



NetGuarder International Program License Agreement

IMPORTANT NOTICE: THIS IS A LEGAL AGREEMENT BETWEEN NETGUARDER. AND THE LICENSEE OF THE SOFTWARE PROGRAM COVERED BY THIS LICENSE AGREEMENT. BY DOWNLOADING, INSTALLING, COPYING, ACCESSING OR USING THE PROGRAM, THE LICENSEE (AS DEFINED BELOW) IS AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE AGREEMENT. (IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF ANOTHER PERSON OR A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND THAT PERSON, COMPANY, OR LEGAL ENTITY TO THESE TERMS.) IF THE LICENSEE DOES NOT AGREE TO THE TERMS OF THIS LICENSE AGREEMENT, THE LICENSEE IS NOT AUTHORIZED TO DOWNLOAD, INSTALL, COPY, ACCESS OR USE THE PROGRAM.

1. Definitions

The following definitions shall apply to this License Agreement:

"Correction" means a software program designed to fix an error in the Program.

"License Agreement" means this International Program License Agreement, including its License Information and Proof of Entitlement.

"Licensee" means the person or entity designated as user in the applicable Proof of Entitlement for the Program.

"License Management Tool" means software provided with the Program which restricts its use, consistent with the Proof of Entitlement.

"Maintenance" means providing Updates, Upgrades, Corrections, and other services described in NetGuarder's Software Maintenance and Support Agreement.

"Media" means the media, such as a CD-ROM, on which the Program is provided to Licensee.

"Program" means all or a portion of all copies of the software (in machine-readable form) listed in the applicable Proof of Entitlement. The term Program also includes any Updates, Upgrades, and Corrections to such software which Licensee properly receives pursuant to Maintenance, as well as data, audio-visual content (such as images, text, recordings, or pictures), and any documentation related to such software and contained on the Media or published by NetGuarder as part of the software package.



"Proof of Entitlement" means a document provided as part of the License Agreement which sets forth the name of the software program(s) covered by this License Agreement, the scope of use permitted, and the extent to which Licensee is entitled to receive Maintenance for such programs.

"Update" means a revision to the Program which includes changes to correct errors in the Program and which sometimes includes minor changes to the features and functions of the Program.

"Upgrade" means a new version of the Program which includes significant new features and functions.

"NetGuarder" means XSAGE INTERNATIONAL HOLDING LTD. and its successors and assigns.

2. License

Pursuant to the terms, conditions, and restrictions in this License Agreement, NetGuarder grants Licensee a nonexclusive worldwide perpetual license to use the Program as permitted in the applicable Proof of Entitlement, as it may be amended by issuance of a new or replacement Proof of Entitlement by NetGuarder. If Licensee wishes to increase the extent of use, it should notify NetGuarder or its distributor and pay any applicable charges. No refunds or credits will be issued for charges already due or paid.

3. Restrictions

a. The Program is copyrighted and licensed, not sold, to Licensee by NetGuarder. Licensee owns the Media on which the Program is recorded, but NetGuarder and/or NetGuarder's licensor(s) retain title to the Program.

b. Licensee's use of the Program may not exceed that authorized by the Proof of Entitlement, provided that Licensee may make one copy of the Program in machine-readable form for backup purposes only. All copies must include all copyright information contained on the original. No other copying is permitted.

c. If Licensee installs an Upgrade of the Program, Licensee must destroy all copies of the version of the Program it replaced.

d. Licensee may not reverse compile, reverse engineer, disassemble, modify, sublicense, rent, lease, loan, distribute, create derivative works from the Program, or transmit the Program over a network, except for the purpose of backup and recovery. Licensee may not attempt to defeat or bypass any License Management Tool provided with the Program.

e. Licensee can allow others, such as contractors, to use the Program on Licensee's computers,



provided that Licensee ensures that such use is in compliance with the terms of this License Agreement.

f. If Licensee fails to pay amounts due for the Program or fails to register the program in accordance with NetGuarder's standard registration procedures, NetGuarder shall have the right to terminate Licensee's right to use the Program upon written notice to Licensee and to prevent Licensee's use of the Program by not converting temporary permission to use the Program to permanent permission under a License Management Tool.

g. Licensee may not transfer its rights and obligations in the Program to another party.

h. The Program is subject to any restrictions or requirements contained in the applicable Proof of Entitlement or License Information.

4. Charges and Taxes

The license fees for use of the Program are listed on the invoice to Licensee from NetGuarder or its distributor. If any governmental entity imposes a duty, tax, levy, or fee upon the Program, excluding those based on NetGuarder's net income, then Licensee agree to pay that amount as NetGuarder specifies or supply satisfactory exemption documentation.

5. Term and Termination

This License Agreement is effective on the date Licensee assents to it in the manner prescribed herein. It shall continue in force until terminated. Licensee may terminate this License Agreement by giving written notice of termination to NetGuarder. NetGuarder may terminate this License Agreement upon written notice to Licensee if Licensee fails to comply with any term or condition of this License Agreement. Upon termination, Licensee must destroy all copies of the Program in its custody or control. Sections 6c, 7, 9, and 10 shall survive termination of this Agreement.

6. Warranty and Maintenance

a. NetGuarder warrants the Media against defects in material and workmanship for a period of 90 days from the date of when the Program is ordered as shown on the Proof of Entitlement. If Licensee returns defective Media to NetGuarder during that time period, NetGuarder will replace the Media without charge.

b. NetGuarder does not provide a warranty for the Program. Updates and Corrections are provided only if Licensee has purchased Maintenance.

c. Except as provided in Section 6a hereof, the Program is provided "AS IS" and without warranty of any kind, either express or implied. NetGuarder SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE



WITH RESPECT TO THE PROGRAM.

No oral or written information or advice given by NetGuarder or a NetGuarder distributor shall create a warranty or in any way increase the scope of NetGuarder's liability for the Program.

7. Limitation of Liability

a. UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL NETGUARDER OR ITS LICENSORS OR DISTRIBUTORS BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR SAVINGS) ARISING OUT OF OR RELATING TO THIS LICENSE AGREEMENT OR THE USE OR INABILITY TO USE THE PROGRAM, EVEN IF NetGuarder OR ITS LICENSORS OR DISTRIBUTORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. In no event shall NetGuarder's total liability to Licensee for all damages under this License Agreement exceed the amount paid by Licensee for the Program.

8. Export

Licensee agrees that it shall comply in all respects with all United Kingdom exports laws applicable to the Program.

9. U.K. Government Users

The Program is "commercial software" as that term is used in 48 CFR 12.212, Section 2.212 of the U.K. Federal Acquisition Regulations ("FAR") and Section 227.7202 of the Defense Federal Acquisition Regulations ("DFAR"). Accordingly, U.K. Government licensees shall have only those rights specified in this License Agreement.

10. General

a. All notices required or permitted under this License Agreement will be in writing and will be delivered or mailed certified mail, return receipt requested, to the party to receive the notice. For NetGuarder, the notice address will be the address listed for it at its web site (www.NetGuarder.com) at the time the notice is to be sent. For Licensee, the address shall be the address listed for Licensee in its registration documentation as it may be updated by Licensee. Such notices will be conclusively deemed to have been received on the day it is delivered to that party as shown on a certified mail receipt or an express delivery receipt.

b. This License Agreement shall be governed by and interpreted in accordance with the laws of United Kingdom (except when local law requires otherwise). The United Kingdom' Convention on Contracts for the International Sale of Goods shall not apply.



c. Neither Licensee nor NetGuarder will bring an action under this License Agreement more than two years after the cause of action arose.

d. Nothing in this Maintenance Agreement will be deemed to place the parties in the relationship of employer/employee, partners, or joint ventures. Neither party will have any right to obligate or bind the other in any manner. Each party agrees and acknowledges that it will not hold itself out as an authorized agent with the power to bind the other party in any manner.

e. If any provision of this License Agreement is found to be unenforceable, the remainder of this License Agreement shall continue in full force and effect.

f. This Agreement is in the English language only, which language shall be controlling in all respects, and all versions hereof in any other language shall not be binding on the parties hereto. All communications and notices to be made or given pursuant to this Agreement shall be in the English language.

g. This License Agreement (including the License Information and the Proof of Entitlement) constitutes the entire agreement between the parties with respect to the license of the Program and supersedes all prior agreements, oral or written, and all other communications between the parties relating to this subject. No amendment to or modification of this License Agreement will be binding on NetGuarder unless in writing and signed by NetGuarder. No terms on a Licensee purchase order or other Licensee document shall apply.