

LIEBERTTM NFORM SOFTWARE LICENSE AGREEMENT

READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE ATTEMPTING TO DOWNLOAD, INSTALL, OR USE THE SOFTWARE. BY DOWNLOADING, INSTALLING, OR USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, DO NOT DOWNLOAD, INSTALL, OR USE THE SOFTWARE. IN SUCH A CIRCUMSTANCE, THE SOFTWARE MAY BE RETURNED WITHIN THIRTY (30) DAYS OF YOUR RECEIPT FOR A FULL SOFTWARE REFUND. YOU REPRESENT THAT YOU (I) ARE NOT LOCATED IN, UNDER THE CONTROL OF, OR A NATIONAL RESIDENT OF ANY COUNTRY TO WHICH THE UNITED STATES HAS EMBARGOED GOODS, (II) ARE NOT ON THE U.S. TREASURY DEPARTMENT'S LIST OF SPECIALLY DESIGNATED NATIONALS, (III) ARE NOT ON THE U.S. COMMERCE DEPARTMENT'S LIST OF DENIED PERSONS, OR (IV) ARE NOT OTHERWISE PROHIBITED BY U.S. LAW FROM RECEIVING OR USING THE SOFTWARE (COLLECTIVELY "EXPORT RESTRICTIONS"). IF YOU DO NOT HAVE AUTHORITY TO ACCEPT THIS AGREEMENT FOR YOUR ORGANIZATION, IT IS YOUR OBLIGATION TO ENSURE THAT AN AUTHORIZED INDIVIDUAL MAKES THE DETERMINATION THAT YOUR ORGANIZATION IS NOT SUBJECT TO THE ABOVE EXPORT RESTRICTIONS PRIOR TO DOWNLOADING, INSTALLING, OR USING THE SOFTWARE.

This Nform Software License Agreement ("Agreement") is a legal agreement between you and Liebert Corporation, an Ohio, United States of America, corporation, ("Liebert"). Liebert's Nform software, including enhancements, upgrades, and any future releases, if provided, is made available exclusively for use with Liebert products and/or non-Liebert products provided that you obtain the appropriate product template from Liebert for non-Liebert products (individually and collectively, "Products"). The foregoing, including any accompanying program(s), documentation, images, animation, and text incorporated therein, (collectively "Software"), is provided solely for commercial and industrial use under the license terms specified herein.

GRANT OF RIGHTS: Provided that you comply with all of the terms of this Agreement, Liebert grants a non-exclusive, non-transferable license to you to install and use the Software solely for use with Products as provided for herein. You represent and warrant that you will not use the Software in violation of applicable laws and regulations or where such use detrimentally affects Liebert's rights in the Software or subjects Liebert to liability. You assume responsibility for the selection of the Software to achieve your intended results, and for the installation, use, and the results obtained from the Software. Provided that you have paid the applicable license fees, you may use the Software in accordance with the license indicated on your Order Acknowledgement. Any other operation of the Software at any time shall constitute a material breach of this Agreement and shall terminate this license as provided for below. By use of the Software, you agree that Liebert may, at its option, perform an audit of your usage of the Software to determine the number of servers and Products that are using the Software.

TERMINATION OF LICENSE: Your license is automatically terminated if you: (1) use the Software with anything other than Products, (2) attempt to copy or reconstruct any part of the object code, source code, or algorithms, (3) attempt to decompile, disassemble or reverse engineer the Software, in whole or in part, or otherwise attempt to derive the source code of the Software, (4) provide, disclose, sell, rent, lease, license, sublicense, or otherwise transfer or assign the Software to any third party, (5) use the Software in excess of the licensed coverage purchased, (6) write or develop any derivative software or any other software program based upon the Software, (7) modify or alter the Software, or (8) fail to comply with any other license terms. You may elect to terminate this license at any time by destroying the Software together with all copies and any portions thereof in any form.

LIMITED WARRANTY: Liebert represents that it has the right and authority to grant the license herein. Liebert warrants solely to you for a period of thirty (30) days from the date of Liebert shipment or distribution that the distribution media (if supplied) on which the Software is furnished under normal use



will be free from defects in material and workmanship and the Software will substantially conform to Liebert published documentation. EXCEPT FOR THE ABOVE EXPRESS WARRANTIES, THIS SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR INTENDED PURPOSE. LIEBERT DOES NOT WARRANT THAT THE SOFTWARE FUNCTIONS WILL MEET YOUR REQUIREMENTS OR THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR FREE.

LIMITATION OF REMEDIES: Liebert's entire liability and your exclusive remedy arising from use or inability to use the Software is:(1) The replacement of any distribution media not meeting Liebert's warranty, or (2) If Liebert is unable to provide you a replacement that conforms to Liebert's warranty, to refund the purchase price. **THE REMEDIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE.**

LIMITATION OF DAMAGES: IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT, OR OTHERWISE), SHALL LIEBERT'S LIABILITY TO YOU EXCEED THE PRICE PAID BY YOU FOR THE SOFTWARE. YOU AGREE THAT LIEBERT'S LIABILITY TO YOU SHALL NOT EXTEND TO INCLUDE SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES EVEN IF LIEBERT IS ADVISED OF THE POSSIBILITY OF THESE DAMAGES. The term "consequential damages" shall include, but not be limited to, loss of anticipated profits, business interruption, loss of use, revenue, reputation and data, costs incurred, including without limitation, for capital, fuel, power and loss or damage to property or equipment. You acknowledge that this Agreement reflects this allocation of risk.

COPYRIGHT: This Software is the proprietary property of Liebert and/or its suppliers and is protected by United States copyright laws, other applicable copyright laws, and international treaty provisions. Title and ownership of all copyrights to the Software remain in Liebert or third parties. Accordingly, your rights to use, copy and modify the Software are strictly limited to the specific rights provided in this Agreement or as may otherwise be required by applicable copyright law.

DATA COLLECTION AND USE: By using the Software, you grant Liebert, its affiliates, subsidiaries, and service providers a non-exclusive, irrevocable, royalty free, worldwide right and license to collect, compile, retain, use, reproduce, and create derivative works of, your non-personal information and data, which includes without limitation, all data, materials, reports, text, sound, video, image files, software or any other information ("Service Data") that is provided by, or on behalf of, you, or collected or compiled by Liebert, its affiliates, subsidiaries, or service providers through the Software. Liebert, its affiliates, subsidiaries, and service providers may collect, compile, retain, use, reproduce, and create derivative works of Service Data: (i) to provide services, support, and maintenance; (ii) to develop and improve products, software, and services; and (iii) for scientific and technical research and marketing purposes. You are solely responsible for the Service Data, and you will secure and maintain all rights necessary for Liebert, its affiliates, subsidiaries, and service providers to process and use Service Data as described in this paragraph without violating the rights of any third party or otherwise obligating Liebert, its affiliates, subsidiaries, and service providers to you or any third party. The Service Data will be aggregated with other information, materials, or data collected or compiled by, or provided to, Liebert, its affiliates, subsidiaries, or service providers and anonymized, such that the Service Data will not intentionally reveal your identity. In accordance with applicable law. Service Data may be transferred, transmitted, or distributed to, stored, and processed in, cloud computing environments in the United States or any other country in which Liebert, its affiliates, subsidiaries, or service providers maintain operations. By using the Software, you agree to such use, transfer, transmission, distribution, storage, and processing of the Service Data. Liebert, its affiliates, subsidiaries, and service providers will retain Service Data for as long as is necessary for Liebert and its affiliates and subsidiaries business purposes in accordance with applicable law. The rights and licenses granted herein to Liebert service providers shall only be granted to the extent service providers are providing goods and services on Liebert and its affiliates and subsidiaries behalf.



U.S. GOVERNMENT RESTRICTED RIGHTS: This Software is developed at private expense and is provided with "Restricted Rights." Use, duplication, or disclosure by the United States Government is subject to restrictions set forth in the Federal Acquisition Regulations and its Supplements.

ASSIGNMENT: You may not sublicense, assign, or otherwise transfer this license of the Software without the prior written consent of Liebert. Any such transfer of rights, duties, or obligations is void and terminates this Agreement.

EXPORT RESTRICTIONS: You may not export the Software in violation of applicable export laws and regulations of the applicable countries. You agree to comply with all laws, regulations, decrees and orders of the United States of America that restrict the exportation (or re-exportation) of the Software to other countries, including, without limitation, the U.S. Export Administration Regulations.

UPDATE POLICY: Liebert may create, from time to time, updated versions of the Software. Liebert reserves the right to make changes to or improvements in any aspect of the Software at any time without prior notice to you and without an obligation to supply such changed and/or improved Software to you.

NUCLEAR/MEDICAL: THE SOFTWARE IS NOT FOR USE IN CONNECTION WITH ANY NUCLEAR, MEDICAL, LIFE-SUPPORT, AND RELATED APPLICATIONS. You agree to defend, indemnify, and hold harmless Liebert from any claims, losses, suits, judgments and damages, including incidental and consequential damages, arising from such use, whether the cause of action be based in tort, contract or otherwise, including allegations that the Liebert's liability is based on negligence or strict liability.

JAVA SUPPORT: The Software may contain support for programs written in Java. Java Technology is not fault tolerant and is not designed, manufactured, or intended for use or resale as online control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of java technology could lead directly to death, personal injury, or severe physical or environmental damage.

COMPLETE AGREEMENT/GOVERNING LAW/VENUE: This Software license agreement comprises the final and complete agreement between the parties. No person is authorized to change or modify this Agreement except an executive officer of Liebert Corporation and then only in writing. The laws of the United States and the State of Ohio shall apply to this Agreement and its interpretation without reference to choice or conflict of laws principles. Liebert and you hereby irrevocably submit to the personal and subject matter jurisdiction of any State of Ohio or federal court sitting in Columbus, Ohio, in any action or proceeding arising from or relating to this Agreement. If any provision of this Agreement is held to be void, invalid, unenforceable, or illegal, the other provisions shall continue in full force and effect.