

## Software License Agreement

This Agreement made by and between Advantica Limited, whose registered office is situated at Holywell Park, New Ashby Road, Loughborough, Leicestershire, LE11 3GR, United Kingdom ("Advantica") and xxx, whose registered office is situated at xxx ("Licensee").

## ARTICLE 1 - DEFINITIONS

The following definitions of certain key terms used in this Agreement shall apply:

1.01. "Anniversary Date" means each annual recurrence of the Delivery Date.

1.02. "Computer System" means, collectively, the Computer System(s) specified in SCHEDULE A, subject to any additions to, substitutions for and deletions from such list as may hereafter, from time to time, be requested by Licensee and approved, in writing, by Advantica.

1.03. "Delivery Date" means the date Licensee receives delivery of the Software and Documentation licensed to Licensee under this Agreement.

1.04. "Documentation" means the documentation provided by Advantica to Licensee for use in connection with the Software, including any help files included within the Software.

1.05. "Licensee's Business" means the internal business of Licensee specified in SCHEDULE A. In all cases, unless specified otherwise in SCHEDULE A, the term will not include providing services or advice for fee or for free to any third party persons, firms or corporations.

1.06. "Object or Executable Code" means the machine-readable instructions for the Software.

1.07. "Proprietary Information" means the Software and Documentation, and all other software codes, trade secrets, confidential data, designs, concepts, discoveries, ideas, enhancements, improvements, specifications, processes, plans, and inventions, and other business information whether patentable or not, provided such is conceived, developed and/or reduced to practice by Advantica. Proprietary Information does not include information: (1) which is in or enters the public domain without breach of this Agreement; (2) previously known to Licensee as evidenced by Licensee's written records; (3) independently developed by Licensee as evidenced

by Licensee's written records; or (4) lawfully disclosed to Licensee by a third party.

1.08. "Software" means the proprietary computer software module(s) specified in Schedule A in the form described in Schedule A, and shall be deemed to include any and all Updates licensed hereunder from time to time.

1.09 "Updates" means program logic and documentation changes and improvements provided by Advantica to Licensee to correct known defects and maintain the operational quality of the Software.

1.10. "Authorised Users" means the total number of employees and contractors of the Licensee permitted to use the Software, as specified in Schedule A.

1.11. "Licensed Territory" means the country or countries specified in Schedule A in which the Licensee is permitted to use the Software.

1.12. "Licensed Application(s)" means the applications for which the Software may be used, as specified in Schedule A.

1.13. "S&M" Agreement means the support and maintenance agreement for the Software to be executed by or on behalf of the Licensee.

## ARTICLE 2 - LICENSE GRANT

2.01. LICENSE GRANT. Advantica hereby grants to Licensee, and Licensee accepts, subject to the terms and conditions of this Agreement, a non-exclusive and non-transferable license to use, but not to relicense, the Software and Documentation described in SCHEDULE A, solely in connection with the Licensee's business for the Licensed Application(s) in the Licensed Territory. The license granted by this Agreement authorizes use of the Software and Documentation only by Authorised Users.

2.02. COMPUTER SYSTEM(S). Licensee should only use the Software only on the Computer System(s) of a type specified in SCHEDULE A.

2.03. SIMULTANEOUS USE. The maximum number of AUTHORISED USERS permitted under this Agreement to simultaneously use the Software is specified in SCHEDULE A. Additional use requires the prior written approval of Advantica, and will

require an increase in the fee(s) specified in SCHEDULE A.

2.04. DELIVERY. The Software and Documentation will be delivered to Licensee promptly following Advantica's receipt of two properly executed copies of this License Agreement.

2.05. COPIES. Licensee will be provided with the number of original copies of the Software as specified in SCHEDULE A and may make one copy thereof for each of the AUTHORISED USERS. Licensee may maintain backup copies only as specified in SCHEDULE A. All copies of the Software are the property of Advantica. Additional licenses for the use of additional copies can be purchased from Advantica at then prevailing License Fees.

Advantica hereby grants to Licensee a limited right to reproduce the Documentation. Licensee may copy the Documentation in whole or in part only for its internal use as authorized by this Agreement and only provided that Licensee maintains Advantica's copyright and trademark notices on all whole or partial copies made. The original and all copies of the Documentation are the sole property of Advantica and Advantica expressly reserves all right, title, and interest therein, including associated intellectual property rights. Licensee shall keep a record of all such copies and the location of such copies.

2.06. VERIFICATION. Licensee will maintain knowledge of the location of all copies of the Software and Documentation permitted by SCHEDULE A at all times, and this knowledge will be made available to Advantica upon request. Also upon request, Licensee will provide Advantica with a written certification that all previously licensed copies of the Software and Documentation that are no longer licensed were destroyed or permanently deleted as provided hereunder.

2.07. TEMPORARY USE. Licensee is authorized to use the Software temporarily on a back-up Computer System when any Computer System specified in SCHEDULE A is temporarily inoperable until operable status is restored.

2.08. NON-ASSIGNMENT OF USE. Licensee's rights under this Agreement are personal to Licensee, and may not be assigned, licensed or transferred, by operation of law, or otherwise, without the prior written consent of Advantica.

### ARTICLE 3 - MAINTENANCE AND SUPPORT SERVICES

3.01. COORDINATION. Licensee shall identify one person as specified on SCHEDULE A to serve in the capacity of coordinator for the purpose of receiving, distributing and coordinating the use of the Software and Documentation at Licensee's Computer System(s). Licensee shall provide Advantica prompt written notification of any change in the person designated as Licensee's coordinator.

3.02. ERROR CORRECTION. Advantica and Licensee will promptly notify each other of any error in the Software that causes it not to perform substantially in accordance with the Documentation. Licensee will provide Advantica with written examples of the error and any supporting materials providing details sufficient to diagnose or reproduce the error. Advantica will exercise best efforts to correct any errors of which Advantica becomes aware. The correction of any such errors by Advantica shall be pursuant to the S&M Agreement.

UPDATES. Advantica will provide Licensee with Updates to the Software and Documentation as developed under the S&M Agreement and made available by Advantica.

CLIENT ERROR AND RESPONSIBILITY. Where Licensee notifies Advantica of an error or malfunction in the Software, and preliminary investigation by Advantica concludes that the reported error or malfunction is likely not an error or malfunction in the Software but rather Licensee error in the use of the Software or in Licensee's data submitted to the Software, Advantica will notify Licensee of its finding and advise Licensee that requested continued investigation by Advantica may result in charges to Licensee. If Licensee requests Advantica to continue investigation, and if it is determined by Advantica that the problem is due to Licensee error in the use of the Software or in the data submitted to the Software, as opposed to an error, defect or nonconformity in the Software itself, Licensee will reimburse Advantica at Advantica's rates then in effect for all costs incurred in investigating the error or malfunction.

CONSULTATION. Advantica will provide reasonable fax, email and/or telephone assistance to advise Licensee on the use of the Software pursuant to the S&M Agreement.

3.03. COMPUTER SYSTEM(S) COMPATIBILITY; MODIFICATION. Any alteration or modification of the Software by Licensee without prior written approval of Advantica, or use of the Software on any Computer System(s) other than as specified in SCHEDULE A will void any obligation by Advantica to provide maintenance and support services and will void Advantica's warranties under this Agreement.

Advantica undertakes no obligation whatsoever to modify the Software to perform successfully on any computer system other than the Computer System specified in SCHEDULE A, and Advantica is hereby expressly entitled to reject any computer system proposed by Licensee if the approval thereof by Advantica would require any such modification.

3.04. **ADVANTICA'S RIGHTS.** Advantica reserves the right to make corrections or improvements to the Software and Documentation at any time without notice. Advantica reserves the right to discontinue any Software, or any medium format, at any time without notice, to be effective upon the termination of the current S&M Agreement.

#### ARTICLE 4 - TERM AND TERMINATION

4.01. **TERM.** The License Term, of this Agreement will be as specified in SCHEDULE A.

4.02. **TERMINATION.** In addition to the provisions dealing with breach provided herein, Licensee acknowledges that if Licensee breaches its obligations under 2.03 (SIMULTANEOUS USE), 2.05 (COPIES), 8.01 (CONFIDENTIALITY) or 8.02 (CODE INTEGRITY), Advantica has the right to immediately terminate this Agreement without any refund or other obligation and to pursue all remedies available to Advantica under this Agreement and otherwise at law or in equity.

4.03. **OBLIGATIONS UPON TERMINATION.** Upon termination of the License Term of this Agreement, Licensee will return the Software and Documentation and all copies thereof to Advantica and will deliver a certification by a duly authorized officer of Licensee to Advantica within ten (10) days of such termination stating that it no longer has any rights to use the Software and Documentation and that the original and all copies of the Software and Documentation have been returned to Advantica. Licensee's obligations under this Article 4.03 and Articles 7 (PROPERTY RIGHTS) and 8 (PROPRIETARY AND TRADE SECRET INFORMATION) shall survive the termination of this Agreement.

#### ARTICLE 5 - PAYMENT

5.01. **FEE(S).** In consideration of the license granted and services rendered hereunder, Licensee will pay the Fee(s) specified in SCHEDULE A. All payments to Advantica will be in Pounds Sterling. Payment of the Fee(s) specified in SCHEDULE A shall be made within thirty (30) days of the date of Advantica's invoice for the commencement of the

License Term, and in advance for any renewal thereof.

5.02. **LATE PAYMENT.** If the Licensee fails to pay any amount when due, the unpaid amount shall bear interest calculated on a daily basis from the date due until paid, whether before or after judgement, at a rate equal to the higher of (a) 4% above Barclays plc UK Bank Base Rate in effect from time to time and (b) any statutory rate to which Advantica is entitled to claim by virtue of the Late Payment of Commercial Debts (Interest) Act 1998 or successor legislation in force in the United Kingdom from time to time.

5.03. **TAXES.** There will be added to any charges under this Agreement amounts equal to any tariffs, duties or taxes, (including without limitation sales, use, value added, personal property, and other) imposed or levied based on Licensee's possession or use of the Software and Documentation by any government or governmental agency, and Licensee will promptly pay to Advantica an amount equal to any such taxes actually paid, or required to be collected or paid by Advantica.

#### ARTICLE 6 - WARRANTIES

6.01. **WARRANTY OF OWNERSHIP.** Advantica warrants that it has the right to grant the license contained herein. Advantica further warrants that the Software and Documentation were developed by Advantica, or that Advantica is authorized to license the Software and Documentation to Licensee, and that to the best of Advantica's knowledge, the Software and Documentation do not infringe upon or violate any UK copyright or UK patent of any third party.

6.02. **WARRANTY OF PERFORMANCE.** Advantica warrants that the Software as delivered to Licensee, shall perform substantially in the manner specified in the Documentation. However, Advantica does not give any warranty that the Software will be error free. Any errors with the Software that are notified to Advantica shall be dealt with pursuant to the S&M Agreement.

6.03. **DISCLAIMER OF WARRANTIES.** THE WARRANTIES CONTAINED IN THIS ARTICLE ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE CONCERNING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

## ARTICLE 7 - PROPERTY RIGHTS

7.01. **PROGRAM RIGHTS.** Licensee acknowledges that the Software and Documentation are and shall remain the property of Advantica, that Advantica owns all rights to the Software and Documentation, and that Licensee shall use the Software and Documentation only under the terms and conditions of this Agreement. Licensee shall keep the Software and Documentation free and clear of any and all liens, security interests or encumbrances.

## ARTICLE 8 - PROPRIETARY AND TRADE SECRET INFORMATION

8.01. **CONFIDENTIALITY.** Licensee acknowledges that the Software and Documentation contain Proprietary Information, that the same have been developed by Advantica through the expenditure of substantial time and money, which Advantica desires to retain in confidence and to withhold from unauthorized disclosure to others. Licensee shall, and shall cause its employees and agents to, retain in confidence and shall not disclose, sell, license, transfer or otherwise dispose of the Software and Documentation or the Proprietary Information contained therein other than as permitted herein, without Advantica's prior written approval. Licensee shall protect the confidential nature of the Software and Documentation employing procedures no less restrictive than the strictest procedures used by Licensee to protect its own confidential information. Licensee shall notify Advantica immediately of any unauthorized possession, use or knowledge of the Software and Documentation or the Proprietary Information contained therein, shall assist in preventing a recurrence thereof, and shall cooperate with Advantica in any litigation against third parties deemed necessary by Advantica to protect its rights.

8.02. **CODE INTEGRITY.** Licensee agrees that it shall not modify the Software, create derivative works of the Software, or create or attempt to create, or permit others to create or attempt to create, by reverse engineering, decompilation, disassembly, or otherwise, the source code for the Software or any part thereof from the Object or Executable Code, the Documentation or Proprietary Information made available to Licensee under this Agreement.

## ARTICLE 9 - LIABILITY AND DEFAULT

9.01. **INDEMNIFICATION BY ADVANTICA.** Advantica will indemnify and hold Licensee, its officers and employees harmless from any claims, demands, liabilities, actions, suits or proceedings filed

by any third party that the Software and Documentation constitute an infringement of any UK copyright or UK patent, excluding any claims arising out of Licensee's unauthorized use or modification of the Software, provided that Licensee gives Advantica prompt notice of all such claims, demands, liabilities, actions, suits or proceedings asserted and cooperates with Advantica in the defense thereof. Advantica shall have control of the defense of such lawsuit.

9.02. **INDEMNIFICATION BY LICENSEE.** Licensee will indemnify and hold Advantica, its officers and employees harmless from any claims, demands, liabilities, actions, suits or proceedings filed by any third party arising out of the correctness of data or information input to the Software by Licensee, Licensee's unauthorized, negligent or improper use of the Software and Licensee's interpretation or application of results obtained from the Software under this Agreement, and agrees to undertake the cost of defending same, including reasonable attorney's fees. Licensee shall have control of the defense of such lawsuit.

9.03. **ATTORNEYS' FEES.** In the event Advantica or Licensee brings any proceeding or lawsuit in connection with this Agreement, the prevailing party will be entitled to recover its costs and reasonable attorneys' fees.

9.04. **DEFAULT.** Failure by either party to comply with any material term or condition under this Agreement will entitle the other party to give written notice of the default. If the defaulting party has not cured the default within sixty (60) days after receipt of the written notice, the non-defaulting party, in addition to any other rights it may have under this Agreement or otherwise under law, may terminate the License Term and the Maintenance and Support Term of this Agreement effective upon the defaulting party's receipt of a subsequent termination notice.

9.05. **LIMITATION OF LIABILITY.** Advantica shall not be liable to Licensee or its successors or any third party for any loss of profits, loss of business, interruption of business nor indirect, special or consequential damages of any kind arising from or in connection with the use of the Software and Documentation or the Proprietary Information supplied hereunder even if the remedy provided hereunder should fail of its essential purpose. Advantica's liability for direct damages to Licensee or others resulting from use of the Software shall not exceed the amount of the initial term License Fee actually received by Advantica under this Agreement.

## ARTICLE 10 - GENERAL PROVISIONS



10.01. **GOVERNING LAW.** The validity, construction and performance of this Agreement shall be governed by English law. Any dispute arising under or in connection with this Agreement shall (subject to the provisions for dispute resolution set out herein) be subject to the exclusive jurisdiction of the English courts to which the parties to this Agreement hereby submit save that Advantica may in its discretion seek to enforce any right or remedy against the Licensee directly through the courts of any other competent jurisdiction, having competent jurisdiction by reason of the domicile or place of business of the Licensee.

Any dispute (other than relating to payment of the Fees) between the parties shall be referred in the first instance to mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure. To initiate a Mediation, a party shall give written notice to the other (a 'Mediation Notice') requesting Mediation, with a copy being forwarded to CEDR requesting CEDR to nominate a Mediator in the event that PARTIES have not previously agreed upon a choice of Mediator. The Mediation shall commence within 28 days of service of the Mediation Notice.

10.02. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the parties with respect to the matters contained herein. This Agreement may not be modified or amended except in writing signed by authorized representatives of Advantica and Licensee. Any terms and conditions contained on any acknowledgment, purchase order or other document submitted by Licensee to Advantica which are in conflict with or in addition to the terms of this Agreement will be void and of no effect.

10.03. **RELATIONSHIP OF PARTIES.** Nothing contained in this Agreement shall in any way be construed to create an agency relationship, partnership or joint venture between the parties, and each party shall have no power to obligate or bind the other in any manner whatsoever.

10.04. **NOTICE.** Any notice required or permitted to be sent under this Agreement will be delivered to the addresses of the parties specified in SCHEDULE A by hand, or mailed by certified mail, return receipt requested, by overnight courier service, or by fax with confirmation copies sent by overnight courier, to the addresses of the parties specified in SCHEDULE A. Notice so sent will be deemed effective when delivered or deposited in the mail with postage prepaid.

10.05. **NO WAIVER.** A term or condition of this Agreement can be waived only by written consent of

the appropriate party. Forbearance or indulgence by either party in any regard will not constitute a waiver of the term or condition to be performed and, until performance of the term or condition is complete, the other party may invoke any remedy available under the Agreement or by law, despite such forbearance or indulgence.

10.06. **FORCE MAJEURE.** Neither party will be responsible for delay or failure in performance resulting from causes beyond the control and without default or negligence of such party, excepting only payment obligations.

10.07. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

10.08. **SEVERABILITY.** If any of the provisions of this Agreement are declared to be invalid, such provisions will be severed from this Agreement and the other provisions hereof will remain in full force and effect.

10.09. **COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which will be regarded for all purposes as an original and such counterparts will constitute but one and the same instrument.

10.10. **TITLE HEADINGS: GENDER.** The title headings of the respective articles and sections of this Agreement are inserted for convenience and shall not be deemed to be a part of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context requires.

10.11. **INJUNCTIVE RELIEF.** Advantica and Licensee hereby acknowledge that damages at law may be an inadequate remedy for the breach of any of the covenants, promises and agreements contained in articles 8.01 (CONFIDENTIALITY) and 8.02 (CODE INTEGRITY). Accordingly, Advantica shall be entitled to temporary and permanent injunctive relief with respect to any such breach without the necessity of proving actual damages, including specific performance of such covenants, promises or agreements or an order enjoining Licensee from any threatened, or from the continuation of any actual, breach of such covenants, promises or agreements. The rights set forth in this Section shall be in addition to any other rights that Advantica may have at law or in equity.

IN WITNESS WHEREOF, and intended to be legally bound hereby, each of the parties hereto have caused this Agreement to be executed in its name and behalf by its duly authorized officers, to be effective as of the date of signing by Advantica.

xxx

ADVANTICA LIMITED

BY: \_\_\_\_\_  
(Authorised Signature)

BY: \_\_\_\_\_  
(Authorised Signature)

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

POSITION: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**SCHEDULE A****LICENSEE:**

xxx

xxx

xxx

**LICENSEE'S BUSINESS**

: Pipeline transportation

**SOFTWARE**

: FFREQ model (standalone version)

**LICENSED TERRITORY**

: Worldwide

**TERMS:**

Number of Original Copies  
Recorded Form  
Distribution Media  
Simultaneous Use Maximum  
Back-Up Copies Allowed

: One (1)  
: Object Code  
: Downloadable from secure website  
: Two (2) Per Original Copy  
: One (1) Per Original Copy

License

Term

: 12 months

Effective Date

: xxx

Fee

: £5,000 (GB Pounds) per annum payable by UKOPA

**COMPUTER SYSTEM(S) AND INSTALLATION SITE(S)**

CPU Manufacturer  
Operating System

: INTEL Pentium or higher or 100% compatible processor  
: Windows 98 or Windows NT, Windows CE, Windows ME, or Windows XP

**NOTICES**

xxx

xxx

xxx

Attn:

**Advantica**

Advantica Limited  
Ashby Road  
Loughborough  
Leicestershire LE11 3GR  
United Kingdom

Attn: Dr. Michael Acton

This SCHEDULE is an attached SCHEDULE to the SOFTWARE LICENSE AGREEMENT between Licensee and Advantica Limited

ACCEPTED:

XXX

ACCEPTED:

ADVANTICA LIMITED

BY: \_\_\_\_\_  
(Authorised Signature)

BY: \_\_\_\_\_  
(Authorised Signature)

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

POSITION: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_