

RQCS LIMITED
SOFTWARE LICENCE AGREEMENT

The software enclosed with this Agreement or delivered via authorized download (the "Program(s)") and related documents, training materials and user guides (collectively the "Documentation") are licenced solely to the named entity identified in RQCS's business records (the "Licencee") subject to the terms of this Licence, unless such terms are expressly and unambiguously amended by a separate written licence agreement between Licencee and RQCS. For the purposes of this Agreement, Programs available via electronic transfer (FTP, Email attachment or otherwise) will be deemed delivered as of the time when RQCS Ltd. ("RQCS") makes the electronic transfer available to Licencee. If Licencee does not agree with these terms, Licencee must take the following steps within five (5) business days after receipt of the Program(s):

(1) for Programs delivered on physical media, Licencee must return the unopened tape or disk package together with the Documentation to RQCS; or

(2) for Programs delivered via electronic transfer, Licencee must erase the Programs completely from any Licencee server, destroy or return any Documentation in printed or electronic form, and certify to RQCS in a writing signed by an officer of Licencee that such actions have been taken.

RQCS's address for returns or notices is RQCS Limited, Stone House, Bath Road, Farmborough BA2 0BU, England. The term "Registration Form" as used herein refers to the relevant Registration Form that was either enclosed with the Program or part of the electronic transfer, which shall be construed as part of this Licence and RQCS's business records. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Registration Form.

THIS IS A LICENCE AND NOT A SALE

1. Licence

1.1. Subject to the terms and conditions of this Licence Agreement ("Licence"), RQCS grants solely for use by the entity of record in RQCS's business records a non-exclusive, non-transferable licence to:

1.1.1. use the Program solely for Licencee's own internal business purposes on the hardware and the operating system software and at the site specified in the applicable RQCS business records (the "Site") and solely in accordance with the accompanying Documentation;

1.1.2. use the NfSM(TM) Programs (if any) solely for security management purposes;

1.1.3. use "failover" copies of the Programs solely for failover or disaster recovery purposes. "Failover" is defined as when the primary or production copy of the Program is unavailable for processing of events. Once the primary copy of the

Program is restored, event processing must be returned to the primary copy as soon as operationally possible; and

1.1.4. make one (1) copy of the Program exclusively for back-up or archive purposes; no other copies may be made. All copyright and other proprietary notices appearing on the Program and its media shall be maintained and reproduced on all copies of the Program.

1.2. All proprietary rights and trade secrets in the Program and the Documentation, and all copies (in whole or part) shall be the exclusive property of RQCS (and its licensors), and are protected by United States laws and international treaty provisions. Licensee shall have no right, title, or interest therein except for the rights expressly granted under this Licence.

1.3. Licensee shall not use the Program on any operating system software or hardware other than as stated in the applicable RQCS business records.

1.4. This Licence may not be assigned, sub-licensed or otherwise transferred or used for the benefit of third parties without the prior written consent of RQCS.

1.5. Licensee may not use, copy, alter, merge, adapt, modify, rent or lease the Program or the Documentation, or any copy thereof, in whole or in part, except as expressly provided in this licence or under applicable statutes. Except to the extent applicable statutory law specifically prohibits such restrictions, Licensee shall not reverse engineer or decompile the Program for any reason.

1.6. Licensee shall not copy all or part of the Documentation provided by RQCS. Additional copies may be obtained from RQCS for additional fees.

1.7. Upon payment of applicable maintenance fees, RQCS will provide maintenance services in accordance with its then-current standard maintenance level schedule, available upon request.

2. Licence Fees

2.1. Licensee shall pay the non-refundable licence fees and maintenance fees for the Programs set out in the applicable invoice within thirty (30) days of the date of such invoice. Upon payment of the applicable licence fees ("Payment"), RQCS will provide to Licensee the instructions or devices to permanently enable the Program(s) (the "Licence Key"). In addition to other available remedies, additional licence fees may be charged if Licensee uses the NfSM(TM) Programs or failover copies of the Programs for purposes other than security management or failover, as applicable.

2.2. Past due amounts owed by the Licensee shall bear interest at a rate of 1.5% per month or the maximum allowed under applicable law. Licensee also shall be responsible for all reasonable costs incurred in the collection of past due amounts owed by Licensee and all taxes and duties, including but not limited to any local sales taxes, withholding taxes or use taxes, or import or export duties, assessed in connection with the licensing of the Programs (except for any taxes based on RQCS's net income).

3. Confidentiality

3.1. The Program and the Documentation contain certain information that is confidential and of substantial value to RQCS. Except as expressly permitted herein, Licencee shall not use or disclose said confidential information, or cause it to be disclosed, to any third party.

3.2. No benchmark results nor results of any functional testing or evaluation of the Program shall be disclosed to any third party or used for any purpose other than to facilitate Licencee's internal use of the Program.

3.3. Subject to Licencee's consent, which shall not be unreasonably withheld or delayed, Licencee agrees to RQCS issuing a press release regarding the subject matter of this Agreement.

4. Limited Warranty and Disclaimer

4.1. RQCS warrants that the Programs, when used in accordance with the terms of this Licence, will operate substantially as set forth in the accompanying Documentation for a period of ninety (90) days following delivery of the Program(s) to Licencee.

4.2. RQCS warrants that Programs delivered on physical media (e.g., CD-ROM) will be free of defects in material and workmanship for a period of ninety (90) days following delivery of the Program(s) to Licencee.

4.3. RQCS warrants that prior to delivery of the Program(s) to Licencee, RQCS has used commercially reasonable efforts to prevent the Programs from being infected with, and any modified or enhanced versions of the Programs prepared by, or at the direction of, RQCS from being infected with, any "worms", "viruses", "Trojan Horses", "protect codes", "data destruct keys" or other programs or programming devices that might be used to access, modify, delete or damage the Programs, or other software, computer hardware or data of Licencee, other than as necessary to implement the Licence Key.

4.4. RQCS warrants that the occurrence of the date January 1, 2000, will not, by itself, cause the Programs to fail to operate substantially as set out in the accompanying Documentation, provided that all other software, hardware and products used in combination with the Programs (including but not limited to the operating system) properly exchange data with the Programs. The foregoing warranty applies only to failures in operation of the Programs that are reproducible in standalone form and does not apply to

(i) Programs that are modified or altered by Licencee or any third party;

(ii) Programs that are otherwise operated in violation of this Licence or other than in accordance with the Documentation; or

(iii) failures which are caused by Licencee's software or other software, hardware or products not licenced hereunder. Notwithstanding anything in this Licence to the contrary, any and all actions by the Licencee for breach of this warranty may be brought at any date no later than the later of December 31, 2004.

4.5. Licencee's sole and exclusive remedy for breach of any of the above warranties shall be, at RQCS's option, the repair or replacement of the Program or the media.

4.6. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 4 AND NOTWITHSTANDING ANY OTHER TERMS IN THIS LICENCE, RQCS MAKES NO EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO THE PROGRAMS, DOCUMENTATION OR MAINTENANCE TO BE SUPPLIED BY RQCS, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. RQCS DOES NOT WARRANT THAT ANY PROGRAMS WILL BE ERROR-FREE, OR THAT ANY DEFECTS THAT MAY EXIST IN ANY PROGRAMS CAN BE CORRECTED.

5. Limitation on Liability

IN NO EVENT SHALL RQCS BE LIABLE FOR ANY LOSS OF PROFITS, USE, BUSINESS, DATA OR INFORMATION, OR FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO DAMAGES RESULTING FROM LOSS OF ANTICIPATED SAVINGS OR LOST DATA, EVEN IF RQCS HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY THEREOF, OR FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES RESULTING FROM ANY AND ALL CLAIMS BY ANY THIRD PARTIES. THE AGGREGATE LIABILITY OF RQCS HEREUNDER WHETHER IN CONTRACT OR IN TORT SHALL IN NO EVENT EXCEED THE LESSER OF THE FEES PAID BY LICENCEE OVER THE PRECEDING TWELVE (12) MONTHS OR \$1,000,000. THIS LIMITATION SHALL NOT APPLY TO LIABILITY IN RESPECT OF DEATH OR PERSONAL INJURY CAUSED BY RQCS'S NEGLIGENCE OR ANY LIABILITY THAT BY LAW CANNOT BE RESTRICTED

6. Indemnity

6.1. RQCS shall indemnify Licencee for any claim, demand or cause of action by a third party ("Demand") to the extent that it is based upon a claim that the Programs infringe any U.S. or U.K. patent, U.S. or U.K. trademark, or Berne Convention copyright, or that the Programs misappropriate any trade secret of any third party within the country in which the Site is located. The foregoing indemnification is conditioned on Licencee notifying RQCS promptly in writing of such Demand, Licencee giving RQCS sole control of the defence thereof (and any negotiations for settlement or compromise thereof), and Licencee cooperating in the defence thereof at RQCS's request and expense, provided that Licencee may, at its own expense, assist in such defence if it so chooses. RQCS, at its sole option and expense may:

- (a) procure for Licencee the right to continue using the Programs; or
- (b) substitute a non-infringing version of the Programs so that the Programs become non-infringing and still conform to the applicable specifications; or
- (c) return the licence fee paid by Licencee hereunder for the Programs, less an amount equal to straight line depreciation of the Programs over four years, and Licencee shall immediately return the Programs to RQCS.

Licencee shall not incur any costs or expenses on behalf of RQCS under or pursuant to this Section without RQCS's prior written consent.

6.2. RQCS shall have no liability to Licencee for any Demand by a third party alleging infringement or misappropriation based upon

- (a) any use of the Programs in a manner other than as permitted in this Licence; or
- (b) any use of the Programs in combination with any product not provided by RQCS, to the extent that such Demand is directed against the combination.

THE FOREGOING STATES THE ENTIRE LIABILITY OF THE PARTIES AND LICENCEE'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEMANDS.

7. Term and Termination

7.1. The Licence granted herein shall be perpetual, subject to RQCS's receipt of the applicable licence fees and RQCS's right to terminate the Licence in accordance with this Section.

7.2. RQCS may terminate this Licence immediately upon written notice to Licencee if Licencee breaches the provisions of Section 1 (Licence) or Section 3.1 (Confidentiality). Either party may at its option terminate this Licence immediately upon written notice in the event that the other party:

- (a) breaches any term of this Licence, which breach remains uncured for a period of thirty (30) days after written notice of such breach to the other party; or
- (b) becomes insolvent or asserts that it is insolvent, fails to pay its general obligations as they become due, institutes or has instituted against it any proceeding, arrangement, receivership or assignment for the benefit of creditors, or files or has filed against it any petition under applicable bankruptcy laws.

7.3. ON TERMINATION OF THIS LICENCE FOR ANY REASON LICENCEE SHALL CEASE USING THE PROGRAM AND THE DOCUMENTATION AND ALL COPIES OF THE SAME SHALL BE IMMEDIATELY RETURNED TO RQCS.

7.4. The operation of Sections 2,3, 5, 6, 7 and 8 shall survive the termination of this Licence.

8. General

8.1 Nuclear and Other Applications. The Programs are not developed or licenced for use in any nuclear, aviation, mass transit or medical application or in any other inherently dangerous activities or applications. Neither RQCS nor its suppliers shall be liable for any claims or damages arising from such use and Licencee agrees to indemnify and hold harmless RQCS and its suppliers from any claims for losses, costs, damages, or liability arising out of or in connection with the use of the Programs in such applications.

8.2 Export Requirements. The Program is subject to laws and regulations of the United States and European Union that restrict its export. You agree that you shall not export or "re-export" (transfer) the Program unless you have complied with all applicable United States, European Union and foreign government export controls and approvals.

8.3 U. S. Government Rights, Government Users. RQCS licences products for ultimate end use by federal government agencies and other federal government customers ("federal government customers") only under the following conditions. Rights granted herein include only those rights customarily provided to end use customers of Programs and Documentation as defined in this Agreement. This customary commercial licence in software is provided in accordance with FAR 12.211 (Technical Data) and 12.212 (Computer Software) and, for Department of Defence purchases, DFAR 252.227-7015 (Technical Data - Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation).

If a federal government or other public sector customer has a need for rights not conveyed under these terms, it must negotiate with RQCS to determine if there are acceptable terms for transferring such rights, and both parties must execute a mutually acceptable written agreement specifically conveying such rights.

To the extent that Licencee sublicences Programs pursuant to the terms and conditions of the Agreement to any sub-licencee that is a federal government agency or other federal government customer, RQCS will accept only the following subcontract or flow-down provisions: FAR 52.222-26, "Equal Opportunity"; FAR 52.222-35, "Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era"; and FAR 52.222-36, "Affirmative Action for Workers with Disabilities."

Any additional subcontract or flow-down provisions, including any provisions imposed by federal, state, local or other governmental or quasi-governmental entities, must be negotiated between the parties and reflected in a mutually acceptable written agreement executed by both parties.

8.4 Audits. RQCS and its licensors shall have the right to conduct an audit of (and to copy) Licencee's records on reasonable notice and not more than once in each twelve-month period to verify that Licencee is complying with the terms hereof. In the event that an underpayment is revealed as the result of such audit Licencee shall immediately upon being so requested by RQCS pay such underpayment together with the costs of any such audit.

8.5 Severability. If one or more provisions of this Licence are held to be illegal or unenforceable under applicable law, such illegal or unenforceable provision(s) shall be limited or excluded from this Licence to the minimum extent required so that this Licence shall otherwise remain in full force and effect and enforceable in accordance with its terms.

8.6 Choice of Law. This Licence shall be governed by and construed under the laws of England and Wales, and the parties shall submit to the jurisdiction of the courts of England. Notwithstanding the foregoing, RQCS reserves the right to take action in any jurisdiction to assert or defend its intellectual property rights.

8.7 Entire Agreement. Licencee agrees that this Licence is the complete and exclusive statement of the mutual understanding between the parties and supersedes all previous written and oral agreements and communications relating to the subject matter of this Licence including, but not limited to, terms contained on any purchase order. The terms herein may not be modified or waived except in writing signed by authorized representatives of both parties.

8.8 Notices. All notices under this Licence shall be in writing, and shall be deemed given when personally delivered, or after being sent by prepaid recorded or registered post to and received by the address of the party to be notified or such other address as such party last provided to the other by written notice.

8.9 Assignment. Licencee shall not assign, transfer, or sublicense any obligations or benefit under this Licence without the prior written consent of RQCS (and any such attempt shall be void). RQCS may assign this Licence in whole or in part.

8.10 Force Majeure. Neither party will be responsible for any failure to fulfil its obligations hereunder due to causes beyond its reasonable control, including without limitation acts or omissions of government or military authority, acts of God, shortages of materials, transportation delays, fires, floods, labour disturbances, riots or wars.

LICENCEE ACKNOWLEDGES THAT LICENCEE HAS READ THE TERMS OF THIS LICENCE