

## NetWare® 5.1 Software License

The NetWare 5.1 software and accompanying documentation ("Software") are protected by the copyright laws and treaties of the United States (U.S.) and other countries. In addition, possession and use of the Software are subject to the terms of this Software License ("License"). By exercising Your rights to make and use copies of the Software, You agree to be bound by the terms of this License. The Software is licensed to You, not sold.

Client Software means the Novell® software programs provided as part of the Software that operate on an intelligent, single-user device, permitting that device to access the shared resources provided by the Host Software.

Host Software means the software programs provided as part of the Software that are designed to operate on a single computing device, providing access to the shared resources attached to that computer. Host Software may contain technical limitations that limit use of the Host Software to a specified number of computers running the Client Software.

User Count means the number of user licenses that You have lawfully purchased or acquired.

Connection Management Software means computer programs provided as part of the Software that monitor the number of connections permitted under this License and that are designed to prevent more connections than the number of licensed connections specified by the User Count.

License. Subject to the terms and conditions of this License, Novell grants to You a non-exclusive, non-transferable right for Your own internal use (a) to use the Host Software on a single network server; (b) provided You do not receive any direct payment, to make, and distribute internally within Your organization, an unlimited number of copies of the Client Software; and (c) to simultaneously use up to the User Count of the Client Software. Client Software may be used only to access Host Software or other Novell software. Novell reserves all rights not expressly granted to You. Use of any software programs accompanied by a separate license agreement shall be governed by that separate license agreement.

Upgrade License. This section applies to You if the Software is an upgrade. The upgrade of the Software is referred to below as the "Upgrade Product." The product from which You are upgrading is referred to below as the "Original Product." Your use of the Software is subject to the following conditions:

- 1) You have acquired the right to use the Upgrade Product solely to replace the Original Product that (i) You acquired legally (e.g. without infringing copyright or breaching a Novell license agreement), and (ii) qualified to be upgraded with the Upgrade Product under the Novell policies existing at the time You acquired the Upgrade Product; 2) You are the original licensee of the Original Product; 3) You installed and used the Original Product in accordance with the terms and conditions of the applicable license agreement; 4) At the time You acquired the Original Product, You acquired a complete copy of the Original Product, including all disks and manuals, and not simply a serialized master or license disk; 5) You have not acquired the Original Product in the secondary market, as scrap or through a second hand purchase from a dealer, distributor or another end user; 6) You will archive, return or destroy the Original Product within thirty (30) days of the installation of the Upgrade Product; 7) You will not sell or otherwise transfer possession of the Original Product; 8) You acknowledge that within thirty (30) days of installation of the Upgrade Product the license associated with the Original Product shall automatically terminate and become void; 9) You agree to waive any defense You may have against copyright infringement based upon possession of the Original Product except for archive purposes.

Additive License. This section applies to You if You are acquiring the Software to increase the User Count of the previously acquired product (referred to below as the "Base Product"). Your use of the Software is subject to the following conditions:

- 1) You have acquired the right to use this Software solely to increase the User Count of the Base Product that You acquired legally (e.g. without infringing copyright or breaching a Novell license agreement); 2) You are the sole and original licensee of the Base Product; 3) At the time You acquired the Base Product, You acquired a complete copy of the Base Product, including all disks and manuals, and not simply a copy, serialized master, or license disk; 4) You have not acquired the Base Product in the secondary market as scrap, or through a second hand purchase from a dealer, distributor or another end user.

Evaluation License. This section applies to You if the Software is provided to You for evaluation or demonstration purposes. Such Software may contain an automatic disabling mechanism. Your right to use the Software is limited in accordance with the terms of the evaluation offering under which You received the Software. If no period of use is specified, then Your right to use the Software shall terminate 30 days from receipt of the Software, at which time You must return or destroy the Software.

License Restrictions. Novell reserves all rights not expressly granted to You. Without limiting the generality of the foregoing, You may not: (1) modify the Connection Management Software to increase the number of connections

supported by the Software; use any device, process or computer program in conjunction with the host or server software that increases, either directly or indirectly, the number of connections to the host or server software; (2) reverse engineer, decompile, or disassemble the Software except and only to the extent it is expressly permitted by applicable law; or, (3) rent, timeshare or lease the Software unless expressly authorized by Novell in writing.

Commercial Public Network Service Restriction. You may not use the Software in a Commercial Public Network Service. A Commercial Public Network Service is a service offered to businesses or the general public that provides Internet access, virtual private networking, remote network management, access to corporate or other networks, or access to any remote computing device, application, service or data. If You would like to use the Software in a Commercial Public Network Service You must obtain a separate license from Novell. For more information, see <http://www.novell.com/internet>.

Ownership. No title to or ownership of the Software or the media on which the Software is contained is transferred to You. Novell, or the licensor through which Novell obtained the rights to distribute the Software, owns and retains all title and ownership of all intellectual property rights in the Software; including any adaptations or copies of the Software. Only the License is purchased by You.

## General Terms

Term. This License becomes effective on the date You legally acquire the Software and will remain in force until terminated. This License shall automatically terminate if You breach any of its terms. You may terminate this License at any time by destroying the original and all copies of the Software. Upon termination of this License, You must destroy the original and all copies of the Software or return them to Novell.

Transfer. This License may not be transferred or assigned without the prior written approval of Novell.

Testing. Prior to installation, the Software should be tested in a non-production test environment according to the needs of Your specific system environment for issues regarding the date change to the year 2000.

Governing Law. This License shall be governed and construed in accordance with the laws of the State of Utah, U.S., without regard to laws governing conflict of laws and will be treated as though executed in Utah County, State of Utah. Any action relating to this License shall be prosecuted in the courts of competent jurisdiction of the State of Utah.

Large Account Customers. If You received the Software under a Master License Agreement, Corporate License Agreement, or other Novell large account agreement, then the Limited Warranty and the license rights and restrictions in this License apply to Your use of the Software. In the case of any conflict between the terms of this License and those of Your large account agreement, this License shall prevail.

Support. Novell has no obligation to provide support for the Software. For more information on Novell's current support offerings, see <http://support.novell.com/>.

Entire License. This License, the Limited Warranty, and the Upgrade/Additive License Agreement (if applicable) sets forth the entire understanding and agreement between You and Novell and may be amended only in a writing signed by both parties. NO VENDOR, DISTRIBUTOR, DEALER, RETAILER, SALES PERSON OR OTHER PERSON IS AUTHORIZED TO MODIFY THIS LICENSE OR TO MAKE ANY REPRESENTATION OR PROMISE THAT IS DIFFERENT FROM, OR IN ADDITION TO, THE REPRESENTATIONS OR PROMISES OF THIS LICENSE.

Waiver. No waiver of any right under this License shall be effective unless in writing, signed by a duly authorized representative of the party to be bound. No waiver of any past or present right arising from any breach or failure to perform shall be deemed to be a waiver of any future right arising under this License.

Severability. If any provision in this License is invalid or unenforceable, that provision shall be construed, limited, modified or, if necessary, severed, to the extent necessary, to eliminate its invalidity or unenforceability, and the other provisions of this License shall remain unaffected.

Export. Regardless of any disclosure made by You to Novell of an ultimate destination of the Software, You will not export or transfer, whether directly or indirectly, the Software, or any portion thereof, or any system containing such Software or portion thereof, to anyone outside the U.S. or Canada (including further export if You took delivery of the Software outside the U.S.) without first complying strictly and fully with all export/import controls that may be imposed on the Software by the U.S. Government or any country or organization of nations within whose jurisdiction You operate or do business. It is Your responsibility to comply with all such controls and requirements as they may be amended from time to time.

U.S. Government Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to the restrictions in FAR § 52.227-14 (June 1987) Alternate III (June 1987), FAR § 52.227-19 (June 1987), or DFARS § 252.227-7013 (b)(3) (Nov 1995), or applicable successor clauses. Contractor/ Manufacturer is Novell, Inc., 122 East 1700 South, Provo, Utah 84606

Other. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.

## Limited Warranty

Media. Novell warrants any physical media of the NetWare 5.1 software ("Software") against physical defects for a period of 90 days from purchase. Your sole remedy for defective media is replacement.

Software. Except as provided in this Limited Warranty, Novell warrants that if the Software fails to conform substantially

to the documentation accompanying the Software and if You report the nonconformity to Novell in writing within 90 days from the date You purchased the License to the software, Novell will at its sole discretion either resolve the nonconformity or upon return of the original and all copies of the software refund any license fees paid by You.

THE SOFTWARE IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE OR RESALE WITH ON-LINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, COMMUNICATION, OR CONTROL SYSTEMS, DIRECT LIFE SUPPORT MACHINES, WEAPONS SYSTEMS, OR OTHER USES IN WHICH FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

THE SOFTWARE IS ONLY COMPATIBLE WITH CERTAIN COMPUTERS AND OPERATING SYSTEMS. THE SOFTWARE IS NOT WARRANTED FOR NON-COMPATIBLE SYSTEMS. Call Novell or Your Dealer for information about compatibility.

Disclaimer. EXCEPT AS OTHERWISE RESTRICTED BY LAW, NOVELL DISCLAIMS AND EXCLUDES ANY AND ALL IMPLIED WARRANTIES INCLUDING ANY WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. NOVELL MAKES NO WARRANTY, REPRESENTATION OR PROMISE NOT EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY. NOVELL DOES NOT WARRANT THAT THE SOFTWARE WILL SATISFY YOUR REQUIREMENTS, THAT THEY ARE WITHOUT DEFECT OR ERROR, OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED. Some jurisdictions do not allow certain disclaimers and limitation of warranties, so certain of these may not apply to You.

Non-Novell Products. NOVELL DOES NOT WARRANT NON-NOVELL PRODUCTS. ANY SUCH PRODUCTS ARE PROVIDED ON AN "AS IS" BASIS. ANY WARRANTY SERVICE FOR NON-NOVELL PRODUCTS IS PROVIDED BY THE PRODUCT MANUFACTURER IN ACCORDANCE WITH ANY APPLICABLE MANUFACTURER'S WARRANTY.

Limitation of Liability. EXCEPT AS OTHERWISE RESTRICTED BY LAW, NOVELL'S AGGREGATE LIABILITY ARISING FROM OR RELATING TO YOUR USE OF THE SOFTWARE OR ANY SERVICES PROVIDED BY NOVELL AND/OR ITS AGENTS IS LIMITED TO THE TOTAL OF ALL PAYMENTS MADE BY OR FOR YOU FOR THE SOFTWARE. NEITHER NOVELL NOR ANY OF ITS LICENSORS, EMPLOYEES, CONTRACTORS, OR AGENTS SHALL IN ANY CASE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. NEITHER NOVELL NOR ANY OF ITS LICENSORS, EMPLOYEES, CONTRACTORS, OR AGENTS IS RESPONSIBLE FOR LOST PROFITS OR REVENUE, LOSS OF USE OF SOFTWARE, LOSS OF DATA, COSTS OF RE-CREATING LOST DATA, OR THE COST OF ANY SUBSTITUTE EQUIPMENT OR PROGRAM. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so portions of the above limitation or exclusion may not apply to You.

© 1993, 1998, 1999 Novell, Inc. All Rights Reserved.

Novell and NetWare are registered trademarks of Novell, Inc. in the United States and other countries.