

**SOUTHWEST RESEARCH INSTITUTE  
ACADEMIC NESSUS® PROGRAM AND DOCUMENTATION LICENSE AGREEMENT**

---

Southwest Research Institute ("SwRI") agrees to grant, and \_\_\_\_\_, ("the Customer") agrees to accept, a nonexclusive non-transferable license (the "License") to use the program(s) delivered in executable code form, known as NESSUS, and documentation delivered with this Agreement (the "Program(s)" and "Documentation") under the following terms and conditions. The Program(s) and Documentation are copyrighted.

1. **LICENSE.** Customer is authorized to use the NESSUS software on multiple computer platforms only for the Customers internal purposes. The Customer may not distribute the Program(s) to a third party. Neither the Program(s) nor the Documentation may be changed or translated without the express written permission of SwRI. The Customer may copy for its own use and at its own expense an unlimited number of operator manuals, training materials, and other user-oriented materials but the Customer must reproduce and include SwRI's copyright notice on any copy. All right, title and interest in and to the Program(s) and Documentation are and shall at all times remain the sole and exclusive property of SwRI. The Customer may not sublicense, assign or transfer the Program(s) or Documentation except as expressly provided in this Agreement. Any attempt otherwise to sublicense, assign or transfer any of the rights, duties or obligations hereunder is void.
2. **TERM.** This Agreement and the License are effective for one (1) year from the date specified below and shall automatically renew upon payment of license fee for additional one-year terms unless terminated in accordance with this provision. The Customer may terminate this Agreement and the License at any time by destroying the Program(s). The License will also terminate upon conditions set forth elsewhere in this Agreement or if the Customer fails to comply with any term or condition of this Agreement. The Customer agrees upon such termination to destroy the Program(s).
3. **LIMITED WARRANTY.** SwRI warrants the media containing the Program(s) to be free from defects in materials and workmanship under normal use by the original purchaser for a period of ninety (90) days from date of receipt.

**EXCEPT AS STATED ABOVE, THE LICENSED PROGRAM(S) ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

4. **LIMITATION OF REMEDIES.** The entire liability of SwRI and the Customer's sole and exclusive remedy, is limited to the replacement of any diskette(s) not meeting SwRI's limited warranty provided such defective media shall be returned to SwRI.

**IN NO EVENT WILL SwRI OR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE PROGRAM(S) BE LIABLE FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION LIABILITY ARISING OUT OF CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT, WARRANTY OR PATENT OR COPYRIGHT INFRINGEMENT OR ANY INCIDENTAL AND CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST DATA OR PROFITS, ARISING OUT OF THE USE OR INABILITY TO USE THE PROGRAM(S), EVEN IF SwRI OR OTHERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR FOR ANY CLAIM BY ANY PARTY.**

5. **EXPORT.** Customer will not export the Program(s) and Documentation.
6. **GENERAL.** This Agreement merges all prior written and oral communications regarding the Program(s) and sets forth the entire agreement of the parties. This Agreement shall be construed in accordance with the laws of the State of Texas, venue shall be in San Antonio, Bexar County, Texas. If any provision of this Agreement is ruled invalid under any law, it shall be deemed modified or omitted to the extent necessary, and the remainder of the Agreement shall continue in full force and effect.

**ACCEPTED AND AGREED:**

**SOUTHWEST RESEARCH INSTITUTE**

**CUSTOMER: \_\_\_\_\_**

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_