

AGREEMENT. I/pswitch grants you a non-exclusive license to use the Software free of charge if a) you are a student, faculty member or staff member of an educational institution (K-12, junior college, college or university); b) you are a United States federal, state or local government employee; or c) your use of the Software is exclusively at home for non-commercial purposes. Government contractors are not considered government employees for the purposes of this Agreement. If you do not meet the requirements for free use of the Software, you may use the Software for up to fifteen days for the purpose of evaluating whether to purchase a license to the commercial version of WS_FTP. If you are using the Software free of charge under the terms of this Agreement, you are not entitled to hard-copy documentation, support or telephone assistance.

DISCLAIMER OF WARRANTY. Free of charge Software is provided on an "AS IS" basis, without warranty of any kind, including without limitation the warranties of merchantability, fitness for a particular purpose and non-infringement. The entire risk as to the quality and performance of the Software is borne by you. Should the Software prove defective, you and not I/pswitch assume the entire cost of any service and repair. In addition, the security mechanisms implemented by I/pswitch software have inherent limitations, and you must determine that the Software sufficiently meets your requirements. This disclaimer of warranty constitutes an essential part of the agreement.

SOME JURISDICTIONS DO NOT ALLOW EXCLUSIONS OF AN IMPLIED WARRANTY, SO THIS DISCLAIMER MAY NOT APPLY TO YOU AND YOU MAY HAVE OTHER LEGAL RIGHTS THAT VARY BY JURISDICTION.

SCOPE OF GRANT. You may:

- use the Software on one or more computers;
- use the Software on a network, provided that each person accessing the Software through the network must have a copy licensed to that person;
- copy the Software for archival purposes, provided any copy must contain all of the original Software's proprietary notices.

You may not:

- permit other individuals to use the Software except under the terms listed above;
- modify, translate, reverse engineer, decompile, disassemble (except to the extent applicable laws specifically prohibit such restriction), or create derivative works based on the Software;
- rent, lease, grant a security interest in, or otherwise transfer rights to the Software; or
- remove any proprietary notices or labels on the Software.

TITLE. Title, ownership rights, and intellectual property rights in the Software shall remain in I/pswitch and/or its suppliers. The Software is protected by copyright laws and treaties. Title and related rights in the content accessed through the Software is the property of the applicable content owner and may be protected by applicable law. This License gives you no rights to such content.

TERMINATION. The license will terminate automatically if you fail to comply with the limitations described herein. On termination, you must destroy all copies of the Software.

EXPORT CONTROLS. None of the Software or underlying information or technology may be downloaded or otherwise exported or reexported (i) into (or to a national or resident of) Cuba, Iraq, Libya, Yugoslavia, North Korea, Iran, Syria or any other country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S.

Commerce Department's Table of Denial Orders. By downloading or using the Software, you are agreeing to the foregoing and you are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, TORT, CONTRACT, OR OTHERWISE, SHALL IPSWITCH OR ITS SUPPLIERS OR RESELLERS BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES. IN NO EVENT WILL IPSWITCH BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE AMOUNT IPSWITCH RECEIVED FROM YOU FOR A LICENSE TO THE SOFTWARE, EVEN IF IPSWITCH SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. FURTHERMORE, SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO YOU. HIGH RISK ACTIVITIES. The Software is not fault-tolerant and is not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). Ipswitch and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities. MISCELLANEOUS. If the copy of the Software you received was accompanied by a printed or other form of "hard-copy" End User License Agreement whose terms vary from this Agreement, then the hard-copy End User License Agreement governs your use of the Software. This Agreement represents the complete agreement concerning this license and may amended only by a writing executed by both parties. If any provision of this Agreement is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The application the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. U.S. GOVERNMENT RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or at 252.211-7015, and in similar clauses in the NASA FAR Supplement. Contractor/manufacturer is Ipswitch, Inc., 81 Hartwell Ave., Lexington, MA 02173.y be protected by applicable law. T