially breached this Agreement.
- 4.5. Within one (1) month after the date of termination of this Agreement or the applicable Product term, or relevant Agreement, upon Red Piranha's request, you will supply Red Piranha with a written guarantee of the destruction of all copies of the relevant licensed documentation and verifying the uninstallation of the Product. In the case of encryption of Software, Hardware and appliances or Products, you shall decrypt all encrypted drives and data prior to uninstalling the Software, Hardware and appliances or Product.
- 4.6. At the conclusion of the Product term or this Agreement (whichever is earlier), Your rights to use and access the Software, Hardware and appliances or Product(s) will automatically terminate unless and until you renew your license for the Products. You shall remain obligated to pay the fees for all Software, Hardware and appliances or Product(s) shipped or provisioned to you. All sums due to Red Piranha shall become immediately due and payable on the date of termination.
- 4.7. All fees paid or payable are non-refundable to the maximum extent permitted by law.

### 5. Transfer and Resale

- 5.1. If you are a Red Piranha contracted and authorised reseller or distributor of Software, Hardware and appliances or Products, you may transfer (not rent or lease unless specifically

agreed to in writing by Red Piranha or in accordance with Red Piranha's standard "Master Leasing Agreement") the Software, Hardware and appliances or Products to one End User on a permanent basis, provided that:

- i. You ensure that your customer and the End User receive a copy of this Agreement, is bound by its terms and conditions, and, by selling the Software, Hardware and appliances or Product, you hereby agree to enforce the terms in this Agreement against such an End User.
  - ii. You always comply with all applicable export and custom laws and regulations; and
  - iii. You agree to refund any fees paid to you by an end user who purchased the Software, Hardware and appliances or Product(s) from you but does not agree to the terms contained in this Agreement and therefore wishes to return the Software, Hardware and appliances or Product(s) as provided for in this Agreement.
- 5.2. Further, if you are a non-authorised reseller of Software, Hardware and appliances or Products and Services, you are not authorised to sell Product(s), Software, Hardware and appliances or Services, but, regardless, by selling Software, Hardware and appliances or Product(s) or Services, you hereby agree you are bound by the restrictions and obligations herein and are bound to:
    - i. Ensure that your customer and the End User receive a copy of this Agreement and are bound in full by all restrictions and obligations herein.
    - ii. Enforce the restrictions and obligations in this Agreement against such customer and/or End User.
    - iii. Comply with all applicable export and custom laws and regulations and all other applicable laws; and
    - iv. Refund any fees paid to you by a customer and/or End User who purchased Software, Hardware and appliances or Product(s) or Services from you but does not agree to the restrictions and obligations contained in this Agreement and therefore wishes to return the Software, Hardware and appliances or Product(s) or Services as provided for in this Agreement.
  - 5.3. Notwithstanding anything to the contrary, distributors, resellers, and other Red Piranha partners (a) are not agents of Red Piranha; and (b) are not authorised to bind Red Piranha in any way.
  - 5.4. Rental, Lease, Demo, Education, Beta Testing, or other licenses do not include Hardware ownership unless specifically stated within the Agreement.
  - 5.5. Ownership of the Hardware remains with Red Piranha until the End User has paid the Hardware Fee to Red Piranha. During the period prior to the transfer of title to the Hardware in accordance with this provision, the End User shall maintain the Hardware, and shall ensure that no claim, lien, or encumbrance is placed upon it. Any attempts by the End User to establish any such claim, lien or encumbrance on the Hardware will be considered null and void. Upon transfer of ownership, the End User shall possess sole ownership of the Hardware or relevant storage media on which the Licensed Product is installed; the Licensed Product remains the property of Red Piranha.
  - 5.6. In the event the End User fails to pay, or Red Piranha does not receive the Fee for the Hardware, the End User shall return the Hardware to the return location indicated by Red Piranha, securely and properly packaged, with carriage (and insurance at the End User's option) pre-paid. If the End User fails to return the Hardware to the required location in a prompt manner, upon written notice, Red Piranha will be entitled to enter the End User's premises during normal business hours to repossess such Hardware.



## 6. Limited Warranty

- 6.1. Red Piranha provides this limited warranty for its product only to the single End User person or entity that originally purchased the Product from Red Piranha or its authorised reseller or distributor and paid for such Product or unless otherwise agreed in writing between You and Red Piranha.
- 6.2. The warranty is only valid for Products which are properly registered on Red Piranha's online store, <https://store.redpiranha.net/>, or such other website as provided by Red Piranha, or for which the warranty otherwise starts according to Red Piranha's policies, and any support is only valid for products properly purchased through authorised distributors and resellers.
- 6.3. This warranty is offered in addition to your statutory rights and remedies under the Australian Consumer Law ("ACL") or Indian Consumer Protection Act ("CPA") (collectively, "Consumer Protection Laws" or "CPL"). You may have additional consumer rights under your local laws that this agreement cannot change. To the maximum extent allowable by your local regulations or laws, any implied warranties or conditions shall be omitted. In cases where your local laws mandate a warranty, guarantee, or condition, despite the absence of such terms in this document, such a warranty, guarantee, or condition shall be restricted to a duration of 90 days from the date of Product registration.
- 6.4. For persons who have purchased the Software, Hardware and appliances, Product or Services in Australia, if a supply under this warranty is a supply of goods or services to the consumer within the meaning of the ACL or CPL, nothing contained in this warranty excludes, restricts, or modifies the application of any provision, the exercise of any right or remedy, or the imposition of any liability under the ACL or CPL, provided that, other than as expressly provided under the Product Warranty and the Hardware Warranty, to the extent that the ACL or CPL permits Red Piranha to limit its liability, then Red Piranha's liability shall be limited to:
- In the case of services, supplying the services again or payment of the cost of having the services supplied again; and
  - In the case of goods, replacing the goods, supplying equivalent goods, or repairing the goods, or payment of the cost of replacing the goods, supplying equivalent goods, or having the goods repaired.
- 6.5. The following text in clause 6.6 is prescribed under the Australian Consumer Law. It summarises the right that a 'consumer' has against a 'supplier' of goods under the consumer guarantee provisions of that Law. You may have different consumer guarantee rights or remedies under the Australian Consumer Law as against a manufacturer of goods.
- 6.6. Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with service, you are entitled:
- To cancel your service contract with us; and
  - To a refund for the unused portion, or to compensation for its reduced value.
- You are also entitled to choose a refund or replacement for major failure with goods. If a failure with the goods or service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done, you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.
- 6.7. Our warranties are offered in addition to the statutory rights and remedies to which you may be entitled under the *Competition and Consumer Act 2010* (Cth), and other applicable Australian consumer protection laws. See <https://accc.com.au/> for further details.
- 6.8. The warranty periods discussed below will start according to Red Piranha's policies provided to you or posted at our website or such other website as provided by Red Piranha. It is the Red Piranha distributors and reseller's responsibility to make clear to the End User the date

the Product was originally shipped from Red Piranha, and it is the End User's responsibility to understand the original ship date from the party from which the End User purchased the Product.

- 6.9. All warranty claims must be submitted in writing to Red Piranha before the expiration of the warranty term or such claims are waived in full. Red Piranha provides no warranty for any Beta Products, NFR, Demo, donation, or evaluation Products.
- 6.10. Red Piranha warrants that the Hardware portion of the Products will be free from material defects in workmanship as compared to the functional specifications for the period set forth as follows and applicable to the Product type ("Hardware Warranty Period"): (a) one (1) year limited warranty for the Hardware Products; (b) for the Crystal Eye® Series 10, Series 20, Series 25, Series 30, Series 40, Series 50, Series 60, Series 80, and Series 100 Hardware Products and any other appliance models or series released in future by Red Piranha, the warranty herein shall last from the start of the warranty period as discussed above, for a period of one (1) year, provided that you have a valid, fully paid-up, unexpired license for such Product. Red Piranha's sole obligation shall be to repair or offer replacement Hardware for the defective Hardware at no charge to the original owner. This obligation is exclusive of transport fees, labour, de-installation, installation, reconfiguration, or return shipment and handling fees and costs, and Red Piranha shall have no obligation related thereto.
- 6.11. Such repair or replacement will be rendered by Red Piranha at an authorised Red Piranha service facility as determined by Red Piranha. The replacement Hardware need not be new or of an identical make, model, or part; Red Piranha may, in its discretion, replace the defective Hardware (or any part thereof) with any reconditioned Product that Red Piranha reasonably determines is substantially equivalent (or superior) in all material respects to the defective Hardware. The End User acknowledges that the Hardware is sold hereunder solely as the medium for delivery and operation of the Licensed Products. The Hardware Warranty Period for the repaired or replacement Hardware shall be for the greater of the remaining Hardware Warranty Period or ninety (90) days from the delivery of the repaired or replacement Hardware.
- 6.12. If Red Piranha determines in its reasonable discretion that a material defect is incapable of correction or that it is not practical to repair or replace defective Hardware, the price paid by the original purchases for the defective Hardware will be refunded by Red Piranha upon return to Red Piranha of the defective Hardware. All Hardware (or part thereof) that is replaced by Red Piranha, or for which the purchase price is refunded, shall become the property of Red Piranha upon replacement or refund.
- 6.13. Red Piranha warrants that Software and Hardware as initially shipped by Red Piranha will substantially conform to Red Piranha's then-current functional specifications for the Software, as set forth in the applicable documentation for a period of ninety (90) days ("Software Warranty Period" and "Hardware Warranty Period"), if the Software and/or Hardware is properly installed on approved Hardware and operated as contemplated in its documentation. Red Piranha's sole obligation shall be to repair or offer replacement Software and Hardware for the non-conforming Software and Hardware with software that substantially conforms to Red Piranha's functional specifications. This obligation outlined in clause 6.13 is exclusive of transport fees, labour, de-installation, installation, reconfiguration or return shipment and handling fees and costs, and Red Piranha shall have no obligation related thereto. Except as otherwise agreed by Red Piranha in writing, the warranty replacement Software is provided only to the original Licensee and is subject to the terms and conditions of the license granted by Red Piranha for the Software. The Software Warranty Period shall extend for an additional ninety (90) days after any warranty replacement software is delivered.
- 6.14. If Red Piranha determines in its reasonable discretion that a material non-conformance is incapable of correction or that it is not practical to repair or replace the non-conforming





Software, the price paid by the original licensee for the non-conforming Software will be refunded by Red Piranha, provided that the non-conforming Software (and all copies thereof) is first returned to Red Piranha. The license granted respecting any Software for which a refund is given automatically terminates immediately upon refund.

- 6.15. For the purpose of the above Hardware and Software warranties, the term 'functional specifications' means solely those specifications authorised and published by Red Piranha that expressly state in such specifications that they are the functional specifications referred to in this clause 6 of this Agreement, and, in the event no such specifications are provided to you with the Software or Hardware, there shall be no warranty on such Software.
- 6.16. For the full Red Piranha Limited Hardware Warranty Policy, please contact [legal@redpiranha.net](mailto:legal@redpiranha.net). This document forms a part of the Red Piranha EULA. Acceptance of this EULA is hereby acceptance of the Red Piranha Limited Hardware Warranty Policy.

## 7. Disclaimer of Other Warranties and Restrictions

- 7.1. EXCEPT FOR THE LIMITED WARRANTY AS SPECIFIED IN CLAUSE 6 ABOVE, THE PRODUCT AND SOFTWARE ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY OF ANY KIND INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OTHER THAN PRESCRIBED UNDER THE ACL, IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, OR WARRANTY FOR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IF ANY IMPLIED WARRANTY CANNOT BE DISCLAIMED IN ANY OTHER TERRITORY WHERE A PRODUCT IS SOLD, THE DURATION OF SUCH IMPLIED WARRANTY SHALL BE LIMITED TO NINETY (90) DAYS FROM THE DATE OF ORIGINAL SHIPMENT FROM RED PIRANHA. EXCEPT AS EXPRESSLY COVERED UNDER THE LIMITED WARRANTY PROVIDED HEREIN, THE ENTIRE RISK AS TO THE QUALITY, SELECTION AND PERFORMANCE OF THE PRODUCT IS WITH THE PURCHASER OF THE PRODUCT. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE HARDWARE WARRANTY PERIOD DISCUSSED ABOVE DOES NOT APPLY TO CERTAIN RED PIRANHA PRODUCTS WHICH HAVE A 90 DAY WARRANTY FROM THE DATE OF SHIPMENT FROM RED PIRANHA'S FACILITIES, AND THE SOFTWARE WARRANTY DOES NOT APPLY TO CERTAIN RED PIRANHA PRODUCTS, INCLUDING SOFTWARE. YOU HEREBY ACKNOWLEDGE AND AGREE THAT NO VENDOR CAN ASSURE COMPLETE SECURITY AND NOTHING HEREIN OR ELSEWHERE SHALL BE DEEMED TO IMPLY A SECURITY GUARANTEE OR ASSURANCE.
- 7.2. The warranty in clause 6 above does not apply if the Software, Hardware and appliances or Product or any other equipment upon which the Software, Hardware and appliances or is authorised to be used (a) has been altered, except by Red Piranha or its authorised representative; (b) has not been installed, operated, repaired, updated to the latest version, or maintained in accordance with instructions supplied by Red Piranha; (c) has been subjected to abnormal physical or electrical stress, misuse, negligence, or accident; (d) is licensed for Beta Product, NFR, demo, evaluation, donation or testing purposes or for which Red Piranha does not charge a purchase price or license fee; (e) is procured from a non-authorised reseller or non-authorised distributor; (f) has been deployed into a network above the recommended number of seats for the appliance; or (g) has been deployed by persons who have not obtained the necessary authorisations from Red Piranha to deploy the Product, including Red Piranha's Crystal Eye Certified Engineer ("CECE") course, and attained the necessary qualifications.
- 7.3. In the case of Demo, Beta Product, testing, Education, evaluation, donation or free Software, Hardware and appliances or Product, the End User acknowledges and agrees that such Software, Hardware and appliances or Product may contain bugs or errors and could cause system failures, data loss and other issues, and may not contain the full suite of software

features such as incident response capabilities and other monitored or manual services and capabilities which may otherwise be fulfilled through the Software.

- 7.4. The End User agrees that in the case of Demo, NFR, Beta Product, testing, evaluation, donation or free Software, Hardware and appliances or Product, such Software, Hardware and appliances or Product is provided "as-is" without any warranty what-so-ever, and Red Piranha disclaims any warranty or liability whatsoever. An End User's use of evaluation, demo or Beta Product Software, Hardware and appliances or Product is limited to sixty (60) days from original shipment unless otherwise agreed in writing by Red Piranha.

## 8. Governing Law

- 8.1. This Agreement is governed by the laws of the state of Western Australia, Australia. Any action arising out of or relating to this Agreement may be brought exclusively in the appropriate state or court in Western Australia, and Red Piranha and You irrevocably consent to the jurisdiction of such competent courts or courts of appeal in Western Australia. Red Piranha may seek injunctive relief in any international court which has the necessary jurisdiction to protect its rights under this Agreement, including but not limited to, intellectual property rights.
- 8.2. Each of the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods is hereby expressly excluded and will not apply to this Agreement.

## 9. Limitation of Liability

- 9.1. TO THE FULLEST EXTENT PERMISSABLE BY LAW, AND NOTWITHSTANDING ANY CONFLICTING PROVISIONS, RED PIRANHA SHALL NOT BE HELD ACCOUNTABLE OR RESPONSIBLE, UNDER ANY CONTRACTUAL, NEGLIGENCE, TORTIOUS, STRICT LIABILITY, INFRINGEMENT, OR OTHER LAWFUL OR EQUITABLE THEORY, FOR ANY LOSS OF PRODUCT OR SERVICE UTILITY OR ANY FORM OF DAMAGES, BE THEY DIRECT, EXTRAORDINARY, INCIDENTAL, OR CONSEQUENTIAL. SUCH DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSSES OF REPUTATION, PROFITS, BUSINESS, BUSINESS DISRUPTIONS, OPPORTUNITIES, LOSSES OR DAMAGE LINKED TO THE USE OF THE PRODUCT OR SERVICE IN HIGH-RISK ACTIVITIES, FEES, AND EXPENSES FOR ANY DE-INSTALLATION OR INSTALLATION, DAMAGE TO PERSONAL OR REAL PROPERTY, WORK STOPPAGES, COMPUTER MALFUNCTIONS, SECURITY BREACHES, COMPUTER VIRUS INFECTIONS, LOSS OF INFORMATION OR DATA CONTAINED IN, STORED ON, OR INTEGRATED WITH ANY PRODUCT, INCLUDING THOSE RETURNED TO RED PIRANHA FOR WARRANTY SERVICE. SUCH DAMAGES MAY RESULT FROM PRODUCT USE, BE ASSOCIATED WITH WARRANTY SERVICE, OR ARISE DUE TO ANY BREACH OF THE LIMITED WARRANTY OUTLINED IN THIS AGREEMENT, EVEN IF RED PIRANHA HAS BEEN NOTIFIED OF THE POTENTIAL OCCURRENCE OF SUCH DAMAGES. THE EXCLUSIVE RECOURSE FOR BREACHES OF THE LIMITED WARRANTY IS REPAIR, REPLACEMENT, OR A REFUND OF THE DEFECTIVE OR NON-CONFORMING PRODUCT, AS EXPLICITLY DETAILED IN SECTIONS 6 AND 7 ABOVE.
- 9.2. THE LICENSEE ACKNOWLEDGES AND AGREES THAT THE PRODUCT MAY REQUIRE THE COMPLETE ERASURE OF THE HARD DISK OF THE TARGET COMPUTER DURING INSTALLATION, INCLUDING WITHOUT LIMITATION THE OPERATING SYSTEM RESIDENT THEREON. BY INSTALLING THE AFOREMENTIONED PRODUCT, THE LICENSEE EXPRESSLY AGREES THAT IT SHALL ENSURE THAT THE COMPUTER ON WHICH SUCH PRODUCT IS TO BE INSTALLED DOES NOT CONTAIN ANY VALUABLE DATA, THE LOSS OF WHICH WOULD CAUSE DAMAGE TO THE LICENSEE AND,



SUBJECT TO CLAUSE 9, IN THE EVENT THE LICENSEE FAILS TO DO SO, RED PIRANHA EXPRESSLY DISCLAIMS AND REJECTS ANY LIABILITY FOR LOSSES OF ANY KIND.

## 10. Compliance with Laws

- 10.1. You are advised that the Software, Hardware and appliances or Products may be subject to the Australian Customs and Export regulations and/or other import and export laws dependent on place of Product manufacturing. Diversion contrary to Australian law and regulation, and/or other Export jurisdiction is strictly prohibited. In accepting this Agreement, You agree to comply with any and all applicable laws that apply to the Software, Hardware and appliances or Products in addition to any destination restrictions, End User, or end-use restrictions issued by the Australian government and other governments. For additional information on Australian export controls see <https://www.business.gov.au/products-and-services/importing-and-exporting/customs-requirements-for-exports-from-australia/>.
- 10.2. You acknowledge and agree to comply with all requirements of the *Customs Act 1901* (Cth) and all other applicable Australian or foreign laws.
- 10.3. Red Piranha is neither responsible nor liable for Your failure to obtain any import or export approvals and/or licenses, to which are required and/or necessary. In the event Red Piranha reasonably suspects an import or export, Red Piranha reserves the right to cease, suspend, or terminate shipments, services and/or support to You. In accepting this Agreement, You represent that neither the Australian Border Force ("ABF") nor any other Australian or foreign governmental agency has suspended, revoked, or denied any of Your export privileges, or issued any other sanctions against you.
- 10.4. It is prohibited to employ or transfer the Software, Hardware, or appliances, or Products for any illicit purposes, which encompass activities related to nuclear, chemical, biological, weaponry, or classified technology, unless duly authorised by the Australian Government as per their regulatory directives. Further, you are obligated not to engage directly or indirectly, in exporting, importing, or transmitting the Software, Hardware, appliances or Products, that contravene the laws and regulations of any other governing body that holds authority over such actions, including their export, import, transmission, or their use. In addition, you and your employees are responsible for complete adherence to all applicable laws and policies when engaging in any form of interaction with Red Piranha, its distributors, resellers, and partners.

## 11. Tax Liability

- 11.1. Unless expressly stated otherwise, the fees for the Software, Hardware and appliances or Products and Services are exclusive of any value added tax, goods and services tax, or other governmental taxes, duties, fees, tariffs, or similar, whether in Australia or any other relevant jurisdiction.
- 11.2. In accepting this Agreement, You acknowledge and agree that You are solely responsible for the payment of any taxes imposed on your purchase, whether in Australia or any other relevant jurisdiction.

## 12. General Provisions

- 12.1. Except as specifically permitted and required in clause 5 ("Transfer and Resale") above, you agree not to transfer this Agreement or any of the rights, obligations, or restrictions, granted or imposed under this Agreement, without the prior written consent of Red Piranha.
- 12.2. This Agreement and other Red Piranha agreements may be amended in writing where such amendment refers explicitly to this agreement and is signed on behalf of both parties. Further,

for any amendment to be binding on Red Piranha, such amendment or other agreement must be signed by Red Piranha's authorised legal representative.

- 12.3. In the event of a failure of Red Piranha to enforce its rights under this agreement, such a failure or conduct shall not constitute an implied waiver of its rights under this Agreement.
- 12.4. This Agreement constitutes the entire agreement between Red Piranha and its end-customers and supersedes any and all conflicting provisions, such as limitations of liability.
- 12.5. In the event of a conflict between this Agreement and another agreement, this Agreement shall succeed unless it is agreed to in writing by authorised representatives of the parties (which, in the case of Red Piranha, is Red Piranha's General Counsel or authorised legal representative).

## 13. Privacy

- 13.1. You agree to the terms and conditions set out in Red Piranha's Privacy Policy regarding Red Piranha's collection, use, disclosure, protection, and transfer of your information. Such terms and conditions include: (a) Red Piranha's use of the Customer information to send information regarding Red Piranha products and services; and (b) any disclosure which is necessary to provide assistance to law enforcement, government agencies, or other authorities; or (c) to allow Red Piranha to protect its customers' and/or End User's rights.
- 13.2. Red Piranha Privacy Policy is available on the Red Piranha website at <https://redpiranha.net/privacy-policy/>.

## 14. Confidentiality

- 14.1. You or Red Piranha may have or receive access to confidential information that is secret or valuable to the other party and its licensors. In the event a recipient gains access to such confidential information in relation to this Agreement, such recipient is not entitled to use, communicate, or disclose the other party's confidential information without the disclosing parties written consent obtained prior. You acknowledge and agree that as a recipient, you will use no less than reasonable care to protect the confidentiality of Red Piranha's confidential information.
- 14.2. Throughout the course of your use of the Software, Hardware and appliances or Products (or any corresponding upgrades or updates), such Software, Hardware and appliances or Products may require your device to communicate automatically with Red Piranha's servers. In the event of this automatic communication, such automatic communication is for the purpose of delivering the functionality described within the Product description, to record any relevant usage metrics, or to introduce new features or functions. Such communication may also affect data stored on the device or any relevant preferences or collect information as set out in Red Piranha's Privacy Policy.
- 14.3. You acknowledge and agree that Red Piranha may directly and remotely communicate with the Product(s) in order to provide support, whether technical or maintenance, and to collect other information including: (a) the Red Piranha Software, Hardware and appliances or Products, versions of such Product, the Product's features, and any corresponding operating systems being used by you; (b) processing times taken by the Software, Hardware and appliances or Product; (c) your customer identification code and company name; and (d) the IP address and/or identification of the device that returns the above listed information. Certain Software, Hardware and appliances or Products may require the gathering of other information as outlined in Red Piranha's Privacy Policy.
- 14.4. The information collected under this section 14 may be used for the purposes of: (a) providing the Software, Hardware and appliances or Products and Services and performing this Agreement; (b) verifying your compliance with the license entitlements; (c) evaluating and



improving the performance of the Software, Hardware and appliances or Products and Services; (d) the preparation of statistical analysis (such as the usage of Software, Hardware and appliances or Products); (e) planning development roadmaps and product lifecycle strategies; (f) issuing alerts and notices to you about incidents and Product changes that affect the Software, Hardware and appliances or Products being used by you.

- 14.5. Red Piranha may also require identification information from you including, but not limited to, your contact details for the purposes of (a) providing technical support; (b) billing, (c) verifying your credentials and license validity; (d) issuing license expiry and renewal notices; (e) carrying out any necessary compliance checks for export control purposes; and (f) providing account management. You agree to provide complete and accurate identification information to Red Piranha promptly upon Red Piranha's request.
- 14.6. If you elect to send malware samples or any other materials to Red Piranha for review, you shall remove any information prior to submission which may be subject to regulatory protections or restrictions, including health information, payment or payment card data, or personally identifiable information ("PII").
- 14.7. You expressly give Red Piranha permission to: (a) include and publish your name and logo on lists of Red Piranha's customers, where you are not a consumer, and (b) send promotional emails to you to provide you with information about other Red Piranha products and services. If you do not wish to give Red Piranha permission for the uses described under this clause, you shall notify Red Piranha by emailing [info@redpiranha.net](mailto:info@redpiranha.net) and specify which permission is not granted.
- 14.8. You may receive certain transactional or informational messages from Red Piranha. You understand and agree that these communications are part of your use of the Software, Hardware and appliances or Products, and that you may not opt out of receiving these communications.
- 14.9. Any communication of such confidential information to outside parties shall be considered a breach of this Agreement.

## 15. Invoice, Payments, and Delivery

- 15.1. Any applicable fees will be set forth on the relevant quote or proposal, applicable invoice, or on Red Piranha's website at the time of purchase. Fees which are payable in advance for Software, Hardware and appliances or Products and Services must be reconciled with actual usage at the end of each month or applicable service period. Red Piranha reserves the right to reconcile and charge for any usage above the quantity or capacity purchased. Unless you have chosen monthly billing, fees will be due twenty-eight (28) days from invoice date.
- 15.2. All sums due and payable that remain unpaid after any applicable period herein will accumulate interest at the highest rate permitted by the relevant law. Red Piranha reserves the right to assign its right to receive payments hereunder to a third party with notice but without your consent. For the purposes of such assignment, such third party shall be considered a third-party beneficiary of the payment obligation under this Agreement. All fees are non-refundable unless otherwise specified.
- 15.3. All services and products obtained directly from Red Piranha will require your full legal name, address, and contact information. All services, including software licenses, are contingent on payment being delivered as agreed. All accounts paid are non-refundable except at the discretion of Red Piranha. Payment terms are at the discretion of Red Piranha, and you accept that additional charges may accrue for late payment and debt recovery. Red Piranha may change its standard terms, including refusing service, if it determines, at its sole discretion, that your credit or credit rating is not sufficient for payment terms. You accept that Red Piranha may seek credit history information.

- 15.4. Nothing in this clause shall limit the rights of Red Piranha to initiate proceedings against you in any court of competent jurisdiction where deemed necessary by Red Piranha to: (a) protect its intellectual property rights; (b) protect its confidential information; and/or (c) recover overdue payments.

## 16. Source and Third-Party Software Licensing

- 16.1. The Software, Hardware and appliances or Products may interact with, or utilise, software and/or other technology licensed to Red Piranha from third-parties, including source software providers which are licensed to the user under the Australian Creative Commons licenses, general open source licenses exclusive to Red Piranha and other members regarding software modules supplied by the Open Information Security Foundation ("OSIF") as a registered member of OSIF or GNU General Public License, Version 2, of June 1991 ("GPL").
- 16.2. By accepting this Agreement, you acknowledge and agree that: (a) you will use such third-party or source software in compliance with this Agreement, (b) no third-party or source software licensor provides any warranties, conditions, commitments, or representations, whether express or implied, regarding such third-party or source software or the Software, Hardware, and appliances or Products themselves, and such third-party or source software is provided on an "as-is" basis, and (c) no third-party or source software licensor bears any responsibility or liability toward you in connection with this Agreement or Your use of such third-party software, (d) the third-party or source software licensor is considered a beneficiary of this Agreement and is thus entitled to enforce the terms and conditions herein to safeguard its rights concerning the third-party software, and (e) such third-party or source software may be subject to licensing terms that grant you additional rights or impose further restrictions on the materials, exceeding the provisions of this Agreement. You can find information about these additional license rights and restrictions in the relevant documentation, on the Red Piranha website, or within the Software, Hardware, or Product itself.
- 16.3. Such additional rights or restrictions outlined in this clause 16 pertain specifically to the third-party or source software on a standalone basis; the terms of the third-party or source software licenses do not impact your use of the licensed Software, Hardware, appliances, or Products in accordance with the terms and conditions of this Agreement.
- 16.4. A full copy of any source software license, including open-source software license disclosures and third-party license disclosures applicable to certain Red Piranha products, may be obtained by contacting Red Piranha's Legal Department at [legal@redpiranha.net](mailto:legal@redpiranha.net).
- 16.5. This section 16 applies solely to software that is truly open-sourced.

## 17. Product Changes

- 17.1. Under the terms of this Agreement, you have the right to receive software updates, and you may be required to install or permit the installation of these updates as a prerequisite for the ongoing use of any licensed Software, Hardware, appliances, or Products. You acknowledge and agree that Red Piranha reserves the right to modify, update, or discontinue Software, Hardware, appliances, Products, Product versions, Product features, Product support, Product maintenance, and support for third-party products (including operating systems and platforms) from time to time. This may be done for reasons such as changes in demand or to enhance security and technology.
- 17.2. By accepting this Agreement, you consent to receive updates or upgrades for the licensed Software, Hardware and appliances or Products automatically through Red Piranha's Cyber Security Mesh Architecture (CSMA) and Service Delivery Network without requiring further consent for each update. Red Piranha shall not be held responsible if an update or upgrade affects the functionality of a licensed Software, Hardware and appliances or Product due to



your own equipment or device not supporting the update or upgrade. You retain the right to withdraw your consent under specific conditions by contacting Red Piranha.

- 17.3. If You choose to withdraw Your consent to receive updates or upgrades for the licensed Software, Hardware and appliances or products automatically through Red Piranha's Cyber Security Mesh Architecture and Service Delivery Network, you acknowledge and agree to implement a manual update policy and schedule for such updates and upgrades on at least a monthly. This is a requirement for the continued use of, and support related to, any licensed Software, Hardware and appliances or Products.
- 17.4. Red Piranha will provide reasonable advanced notice of any planned discontinuation of a core Software, Hardware and appliances or Product feature, Software, Hardware, appliance or Product license, Product maintenance, or Product support, including third-party product support (referred to as a "Discontinuation"). This notice will be sent via email or published on the date(s) of each planned Discontinuation on Red Piranha's official website.
- 17.5. You acknowledge and agree that it is your responsibility to periodically review the Red Piranha retirement calendars available online on Red Piranha's partner and End-User dashboards, or sent to your designated email address, before purchasing any licensed Software, Hardware, appliances, or Product. Unless required by applicable law, Red Piranha will not issue a refund for fees paid for a Software, Hardware, appliance, or Product or service that becomes subject to a Discontinuation. Red Piranha reserves the right, at its sole discretion, to replace a Product, service, or management platform that offers substantially equivalent functionality. Red Piranha strongly recommends using the latest version of Software, Hardware and appliances or Product and any relevant third-party products.

END OF DOCUMENT

## 18. Red Piranha Crystal Eye™ XDR Cloud or Crystal Eye™ SE Cloud Products.

- 18.1. This section 18 pertains exclusively to Red Piranha Crystal Eye™ XDR Cloud and Crystal Eye™ SE Cloud Products, or other Red Piranha Products operating Cloud technologies (collectively, "Cloud Products").
- 18.2. You acknowledge that Red Piranha has no authority over the content stored or transmitted by you and merely serves as a conduit. Red Piranha retains the right to promptly remove content from the Red Piranha Crystal Eye™ Cloud Products without prior notice when it reasonably suspects that such content falls under the category of Prohibited Content. You shall, to the extent permitted by applicable law, and without waiving any of your immunities, whether constitutional or statutory, indemnify and absolve Red Piranha from all damages, losses, and expenses stemming from any third-party action or claim related to Your content.
- 18.3. 'Prohibited Content' for the purposes of clause 18.2. encompasses content that is: (a) unlawful, pornographic, obscene, indecent, harassing, racially or ethnically offensive, harmful, threatening, discriminatory or defamatory, (b) facilitates or promotes illegal activity, (c) infringes any third-party intellectual property rights, or (d) content that is otherwise inappropriate.
- 18.4. You acknowledge and agree that You may only store or transmit information such as regulated health or payment data through Red Piranha's Cloud Products if you have entered into a separate written agreement with Red Piranha that explicitly permits such usage.
- 18.5. Before the expiry or termination of the Cloud Product Term, you must (a) eliminate all Product settings from your servers and computers, and (b) remove all custom settings, software, and data from the Red Piranha network. In the case of specific Products, Red Piranha may download and return the data upon request for a mutually agreed-upon reasonable fee in advance. Subject to applicable laws, Red Piranha retains the right to delete data that may remain unremoved after the termination or expiration date.

