

## NATIONAL INSTRUMENTS SOFTWARE LICENSE AGREEMENT

INSTALLATION NOTICE: THIS IS A CONTRACT. BEFORE YOU DOWNLOAD THE SOFTWARE AND/OR COMPLETE THE INSTALLATION PROCESS, CAREFULLY READ THIS AGREEMENT. BY DOWNLOADING THE SOFTWARE AND/OR CLICKING THE APPLICABLE BUTTON TO COMPLETE THE INSTALLATION PROCESS, YOU CONSENT TO THE TERMS OF THIS AGREEMENT AND YOU AGREE TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT WISH TO BECOME A PARTY TO THIS AGREEMENT AND BE BOUND BY ALL OF ITS TERMS AND CONDITIONS, CLICK THE APPROPRIATE BUTTON TO CANCEL THE INSTALLATION PROCESS, DO NOT INSTALL OR USE THE SOFTWARE, AND RETURN THE SOFTWARE WITHIN THIRTY (30) DAYS OF RECEIPT OF THE SOFTWARE (WITH ALL ACCOMPANYING WRITTEN MATERIALS, ALONG WITH THEIR CONTAINERS) TO THE PLACE YOU OBTAINED THEM. ALL RETURNS SHALL BE SUBJECT TO NI'S THEN CURRENT RETURN POLICY.

1. Definitions. As used in this Agreement, the following terms have the following meanings:

- A. "Academic Institution." Means a degree-granting educational institution.
- B. "Agreement." Means this National Instruments Software License Agreement.
- C. "Authorized Applications." Means (i) those applications that you create with development versions of the SOFTWARE that you have validly licensed (including such applications that you create with third party software using real-time operating system components of the LabVIEW Real-Time Module and the LabWindows/CVI Real-Time Module in accordance with the licenses for such modules), (ii) those applications that you create with third party software that utilize Driver Interface Software to work with NI hardware, and (iii) Modified Driver Interface Software. Notwithstanding the foregoing, any application created with the SOFTWARE acquired under an evaluation license is not an Authorized Application.
- D. "Computer" or "computer." Refers to one computing device or, if the SOFTWARE is being used in connection with a virtual machine, one virtual machine on one computing device.
- E. "Driver Interface Software." Means computer software and other code provided with this Agreement that are listed as hardware drivers or device drivers on NI's hardware driver listing web page, which web page is currently located at the following URL, or are added by NI at any time to such listing or any similar successor listings: [www.ni.com/driverinterfacesoftware](http://www.ni.com/driverinterfacesoftware); together with all accompanying documentation and utilities. In no event, however, shall the term "Driver Interface Software" ever include any Third Party Software (as defined below), operating system software, instrument driver software, application software, toolkits, modules, or any driver development kit (DDK) or portion thereof, software development kit (SDK) or portion thereof, module development kit (MDK) or portion thereof, or any software or other code designated by NI as being any of the foregoing; or any accompanying documentation or utilities.
- F. "Excluded License." Means a license that requires, or purports to require, as a condition of use, modification, or distribution, that (i) the code that is or could become subject to the license, be disclosed or distributed in source code form, or (ii) others have the right to modify or create derivative works of the code that is or could become subject to the license.
- G. "Instructor." Means an individual teaching at an Academic Institution.
- H. "Modified Driver Interface Software." Means Driver Interface Software that you have modified in compliance with Section 8 of this Agreement.
- I. "NI." Means National Instruments Corporation, a company organized under the laws of the State of Delaware, U.S.A., unless the SOFTWARE is manufactured in the Republic of Ireland, in which event, "NI" shall mean National Instruments Ireland Resources Ltd., a company organized under the laws of the Republic of Ireland. If you are not sure where the SOFTWARE is manufactured, please contact National Instruments Corporation, 11500 N. Mopac Expressway, Austin, Texas, U.S.A. 78759-3504 (Attention: Legal

Department).

- J. "Scripting." Means the VI server methods, functions and properties made visible or otherwise available in the NI LabVIEW Software Editor by enabling VI Scripting methods and properties in the **Tools»Options** menu.
  - K. "SOFTWARE." Means the computer software and other code provided with this Agreement (including all Upgrades that may be provided by NI as part of the Software Service for which you have paid the applicable fees or as otherwise provided under this Agreement and all Driver Interface Software) that you are authorized to install and use in accordance with Section 2 below, together with all accompanying documentation, utilities, and Driver Interface Software. If the SOFTWARE is part of a NI suite product, the term SOFTWARE means all of the applicable NI software programs comprising the applicable suite (including all accompanying documentation, utilities, and Driver Interface Software) that you have acquired. NI provides certain third party software subject to separate license terms either presented at the time of installation or otherwise provided with the SOFTWARE ("Third Party Software"). Such Third Party Software is not included in the definition of the term "SOFTWARE".
  - L. "Software Service." Means the maintenance and technical support associated with the SOFTWARE or other software services program, in each case provided by NI and lasting for the duration of time identified in the applicable quote or other offer documentation. The Software Service program is further described in the documentation provided with the Software Services membership and/or, in the case of a VLP License, in the VLP Documentation.
  - M. "Student." Means an individual enrolled (or taking continuing education classes) at an Academic Institution.
  - N. "Term." Means the period of time commencing on the date of your clicking the applicable button to complete the installation process and continuing for the period of time specified in the product description or other applicable documentation provided to you by NI, or, if no period of time is specified, perpetually, unless this Agreement is terminated earlier by NI or you as provided herein, in which case such period is deemed to have ended on the effective date of such termination.
  - O. "Upgrade." Means any supplemental or replacement code for SOFTWARE you have previously licensed from NI.
  - P. "You." Means you, the individual using the SOFTWARE, as well as your employer, if you are using the SOFTWARE within the scope of your employment. If you are using the SOFTWARE within the scope of your employment, then you represent that you are authorized to bind your employer to this Agreement.
2. Grant of License. In consideration of, and conditioned upon, your payment of the applicable fees to NI, NI hereby grants you a limited, non-exclusive right to use (in accordance with one of the license types listed below) the specific SOFTWARE, as such SOFTWARE and license type are identified in the applicable documentation provided by NI to you, but only pursuant and subject at all times to the terms and conditions of this Agreement. While your use rights may extend to a prior version of the SOFTWARE as expressly permitted under Section 6 below, your use rights do not extend to any Upgrades for the applicable SOFTWARE unless such Upgrades are provided to you during the Limited Warranty period noted below in Section 14 or are provided to you as part of the Software Service for which you have paid the applicable fees. The SOFTWARE is in "use" when loaded into temporary memory (i.e., RAM) or installed into permanent memory (e.g., hard disk, CD-ROM, DVD-ROM, network storage device, or other storage device). Except as expressly authorized under this Section 2, floating, concurrent, or shared use is not permitted under this Agreement. The specific use rights granted to you are as follows and depend upon the type of license you have acquired:
- A. Named User/Computer Based License. If you have acquired a named user license, you must designate in writing (through the NI registration process) one (1) of your employees to serve as the named user for the license (the "Named User"). The SOFTWARE may be installed on up to three computers in a single workplace of the designated Named User. Only the designated Named User, however, may use or otherwise run the SOFTWARE, and the SOFTWARE may not be run concurrently (i.e., it may only be launched on one computer at a time). At your discretion, you may convert a named user license to a

computer based license. If you have acquired a computer based license or converted a named user license to a computer based license pursuant to this Section 2.A., the SOFTWARE may only be installed and used on one (1) computer in your workplace. While all of the SOFTWARE must be installed and used on the same computer under a computer based license, there is no limitation on the number of your employees that may access and use the SOFTWARE on such computer; provided, however, that the SOFTWARE may not be run concurrently (i.e., only one instance of the SOFTWARE can be launched on one computer at a time). Regardless of whether the SOFTWARE is used under a named user license or a computer based license, in no event may any of the SOFTWARE be installed or used on a network storage device. If you have a VLP License or Surviving VLP License and you want to convert named user licenses to computer based licenses, you must give written notice to NI so that NI can send you a new license file reflecting the revised number of named user licenses; provided that no more than four (4) such conversions may occur per calendar year. You may transfer a named user license to another designated employee provided that no more than four (4) such transfers may occur per calendar year. You may change the designated computer for a computer based license to another computer within the applicable single workplace; provided that no more than four (4) such changes may occur per calendar year and further provided that, immediately following such change, none of the SOFTWARE remains installed on the previously designated computer. Once the named user license for a designated Named User has been transferred to another employee or third party contractor pursuant to Section 2.J. of this Agreement, such named user license must be reregistered with NI to designate the new Named User. Unless otherwise specified by NI in writing, deployment licenses you have acquired in connection with any of the SOFTWARE listed in, or otherwise identified pursuant to, Section 13.B. as being subject to the license verification or distribution authorization requirements stated therein (each such deployment license being referred to as a "Designated Deployment License"), are computer based licenses.

- B. Volume/VLP License. If you have acquired the right to use the SOFTWARE for multiple users under the Volume License Program ("VLP"), you shall install and use an Approved Volume License Manager with the most current license file provided to you by NI that controls end-user access to the SOFTWARE licensed under the VLP. During the VLP Term, you may distribute the master installation disk(s) containing the SOFTWARE for internal installation and use by your employees only on those computers located at the Site(s). In addition to being subject to the terms and conditions set forth in the "Notes" sub-section below, your use of the SOFTWARE under the VLP shall at all times (during the VLP Term and thereafter) also be subject to all terms and conditions set forth in this Agreement regarding the specific type of VLP License you have acquired under the VLP. As part of the VLP, you must, for each individual VLP License, acquire and maintain during the term of the VLP the Software Services for the SOFTWARE identified in the applicable VLP Documentation and for which NI makes such Software Services available.
- C. Concurrent Use License. If you have acquired a concurrent use license, you may install the SOFTWARE on any or all computers at the Sites for use by Authorized Users at the Sites; provided, however, in no event may the number of Authorized Users who are accessing and/or running any of the SOFTWARE at the same time (i.e., concurrent users) exceed the Maximum Number of Seats which you have purchased. You agree that you will also use an Approved Volume License Manager and the license file provided by NI that controls end-user access to the SOFTWARE to ensure compliance with the foregoing. Your concurrent use license will automatically terminate if the number of concurrent users of the SOFTWARE at any time exceeds the Maximum Number of Seats which you have purchased. As used herein, the term "Authorized Users" means your employees at the Sites who use the SOFTWARE; for purposes of this Section 2.C. the term "Sites" means and is limited to only the Site (as defined in Section 2.H.(5.)) to which NI initially delivered the SOFTWARE and all of your Sites (as defined in Section 2.H.(5.)) which are located within the same country as that Site; and the term "Maximum Number of Seats" means the number of seats you have acquired as designated in the applicable quote or other documents provided to you by NI. For purposes of the concurrent use license, all Sites (as defined in Section 2.H.(5.)) which are located in a member of the North American Free Trade Agreement or South America shall be considered located in the same country, all Sites (as defined in Section 2.H.(5.)) which are located in Iceland, Norway, Switzerland, Africa or any member country of the European Union shall be considered located in the same country, and all Sites (as defined in Section 2.H.(5.)) which are located in Asia shall be considered located in the same country.
- D. Multiple Access License. If you have acquired a multiple access license to use NI-488.2 SOFTWARE for NI GPIB-ENET hardware products (individually or collectively, "Multiple Access Software"), your employees may install and use the NI-488.2 SOFTWARE on any number of computers or storage devices in your workplace solely for the purpose of accessing Ethernet to GPIB controllers of National Instruments Corporation and wholly owned subsidiaries of National Instruments Corporation.

E. Debug License. If you have acquired a debug license, you must have licensed the applicable SOFTWARE components (as identified below) under (i) a separate named user license, computer based license, or VLP License with NI, in which case your applicable employee(s) may now, under the debug license, install such SOFTWARE components on one (1) additional target production computer (for each debug license acquired) for debug purposes only or (ii) a concurrent use license, in which case you may install and use the SOFTWARE for debug purposes only, in accordance with the concurrent use restrictions set forth above. If you licensed the applicable SOFTWARE components under a license other than a concurrent use license, then each of the applicable components must be used on the same target production computer. Debug licenses may only be used for debug purposes. In no event may you use the components for developing new programs (e.g., test sequences/modules, virtual instruments (VIs), etc.). Further, if you acquire any Upgrade to the applicable SOFTWARE, your existing debug license cannot be used with such Upgrade. Rather, you must acquire a separate, "upgraded" debug license from NI for use with such Upgrade. If the SOFTWARE is NI TestStand, then the applicable components are (a) the NI TestStand runtime execution engine for executing your sequences and the complete NI TestStand sequence editor development environment; (b) one (1) copy of LabVIEW and the applicable software toolkits; (c) one (1) copy of LabWindows/CVI and the applicable software toolkits; and (d) one (1) copy of NI Measurement Studio and applicable SOFTWARE toolkits. If the SOFTWARE is LabVIEW, then the applicable component is one (1) copy of LabVIEW and applicable SOFTWARE toolkits. If the SOFTWARE is LabWindows/CVI, then the applicable component is one (1) copy of LabWindows/CVI and applicable SOFTWARE toolkits. If the SOFTWARE is NI SwitchExecutive, then the applicable component is one (1) copy of NI SwitchExecutive. If the SOFTWARE is NI Measurement Studio, then the applicable component is one (1) copy of NI Measurement Studio and applicable SOFTWARE toolkits. If the SOFTWARE is any of the following modules, or any other software designated by NI as being a module with respect to which NI offers a debug license: LabVIEW Mobile Module, LabVIEW Touch Panel Module, LabVIEW Real-Time Module, LabWindows/CVI Real-Time Module, LabVIEW FPGA Module, LabVIEW Control Design and Simulation Module, Vision Development Module, LabVIEW Statechart Module, LabVIEW DSC Module, or LabVIEW DSP Module); ("Designated Module"), then the applicable component is one (1) copy of such Designated Module.

F. Academic Licenses.

(1.) Student Edition License. If the SOFTWARE is a student edition (including SOFTWARE acquired pursuant to a student install option license), you must (i) be a Student or an Instructor; (ii) have acquired a student edition license; (iii) only, if you are a Student, use the SOFTWARE for your personal education purposes and not for any other purpose, including research, professional, commercial, or industrial purposes; and (iv) only, if you are an Instructor, use the SOFTWARE for your preparation for classroom or lab coursework and not for any other purpose, including use in a classroom or lab, research, professional, commercial, or industrial purposes. The SOFTWARE may be installed on up to three computers. However, only you may use or otherwise run the SOFTWARE, and the SOFTWARE may not be run concurrently (i.e., it may only be launched on one computer at a time). In no event may any of the SOFTWARE be installed or used on a network storage device. You hereby understand and agree that your license will automatically expire upon the conclusion or termination of your enrollment in an Academic Institution (or, in the case of student install option licenses, upon the conclusion or termination of your enrollment at the Academic Institution from which you obtained such license) or should you stop being an Instructor unless otherwise expressly specified by NI or its affiliates in writing; upon any such expiration, you must promptly uninstall all copies of the SOFTWARE. As stated in Section 5 below (without limiting the generality thereof), academic licenses, including student edition licenses, may not be transferred.

(2.) Primary and Secondary School License. If you have acquired a primary and secondary school license, you may use the SOFTWARE solely for educational purposes in your primary and secondary school. Primary and secondary schools are defined as levels K–12 and International Standard Classification of Education (ISCED) levels 0–3. You may install the SOFTWARE on no more than the number of your school's computers specified by NI in writing in the applicable quote or other offer documents. The foregoing rights apply to a single school or campus and do not extend to an entire school district. You may distribute Authorized Applications created with the SOFTWARE that is properly installed on computers located within your campus, school, or department as indicated in the applicable quote or other offer documents; provided that (i) you comply with all the terms and conditions in this Agreement regarding distribution of Authorized Applications and (ii) such distribution, and subsequent use of such Authorized Applications, is only

to other primary and secondary schools and for educational purposes only. The foregoing are your only distribution rights under a primary and secondary school license. Notwithstanding anything in this Agreement to the contrary, in no event may you distribute any applications (including code such as VIs and executables) created with the SOFTWARE other than as expressly permitted in this Agreement. Any use of the SOFTWARE under a primary and secondary school license by any person who is not a student or teacher at your primary or secondary school or any use for research, commercial, or industrial purposes is expressly prohibited.

- (3.) Academic Teaching License. If you have acquired an academic teaching license, you may use the SOFTWARE solely for instructional purposes in your department, college, or on a specific university campus, in each case, of an Academic Institution, depending on the option selected in the applicable purchase order submitted to NI. A use will be considered as one for "instructional purposes" only if such use meets either of the following criteria: (i) a common exam is given to Students at the end of a semester or other academic period and the exam relates (in whole or part) to the Students' use of the SOFTWARE or (ii) homework or similar projects requiring the use of the SOFTWARE are used for grading in lieu of an exam. You may install the SOFTWARE on no more than the number of your Academic Institution's computers (located within the applicable department, college, or specific university campus) specified by NI in writing in the applicable quote or other offer documents. You may distribute Authorized Applications created with the SOFTWARE, provided, however, that (i) you comply with all the terms and conditions in this Agreement regarding distribution of Authorized Applications and (ii) such distribution, and subsequent use of such Authorized Applications, is for academic purposes only. Except for the foregoing limited distribution right, in no event may you distribute any software deliverables created with the SOFTWARE under an academic teaching license without the prior written approval of NI. Without limiting the generality of the foregoing, any use of the SOFTWARE by any person who is not a Student or Instructor at your Academic Institution or any use for research, commercial, or industrial purposes under this Agreement is prohibited.

- (4.) Student Install Option. If you are an Academic Institution and have acquired student install option licenses, NI will deliver to you the master installation disks for the applicable Student Edition SOFTWARE. You may make the applicable Student Edition SOFTWARE available only to (i) no more than the number of Students specified by NI in writing in the applicable quote or other offer documents and (ii) Students that are currently enrolled at the applicable department, college, or specific university campus of your Academic Institution specified by NI in writing in the applicable quote or other offer documents. All use of the SOFTWARE under a student install option license shall be in accordance with the student edition license terms and conditions above. The applicable student install option license will automatically expire upon the conclusion or termination of the applicable Student's enrollment at your Academic Institution; upon any such expiration, the Student must promptly uninstall all copies of the SOFTWARE. As stated in Section 5 below (without limiting the generality thereof), academic licenses, including Student Install Option licenses, may not be transferred (including to other Students or to another Academic Institution).

- (5.) Academic Research Option. If you have acquired an academic research license, you may use the SOFTWARE solely for academic research, teaching, and educational purposes in your department, college, or on a specific university campus, in each case, of an Academic Institution, depending on the option selected in the applicable purchase order submitted to NI. You may install the SOFTWARE on no more than the number of your computers specified by NI in writing in the applicable quote or other offer documents. You may distribute Authorized Applications created with the SOFTWARE; provided, however, that (i) you comply with all the terms and conditions in this Agreement regarding distribution of Authorized Applications; and (ii) such distribution and subsequent use is for academic purposes only. Except for the foregoing limited distribution right, in no event may you distribute any software deliverables created with the SOFTWARE under an academic research license without the prior written approval of NI. Without limiting the generality of the foregoing, any use of the SOFTWARE for commercial or industrial purposes under this Agreement is prohibited. You must purchase Software Service for the SOFTWARE to maintain the license.

- G. Evaluation License; Pre-Release Software. If you have acquired an evaluation license, you may install and permit your employees to use the SOFTWARE on computers in your workplace for internal evaluation purposes only. You will be deemed to have an evaluation license for all SOFTWARE that has been provided

to you by NI and for which you do not have a written document from NI expressly designating the type of license granted to you for the SOFTWARE. The evaluation license is for your own internal use only. Therefore, notwithstanding anything in this Agreement to the contrary, you may not distribute or transfer any applications you create with the SOFTWARE under an evaluation license. You also agree to use reasonable efforts to provide feedback to NI regarding your use of the SOFTWARE, including promptly reporting to NI errors or bugs that you might find. Any such feedback you disclose to NI, including any changes or suggested changes to NI's current or future products and services (collectively "Feedback"), shall be received and treated by NI on a non-confidential and unrestricted basis, notwithstanding any restrictive or proprietary legends to the contrary accompanying or otherwise associated with the Feedback. You hereby grant to NI a worldwide, royalty-free, non-exclusive, perpetual, and irrevocable license to use, copy, and modify Feedback for any purpose, including incorporation or implementation of such Feedback into NI products or services, and to display, market, sublicense and distribute Feedback as incorporated or embedded in any product or service distributed or offered by NI. You also acknowledge and agree that the **SOFTWARE IS EVALUATION ONLY AND/OR PRE-RELEASE SOFTWARE. AS SUCH, THE SOFTWARE MAY NOT BE FULLY FUNCTIONAL AND YOU ASSUME THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOFTWARE. NI WILL NOT UPDATE THE SOFTWARE, NOR WILL NI SUPPORT THE SOFTWARE. THE SOFTWARE MAY CONTAIN CODE THAT WILL, AFTER A CERTAIN TIME PERIOD, DEACTIVATE THE SOFTWARE AND RENDER THE SOFTWARE UNUSABLE. ALTHOUGH THE SOFTWARE MAY WARN YOU OF THE TIME-FRAME IN WHICH IT WILL BE DISABLED, YOU ACKNOWLEDGE AND AGREE THAT THE SOFTWARE MAY BE DEACTIVATED OR RENDERED UNUSABLE WITH OR WITHOUT WARNING.** Upon such deactivation, this Agreement will be considered terminated. Prior to deactivation of the SOFTWARE, you may contact NI to convert your evaluation license for the SOFTWARE to a named user license or computer based license, under such terms, and to the extent, if any, that NI generally makes such licenses available for the SOFTWARE, or such other license as NI may (in its sole discretion) permit by paying to NI the applicable license fee and obtaining from NI the applicable authorization code(s). NI may (in its sole discretion and upon notice to you) terminate the evaluation license at any time, whereupon this Agreement will be considered terminated. If the SOFTWARE consists of pre-release SOFTWARE and is also covered by an alpha/beta license (the "Beta Agreement") between you and NI, the terms and conditions of the Beta Agreement, which are incorporated herein by reference, shall also apply to your use of the SOFTWARE. In the event of a conflict between this Agreement and the Beta Agreement, the terms of the Beta Agreement shall control.

H. Notes. The following applies to the VLP (Volume License Program):

- (1.) Program Requirements. You shall designate a separate Software Administrator for each Site and shall promptly notify NI in writing of any changes to the Software Administrator(s). In order to participate in the VLP, the VLP Licenses that you maintain during the VLP Term must at all times include a minimum of five (5) copies (in the aggregate) of a version of the SOFTWARE which is considered by NI to be a development version of a single NI SOFTWARE product. NI will deliver the master installation disks for the SOFTWARE and, if provided for in the applicable written quotation from NI, make available the NI VLM to the Software Administrator(s). You are responsible for ensuring that an Approved Volume License Manager, together with the most current license file provided by NI that controls end-user access to the SOFTWARE, (to the extent NI has made the SOFTWARE compatible with an Approved Volume License Manager) is in use at all times with the SOFTWARE licensed under the VLP (during the term of the VLP and thereafter). If the Approved Volume License Manager is the NI VLM or if NI makes documentation available for the applicable Approved Volume License Manager, such Approved Volume License Manager shall be installed and used in accordance with the documentation provided by NI. If you have existing individual, computer based or named user licenses for the SOFTWARE that are to be covered by the VLP, (i) you shall notify NI in writing of the product, platform, and serial number information for each such license; (ii) each such license shall (as of the VLP Effective Date) no longer be in effect and shall be superseded by the VLP; (iii) all individual serial numbers for each such license shall be cancelled and replaced by a single, common serial number assigned to the VLP and the corresponding VLP Licenses; and (iv) should you later desire to obtain individual serial numbers for any of the VLP Licenses, you will be required to pay NI its then current fee for a conversion from a VLP License to an individual named user license, computer based license, or debug license having an individual serial number. Regarding Software Service, NI reserves the right to restrict Software Service to the then most current version of the SOFTWARE that is commercially available. You understand that NI may not make available Software Service for all SOFTWARE available under the VLP.

- (2.) Activity Compliance Logs. In addition to the submission requirement in sub-section (4.) below, you are required to provide an Activity Compliance Log for each Site to NI promptly (but in no event later than fifteen (15) days) following (i) the annual anniversary of the VLP Effective Date during the VLP Term and (ii) the VLP Termination Date. NI may, upon notice to you, inspect the Site(s) and applicable records in order to verify the accuracy of the Activity Compliance Logs. You shall pay any verified underpayments to NI within thirty (30) days of receipt of a written notice of such underpayments. Further, if you have underpaid, NI may require you to pay for any reasonable out-of-pocket costs actually incurred by NI in verifying the underpayment.
- (3.) Purchase Orders; Invoices. You shall submit purchase orders to NI as follows:
- in the amount of the Activation Fee within the time-frame specified in the quote provided by NI to you for the VLP;
  - in the amount of the Additional VLP Fees prior to the end of the then current VLP Term as set forth below; and
  - in the amount of the VLP Renewal Fees prior to the end of the then current VLP Term as set forth below if you desire to renew the VLP.

You are required to obtain and maintain Software Services for each VLP License for which Software Services are made available by NI. The Software Services are charged on an annual basis and, for VLP Licenses added during the VLP Term, will only be pro-rated on a quarterly basis (based on the quarter of the VLP Term in which the SOFTWARE under such VLP License was first used), or such shorter basis as NI may designate, if a purchase order is submitted to NI prior to the date the SOFTWARE for the Additional VLP License is installed or otherwise used. All invoices shall be paid within thirty (30) days of the date you receive them.

- (4.) VLP Term. The initial term of the VLP will start on the VLP Effective Date and continue for a period of one (1) year (the "Initial VLP Term"). You may renew the VLP for additional one (1) year periods (the Initial VLP Term and each such renewal term, each herein referred to herein as a "VLP Term"). Should you desire to renew the VLP for an additional one (1) year period, you must provide a current Activity Compliance Log to NI at least sixty (60) days before the end of the then current VLP Term so that the number of VLP Licenses for the SOFTWARE may be determined. NI will then provide you with a quote for Software Services, any Additional VLP Fees that are applicable, and any new VLP Licenses that you request for the renewal VLP Term (the "VLP Renewal Fee"). The VLP will be renewed for an additional one (1) year period each time you issue to NI a purchase order for the VLP Renewal Fees prior to the end of the then current VLP Term. You shall promptly notify NI if the information in the Activity Compliance Log regarding the number of VLP Licenses changes following your submission, and NI reserves the right to revise the VLP Renewal Fee (as applicable) to reflect Additional VLP Licenses used and not reflected in the applicable Activity Compliance Log that you provided to NI at the time you desired to renew. **IF, PRIOR TO THE END OF THE THEN CURRENT VLP TERM, YOU DO NOT ISSUE A PURCHASE ORDER FOR THE SOFTWARE SERVICES AND ANY ADDITIONAL VLP FEES THAT ARE DUE (I) THE VLP WILL AUTOMATICALLY TERMINATE AT THE END OF THE CURRENT VLP TERM; (II) ALL SOFTWARE SERVICES FOR THE VLP WILL AUTOMATICALLY AND IMMEDIATELY TERMINATE AT THE END OF THE THEN CURRENT VLP TERM; AND (III) YOU MAY NOT, IN ANY EVENT, EXCEED THE NUMBER OF VLP LICENSES FOR WHICH YOU HAVE PAID THE REQUIRED FEES TO NI. UPON TERMINATION OF THE VLP, NI WILL ATTEMPT TO PROVIDE YOU WITH AN UPDATED LICENSE FILE AND YOU MAY CONTINUE TO USE THE VLP LICENSES IN EFFECT (AND FOR WHICH YOU HAVE PAID THE REQUIRED FEES TO NI) PRIOR TO THE DATE OF TERMINATION (THE "SURVIVING VLP LICENSES"); PROVIDED THAT ALL SUCH USE IS CONDUCTED WITH AN APPROVED VOLUME LICENSE MANAGER (USING THE LICENSE FILE PROVIDED BY NI FOLLOWING THE TERMINATION OF THE VLP) AND IS CONDUCTED PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT (INCLUDING THE PROHIBITIONS ON TRANSFER AS SET FORTH IN SECTION 5 BELOW). IN NO EVENT MAY YOU INCREASE THE NUMBER OF THE SURVIVING VLP LICENSES FOLLOWING THE TERMINATION OF THE VLP. IT IS YOUR RESPONSIBILITY TO OBTAIN**

SUCH LICENSE FILE FROM NI AND TO INSTALL AND USE THE LICENSE FILE AS SOON AS POSSIBLE AFTER DELIVERY OF SUCH LICENSE FILE FROM NI, BUT IN NO EVENT LATER THAN SIXTY (60) DAYS AFTER THE TERMINATION OF THE VLP. THE SOFTWARE AND THE APPROVED VOLUME LICENSE MANAGERS MAY CONTAIN CODE THAT WILL, FOLLOWING TERMINATION OF THE VLP, DEACTIVATE YOUR ABILITY TO USE THE SOFTWARE UNDER THE VLP. ALTHOUGH THE NI VLM MIGHT ATTEMPT TO WARN YOU OF THE TIME-FRAME IN WHICH YOUR ABILITY TO ACCESS AND USE THE SOFTWARE WILL BE DISABLED, YOU ACKNOWLEDGE AND AGREE THAT THE SOFTWARE MAY BE AUTOMATICALLY DEACTIVATED OR RENDERED UNUSABLE WITH OR WITHOUT WARNING UPON THE TERMINATION OF THE VLP. ANY REACTIVATION OF THE VLP FOLLOWING ITS TERMINATION SHALL BE AT THE SOLE DISCRETION OF NI AND MAY BE SUBJECT TO THE PAYMENT OF APPLICABLE REACTIVATION FEES AS DETERMINED BY NI. SHOULD YOU AT ANY TIME DESIRE TO OBTAIN INDIVIDUAL SERIAL NUMBERS FOR ANY OF THE VLP LICENSES OR SURVIVING VLP LICENSES, YOU WILL BE REQUIRED TO PAY NI ITS THEN CURRENT FEE FOR A CONVERSION FROM A VLP LICENSE OR A VLP SURVIVING LICENSE (AS APPLICABLE) TO (AS APPLICABLE) AN INDIVIDUAL NAMED USER LICENSE, COMPUTER BASED LICENSE, OR DEBUG LICENSE HAVING AN INDIVIDUAL SERIAL NUMBER. SHOULD YOU LATER DESIRE TO OBTAIN UPGRADES FOR THE SOFTWARE OR PURCHASE AVAILABLE SOFTWARE SERVICES FOR THE SOFTWARE, YOU WILL BE REQUIRED TO PAY NI AN APPLICABLE FEE FOR EACH SUCH SURVIVING VLP LICENSE.

- (5.) Additional Definitions. For purposes of the VLP, the following capitalized terms have the following meanings:

"Activation Fee" means the amount specified in the applicable written quotation from NI that permits you to replace the existing individual named user, computer based, or debug licenses for the SOFTWARE used at the Site that you designate with a VLP License and/or acquire a VLP License at the Site for the number of named user, computer based, or debug licenses listed in the written quotation from NI. The Activation Fee consists of a one-time license fee for each VLP License in effect at the start of the VLP Effective Date and an initial annual user fee for Software Services. Documentation is provided in electronic form only and comes with the master installation disk for the SOFTWARE. You may, however, purchase from NI sets of applicable written documentation and additional master installation disks at NI's then prevailing rates."Activity Compliance Logs" are the reports and other applicable information generated by the NI VLM. If the Approved Volume License Manager is not the NI VLM, or the SOFTWARE is not compatible with an Approved Volume License Manager, then you are responsible for obtaining the form of report acceptable to NI, and manually completing and delivering that report to NI.

"Additional VLP Fees" means the fees (i.e., one-time license and initial annual fees for Software Services) for each Additional VLP License installed (i.e., in use) during the applicable VLP Term beyond the number of initial VLP Licenses.

"Additional VLP License" means each computer based license, named user license, or debug license you add, in accordance with the terms and conditions set forth herein, during the applicable VLP Term.

"Approved Volume License Manager" is the NI VLM or FLEXnet or FLEXlm software or any other third party computer software approved in writing by NI for controlling end-user access to the SOFTWARE.

"NI VLM" is NI's computer software for controlling end-user access to the SOFTWARE and that generates applicable usage compliance information, including the Activity Compliance Logs.

"Site(s)" is/are the physical location to which NI delivers the SOFTWARE unless otherwise specified in the VLP Documentation.

"Software Administrator(s)" are the individuals who are responsible for administering the VLP. Each



Software Administrator is responsible for distributing and overseeing the installation and use of the master installation disks for the SOFTWARE and the Approved Volume License Manager.

"Surviving VLP License" has the meaning set forth in Section 2.H.(4.) above.

"VLP Documentation" means the quote(s) that you obtain from NI regarding the VLP and the VLP Welcome Kit you obtain from NI.

"VLP Effective Date" means the date that the VLP Welcome Kit is sent to you; provided, however, that if the VLP is terminated and then reactivated, as permitted in sub-section (4.) above, then the VLP Effective Date means the date the VLP is reactivated by NI.

"VLP License" means each individual named user license, computer based license, concurrent use license, and/or debug license to the SOFTWARE used by you under the VLP during the term of the VLP.

"VLP Renewal Fees" has the meaning set forth in Section 2.H.(4.) above.

"VLP Term" has the meaning set forth in Section 2.H.(4.) above.

"VLP Termination Date" means the date that the VLP terminates in accordance with the provisions above.

- I. Driver Interface Software. If the SOFTWARE is or contains Driver Interface Software you may use the Driver Interface Software for your internal development of Authorized Applications, and, if you are a business or other entity, you may make and install a reasonable number of copies of the Driver Interface Software, other than NI-VISA or NI-488.2, as may be reasonably required for your internal development of Authorized Applications. You may not make additional copies of NI-VISA and NI-488.2 except as expressly permitted in clause (i) of Section 11 or by NI in writing. If you received the Driver Interface Software from a third party with or as part of an Authorized Application then you may only use the Driver Interface Software with such Authorized Application.
  - J. Third Party Contractors. If you have acquired one of the licenses set forth in Section 2.A., B., C., D., E., G., or I. above, then third party contractors that you have engaged may (if you desire) access and use the SOFTWARE solely for your benefit; provided: (i) the contractor (or, if applicable, its employee) shall be considered, as applicable, the Named User or Authorized User for purposes of the applicable license type, and all use by such contractor shall be in accordance with the terms and conditions of this Agreement, (ii) before accessing the SOFTWARE, the contractor agrees in writing that (a) the SOFTWARE shall be used solely in accordance with the terms of this Agreement and solely for your benefit and (b) the contractor shall be liable to NI for any breach by it of this Agreement, and (iii) you hereby agree and acknowledge that you will be liable for any and all actions or omissions of the contractor with respect to the use of the SOFTWARE, as if such actions or omissions were your own.
3. License Term. This Agreement shall continue until the earlier of (i) termination by NI or you as provided in this Agreement; or (ii) the expiration of the Agreement as set forth below.
    - A. Term Licenses. You hereby acknowledge and agree that this Agreement will expire automatically at the end of the Term. However, if you have not acquired a perpetual license, subject to NI's acceptance, you may continue the Term for an additional period by remitting the then-current applicable license fee to NI. You hereby acknowledge and agree that the SOFTWARE may stop working and become unusable unless you pay the license fee and, if applicable, are provided with new authorization codes. Any use of the SOFTWARE after the Term expires will violate the terms of this Agreement. If you have purchased Software Service, you understand and agree that the support for the SOFTWARE will only continue for the amount of time specified in your purchase order for Software Service. After such time, you may continue to purchase Software Service at NI's then current price, provided that Software Service is offered.

- B. Perpetual Licenses. Pursuant to a perpetual license, you have the right to use the SOFTWARE indefinitely, subject to the termination provisions in this Agreement. If you have purchased Software Service, you understand and agree that the support for the SOFTWARE will only continue for the amount of time specified in your purchase order for Software Service. After such time, you may continue to purchase Software Service at NI's then current price, provided that Software Service is offered.
- C. Termination. Upon termination or expiration of this Agreement, regardless of the reason, the license grants contained herein shall terminate and you must immediately cease all use of the SOFTWARE and all distribution of Authorized Applications, and immediately destroy all copies of the SOFTWARE. Sections 15, 16, 18, 19, 20, 21, 22, and 23, as well as subsection 13(A)(3), of this Agreement shall survive any expiration or termination of this Agreement.
4. Restrictions. You may not: (i) reverse engineer, decompile, or disassemble the SOFTWARE (except to the extent such foregoing restriction is expressly prohibited by applicable law); (ii) use the SOFTWARE to gain access to unencrypted data in a manner that defeats the digital content protection provided in the SOFTWARE; (iii) sub-license, lease, lend, or rent the SOFTWARE; (iv) (other than as expressly permitted under this Agreement) disclose in whole or in part, distribute in whole or part, modify, or create derivatives of the SOFTWARE or distribute or publish applications created with the SOFTWARE; (v) use the Scripting functionality to create applications which perform the functionality of an editor for a graphical programming environment; (vi) take any action that results in any of the SOFTWARE being subject to an Excluded License; or (vii) directly or indirectly, export, re-export, download, transmit, or ship the SOFTWARE in violation of Section 23.D. or otherwise in violation of any applicable laws or regulations, including those of the U.S., the European Union or the jurisdiction in which you use or are downloading the SOFTWARE. Further, all uses of the SOFTWARE shall be in accordance with the applicable documentation that accompanies the SOFTWARE and not in any manner intended to (or that) circumvents such documentation or the intent of this Agreement. Except as expressly permitted in Section 2, under no circumstance is "floating," shared, or concurrent use permitted under this Agreement. Further, if you have acquired a computer based NI TestStand Development System License or NI TestStand Custom Sequence Editor License, you may not remotely access the SOFTWARE. If you have acquired a named user NI TestStand Development System License or NI TestStand Custom Sequence Editor License, only the then current Named User may remotely access the SOFTWARE. Nothing in this Agreement is intended to prevent you from creating your own driver interface software for use with NI SOFTWARE and third party hardware; provided, however, that in doing so you do not modify, amend, supplement, or use (in whole or part) any of the Driver Interface Software, or violate any of the restrictions set forth in this Agreement with respect to any SOFTWARE.

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5. Transfer. If you have a named user license, computer based license, debug license, or if the SOFTWARE is Multiple Access Software, you may transfer the SOFTWARE to a third party provided that you notify NI in writing of such transfer (including the name and location of such third party), such third party accepts the terms and conditions of this Agreement, and after such transfer, you do not retain any copies of the SOFTWARE (including all Upgrades that you may have received) nor retain any of the written materials accompanying the SOFTWARE. NI may, in its discretion, charge you a fee for the transfer of the SOFTWARE. If you have a VLP License, a Surviving VLP License, a concurrent use license, an academic license (including a student edition license), or a debug license, the license is non-transferable and you may not, without the prior written consent of NI or its affiliates, distribute or otherwise provide the SOFTWARE to any third party or (with respect to a VLP License or a Surviving VLP License) to any of your sites or facilities not expressly identified in the applicable documents from NI.
6. Upgrades; Additional Licenses for Prior Versions. If the SOFTWARE is an Upgrade, you may only use the SOFTWARE if: (i) you have (at the time you receive the Upgrade) a valid license to use the pre-existing

SOFTWARE (the "Pre-existing License") and (ii) the Upgrade was provided to you in accordance with the Limited Warranty noted below in Section 14 or provided to you as part of the Software Service for which you have paid applicable fees. The license agreement accompanying the Upgrade (the "Upgrade License") applies to your use of the Upgrade; provided, however, (i) you may only install and use the Upgrade on those computers on which you are authorized to use the pre-existing SOFTWARE pursuant to the Pre-existing License and (ii) in no event may you run both the Upgrade and the pre-existing SOFTWARE concurrently. Further and with respect to any SOFTWARE delivered and licensed under this Agreement ("Delivered SOFTWARE"), you may elect to install and use a pre-existing version of the applicable SOFTWARE (rather than the Delivered SOFTWARE); provided, (i) you have an authorized copy of the pre-existing version of the Delivered SOFTWARE, (ii) all use will be pursuant to and in accordance with this Agreement (including the license type acquired for the Delivered SOFTWARE), and (iii) that notwithstanding anything in this Agreement to the contrary, in no event shall NI be required to support any versions of the SOFTWARE (including providing applicable software key codes or hardware keys) other than the then most current version of the Delivered SOFTWARE.

7. Home Usage Exception. Notwithstanding anything in this Agreement to the contrary, if you are a business or other entity, the designated Named User for the applicable license (or in the case of computer based licenses, the single individual who is the primary user of the single computer on which the SOFTWARE is installed and used, or in the case of Academic Licenses the teachers, professors or researchers) may also install and use the SOFTWARE on one (1) computer located in such user's home, provided that (i) the use of the SOFTWARE is pursuant to one of the licenses enumerated in Section 2 above (other than a Designated Deployment License, debug license, concurrent use license, or concurrent use debug license); and (ii) the use of the SOFTWARE on such home computer is limited to work performed in the scope of such person's employment with you (or, in case of an Academic License, limited to the uses expressly permitted in such applicable section) and complies with all terms and conditions of this Agreement other than as expressly set forth in this Section. The SOFTWARE must be promptly uninstalled from the individual's home computer upon the earlier of (a) the termination of the designated individual's employment with you, (b) the transfer of the SOFTWARE to another Named User or change to another computer as permitted under Section 2 above, (c) the termination or expiration of this Agreement, or (d), in the case of Academic Licenses, the teacher, professor or researcher ceasing to be employed by the Academic Institution (whichever is earlier). Notwithstanding the foregoing, if you have a Designated Deployment License, debug license, concurrent use license, or concurrent use debug license, this Home Usage Exception does not apply to you.
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- (4.) You conform to all of the requirements of the Third Party Software license agreements provided with the SOFTWARE;
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- A. If the SOFTWARE is manufactured in the Republic of Ireland, (1) (i) this Agreement is governed by the laws of the Republic of Ireland, exclusive of any provisions of the United Nations Convention on the International Sale of Goods, and without regard to principles of conflicts of law; and (ii) the non-exclusive venue for all actions under this Agreement shall be in the courts located in Dublin, the Republic of Ireland and the parties agree to submit to the jurisdiction of such courts; otherwise (2) (i) this Agreement is governed by the laws of the State of Texas, U.S.A., exclusive of any provisions of the United Nations Convention on the International Sale of Goods, and without regard to principles of conflicts of law; and (ii) the non-exclusive venue for all actions under this Agreement shall be in the courts located in Travis County, Texas, U.S.A. and the parties agree to submit to the jurisdiction of such courts.
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- C. If any action is brought by either party to this Agreement against the other regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any relief granted, reasonable attorney fees and court costs. If any provision of this Agreement is held invalid, the offending clause will be modified so as to be enforceable and, as modified, shall be fully enforced, and the remainder of this Agreement will continue in full force and effect.
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