

NORTEK SECURITY & CONTROL
END USER LICENSE AGREEMENT

This End-User License Agreement (“**EULA**”) is a legal agreement between you (a legal entity, referred herein as “**you**”, “**your**”, or “**Licensee**”) and Nortek Security & Control LLC (“**Licensor**”) for the Licensor’s RMC software that accompanies this EULA, which may also include associated media, printed materials, and “online” or electronic documentation (collectively the “**Software**”). Software shall also include all related documentation, and updates and upgrades that replace or supplement the Software and are not distributed with separate license terms.

BY CLICKING THE ACCEPT BUTTON BELOW, OR BY DOWNLOADING, INSTALLING OR OTHERWISE USING THE SOFTWARE YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS EULA, THEN DO NOT CLICK THE ACCEPT BUTTON, INSTALL, DOWNLOAD, OR USE THE SOFTWARE. IF YOU CLICK THE ACCEPT BUTTON OR INSTALL, DOWNLOAD OR USE THE SOFTWARE, THE TERMS AND CONDITIONS OF THIS EULA ARE FULLY ACCEPTED BY YOU. If you agree to these terms on behalf of an organization, you hereby represent to Licensor that you are authorized to accept these terms on its behalf.

IF YOU DO NOT ACCEPT THE TERMS OF THIS EULA, CLICK THE “DECLINE” OR “CANCEL” BUTTON AND DO NOT INSTALL, DOWNLOAD OR USE THE SOFTWARE.

1. SOFTWARE USE. Upon payment of the fees set forth in the Licensor’s purchase order document, Licensor grants you the following rights provided that you comply with all terms and conditions of this EULA:

(a) *Licensee Hosted Software.* If Licensee has elected to host the Software on its own equipment and as set for the in the Licensor order document, Licensor hereby grants Licensee a limited, non-exclusive, non-transferable license, without rights to sublicense, to use the object code of the Software solely for your internal business purposes, provided such purpose is in accordance with the permitted uses of the Software as set forth in this EULA and applicable documentation. You may use the documentation accompanying the Software in connection with permitted uses of the Software.

(b) *Licensor Hosted Software.* If Licensee has elected to have Licensor host the Software (“**Subscription**”) and as set forth in the Licensor order document, Licensor grants to Licensee, the nonassignable, nontransferable, nonsublicensable, and nonexclusive right to access the Subscription and use the Subscription and the applicable documentation only as authorized in this EULA. The Subscription will not be provided to you in CD-ROM form (or any other form of media) and will not be installed on any servers or other computer equipment owned or otherwise controlled by you. During the Subscription term, Licensor shall provide you with access to the latest supported version of the hosted Subscription, to be accessed and used by you through the use of the internet. If applicable, Licensor shall provide an administrator user account for secure administrator access and provide this administrator user the necessary tools to create other users for access to the Subscription. You agree that you have elected to access the Software through a Subscription and that this EULA confers no right to convert the Subscription to a license as described in Section 1(a) above without Licensor’s prior written consent and applicable fee.

2. TRIAL LICENSES.

(a) General. If available, the Software may be activated with no-cost evaluation Software License Key(s).

(b) Evaluation License. If you activate the Software with an evaluation Software License Key (“**Evaluation Product**”) you may use the Evaluation Product for 30 days (or such other period as agreed in writing by Licensor) (the “**Trial Period**”) only to evaluate the suitability of the Evaluation Product for licensing on a for-fee basis.

(c) Trial Periods. If the Software was provided to you at no charge on a trial or evaluation basis, then the Software may be used only for the Trial Period, unless you purchase a further license to the Software at the end of the Trial Period.

(d) THE EVALUATION PRODUCT IS PROVIDED TO YOU “AS IS” WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. LICENSOR BEARS NO LIABILITY FOR ANY DAMAGES RESULTING FROM USE (OR ATTEMPTED USE) OF THE EVALUATION PRODUCT THROUGH AND AFTER THE TRIAL PERIOD.

(e) No Support. Licensor has no duty to provide support to you during your use of the Evaluation Product.

3. RESERVATION OF RIGHTS AND OWNERSHIP. The Software is not sold and may only be used under the terms of this EULA. The Software is protected by copyright and other intellectual property laws and treaties.

Licensor or its suppliers own the title, copyright, and other intellectual property rights in the Software. Except as expressly stated herein, Licensor and its suppliers reserve all right, title and interest in the Software and all associated copyrights, trademarks, and other intellectual property rights therein. The EULA is limited to the intellectual property rights of Licensor and its suppliers in the Software and does not include any rights to other intellectual property.

4. LIMITATIONS ON REVERSE ENGINEERING, DECOMPILOATION, AND DISASSEMBLY. You may not reverse engineer, decompile, or disassemble the Software by any means whatsoever, or alter, modify, enhance, or create a derivative work of the Software. You may not remove, alter, or obscure any product identification, copyright, or other intellectual property notices in the software.

5. NO RENTAL/COMMERCIAL HOSTING. You may not rent, lease, lend or provide hosting services with the Software for third parties. You may not use the Software to provide commercial services to third-parties except as expressly stated herein and in the related documentation of the Software.

6. CONSENT TO USE OF DATA. You agree that Licensor and its affiliates may collect and use technical information gathered during your use of the Software, or as part of the product support services provided to you, if any, related to the Software. Licensor may use this information to improve its products, to provide customized services or technologies to you and will not disclose this information in a form that personally identifies you.

7. TERMINATION. This EULA is effective until terminated. The purchase order document agreed to by the parties sets forth the period you are allowed to access and use the Software. Your rights under this EULA will terminate immediately and automatically if you fail to comply with any of the terms and conditions of this EULA. Promptly upon termination, you must cease all use of the Software, destroy all copies of the Software in your possession or control, and, upon request of Licensor, certify such destruction. Licensor's termination of this EULA will not limit any of Licensor's other rights or remedies at law or in equity.

8. ADDITIONAL SOFTWARE/SERVICES. This EULA applies to updates, supplements, add-on components, or internet-based services components, of the Software that Licensor may provide to you or make available to you after the date you obtain your initial copy of the Software, unless we provide other terms along with the update, supplement, add-on component, or internet-based services component. Licensor reserves the right to discontinue any internet-based services provided to you or made available to you through the use of the Software.

9. UPGRADES. To use Software identified as an upgrade, you must first be licensed for the Software identified by Licensor as eligible for the upgrade. Except as otherwise provided in writing, after upgrading, you may no longer use the Software that formed the basis for your upgrade eligibility.

10. SUPPORT SERVICES NOT INCLUDED. Licensor will not provide any support services under this EULA. This EULA does not give you any rights to any updates or upgrades to the Software or to any extensions or enhancements to the Software developed by Licensor at any time in the future. Licensor may offer support services separately. Any supplemental software code or related materials that Licensor provides to you as part of any support services are to be considered part of the Software and are subject to the terms and conditions of this EULA.

11. EXPORT RESTRICTIONS. You acknowledge that the Software is subject to U.S. export jurisdiction. You agree to comply with all applicable international and national laws that apply to the Software, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. and other governments.

12. WARRANTY OF TITLE. Licensor warrants that it owns and/or has the right to license the Software.

13. DISCLAIMER OF WARRANTIES. THE EXPRESS WARRANTY IN SECTION 12 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE SOFTWARE AND DOCUMENTATION, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. YOU ACKNOWLEDGES THAT YOU HAVE NOT RELIED ON ANY WARRANTIES OTHER THAN THE EXPRESS WARRANTY SET FORTH IN SECTION 12 LICENSOR DOES NOT WARRANT THAT THE USE OR OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

14. INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

14.1 Indemnification Against Liability for Infringement. Licensor shall indemnify you against liabilities, claims and legal costs paid to or for the benefit of a third party arising from any third party claim or suit alleging that the Software infringes: (i) any copyright; or (ii) the trade secret or trademark rights of any third party.

You shall promptly notify Licensor in writing of any such third party claim. Licensor shall be entitled to have sole control over the defense and settlement of such claim.

14.2 Limitations on Indemnification. Licensor shall have no liability for, and shall not indemnify you against, any infringement claim resulting from: (i) modification of any Software; (ii) combination of any Software with hardware, software or other intellectual property provided by anyone other than Licensor; (iii) use of a superseded or altered release of some or all of the Software or any modification thereof furnished under this EULA including, but not limited to, your failure to use corrections, fixes, or enhancements made available by Licensor; or (iv) use of any Software in any manner not expressly contemplated hereunder.

14.3 Repair or Replacement of Infringing Software. In the event of a third-party infringement claim, Licensor shall, at its sole election and expense: (i) procure for you the right to continue to use the Software pursuant to this EULA; (ii) replace or modify the Software to make it non-infringing while still complying with the terms of this EULA; or (iii) if none of the above options is reasonably available, refund the license fees associated with the infringing portion of the Software, minus depreciation based on a three-year useful life.

14.4 Applicability to Third Party Products. LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES AND PROVIDES NO INDEMNIFICATION OR REPLACEMENT COVENANTS OF ANY KIND WITH RESPECT TO THIRD PARTY PRODUCTS. Licensor's sole responsibility as to Third Party Products is to pass through any intellectual property warranties, indemnification and replacement provisions that Licensor receives from the vendors or suppliers of such Third Party Products and which Licensor is allowed to pass on. "Third Party Product" means application software products provided by third party vendors, including operating system and application software with which the Software interfaces and which provides certain functionality essential to the operation of the Software.

14.5 EXCEPT AS OTHERWISE PROVIDED HEREIN, SECTIONS 14.1 THROUGH 14.4 STATE LICENSOR'S AND ITS THIRD PARTY SUPPLIERS' ENTIRE LIABILITY AND LICENSEE'S EXCLUSIVE REMEDY FOR CLAIMS OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

14.6 Indemnification by Licensee. Licensee shall fully indemnify and hold harmless Licensor, its officers, agents, employees, affiliates, subsidiaries, assigns and successors in interest (each a "Licensor Indemnitee") from, defend Licensor Indemnitee against, pay any judgments awarded against Licensor Indemnitee, and pay all of Licensee's and Licensor Indemnitee's reasonable costs and attorneys' fees resulting from any claims, liabilities, losses, suits, and damages asserted by a third party based on (i) Licensee's improper or misuse of the Software (including without limitation, in violation of applicable laws, rules or regulations or this EULA); (ii) Licensee's breach of this EULA; (iii) any acts or omissions by a Software user through Licensee's access to the Software; (iv) any breach of this EULA by Licensee; (v) Licensor's compliance with Licensee's instructions; or (vi) Licensor's use of trademarks, data, content or other materials supplied by Licensee.

15. OPEN SOURCE DISCLOSURE. Notwithstanding the provisions of Section 14 herein, the Software contains the open source software set forth in the 'readme.txt' file included with the Software. By accepting the terms of this EULA, you are accepting the terms of the open source license agreements, the link(s) for which are provided in the readme.txt file, that govern the use of such open source software, including all disclaimers of warranty and limitations of liability set forth therein.

16. EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL LICENSOR OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE SOFTWARE, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE SOFTWARE OR OTHERWISE ARISING OUT OF THE USE OF THE SOFTWARE, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS EULA, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF LICENSOR OR ANY SUPPLIER, AND EVEN IF LICENSOR OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

17. LIMITATION OF LIABILITY AND REMEDIES. Notwithstanding any damages that you might incur for any reason whatsoever (including, without limitation, all damages referenced herein and all direct or general damages in contract or anything else), the entire liability of Licensor and any of its suppliers under any provision of this EULA and your exclusive remedy hereunder (except for any remedy of repair or replacement elected by Licensor) shall be limited to actual, direct damages up to the amount actually paid by you for the Software. The foregoing limitations, exclusions and disclaimers (including Sections 13, 14, 15, and 16) shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.

18. U.S. GOVERNMENT LICENSE RIGHTS. All Software provided to the U.S. Government pursuant to solicitations issued on or after December 1, 1995 is provided with the commercial license rights and restrictions described elsewhere herein. All Software provided to the U.S. Government pursuant to solicitations issued prior to December 1, 1995 is provided with "Restricted Rights" as provided for in FAR, 48 CFR 52.227 -14 (JUNE 1987) or DFAR, 48 CFR 252.227-7013 (OCT 1988), as applicable.

19. APPLICABLE LAW. This EULA will be governed by the laws of the State of California, of the United States of America, without regard to its choice of law principles, as applied to agreements entered into and to be performed entirely in the State of California. Unless expressly waived by Licensor in writing for the particular instance or contrary to local law, the sole and exclusive jurisdiction and venue for actions related to the subject matter hereof shall be the California state and federal courts having within their jurisdiction in San Diego County. Both parties consent to the jurisdiction of such courts and agree that process may be served in the manner provided herein for giving of notices or otherwise as allowed by California or federal law. The parties agree that the UN Convention on Contracts for the International Sale of Goods shall not apply to this EULA nor to any dispute or transaction arising out of this EULA.

20. ENTIRE AGREEMENT; SEVERABILITY. This EULA sets forth Licensor's entire liability and your exclusive remedy with respect to the Software and supersedes the terms of any purchase orders and any other communications or advertising with respect to the Software. You acknowledge that this EULA is a complete statement of the agreement between you and Licensor with respect to the Software, and that there are no other prior or contemporaneous understandings, promises, representations, or descriptions with respect to the Software. No amendment to or modification of this EULA will be binding unless made in writing and signed by Licensor. No failure to exercise, and no delay in exercising, on the part of either party, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of any other right hereunder. If any provision of this EULA is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect the invalid, unenforceable or illegal provision shall be amended to achieve as closely as possible the effect of the original term.

21. INJUNCTIVE RELIEF. You agree that a breach of this EULA adversely affecting Licensor's proprietary rights in the Software may cause irreparable injury to Licensor for which monetary damages would not be an adequate remedy and Licensor shall be entitled to seek equitable relief in addition to any remedies it may have hereunder or at law.

22. CONFIDENTIAL INFORMATION. You acknowledge and agree that the Software and all information emanating from the Software and Licensor's business in any form are valuable trade secrets of Licensor and "Confidential Information." You agree that you will not, during or after the term of this EULA, permit the duplication, use, or disclosure of any such Confidential Information to any person (other than your employees, agents or representatives), unless such duplication, use or disclosure is specifically authorized by Licensor in writing prior to any disclosure. You shall use reasonable diligence, and in no event less than that degree of care that you use in respect to your own confidential information of like nature, to prevent the unauthorized disclosure or reproduction of the Confidential Information. Without limiting the generality of the foregoing, to the extent that this EULA permits the copying of Confidential Information, all such copies shall bear the same confidentiality notices, legends, and intellectual property rights designations that appear in the original versions and party shall keep detailed records of the location of all Confidential Information.

23. SURVIVAL. The provisions of this Section 23 and Sections 3 - 7, 13, and 16 - 22 shall survive termination or expiration of this EULA, for any reason.