

# Genesis Financial Technologies, Inc

## Trade Navigator® Software License Agreement

**CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS. THESE TERMS AND CONDITIONS ARE ACCEPTED BY DOWNLOADING, INSTALLING AND/OR USING THIS PRODUCT.**

Genesis Financial Technologies, Inc., (GENESIS) has developed and licenses to users its software program marketed under the name of Trade Navigator® with applicable product level title [Platinum, Gold, Silver, Professional, Standard, Lite] (the "Software"). If you do not agree with these terms, do not install or use the Software.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, GENESIS and you, the Licensee, agree as follows:

### 1. License.

GENESIS hereby grants to Licensee a perpetual, non-exclusive, limited license to use the Software as set forth in this Agreement.

### 2. Restrictions.

Licensee shall not modify, copy, duplicate, reproduce, rent, reverse engineer, decompile, disassemble, create derivative works based on Software, license or sublicense the Software, or transfer or convey the Software or any right in the Software to anyone else without the prior written consent of GENESIS; provided that Licensee may make one copy of the Software for backup or archival purposes. The Software will only be used on a single personal computer unless otherwise agreed upon.

### 3. Fees.

In consideration for the granting of the license, the use of the Software, and access to GENESIS Data Services, the Licensee agrees to pay GENESIS the required fees as agreed when account was setup and or when later modified.

- A. Data Service fees are paid monthly or annually and are due by the first day of each month or by the first day of the annual period.
- B. Data Service and Software fees are not refundable.
- C. Data fees and Software fees require a current and valid credit card. If at any time the credit card company declines the credit card transaction, GENESIS, at its option, may discontinue the service to the Licensee without notification.

### 4. Warranty of Title.

GENESIS hereby represents and warrants to Licensee that GENESIS is the owner of the Software or otherwise has the right to grant to Licensee the rights set forth in this Agreement. In the event any breach or threatened breach of the foregoing representation and warranty, Licensee's sole remedy shall be to require GENESIS or to either: i) procure, at GENESIS's expense, the right to use the Software, ii) replace the Software or any part thereof that is in breach and replace it with Software of comparable functionality that does not cause any breach, or iii) refund to Licensee the full amount of the license fee upon the return of the Software and all copies thereof to GENESIS.

### 5. Warranty of Functionality.

A. THE SOFTWARE AND THE SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF

PERFORMANCE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

Some jurisdictions do not allow the exclusion or limitation of implied warranties, so the above exclusions or limitations may not apply to you.

## 6. Warnings and Disclaimer:

GENESIS'S WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**This software is provided for INFORMATIONAL and EDUCATIONAL purposes only.** Nothing in the software, either by chart or in text, is to be taken as trading advice. Any trades placed upon reliance on the software and provided data are taken at your own risk for your own account. You should consult your broker or financial advisor before placing any trade.

- A. This is not an offer to buy or sell futures, options or commodity interests. There are no guarantees or certainties in trading. Trading involves hard work, risk, discipline and the ability to trade through any tough periods during a system's draw-downs. If you are looking for guarantees, trading is probably not for you. While there is great potential for reward trading commodity futures, options, cash currencies and other leveraged transaction products, **there is also SUBSTANTIAL RISK OF LOSS.** Because the valuation of leveraged transaction products may fluctuate greatly, it is possible to lose more than the amount originally invested. These products are not suitable investments for everyone. Consider your financial condition before deciding to invest or trade. Only "risk capital" should be used for trading. Only trade markets you can properly afford to trade.
- B. Hypothetical or simulated performance results have certain inherent limitations. Unlike an actual performance record, simulated results do not represent actual trading. Also, since the trades have not actually been executed, the results may have under- or over-compensated for the impact, if any, of certain market factors, such as lack of liquidity. Simulated trading programs in general are also subject to the fact that they are designed with the benefit of hindsight. No representation is being made that any account will or is likely to achieve the profits or losses similar to any results shown. **Past performance does not guarantee future results.**
- C. There **may be tax consequences** for short term profits/loss on trades. Consult your tax advisor for details on this if applicable.

## 7. Software Maintenance.

A. During the term that the Licensee is current on ALL payments, GENESIS shall provide to Licensee any new, corrected or enhanced version of the Software as created by GENESIS. Such enhancement shall include all modifications to the Software which increase the speed, efficiency or ease of use of the Software, or add additional capabilities or functionality to the Software, but shall not include any substantially new or rewritten version of the Software.

## 8. Limitation of Liability.

GENESIS shall not be responsible for, and shall not pay, any amount of incidental, consequential or other indirect damages, whether based on lost revenue, trading loss or otherwise, regardless of whether GENESIS was advised of the possibility of such losses in advance. In no event shall GENESIS's liability hereunder exceed the amount of license fees(not data fees) paid by Licensee, regardless of whether Licensee's claim is based on contract, tort, strict liability, product liability or otherwise.

## **9. Indemnification**

You agree to indemnify and hold harmless GENESIS, its affiliates, officers, directors, employees, agents and representatives and the Data Providers and their respective officers, directors, employees, agents and representatives, from and against any and all claims, including, but not limited to, any liability or expense arising from all claims, losses, damages (actual and consequential), suits, judgments, litigation costs, and attorney's fees, of every kind and nature, arising from or relating to your use of the Websites or the Services or the information made available through the Websites or the Services, and/or your violation of these Website Terms and Conditions or any third party's rights, including, but not limited to, copyright, proprietary rights, privacy rights, and rights under defamation law.

## **10. Disclaimer of Right to Sue**

You release GENESIS, including its officers, directors, employees, or any other agents, from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with any dispute with any user of any of the Websites or Services, or arising in any way from content posted to any of the Websites by any third party.

If you are a California resident, you waive California Civil Code § 1542, which provides: "A general release does not extend to claims which the creditor does not know or suspect exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

## **11. Notice.**

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

If to GENESIS:

Legal Department  
Genesis Financial Technologies, Inc.  
4775 Centennial Blvd, Suite 150  
Colorado Springs, Colorado 80919

[legal@genesist.com](mailto:legal@genesist.com)

## **12. Governing Law.**

This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

## **13. No Assignment.**

Neither this Agreement nor any interest in this Agreement may be assigned by Licensee without the prior express written approval of GENESIS.

## **14. Final Agreement.**

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

## **15. Export Controls Laws.**

This agreement is subject to United States export controls. No software from this site may be downloaded or otherwise exported or re-exported (1) into (or to a national or resident of) Cuba, Iraq, Libya, Sudan, North Korea, Iran, Syria, or any other country to which the United State has embargoed

goods, or (2) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders.

By downloading or using software from this site, you are agreeing to the foregoing and you are warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list.

## **16. Termination**

The license will terminate automatically if you fail to comply with the limitations described herein or if the Services are terminated or expire. On termination of this license, you must destroy all copies of the Software in your possession or control.

## **17. Severability.**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

## **18. Headings.**

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

IN WITNESS WHEREOF, GENESIS and Licensee have executed this Software License Agreement concurrent with the download and or first use of the Software.