



sse

Southern Electric  
Scottish Hydro  
SWALEC  
Atlantic



End user licence agreement for  
**Netintelligence  
software**

July 2010

## Please read this carefully before you install and use the netintelligence software.

Your right to use the netintelligence software (the "software") is subject to the terms and conditions set out in this Licence agreement ("Licence"). You agree that your use of the netintelligence software acknowledges that you have read and understood this Licence agreement and agree to be bound by the following terms and conditions. If you do not agree to all of the terms and conditions of this Licence, do not continue with the software installation.

This is a legal agreement between you (an individual "you" "your" and all derivatives) and SSE Electricity Limited group trading as Southern Electric, Scottish Hydro, SWALEC, Atlantic, SSE ("us" "we" and all derivatives) (registered in England and Wales No 04094263, registered office No.1 Forbury Place, 43 Forbury Road, Reading, RG1 3JH).

The Software may include associated media, electronic and printed documentation and any combination of alpha, beta, trial, pre release and premium versions of the product set. The Software will be deemed "in use" on a device when it is loaded and residing within either the temporary or the permanent memory of the applicable device.

### 1. Grant of Licence

In consideration of payment of the Licence fees and your agreement to abide by the terms and conditions of this Licence, we grant you a non-exclusive, non-transferable right to install and use a copy of the Netintelligence Software subject to the following terms:

You may: a) install Netintelligence on a maximum of 3 single stand alone computers, terminals, desktops or other devices ("device") solely during the term of this Licence and so long as you comply with the terms and conditions of this Licence. b) create a single (1) copy of the software for back up purposes, provided the copy contains all the original software's copyright, trademark and proprietary notices.

This Licence is not a sale of the Software or any copy of the Software. An express condition of this Licence is that Netintelligence and its licensors retain all worldwide ownership of and rights, title and interest in and to the Software, and all copies and portions thereof, including without limitation, all copyrights, moral rights, trademark rights, trade secret rights and other proprietary rights therein and thereto, regardless of the form or media in or on which the Software or copies may exist.

### 2. Licence Restrictions

You may not:

- a) permit other individuals to use the software except under the terms listed above.
- b) modify, translate, reverse engineer, decompile, disassemble or create works based upon either the software or associated documentation.
- c) copy the software except for the purposes outlined in clause 1b.
- d) lease, rent, transfer or otherwise transfer the rights to the software or documentation. This Software is Licenced only to you and may not be transferred to anyone without our prior written consent.
- e) remove or alter any proprietary notices, trademarks, logos from the software and any associated documentation and/or accompanying media.
- f) use the software in any way to provide, or as part of, a commercial service or application.
- g) circumvent or attempt to circumvent the serial copying system embedded within the software.

**2.1.** You agree that the use of the Software may be restricted by applicable laws and regulations, including without limitation, privacy laws. You represent and warrant that your use of the Software shall be in compliance with any applicable laws and regulations, including without limitation, privacy laws, and that we shall have no duty to and shall not investigate your use of the Software or right to use the Software. the Software infringes any patent, copyright or trade secret of a third party.

You agree to indemnify us and Netintelligence against any claims that your use of the Software violates the rights of any third party or any applicable laws and/or regulations of any jurisdictions, except to the extent the Software infringes any patent, copyright or trade secret of a third party.

### 3. Subscription Service

Access to the Software is provided to you for a limited subscription period during the term of this Licence.

- a) We agree to provide you with access to Netintelligence Central ("Web Blocking/Filtering & Anti Virus Update Database").
- b) We will provide access to Netintelligence Central upgrades only during the term of this Licence.
- c) Your use of the Software, including access to Netintelligence Central will terminate upon termination of this Licence in accordance with the terms of this agreement.
- d) The software consists of interactive internet applications that perform a variety of communications, specifically monitoring, data gathering, collation, reporting and product updates, over the internet as part of their normal operation. A number of these features are automatic and are enabled by default as key components of the product. By installing and/or using you consent to the software's communications features.
- e) Access to the Netintelligence On-Line Control Centre is obtained through the use of a password and account information. You are responsible for maintaining the confidentiality of your password and your account information. You are responsible for all activities that occur within your account and you agree to notify us immediately of any, or suspected, unauthorised use of your account. We will not be responsible in any way for any loss, or failure of the product, that you may incur as a result of any unauthorised use of your account and password.
- f) you are responsible for any telecommunications/ISP or other connectivity costs incurred through the use of the software.
- g) you are responsible for the maintenance and upkeep of your internet connectivity in accordance with the terms and conditions provided by your telecommunications or ISP provider.

### 4. Product Support

Product support is available to end users via our Technical Support team.

The Technical Support line is operated Monday to Friday 8.00am to 8.00pm and Saturdays from 8.00am to 2.00pm through 0800 294 4721.

### 5. Limited Warranty

- 5.1. We warrant that for a period of thirty (30) days from date of installation, the software, when used properly (this warranty will be void if software failure has resulted from accident, abuse or misrepresentation), will substantially achieve the functionality described in the user guides and any other documentation generally made available by Netintelligence. Except for the limited warranty stated in the above sentence, the software and any user documentation and/or operation guides are provided 'As is' without warranty, either expressed or implied, of any kind. To the maximum extent permitted by applicable law, we further disclaim all warranties, including without limitation any implied warranties of merchantability, fitness for a particular purpose, and non infringement. No oral or written information or advice given by us, our employees or other authorised agents/distributors shall create a warranty or in any way increase the scope of this warranty and you may not/should not rely on such information or advice.
- 5.2. Except as provided in 5.1, we do not warrant, guarantee or make any representations regarding the use, or the results of use of the software, or written materials in terms of accuracy, reliability, correctness, completeness, currentness or otherwise. We do not warrant that the software or the Netintelligence Central Database will prevent access to offensive, inappropriate or obscene material of any description or that it will prevent virus infection. You agree to assume the entire risk as to the results and performance of the Software and the Netintelligence Central Database.

### 6. Remedies

Our entire and sole liability and your exclusive and sole remedy for any breach of the warranty stated in section 5 shall be at our discretion: a) either to replace or repair the software which does not conform to the warranty. b) to advise you how to achieve substantially the same functionality with the software as described in the user guides or other documentation through a procedure different from that set forth in the documentation.

This remedy is subject to your full compliance with the terms of this Licence. You must notify us within thirty (30) days of installing the software of any defect in order to receive the remedies stated above. Repaired, corrected or replaced software and documentation shall also be covered by this limited warranty for the period remaining under the original software warranty or if longer thirty (30) days after the date we either distributed to you the repaired, corrected or replaced software, or advised you how to achieve the functionality described in the documentation, whichever is applicable. Only if you have informed us of the problem with the software during the applicable warranty period and provide evidence of the date of installation, will we be obliged to honour this warranty. These remedies are your sole and exclusive remedies for breach of the limited warranty.

## 7. Limitation of Liability

In no event we, Netintelligence or other affiliates, partners, agents, distributors, suppliers and/or licensors will be liable for any indirect, special, incidental, economic, cover, or consequential damages arising out of the use of or inability to use the software, software documentation or related technical/customer support, including without limitation, damages or costs (including legal fees) relating to the loss of profits, business, goodwill, data, or computer programs, personal or otherwise related to access or exposure to offensive, inappropriate or obscene material and/or virus infection, even if you have been advised of the possibility of such damages. In no event will the total liability of ourselves, Netintelligence and affiliates, partners, agents, distributors, suppliers and/or licensors exceed the amount paid for the software in any one (1) calendar year. These limitations apply to all causes of action in the aggregate, including, without limitation, breach of contract, breach of warranty, our negligence, strict liability, misrepresentation and other torts. The foregoing limitation of liability does not exclude or limit liability for death or personal injury resulting from any act or negligence from our part. You accept and acknowledge that the allocation of risk in this Licence reflects the price paid for the Software and also the fact that it is not within our control how or for what purposes the software is used. No statement contained herein shall affect the statutory rights of consumers.

## 8. Indemnity

You shall indemnify us, Netintelligence, relative employees and agents from and against all costs (including legal fees and costs), claims, demands, expenses, fines, penalties and liabilities whatsoever which may be made against, sustained, paid or incurred by us, Netintelligence, employees or agents as a direct or indirect result of your breach of contract, negligence, breach of statutory duty or other act or omission.

## 9. Minimum Term

The Initial Minimum Licence Term is 1 month for monthly subscribers. The Licence is effective on the date the Licence is created and continues in effect for the duration of the Initial Minimum Licence Term. Upon expiration of the Initial Minimum Term, this Licence shall automatically renew for a term equal in duration to the Initial Minimum Term. You will be charged for the Licence fees for the applicable Renewal Term in accordance with the terms described in Section 12. You may elect not to renew this Licence for any Renewal Term by contacting the Technical Support team by telephone or by e-mail to [ssesurf@asse.co.uk](mailto:ssesurf@asse.co.uk).

## 10. Termination

This Licence will terminate automatically without notice from us if you fail to comply with any provision of this Licence or if you become bankrupt, enter liquidation, suffer or make any winding up petition, make an arrangement with your creditors, appoint an administrator or receiver or suffer or file any similar action in consequence of debt. You may terminate this Licence by destroying all copies of the Software and ceasing to use the product. Upon termination for any reason, you agree to destroy all copies of the Software, including any modified and back up copies. Upon termination there will be no refund of any monies or other consideration paid by you. The following Sections shall survive termination of this Licence for any reason: 1, 2, 5, 6, 7, 13 and 14.

## 11. Billing and Payment

Following the expiration of subscription period or the trial period that may have been provided to you, you agree to pay the applicable charge for your Licence. You authorise us to bill/charge/debit your account with the prevailing charge/fee depending on the product selected at sign-up. Payments will continue to be billed until the Licence is terminated. All payments are completely non refundable. Upon term renewal, we will automatically charge your account for the applicable Licence fee at the prevailing Licence fee rate, unless you notify us to suspend your licence. If payment is not received, this Licence shall automatically terminate effective as of the last date of the term for which payment has been received. We reserve the right, at any time, to change our billing methods. If any such change is unacceptable to you, you may terminate this Licence by providing written notice to our Technical Team.

## 12. Governing Law

This Licence shall be governed by and interpreted in accordance with English Law. The parties submit to the non-exclusive jurisdiction of the English Courts in all matters relating to the subject matter hereof.

## 13. General

- 13.1** You acknowledge that you have read this Licence, understood it and agree to be bound by its terms and conditions. This Licence constitutes the entire agreement and understanding between us and you regarding its subject matter and cancels, terminates and supersedes any prior agreement or understanding of any nature (written, oral or otherwise) relating to such subject matter provided that this provision shall not exclude liability for fraudulent representation.
- 13.2** The terms of this Licence will prevail over the terms and conditions of any purchase order. Any terms and conditions of any purchase order which are additional to, or inconsistent with, the terms and conditions of this Licence will be deemed stricken from such purchase order, notwithstanding acknowledgment or acceptance of such purchase order.
- 13.3** We can vary the terms and conditions of this Licence. If we vary the terms or conditions to your significant disadvantage, we'll notify you of the variation and you will have an opportunity to terminate this Licence. If, within 28 days of our publicising notice of the variation, you notify us that you no longer wish the software to be provided in accordance with Clause 10, then such variation shall not be effective in respect of this Agreement.
- 13.4** If any provision in this Licence is invalid or unenforceable, that provision shall be reformed to the maximum extent allowed by law to reflect the same economic effect as the invalid or un-enforceable provision, and the other provisions of this Licence shall remain in full force and effect.
- 13.5** Neither party shall be liable to the other nor held in breach of this Licence to the extent that it is prevented, hindered, interrupted or delayed in the performance or observance of this agreement from causes constituting Force Majeure.
- 13.6** The Software is not to be considered fault-tolerant and is not designed or intended for use in environments requiring fail-safe systems performance, including without limitation, in the operation of aircraft traffic control/navigation or communication systems, health/direct life-support machines, or any other application in which the failure of the Software could lead directly to death, personal injury, or severe physical or property damage. We expressly disclaim any express or implied warranty of fitness for Fail-Safe Systems.
- 13.7** References to any statute or other regulation include any amendment, extension, consolidation, re-enactment or replacement of such statute or regulation and any subordinate legislation made under it.
- 13.8** The headings appearing in this Licence are for convenience only and shall not effect interpretation.
- 13.9** The English language will be the controlling language of this Licence. All communications and notices given pursuant to this Licence will be in the English language.
- 13.10** You agree that you will not, directly or indirectly, violate any local, state or federal law or regulation of the country or countries in which you use the Software, or the export/import laws of any country which may regulate the import or export of the Software.

Last updated: April 2018 v1

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