

## **Madge Software and Related Documentation License and Limited Warranty Agreement (“the Agreement”)**

**(A) Extent of License Grant:** All and any references to ‘Madge’ also includes Madge’s authorised agents, distributors or resellers. This Agreement grants you the right to use the (1) Madge Token Ring adapter hardware (“Adapter Hardware”), Madge Token Ring infrastructure hardware (“Infrastructure Hardware”), Madge wireless adapter card hardware and Madge wireless Access Point hardware (“Wireless Hardware”), if any and as appropriate, enclosed in this package and purchased by you (jointly and cumulatively defined as “Hardware Products”); and a revocable non-exclusive, non-transferable, restricted and personal license to use the (2) Madge software, if any, enclosed in this package or downloaded or otherwise given, sold to or used by you (the "Software"), under the following terms and conditions:

**(B) Madge Software License:** (1) The Software licensed by this Agreement includes all software on any Software Media (defined as including but not limited to; software pre-programmed or pre-loaded within any Hardware Products, CD ROM, floppy disk, web site downloads or any other form of electronic distribution) supplied to you. (2) You agree that all upgrades, enhancements, modifications or variants to any of the Software supplied to you by Madge on any Software Media will be subject to the terms, conditions, limited warranties and remedies of this Agreement unless you are bound by terms of a different Madge license that was distributed with the Software. (3) The Software is owned by Madge or its licensors and is protected by England’s and other countries’ copyright laws in which the Software is being used and by international treaty provisions. Madge or its licensors retain full ownership of and title to the Software and no rights are granted to you other than a license to use the Software on the express terms set out in this Agreement.

**(C) Restrictions of Use:** (1) This Agreement imposes certain restrictions on your use of the Software. You may: (i) use the Software only in machine-readable format; (ii) use the Software with the Hardware Products and to upgrade the same via Madge authorised software drivers of your other compatible Madge Hardware Products ("Permitted Upgrades"); (iii) make one copy of the Software for back-up purposes or Permitted Upgrades only, provided that each single copy of the Software you create is destroyed after its disaster recovery purpose has been fulfilled and the said back-up copy is not installed or used on any computer; (iv) You must include all copyright, proprietary legends and other notices included on the Software on any permitted copies you make; (v) make copies of any written materials accompanying the Software and/or the Hardware Products supplied by Madge (the “Documentation”), but only for use within the organisation to which you belong and for which it was purchased for use within and only for the purposes of installing and using the Software and the Hardware Products and for Permitted Upgrades. (2) You may not, unless otherwise permitted in this Agreement: (i) make any copy of any of the Software other than for back-up purposes or Permitted Upgrades or duplicate any Software onto any software media that was not supplied by Madge; (ii) use the Software for any purpose other than as permitted in this Agreement; (iii) make or distribute copies of the Software, Software Media or Documentation or electronically transfer copies of the same from one computer to another or over a network, intranet or extranet; (iv) sublicense, sell, rent, loan, transfer, lease, distribute or create derivative works based upon the Software, Software Media or Documentation to another; (v) transfer or assign your rights to use the Software except upon an authorised transfer of any associated Madge Hardware Products with which or for which the Software was supplied, and then only if the transferee expressly agrees to be bound by all of the terms of this Agreement; (vi) use the Software in a life-support, hazard or safety system of whatever kind, without the prior written approval of Madge, and in any event you shall take full responsibility for such use. (3) You acknowledge and agree that: (i) if you upgrade any older Madge Hardware Products ("Upgraded

Products") with any of the Software, that this Agreement will thereafter apply to such Upgraded Products. However, the applicable warranties will be those supplied with the original product and will run from the date of purchase from Madge of the original product; (ii) if you obtain any other Madge software product and are not bound by a written Madge software license and limited warranty, you agree that you will use such software in accordance with the terms of this Agreement; (iii) the underlying design of all Madge Hardware Products and the structure, sequence, organisation and source code of all Madge software are proprietary, confidential and valuable trade secrets of Madge or its licensors or suppliers; (iv) you will not decompile, disassemble, reverse engineer, modify or otherwise reduce to a human perceivable form in any way, any of the Hardware Products, Software or Upgraded Products, except to the extent that the foregoing restriction is expressly prohibited by applicable law; (v) the export of the Software, Hardware Products and Upgraded Products may be restricted by the export control laws of the United States of America and other countries. You agree to comply with all such applicable export control laws; (vi) without limiting the rights that the licensors of Madge may otherwise have to protect their intellectual property rights, each of such licensors are expressly intended to be third party beneficiaries in respect of this Agreement for their respective software products and may have the right to enforce such terms against you and no other third parties are intended, implied or expressly, intended to benefit under this Agreement; (vii) the license granted hereby is effective until terminated; (viii) by using the Hardware Products and/or Software you hereby give explicit consent for Madge to process your personal data ("Personal Data") for administrative, billing, marketing and support purposes, to include the transfer of Personal Data inside and outside of the European Economic Area (including, but not limited to the USA). You agree that Madge may collect data from, or through your use of, the Hardware Products and/or Software supplied to you by Madge and from information that you or your reseller or distributor supplies to Madge. Madge acknowledges your rights in relation to Personal Data and will have in place appropriate technical and organisational security measures to ensure a level of security that is appropriate to the nature of the data being processed. For further information in respect of your Personal Data, please contact Madge's Data Protection Compliance Officer at <http://www.madge.com/contactus.asp>; (ix) the limitation of liabilities set out in this Agreement also applies to any third-party supplier of code and documentation supplied to you. Madge and its third party supplier limitations of liabilities are not cumulative.

**(D) Termination:** (i) You may terminate this Agreement as to any Software at any time by destroying such Software, the related Software Media, all related back-up copies and Documentation, or by returning all of the same to Madge. You will not be entitled to any refund of the purchase price or any licence fee paid by you for the Software, Software Media or Hardware Products; (ii) You may terminate this License as to any Hardware Products only in accordance with the relevant sale agreement under which you purchased the same; (iii) Upon any violation of any of the provisions of this Agreement, your right to use the Software, Hardware Products and Upgraded Products will automatically terminate and you will be obligated to return to Madge or destroy all relevant Software, Hardware Products and/or Upgraded Products in your possession or control.

**(E) Miscellaneous:** (i) other than its provisions concerning the applicability of laws of other jurisdictions, this Agreement will be governed by the laws of England and Wales (ii) this Agreement is the complete and exclusive statement of your agreement with Madge with respect to the subject matter hereof and supersedes all prior agreements or communications, written or oral, with respect to the subject matter of this Agreement; (iii) If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

**(F) Limited Warranty:** (1) Madge warrants that under normal use and conditions the components listed below will for the appropriate duration listed below (each, a "Warranty Period") be free from significant defects in materials and workmanship as follows: (i) for Software Media, the Warranty Period is 90 days; (ii) for Adapter Hardware, the Warranty Period is five years; (iii) for Infrastructure Hardware and Wireless Hardware, the Warranty Period is one year, from the date of original purchase of the Hardware Products from Madge and only the original purchaser of the same shall only be capable of claiming such a warranty. **The Software is provided "as is" without any warranty.** (2) Procedure: If you believe that you have discovered any covered defect during the applicable Warranty Period, please contact your local reseller or distributor, or if they are unable to help you or you obtained the product directly from Madge, please contact your local Madge office directly. If Madge, or the authorised reseller or distributor instructs you to return the relevant product to Madge, if Hardware Products please return any accompanying Software and Software Media, or just the Software Media if no Hardware Products was supplied, freight prepaid, to the reseller or distributor from which it was purchased, or if instructed, to Madge (you may also be asked to provide written documentation of your purchase). **(3) CUSTOMER REMEDIES:** Madge's, its licensors', suppliers', resellers' and distributors' entire liability and your exclusive remedy will be entirely at Madge's option and discretion and may be one of the following: (i) repair or replacement of the Software Media or Hardware Products that meets Madge's Limited Warranty and replacement products may be new or reconditioned and may not be the exact same model, although the functionality shall be no less than the original Hardware Products or Software Media which meet Madge's Limited Warranty; or (ii) return of the price paid for the same. All Software Media and Hardware Products that are replaced will become the property of Madge. Madge will have no responsibility, warranty or other obligations whatsoever as a result of: (a) the use of the Hardware Products, Software Media in a manner inconsistent with the purpose for which the same was created, or (b) any modifications made to the Hardware Products or Software, or (c) failure of the Hardware Products, Software Media or Software as a result of accident, abuse or misapplication, or (d) the installation of Hardware Products and Software in models of computers not readily available commercially on the date of the original purchase. Madge, its resellers and distributors are not responsible for any of your software, firmware, information, graphics or data contained in, or stored on any returned items. **(4) Additional Customer Remedies:** (i) for problems directly emanating from the Hardware Products or Software Media which does not meet the terms of Madge's Limited Warranty, or if Madge discontinues the production of the Hardware Products or Software Media, Madge shall use its reasonable endeavours, although Madge shall in no way whatsoever be obligated, to provide a support and repair service. You should refer to the Madge web site at [www.madge.com](http://www.madge.com), in order to find out if these services apply and as to Madge's applicable published prices. Madge may require you to use a particular support service or route, which may be provided and maintained by a third party.

**(G) NO OTHER WARRANTIES:** THE WARRANTIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. MADGE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND MADGE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF SATISFACTORY QUALITY, WORKMAN LIKE EFFORT, SUITABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OF NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. MOREOVER, THE PROVISIONS SET FORTH ABOVE STATE MADGE'S ENTIRE RESPONSIBILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY BREACH OF ANY WARRANTY. **THIS WARRANTY DOES NOT AFFECT ANY STATUTORY RIGHTS THAT YOU MAY HAVE IF YOU ARE A CONSUMER.** **(H)LIMITATION ON LIABILITY;** NO LIABILITY FOR CONSEQUENTIAL

DAMAGES: UNDER NO CIRCUMSTANCE AND UNDER NO THEORY OF LIABILITY WILL MADGE OR ITS LICENSORS OR SUPPLIERS BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, LOST PROFITS, LOST SAVINGS, PUNITIVE, LOSS OF INFORMATION OR DATA, OR ANY OTHER SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, WHETHER BASED UPON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND/OR PRODUCT LIABILITY ARISING IN ANY WAY OUT OF THIS AGREEMENT OR THE SALE, LICENSE OR USE OF, OR INABILITY TO USE, ANY MADGE PRODUCT (HARDWARE PRODUCTS, SOFTWARE OR SOFTWARE MEDIA) OR SERVICE, EVEN IF MADGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED WARRANTY. MADGE DOES NOT MAKE ANY REPRESENTATION NOR GIVES ANY WARRANTY ABOUT THE SUITABILITY, RELIABILITY, LACK OF VIRUSES OR OTHER HARMFUL COMPONENTS OF THE SOFTWARE, SOFTWARE MEDIA, HARDWARE PRODUCTS OR DOCUMENTATION. The warranties, limitations and remedies contained herein allocate risk of Hardware Products and Software Media, breach of warranty or other liability and Madge's prices reflect the allocation of such risk. Certain jurisdictions restrict the ability to (a) exclude implied warranties, (b) limit or exclude incidental or consequential damages, or (c) limit liability imposed under product liability laws. To the extent any such restrictions apply to you and may not be waived, the foregoing limitations and exclusions may not apply to you. If, notwithstanding the above clauses, Madge is subject to any liability in connection with the Software, Software Media, Documentation or Hardware Products, whether arising from negligence, breach of contract or otherwise, Madge's liability will not exceed the sum paid by you to Madge for the Hardware Products, Software and Software Media that did not comply with the Madge Limited Lifetime Warranty. This limitation does not apply in the case of personal injury or death if and to the extent applicable law requires strict liability.

**(I) U.S. Department of Defense & U.S. Civilian Agencies:** If you are any unit, agency, agent or an instrumentality of the United States Government, the following provisions shall apply: You acknowledge Madge's and its licensors' representation that all of the Software has been developed exclusively at private expense (as defined in U.S. Defense Federal Acquisition Regulations Supplement ("DFARs") clause 252.227-7013(a)(7)) and that no portion of the Software has been developed with government funds. You acknowledge that the Software, and any portion thereof, is in all respects proprietary data with all rights owned solely by Madge and reserved to Madge and its licensors. You acknowledge that the Software, and any portion thereof, is proprietary to and a trade secret of Madge and its suppliers for purposes of the Freedom of Information Act. You acknowledge that title to and ownership of the Software including any portion thereof, and any reproductions thereof shall remain with Madge and its licensors. If you are a unit of the US Department of Defense, you acknowledge that the Software is provided as "commercial computer software" under the terms and conditions of this Agreement, as the Madge standard Software license agreement, in accordance with subparagraph (b)(3)(i)-(iii) of clause 252.227-7013 of the DFARs and its successors and subject to the restrictions set forth in such sections. If you are a U.S. civilian agency, you acknowledge that the Software is "restricted computer software", is licensed only with "restricted rights" and use of any kind, reproduction or disclosure is subject to restrictions set forth in either (i) subparagraphs (a) through (d) of clause 52.227-19 of the U.S. Federal Acquisition Regulations and its successors, (and for purposes of subparagraph (d) thereof, you further acknowledge that the Software is unpublished and all rights are reserved under the copyright laws of the United States) or (ii) clause 52-227-14 of the U.S. Federal Acquisition Regulations, Rights in Data-General, Alternate III.

**(J) Acknowledgements:** The Software may include a file identified as 'DPMS.EXE'. If supplied, this file is licensed by Madge from Novell only for use in conjunction with the Software. DPMS.EXE is © Copyright 1983-1990 Novell Inc., ALL RIGHTS RESERVED. Madge and the Madge logo are trademarks, and in some jurisdictions may be registered trademarks, of Madge Limited or its affiliated companies. Other trademarks appearing in this Agreement are the property of their respective owners. © Copyright 2003 Madge Limited. ALL RIGHTS RESERVED

-----End of License-----□

Date of issue December 18<sup>th</sup> 2003