

QNX EVALUATION, NON-COMMERCIAL & ACADEMIC END USER LICENSE AGREEMENT

The software and related documentation that you are about to access (the "Software", as further defined below) is offered by QNX Software Systems Limited ("QSS"), having offices at 1001 Farrar Road, Kanata, Ontario, Canada K2K 0B3 (ph: +1-613-591-0931, fax: +1-613-591-3579), for your use in accordance with the terms and conditions below.

By answering "I ACCEPT" during the download, installation or activation of the Software, you represent that you have read, understood and agree to be bound by the terms and conditions of this QNX Evaluation, Non-Commercial & Academic End User License Agreement (this "License", or "NCEULA"). If you do not accept these terms and conditions then you are not granted a license and are not authorized to access, download, install or use the Software.

TERMS AND CONDITIONS

0. BACKGROUND

QSS has developed and licenses a general purpose real-time operating system known as the QNX (R) Neutrino (R) RTOS (the "QNX Neutrino RTOS"). Its unique microkernel architecture provides an extensible operating system framework based on the foundational components of the Kernel and System Libraries. Additional operating system services are implemented by plugging in other software modules (e.g., networking, file systems, graphics, etc.). These modules are licensed as part of the base "QNX Neutrino Core" runtime component.

When modified or configured to operate on target hardware, the QNX Neutrino Core components provide a microkernel operating system with advanced memory protection, distributed processing, symmetric multiprocessing, a dynamically upgradeable architecture, and industry-leading real-time performance.

Other more specialized QNX middleware products (e.g., QNX Aviage HMI Suite 2.0, QNX Aviage Multimedia Suite and QNX Aviage Acoustic Processing Kit; collectively, "QNX Middleware") are available as separately licensed products. For the purpose of this License, the QNX Neutrino Core components, and any runtime components of the QNX Middleware products that you have licensed, will be collectively referred to as the "QNX Runtime Components" (as further defined below).

QSS also offers a related set of award winning software development tools known as the QNX (R) Momentics (R) Tool Suite ("QNX Momentics Tools"). Developers use the QNX Momentics Tools to modify and configure QNX Runtime Components and to develop applications to run on the QNX Neutrino RTOS. The QNX Momentics Tools include compilers, debuggers, libraries, header files, utilities, sample code, test suites, performance optimization tools, etc., within an integrated development environment based on the open Eclipse IDE framework.

The QNX Middleware products may also come with supplementary development tool components, which for the purpose of this License will be considered part of the QNX Momentics Tools to the extent you have licensed those products. Collectively, the QNX Runtime Components and the QNX Momentics Tools are referred to as the "QNX Product Portfolio" throughout this License.

More detailed QNX Product Portfolio information is available in the QNX License Guide published at <http://licensing.qnx.com/license-guide/> ("License Guide", which is hereby incorporated into this License) a copy of which has also been included in the file system installation of the Software. The License Guide provides important version-specific information about the nature and scope of

license rights granted (or not granted) to you hereunder. For that reason the License Guide should be carefully reviewed. Please contact licensing@qnx.com if you have any questions.

The QNX Momentics Tools and QNX Neutrino Core components (collectively, the "Software Development Platform" or "SDP") are initially delivered together and are licensed for certain non-commercial evaluation, development, or educational purposes under the terms and conditions of this License and on a named-user basis. Certain QNX Middleware products (if any) may also be made available to you at the QNX developer portal hosted by QSS ("Foundry27") for use under this License.

QSS licenses the QNX Product Portfolio for commercial development activities under its QNX Commercial Software License Agreement ("CSLA"). The CSLA allows licensees to develop commercial QNX Runtime Component- or QNX Momentics Tool-based applications and QNX Runtime Component derivative works, on their own or with technical support or custom engineering assistance from QSS (see <http://licensing.qnx.com/services/>). Commercial development licenses for QNX Middleware products are also offered under the CSLA. These commercial licenses allow licensees to charge fees for their QNX Product Portfolio-based products or services, provided that they obtain a distribution license for any royalty bearing QNX Runtime Components that they want to offer in their original form or as part of their derivative works (see <http://licensing.qnx.com/oem-distribution/>). If you are interested in obtaining commercial development rights contact an authorized QSS sales representative for more information (see <http://www.qnx.com/company/contact/>).

Certain components of the QNX Product Portfolio are available from QSS under the terms of the Apache License, Version 2.0 ("Apache License"), the Eclipse Public License, or other open source licenses. All of the open source components in the QNX Product Portfolio, and the licenses to which they are subject, are identified in the License Guide and the corresponding Third Party License Terms List available at <http://licensing.qnx.com/third-party-terms/> ("Third Party Terms List", which is hereby incorporated into this License) a copy of which have also been included in the Software installation media. You will also find a separate file in the file system after installation of the Software that provides a binary-file-specific mapping of applicable open source license terms. This mapping file is still a work in progress and should not be relied upon at this stage as it is incomplete. Updated versions will be published as they become available. Contact licensing@qnx.com if you have questions or require additional information.

1. DEFINITIONS.

- 1.1. "Development Seat" means a named user's workstation (i.e., their desktop, laptop and/or other computer) used by that developer to perform software development for Target Systems using the QNX Momentics Tools. Named users are identified by their email addresses.
- 1.2. "License Key" is a specific key, provided to you by QSS for one of the License Classes listed in Section 4 (License Classes) below, which unlocks the QNX Product Portfolio or specific components of that Software on a Development Seat.
- 1.3. "Licensee" (or "you") means the individual who or entity that accepted and agreed to be bound by the terms and conditions of this License.
- 1.4. "QNX Runtime Components" means components of the Software that are intended to be integrated into and distributed as an integral part of a Target System, as described in the License Guide or the Documentation.

- 1.5. "Software" means computer code (in whatever form), and its associated developer documentation, reference specifications - e.g. POSIX, read-me files, installation notes, and release notes that are provided in or for the Software (separately referred to as "Documentation"), included in any component of the QNX Product Portfolio made available to you by QSS with a corresponding License Key, or otherwise expressly licensed to you by QSS pursuant to this License. It includes: (i) experimental, alpha, beta, demo, trial, unsupported or other components made available to you by QSS on an early access basis as described in Section 15.2 (Availability and Use of Experimental Software), at Foundry27, as part of the QNX Product Portfolio in components that are identified as experimental, alpha, beta, demo, trial or unsupported components in the License Guide, or otherwise so identified and made available by QSS for use under this License, and (ii) any QSS-specific Improvements, if any, as defined in Section 11 (Feedback).
- 1.6. "Target System" means any hardware or software product for embedded devices into which QNX Runtime Components have been wholly or partially integrated that: (i) significantly enhances the function and value of the Software, and (ii) has substantially different principal purposes than those of the Software and of other components of the QNX Product Portfolio.

2. LICENSE GRANT. Subject to the terms and conditions of this License, QSS hereby grants to Licensee (you) a limited, royalty-free, non-exclusive, personal, non-sublicensable and non-transferable license for the specific activities and purposes authorized in Sections 3 (Authorized Development Activities) and 4 (License Classes) below:

- 2.1. under copyrights owned or sub-licensable by QSS, to copy the Software and to create derivative works of the Software made available to you by QSS in source code form ("Source Code"), and subject to the requirements of Section 4.2.2 to distribute such derivative works of the Source Code to third parties; and
- 2.2. under patent claims, owned or sub-licensable by QSS, and that are embodied in the Software as delivered by QSS, to make and use the Software and derivative works of the Source Code, and, subject to the requirements of Section 4.2.2, to distribute derivative works of the Source Code to third parties.

Certain features of the Software may require additional patent or copyright rights not included in this License. For commercially released versions of the Software such cases are noted in the License Guide, and include features of the QNX Aviage Middleware Products and features obtained from other software vendors or hardware vendors. QSS only licenses to you the patent and copyright rights that it owns or that it can sublicense under the terms of this License without payment of additional royalties. It is Licensee's (your) responsibility to identify and secure any other license rights necessary to make, use or import any product or system that contains or uses any Software that QSS has identified as requiring additional patent or copyright rights.

3. AUTHORIZED DEVELOPMENT ACTIVITIES. The Software is licensed only for the specific development activities below when used for purposes listed under the applicable License Class in Section 4 (License Classes):

- 3.1. installing the Software on and following normal backup and archiving practices for one (1) developer's Development Seat per License Key; and

- 3.2. using the Software on one (1) Development Seat per License Key (except in the case of QNX Aviage Middleware Products, which may be shared across all Development Seats licensed to you under this License) in order to create, compile, link, install and use QNX Runtime Components, derivative works of Source Code, and new or existing applications or modules; and
- 3.3. installing and using QNX Runtime Components, or software created pursuant to Section 3.2, on up to five (5) Target Systems per License Key in order to develop, test, maintain or demonstrate Target Systems. Additional QNX Runtime Component licenses for Target Systems may be obtained from QSS or its authorized distributor upon request and payment of applicable license fees.

4. LICENSE CLASSES. You qualify for one of the following licenses by completing a registration form at <http://www.qnx.com/> and obtaining the appropriate License Key from QSS, and by using the Software only for the purposes specified below. QSS may require written confirmation of your ongoing license qualifications within ten (10) days of notice to the address provided for delivery of your License Key.

- 4.1. Evaluation License. You have an "Evaluation License" if you activate your Development Seat with an Evaluation License Key obtained from QSS after confirming your qualifications during registration. With an Evaluation License you may:
 - 4.1.1. use the Software for the purpose of determining the suitability of QNX Runtime Components for use in Target Systems; and
 - 4.1.2. use the Software for the purpose of conducting exploratory development or proof-of-concept prototyping of Target Systems.

FOR GREATER CERTAINTY, AN EVALUATION LICENSE DOES NOT AUTHORIZE YOU TO USE THE SOFTWARE FOR INTERNALLY APPROVED COMMERCIAL TARGET SYSTEM DEVELOPMENT.

- 4.2. Non-Commercial Developer License. You have a "Non-Commercial Developer License" if you activate your Development Seat with a perpetual Non-Commercial Developer License Key obtained from QSS after confirming your qualifications during registration. With a Non-Commercial Developer License you may use the Software for the following purposes, but only to the extent and for so long as Licensee's (your) use continues to be for non-commercial purposes:
 - 4.2.1. for personal activities or for experimentation or self-training purposes. This includes the activities described in Sections 4.1.1 and 4.1.2 above, as well as extending hardware or peripheral support for the QNX Neutrino RTOS, developing new applications for or porting existing applications to the QNX Neutrino RTOS or the QNX Momentics Tools, participating in projects at Foundry27, and demonstrating Target Systems to and sharing information with others, provided that you do not leave copies with third parties. **IT DOES NOT INCLUDE ANY USE IN OR FOR ANY COMMERCIAL UNDERTAKING;** and
 - 4.2.2. to distribute your derivative works of QNX Runtime Components for the sole purpose of enabling other QNX Neutrino RTOS developers to adopt your modifications, provided that you license your derivative works free of charge under terms and conditions consistent with this License and exclusively for use by others in substitution for a corresponding number of QSS-licensed copies of the unmodified QNX Runtime Components. This includes but is not

limited to disclosing or distributing your derivative works of any confidential Source Code only under confidentiality terms and conditions that are at least as protective of the underlying Source Code as the terms and conditions of this License.

FOR GREATER CERTAINTY, THIS LICENSE DOES NOT AUTHORIZE YOU TO DISTRIBUTE ANY OF THE QNX PRODUCT PORTFOLIO, OR ANY QNX RUNTIME COMPONENTS THEREOF, AS PART OF YOUR DERIVATIVE WORKS (EXCEPT TO THE EXTENT THAT QSS OR ITS CONTRIBUTORS HAVE EXPRESSLY LICENSED THAT PORTION OF THE SOFTWARE TO YOU UNDER AN OPEN SOURCE LICENSE) UNLESS YOUR LICENSEE ALREADY HAS ITS/THEIR OWN LICENSE FOR THE UNDERLYING SOFTWARE FROM QSS FOR EACH COPY TO BE SUBSTITUTED; and

- 4.2.3. to use the Software to work with other authorized and licensed QNX Product Portfolio developers to facilitate teamwork in not-for-profit academic development labs or in non-commercial group projects, including community projects at Foundry27. This includes use by students and faculty members in their research and course work, but does not include use to conduct research or development in or for a commercial undertaking; and
- 4.2.4. to use the Software to undertake other activities authorized by QSS in writing either through Foundry27, at <http://licensing.qnx.com/nceula-faq/>, or by email from licensing@qnx.com.
- 4.3. Academic Faculty License. You have an "Academic Faculty License" if you activate your Development Seat with a perpetual Academic Faculty License Key obtained from QSS after confirming your qualifications during registration. With an Academic Faculty License you may:
 - 4.3.1. use the Software for the purpose of teaching classroom or laboratory courses at a not-for-profit accredited educational institution. You may perform the authorized activities in Section 3 (Authorized Development Activities) on multiple Development Seats to establish the classroom or lab environment using the institution's computers for shared use by students who have agreed to use your (Licensee's) License Keys and the shared Development Seats in accordance with the Non-Commercial Developer License terms of this License.

5. AUTHENTICATION.

5.1 In order to install and/or activate the Software certain machine-specific information as well as the licensed developer's email address ("Licensed User Information") is sent to QSS at the time of activation and/or periodically thereafter. This Licensed User Information may include but is not limited to software identification numbers, MAC addresses, UUIDs, IP addresses, identification numbers set by manufacturers of your hardware and/or identification numbers related to your host operating system. Except for the licensed developer's email address, QSS does not collect any personally identifiable information during activation. QSS may collect Licensed User Information at any time and may use Licensed User Information for the purposes of verifying compliance with the terms and conditions of this License and with the terms and conditions of any other agreements between you and QSS relating to software provided by QSS, but QSS will otherwise treat such Licensed User Information as your Confidential Information pursuant to Section 14 (Confidential Information).

5.2 QSS may require you from time to time, upon at least ten (10) days written notice, to provide a written report, that includes: (i) the email address of the current named user for each

Development Seat; (ii) the physical and computer address(es) where the Software is or has been deployed; (iii) certification that the components of the QNX Product Portfolio you have licensed have been installed and used only on the authorized number of Development Seats and Target Systems, and have been used only for authorized purposes; and (iv) confirmation that Software copies have been destroyed in accordance with Section 18 (Termination) upon the expiration or termination of any of your license rights. You (or an authorized signatory if you are a legal entity) agree to sign the reports to confirm their completeness and accuracy. QSS may also require you (or an authorized signatory if you are a legal entity) to complete and return a compliance certificate on an annual basis.

6. MARKING OF SOFTWARE AND DERIVATIVE WORKS. You must document Software source code to identify and date any changes you make to the Software to create your derivative works. You must include in the source code, and in any notice in an executable version or related documentation in which you describe the origin or ownership of your code, a prominent statement that your derivative work is derived, directly or indirectly, from software provided by QSS. You may not remove from the Software source code any previous copyright, patent, trademark, licensing, or other attribution notices placed there by QSS or other contributors to that Software.

7. PROHIBITED ACTIVITIES. You may not and will not authorize others to:

- 7.1. Decompile, disassemble, decrypt, extract, unbundle, translate, or otherwise attempt or assist others to reverse engineer any part of the Software except as permitted by an open source license applying to a specific part of the Software, or except to the extent that QSS is expressly precluded by law from prohibiting these activities. Except for published source code files that are expressly identified by QSS as open source software, the Software IS NOT OPEN SOURCE; or
- 7.2. Alter, remove, or cover any trademark, logo, proprietary or licensing notices, labels, or marks in or on any part of the Software. You agree to exercise reasonable efforts to ensure that all whole or partial copies of the Software bear the same notices, labels, and marks contained in or on the original Software; or
- 7.3. Allow shared use of : (i) Software on Development Seats, or (ii) License Keys (except as expressly permitted in Section 4.3); or
- 7.4. Disclose or distribute License Keys to any others (except as expressly allowed in Section 4.3), use unauthorized License Keys, or circumvent the key activation mechanisms contained in the Software or at Foundry27. You agree to treat the License Keys as QSS Confidential Information pursuant to Section 14 (Confidential Information); or
- 7.5. Directly or indirectly export, import or transmit the Software to any country in contravention of the laws of that country, or the laws of Canada or the United States. Without restricting the foregoing, you may not download or transfer the Software to: (i) any country prohibited by United States and/or Canadian laws and regulations; (ii) any person or entity prohibited from receiving United States and/or Canadian exports (including but not limited to those involved with missile technology or nuclear, chemical or biological weapons and those on US government restricted persons/entities lists see <http://www.bis.doc.gov/complianceandenforcement/liststocheck.htm>); or (iii) any country which requires an import or use permit for encryption technology. You (Licensee) represent and warrant to QSS that you are not in or a resident of one of the restricted countries, and that you are not one of the restricted individuals or entities referred to above. You

understand that the import or export of the Software may be regulated by some governments due to the Software's encryption capabilities. You accept sole responsibility to ensure that your use of the Software complies with the law; or

- 7.6. Use the Software in any application in which death, personal injury, or severe physical or property damage is a foreseeable consequence of Software use or failure (collectively, "High-Risk Applications") including but not limited to the operation of nuclear facilities, mass transit systems, aircraft navigation, flight control or communications systems, air traffic control systems, weapon systems, and life-support machines. QSS EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OR CONDITION OF FITNESS FOR HIGH-RISK APPLICATIONS; or
- 7.7. Use to pursue any formal qualification, certification, or designation for the Software, unless it is for a specific end user device or unless QSS has provided its express written consent.

8. PRESERVATION OF RIGHTS. You agree not to directly or indirectly grant, or purport to grant, to any third party any rights or immunities under QSS's or its licensors' intellectual property rights in the Software that will subject such intellectual property to an open source license or scheme in which there is or could be interpreted to be a requirement that as a condition of use, modification and/or distribution, the Software be: (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.

9. THIRD PARTY SOFTWARE. Components of the QNX Product Portfolio contain elements of third-party software that are licensed to QSS (and are therefore provided to you) for limited purposes under terms and conditions that differ from those in this License. Such licenses include but are not limited to:

(i) the Eclipse Public License ("EPL"), GNU Public License ("GPL"), Lesser GNU Public License ("LGPL"), Mozilla Public License ("MPL"), and other open source licenses;

(ii) third party licenses that impose restrictions on use, copying, authorized purposes, etc. and/or supplemental obligations. Examples of affected products include but are not limited to: board support packages or individual device drivers that are limited to use with specific hardware manufacturers' products, and components of the QNX Aviage HMI Suite 2.0 and of the QNX Aviage Multimedia Suite; and/or

(iii) third party licenses that impose restrictions that limit use of the Software to use solely for demonstration and internal evaluation/trial purposes.

Those third party license terms, and any notices required to be provided by those third party licensors, are set out for:

(1) commercially released Software in the License Guide and the corresponding Third Party Terms List, and

(2) for other Software at the applicable download site, in or with the agreement it was provided under, or in the corresponding source code. You are solely responsible for ensuring that limited-use software is not used outside of the limits stated. Updated License Guides and Third Party Terms Lists may be issued for each new version of the Software. You are solely responsible for reviewing and complying with new versions if you adopt Software updates. You are also responsible for reviewing the source code and

corresponding documentation for any third party derivative works of QNX Runtime Components that you elect to adopt in substitution for unmodified QSS-licensed copies (see Section 4.2.2) for any supplementary terms and conditions that apply to the third party's modifications to the underlying Software. You acknowledge and agree that QSS can disclose to third party licensors that you have received a copy of their technology.

10. OWNERSHIP AND RESERVATION OF RIGHTS. The Software is protected by intellectual property laws including but not limited to copyright laws, both locally and internationally. The Software is licensed to you on the terms and conditions set forth in this License and is not sold. QSS and its licensors retain all rights, title and interests in and to the Software (including but not limited to any elements of the Software embodied in the derivative works you create) and reserve all rights in the Software not expressly licensed by this License including but not limited to copyrights and patent rights. Subject to all underlying rights of QSS and its licensors in the Software, and to the terms and conditions of this License, all other rights, title and interests in and to any derivative works of Software and other application software that you may develop pursuant to this License will be retained by you. No trademarks or service marks of QSS or its licensors are licensed by this License, and you understand and agree that QSS trademarks or service mark may not be applied to your goods or services without the express written permission of QSS.

11. FEEDBACK. QSS welcomes suggestions, comments or other feedback about its products (e.g., regarding their utility, reliability, or performance) and your user experience with the Software, as well as any bug-fixes, features, functionality or enhancements you would like to see in future versions (collectively "Feedback"). You agree that all Feedback is and will be given entirely voluntarily and, even if designated as confidential, will not create any confidentiality obligations for QSS. You agree not to: (i) provide any Feedback that you know or have reason to believe is subject to any third party intellectual property rights or would disclose third party confidential information, or (ii) disclose to QSS as Feedback any of your intellectual property rights or confidential information you intend to keep or license to QSS. In the absence of a separate written agreement between the parties, and in order for QSS to incorporate Feedback that you provide, you (Licensee) hereby agree to: (A) assign (and do hereby assign) to QSS all rights, title and interests (if any) in and to any QSS-specific Improvements (as defined below) included in or derived by or on behalf of QSS from your Feedback, including but not limited to any associated intellectual property, and (B) obtain (or confirm you have obtained) written waivers of all moral rights (if any) in such QSS-specific Improvements in favor of QSS, its licensees, licensors, successor and assigns. In this Section "QSS-specific Improvements" means any work-arounds, bug-fixes, features, functionality, enhancements or other suggested improvements to the Software, or to other QNX Product Portfolio components, that you provide.

12. U.S. GOVERNMENT RIGHTS. If you are a U.S. government or quasi-government entity, then you should be aware that the Software is a "commercial item", as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation", as such terms are used in 48 C.F.R. 12.1212 (Sept. 1995). Consistent with 48 C.F.R. 12.1212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all such customers acquire the Software with only those rights set forth herein. Use, duplication, or disclosure by the U.S. government is subject to restrictions as provided in DFARS 227.7202-1(a) and 227.7202-3(a) (1995), DFARS 252.227-7013 (c)(1)(ii) (OCT 1988), FAR 12.212(a)(1995), FAR 52.227-19, or FAR 52.227-14 (ALT III), as applicable. QNX Software Systems Limited is the licensor.

13. NO SUPPORT SERVICES. Support from QSS is only available under separate agreement and is not included in this License. You are encouraged to participate in and seek support from the QNX developer community on Foundry27.

14. CONFIDENTIAL INFORMATION.

14.1. "Confidential Information" means any information disclosed by one party ("Discloser") to the other party ("Recipient"), for the purpose of performing obligations or exercising rights under this License (the "Purpose"), in a document or file clearly marked "Confidential" (or equivalent) or otherwise in any manner or form provided it is clearly identified at disclosure as confidential and, within thirty (30) days of disclosure, is summarized and delivered to Recipient in a document marked "Confidential" (or equivalent). Confidential Information does not include information:

- (i) available to the public other than by reason of Recipient's breach of this License;
- (ii) rightfully received by Recipient from a third party without disclosure or use restrictions;
- (iii) independently developed by or on behalf of Recipient without access to Discloser's Confidential Information; (iv) previously known to Recipient other than by reason of a prior confidential disclosure by or on behalf of Discloser; or (v) hereinafter disclosed by Discloser to a third party without disclosure restrictions.

14.2. CONFIDENTIAL SOFTWARE. QSS hereby declares, and you (Licensee) agree, that unless or until the Software has been disclosed in source code at a public page of the Foundry27 web site at <http://community.qnx.com>, or otherwise falls into one or more of the exceptions in Section 14.1 (i) - (iv), the Software source code will be deemed to be Confidential Information of QSS and may not be disclosed in source code to any third party except as expressly authorized herein.

14.3. USE AND DISCLOSURE RESTRICTIONS. Recipient will: (i) use Discloser's Confidential Information only as necessary to achieve the Purpose; and (ii) disclose Discloser's Confidential Information only to persons who have a need to know to achieve the Purpose, and who are employees of Recipient, or of Recipient's affiliates, or of Recipient's or Recipient's affiliates' consultants or professional advisors, provided that all such recipients are bound by law or are subject to agreements that provide obligations at least as protective of the Confidential Information as the provisions of this Section 14. In the event Recipient is required to disclose Confidential Information in connection with any legal, judicial or administrative proceedings or government investigation or otherwise required by law, then Recipient will promptly notify Discloser and allow a reasonable time for Discloser to seek a protective or other court or administrative order from the appropriate court or government agency. Thereafter, such information may be disclosed to the extent required by law and subject to any protective order or other court or administrative order which may then apply.

14.4. RECIPIENT'S DUTY OF CARE. Recipient will protect Discloser's Confidential Information by using the same degree of care as Recipient uses to protect its own confidential information of like nature, but no less than reasonable care, to prevent the unauthorized dissemination or publication and unauthorized use of the Confidential. Recipient will only make copies of the Confidential Information as necessary to achieve the Purpose. Recipient will reproduce Discloser's proprietary rights notices on all copies in the same manner in which such notices were set forth in or on the original. The mingling of

Confidential Information with information that falls within one or more of the exceptions in this Section 14 will not impair the status of, or the obligations of confidence and non-use respecting, the confidential parts.

- 14.5. **DURATION OF OBLIGATIONS.** Each Recipient's duty to protect Confidential Information disclosed to it will survive termination of this License but will end (except in the case of Software source code for which Recipient's duty to protect is perpetual) on the third anniversary of the date of termination of this License. All Confidential Information furnished by Discloser to Recipient, and all copies thereof, which are in the possession or control of Recipient or anyone to whom it has disclosed such Confidential Information will be and remain the property of Discloser and will be promptly returned to Discloser or destroyed on termination of this License. Recipient may retain one copy of Discloser's Confidential Information in the confidential, restricted access files of its Legal department for use only to prove compliance with the terms and conditions of this License. This Section 14 will survive termination of this License.

15. NO WARRANTY.

- 15.1 **BACKGROUND.** The QNX Runtime Components comprise parts of a general purpose modular real-time operating system. You will select a subset of these modules for use in a unique hardware and software environment to implement certain desired functionality and performance. Ultimately, you may find that you cannot achieve your desired results. While QSS is committed to providing a versatile and reliable product, it does not warrant that the Software will function in accordance with its documentation in every combination of hardware platform, software environment and software configuration. You acknowledge that errors are likely to be encountered when the Software is used in your particular application. You therefore accept responsibility for satisfying yourself that the Software is suitable for your intended use. This includes conducting rigorous testing of the Software, in combination with your derivative works and value-added software application(s), on your target hardware platform prior to its initial release and prior to the release of any related software or hardware modifications or enhancements. QSS offers support plans and custom engineering services, subject to separate agreements, to help developers identify and solve particular Software implementation and integration issues.
- 15.2 **AVAILABILITY AND USE OF EXPERIMENTAL SOFTWARE.** QSS makes both commercially released Software and experimental Software available to you at Foundry27 (although other delivery mechanisms may be used from time to time). Foundry27 is where QSS and other Foundry27 project leads post their experimental Software, and where the QNX developer community shares other useful code.

For example, QSS-led projects on Foundry27 post experimental, alpha and beta milestone builds for components that will be included in upcoming commercial releases; whereas, Software updates that include the commercially released versions of the Project's components are made available only to commercial licensees from the myQNX.com download center. Experimental Software from QSS, including but not limited to unsupported BSPs, drivers and sample source code, as well as trial tool and runtime components, are usually made available on Foundry27. However, if third-party distribution restrictions prohibit such postings, then QSS may have to offer certain experimental Software as myQNX.com downloads. You acknowledge that you must always review associated release notes and download site warnings to confirm the release status of Foundry27 downloads.

QSS offers you access to experimental milestone builds in order to give QNX developers the earliest possible access to the latest QNX Product Portfolio technology and bug-fixes. Other

experimental Software is offered as a means of accelerating your development by leveraging source or binary code that has been written by others. Before using any experimental Software you should thoroughly test the stability of such code and/or assess the maturity of any milestone builds.

EXPERIMENTAL SOFTWARE MAY HAVE KNOWN DEFICIENCIES, MAY NOT HAVE BEEN FULLY OPTIMIZED AND TESTED, MAY NOT BE SUPPORTED BY QSS AND MAY BE UNRELIABLE. EXPERIMENTAL SOFTWARE MADE AVAILABLE TO YOU BY STRICTLY ON AN "AS IS" BASIS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND. IN NO EVENT WILL QSS (OR ITS LICENSORS) BE LIABLE UNDER ANY CAUSE OF ACTION WHATSOEVER FOR DAMAGES RESULTING FROM THE USE OF OR INABILITY TO USE ANY EXPERIMENTAL SOFTWARE.

Starting with version 6.4 of the Software, QSS now provides the ability (as described in Documentation) to confirm whether your binary files are commercially released Software or experimental Software (which includes any binary files that you compiled from QSS-supplied source code). This information will help you assess the suitability of any code you are considering for use in your project.

15.3 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE LICENSED UNDER THIS QNX EVALUATION, NON-COMMERCIAL & ACADEMIC END USER LICENSE AGREEMENT IS PROVIDED "AS IS" AND WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. QSS DOES NOT WARRANT AND NOTHING IN THIS LICENSE IMPLIES ANY WARRANTY THAT THE OPERATION OF SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY ERRORS FOUND WILL BE CORRECTED.

15.4 This Section 15 will survive termination and will apply notwithstanding the failure of essential purpose of any limited remedy.

16. LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL QSS, OR ITS AFFILIATES, OR THEIR OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, DISTRIBUTORS, OR LICENSORS (COLLECTIVELY "QSS AND ITS REPRESENTATIVES") BE LIABLE TO LICENSEE OR TO ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING BUT NOT LIMITED TO LOST REVENUE, LOST OR DAMAGED DATA, OR OTHER COMMERCIAL OR ECONOMIC LOSS, ARISING OUT OF OR RELATING TO ANY USE OR INABILITY TO USE SOFTWARE, EVEN IF QSS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR CLAIM.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE AGGREGATE LIABILITY TO YOU OF QSS AND ITS REPRESENTATIVES FOR ANY DAMAGES ARISING OUT OF OR RELATING TO THIS LICENSE, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED ONE HUNDRED U.S. DOLLARS (\$100.00). THIS SECTION WILL SURVIVE TERMINATION AND WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

YOU ACKNOWLEDGE AND AGREE THAT THE DISCLAIMERS, EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS LICENSE CONSTITUTE AN ESSENTIAL ELEMENT OF THIS LICENSE IN THE ABSENCE OF WHICH: (A) THE TERMS IN THIS LICENSE WOULD BE

SUBSTANTIALLY DIFFERENT; AND (B) QSS'S ABILITY TO OFFER AND YOUR ABILITY TO OBTAIN THE SOFTWARE UNDER THIS LICENSE WOULD BE IMPAIRED.

17. MULTIMEDIA CONTENT. Certain QNX Runtime Components may enable Target Systems to produce or reproduce (including but not limited to by ripping), copy, perform and/or display multimedia content (e.g., audio, images, video). The required intellectual property license rights necessary to use or offer devices with such capabilities will vary, depending on factors such as the intended use of the device, the types of content involved, the markets in which the device is used or sold, etc. You are solely responsible for determining all such requirements and making all of the arrangements (e.g., obtaining licenses, paying copyright collectives' fees, limiting the device functionality in some markets, etc.) necessary to make, use, import, distribute and/or sell your Target Systems, and/or to offer related services (to the extent permitted by the terms and conditions of this License), in all of your direct or indirect markets. Further, you agree to indemnify and hold QSS, its affiliates, and their distributors or suppliers, (collectively, "QSS and its Representatives") harmless from any damages, and any costs and expenses (including but not limited to reasonable attorney's fees) incurred, in any third-party action against any one or more of QSS and its Representatives based on intellectual property infringement caused by making, using, importing, distributing and/or selling your Target Systems, and/or offering related services, in any of your direct or indirect markets.

18. TERMINATION. This License will terminate immediately upon your failure to meet the qualifications for a License Key for one of the License Classes listed in Section 4 (License Classes), your breach of any one of the prohibitions in Section 7 (Prohibited Activities), or upon the expiration of the License Key, whichever occurs first. QSS may terminate this License upon thirty (30) days written notice to you of your breach of a material term herein. You may terminate this License at any time for any reason. QSS may immediately terminate your rights to the Software, in whole or in part, if QSS reasonably believes the Software infringes intellectual property rights or misappropriates trade secrets of a third party and QSS has been unable to either procure for you the right to continue using the Software for free, or replace or modify the infringing Software with free non-infringing software of comparable function. Upon termination, you will immediately destroy the original and all whole or partial copies of the Software and License Keys used under this License that are in your possession or control. The provisions of this License that are expressed or by their sense and context are intended to survive the termination of this License will survive, including but not limited to Sections 1 (Definitions), 5 (Authentication), 7 (Prohibited Activities), 8 (Preservation of Rights), 9 (Third Party Software), 10 (Ownership and Reservation of Rights), 11 (Feedback), 12 (US Government Rights), 14 (Confidential Information), 15 (No Warranties), 16 (Limitation of Liability), 17 (Multimedia Content), 18 (Termination), 20 (Governing Law), 21 (Arbitration), 22 (Assignment), 24 (Whole Agreement), and 26 (Interpretation). Termination is without prejudice to any right or remedy that may have accrued, or be accruing to either Party prior to termination.

19. DEFENSIVE TERMINATION FOR PATENT INFRINGEMENT ACTION. This License will terminate as of the date you institute patent litigation (including but not limited to a cross-claim or counterclaim in a lawsuit) in any jurisdiction against any entity alleging that the Software infringes or contributes to the infringement of a patent.

20. GOVERNING LAW. This License will be governed by and construed in accordance with the laws in force in the Province of Ontario, Canada, without regard to the conflicts of laws provisions thereof. The parties hereby irrevocably waive (i) the provisions of the United Nations Convention on

Contracts for the International Sale of Goods, and (ii) any right to a trial by jury regarding the resolution of any dispute between the parties hereto arising out of or in connection with this License.

21. **ARBITRATION.** It is the intention of the parties to settle any dispute relating to this License; however, if the parties cannot settle any such dispute themselves, then such dispute will be arbitrated and finally settled under the provisions of the Arbitration Act of Ontario and the National Arbitration Rules of the ADR Institute of Canada, Inc. The place of arbitration will be Ottawa, Ontario, Canada. The language of the arbitration will be English. The decision of the arbitrator will be final and binding on the parties. The prevailing party will be entitled to recover its costs and expenses from the arbitration, including but not limited to reasonable attorney's fees. All information pertaining to any dispute that relates to this License will be considered Confidential Information for the purpose of Section 14 (Confidential Information).

22. **ASSIGNMENT.** You may not assign this License, or assign any rights or delegate any obligations under this License, without the prior written consent of QSS. An assignment will be deemed to include any merger (if you are a corporate entity) with another party, whether or not you are the surviving entity, the acquisition of more than 50% of any class of your voting stock by another party, or the sale of more than 50% of your assets. Any attempted assignment or delegation in violation of the foregoing will be void and of no effect. This License will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

23. **EXECUTION AND ACCEPTANCE.** Nothing but this License (or any other written agreement between you and QSS) authorizes you to undertake any of the activities described in this License, and doing so in contravention of these terms and conditions is breach of contract and/or copyright or patent infringement. When you enter your License Key to unlock the Software this License will be displayed for your review and acceptance. Choosing "I ACCEPT" during that process constitutes your execution and acceptance of this License.

24. **WHOLE AGREEMENT.** This License, including but not limited to the License Guide and Third Party Terms List, constitutes the entire agreement between the parties pertaining to its subject matter and supersedes any prior or contemporaneous agreement, representation, statement, negotiation, undertaking dealing with the same subject matter. The provisions of this License will prevail in the event of a conflict between any of its provisions and the License Guide or Third Party Terms List, or any inconsistent or additional terms or conditions of either party's purchase orders or invoices. No amendment, modification or waiver of any part of this License will be binding unless in a written document that expressly refers to this License and that is signed by both parties. The divisions and headings in this License have been included for convenience only and will not affect its construction or interpretation.

25. **INTERPRETATION.** The divisions and headings in this License have been included for convenience only and will not affect its construction or interpretation. Any provision of this License that is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

26. DEVELOPER EXPERIENCE. QSS may contact you to ask about your impressions of the Software, the QNX Product Portfolio, Foundry27 or the QNX developer community. In consideration for the free license rights granted to you under this License you agree to provide your feedback.

27. LANGUAGE. This License has been drafted in the English language at the express request of the parties. Les parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés en anglais.

Copyright 2012, QNX Software Systems Limited. All rights reserved. QNX, Momentics, Neutrino, Aviage, Photon, Photon microGUI and Foundry27 are trademarks of QNX Software Systems Limited, which are registered and/or used in certain jurisdictions.

Document Version: NCEULA.v009.Apr17-12