

SIEMENS

SCOOT SOFTWARE LICENCE AGREEMENT

SOFTWARE LICENCE AGREEMENT No TC

THIS AGREEMENT comprises this document and its appended General Conditions of Software Licence for SCOOT Systems March 2006 and any special conditions agreed by the parties hereto in writing to form part of this Agreement and appended hereto.

In this Agreement:

"Licensor" means Siemens plc, whose registered office is at Siemens plc, Faraday House, Sir William Siemens Square, Frimley, Camberley, GU16 8QD, England.

"Licensee" means the City of Ann Arbor, Michigan or its successors, whose address is 301 E Huron St.
Ann Arbor, Michigan 48104

The Licensor hereby grants to the Licensee and the Licensee accepts a licence to use the under mentioned Software on an urban traffic control system not exceeding 250 junctions in accordance with the terms and conditions of this Agreement.

The Software licensed hereunder is the following:

- a) The SCOOT Kernel Version
- b) The Siemens UTC and SCOOT-linking software for the SCOOT/UTC System
- c) ASTRID database system for SCOOT
- d) INGRID integrated incident detection system for SCOOT

Special Conditions applicable to this licence: _____

Note: Third Party proprietary software is subject to the supplier's or its distributor's separate standard software licence.

The Licence Fee is included in the price paid or to be paid by the Licensee under the Contract for the System

Signed: David Spence
for Licensor

Signed: _____
for Licensee

Name: David Spence

Name: _____

Title: Project Manager

Title: _____

Date: January 29, 2013

Date: _____

1 - DEFINITIONS

- 1 In this Agreement except where the context otherwise requires the following definitions shall apply:
- (i) "Software" means all computer programs and associated documentation together with all ideas, designs, information and machine readable code contained in or relating thereto provided under or arising in connection with this Licence.
 - (ii) "Copies" means the original and all copies of the Software in whatever form, including but not limited to complete copies, in whole or in part, in any form, including partial copies, modifications, or derivatives of the Software.
 - (iii) "Property Rights" means all intellectual or industrial property rights including rights in or relating to any inventions, designs, computer software, documentation, drawings or other works and information, whether subject to patent or like protection, copyright or otherwise.
 - (iv) "Enhancements" means adaptations, improvements, embellishments, amendments, translations or any other modifications.
 - (v) "Junction" means a signal controlled road junction, or Pelican or Puffin controlled pedestrian crossing which controls the conflict between different streams of road users by the use of traffic signals. The users in any stream can be motor vehicles, non-motorised vehicles, pedestrians or a mixture of classes. All the controlled conflicts at a single junction are separated from each other by no more than the width of the widest road at that junction.
 - (vi) "Area" means a geographical area of jurisdiction of a highway authority.
 - (vii) "Supply Contract" means the contract for the supply of the system, comprising the equipment with which the Software operates and the Software, to the Licensee.
 - (viii) "Licence" means a licence issued to a party ("licensee") by the Licensor or another party authorised to issue Licences for the use of SCOOT.

CLAUSE 2 - LICENCE

- 2.1 The Licence herein granted to the Licensee shall entitle the Licensee to use the Software only on an on-line adaptive traffic control system owned by the Licensee to provide control of Junctions falling within the Area of the Licensee and also in Areas contiguous with the Area of the Licensee (including all trunk roads and motorways within both such Areas) solely for road traffic management purposes.

- 2.2 This Licence grants the Licensee the right to use the Software on a system not exceeding the number of Junctions specified in this Licence.
- 2.3 This Licence, and the terms and conditions thereof, shall extend to any Copies made under Clause 4 and to any Enhancements to the Software made available to the Licensee by the Licensor under this Licence and any such Enhancements shall be deemed to constitute part of the Software.
- 2.4 Subject to the prior written consent of the Licensor the Licensee may sub-license a third party to operate, manage and provide services on behalf of the Licensee in accordance with clauses 2.1 and 2.2. Any such sub-license will be in accordance with all other terms of this Licence except that the initial and any subsequent term of the sub-license shall be limited to a fixed period not exceeding five years. Renewal of any such sub-license will be subject to the consent of the Licensor. The sub-license shall not include any right to assign or further sub-license.
- 2.5 Subject to the prior written consent of the Licensor the Licensee may operate SCOOT within its Area, notwithstanding that the Junctions are controlled by a system owned by a third party (including where such a system is not located in an Area contiguous with the Area of the Licensee). The Licensee may operate SCOOT in accordance with this clause only for traffic management purposes, and only on a system not exceeding the number of Junctions as specified in this Licence.

CLAUSE 3 - SUPPLY

- 3.1 Unless otherwise agreed, the Licensor shall supply the Software to the Licensee with the equipment supplied under the associated Supply Contract.
- 3.2 Risk in the Software shall pass to the Licensee upon delivery. Title to the Software shall not pass to the Licensee.

CLAUSE 4 - COPYING

- 4.1 The Licensee may make not more than four Copies of any of the Software in machine readable form, and only one copy of any other part of the Software, and such copies shall only be used for the purposes of operation of the system and equipment licensed under Clause 2.1, 2.2 and 2.4 and for back-up security. No further Copies may be made without the Licensor's written consent, which will not be unreasonably withheld.
- 4.2 The Licensee shall keep a record of all Copies of the Software it makes and shall give the Licensor reasonable access to such records. The Licensee shall ensure that all Copies of the Software made hereunder and all media containing such Copies bear the same marks and legends relating to Property Rights in

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respect of the Software as the Software supplied hereunder by the Licensor.

All such Copies and media shall become and remain the property of the Licensor.

4.3 The Licensee may not:

- (a) copy the Software except as provided in clause 4.1;
- (b) translate, adapt, vary or modify the Software; or
- (c) disassemble, decompile or reverse engineer the Software; provided that should the Licensee require the information necessary to enable the Software to achieve interoperability with another independently created program such information is available from the Licensor and the Licensee acknowledges that for the purposes of section 50B(3)(a) of The Copyright (Computer Programs) Regulations 1992 such information is readily available.

CLAUSE 5 - CONFIDENTIALITY

- 5.1 The Licensee agrees to receive and hold in confidence the Software and to enforce all reasonable regulations on its directors, officers, agents and employees to preserve the confidential nature of the Software and shall not without the prior written consent of the Licensor disclose all or part of the Software to any third party.
- 5.2 The provisions of this Clause shall survive the termination of this Licence for a period of ten (10) years.

CLAUSE 6 - PROPERTY RIGHTS

- 6.1 The Software and all Property Rights therein remain the property of the Licensor and others.
- 6.2 Each party hereto shall inform the other of any third party owned Property Rights which may come to its notice and which may be relevant to the Software.
- 6.3 The Licensor shall (in lieu of all other liability to the Licensee for loss where Property Rights have been infringed by copying or use of the Software) indemnify the Licensee against claims (including the costs thereof) by owners or licensees of United Kingdom patents published at the date of this Agreement or copyright (in either case valid in the UK or the Licensee's country) for infringement thereof by use or copying of the Software strictly as licensed hereunder (but not otherwise), provided that:
 - (i) this indemnity shall not extend to any Software altered by the Licensee, or to infringements resulting from use or adoption by the Licensor of the Licensee's material or specific instructions, or from use in combination with items other than the Software or the equipment with which it was supplied to

operate where infringement would not otherwise have occurred; and

- (ii) the Licensee shall immediately inform the Licensor of claims, shall make no settlement or admission and shall permit the Licensor alone (and at the Licensor's expense) to deal with any claims.

- 6.4 The aforesaid indemnity shall not apply to any Software originating or derived from the Licensor's licensor, in which case the Licensor's liability to the Licensee for any infringement shall be limited to passing on to the Licensee any benefit (if transferable) of any indemnity in respect of infringement received from the Licensor's licensor, but in no event shall the Licensor's liability be greater than that set out in the preceding parts of this Clause.
- 6.5 In the event of a claim of infringement arising the Licensor may, but is not obliged to, modify or replace any of the Software in order to avoid infringement, provided that the modified or replacement Software provides substantially the same functions as the original Software, and in such event the Licensee shall cease use of the previous issue(s) of the Software Item in question and shall return all copies to the Licensor and use in lieu thereof the new Issue supplied by the Licensor.
- 6.6 The indemnity and obligations of the Licensor in this Clause shall be the limit of the Licensor's liability for infringement of third parties' Property Rights and shall be in lieu of all other conditions, warranties and liability howsoever arising whether in contract or in tort or under statute in this respect.

CLAUSE 7 - DEFECTS

- 7.1 Subject to sub-clause 7.2 below, the Licensor shall remedy any defects which appear in the Software during a period of 12 months after the Software was delivered to the Licensee. Notwithstanding the foregoing if the Software is modified by the Licensee or used otherwise than as licensed hereunder or not used, stored or maintained properly the Licensor's liability shall be limited to making good any defects which the Licensee can prove to have been solely due to a defect in the Software as originally supplied.
- 7.2 The provisions of Sub-clause 7.1 shall not extend to correcting minor defects in the documentation associated with the Software other than corrections necessary due to the rectification of Software defects.
- 7.3 The Licensee shall on demand reimburse the Licensor for all costs and expenses incurred by the Licensor in investigating any complaint where the fault is found by the Licensor not to be attributable to any defect in the Software.
- 7.4 The Licensor's liability under this clause shall be in lieu of any condition or warranty implied by law as to the quality or fitness for any particular purpose of the Software and save

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as provided in this clause the Licensor shall not be liable whether in contract, tort or

otherwise in respect of defects in the Software or for any injury, damage or loss of whatsoever kind attributable to such defects. Nothing in this sub-clause shall affect the liability of the Licensor for death or personal injury caused by negligence on his part as defined in Section 1 of the Unfair Contract Terms Act 1977.

CLAUSE 8 - LIABILITY

8.1 Except as otherwise expressly provided in the Supply Contract and notwithstanding anything to the contrary elsewhere in this Agreement, the Licensor's total liability, (except for personal injury or death caused by the negligence of the Licensor or the Licensor's agents), whether in contract or tort, for all losses and damages incurred by the Licensee in connection with this Agreement or the Software or any act or omission of the Licensor hereunder (including but not limited to loss or damage resulting from infringement of Property Rights or delay in delivery of the Software or of defects in the Software) shall be limited to the sum of ten thousand pounds in full and final settlement in any event or related series of events. In no event shall the Licensor be liable for any loss of contracts or profits or for any indirect or consequential losses whatsoever.

CLAUSE 9 - LICENCE FEE

9.1 In the event that the Licence Fee is not included in the price paid for the SCOOT Urban Traffic Control System under the Supply Contract, it shall become due upon delivery of the Software and shall be paid by the Licensee to the Licensor within thirty days after submission of the Licensor's invoice. The Licence Fee shall be subject to the addition of Value Added Tax and any other applicable taxes. In the event of any delay in payment of the Licence Fee the Licensor reserves the right to charge interest on a daily basis at the annual rate of two per cent above the base rate of the National Westminster Bank plc from time to time in force over the period of delay.

CLAUSE 10 - TERMINATION

10.1 This Agreement shall be deemed automatically terminated if the Licensee disposes of or otherwise permanently ceases use of the traffic control system equipment.

10.2 Without prejudice to any other rights or remedies of the Licensor, the Licensor may terminate this Licence forthwith by written notice to the Licensee:

(a) If the Licensee commits a breach of this Licence and fails to remedy such breach within thirty days of a written notice from the Licensor specifying the breach, or

(b) If the Licensee goes into liquidation (excluding amalgamation or reconstruction) or commits an act of bankruptcy or makes an arrangement with its creditors or has a receiver appointed for any of its assets.

10.3 Upon termination under the provisions of this Clause the Licensee shall cease to have any rights or licences in respect of the Software and shall cease use thereof, shall erase the Software from any storage apparatus or medium and shall return to the Licensor all existing Copies of the Software.

CLAUSE 11 - ASSIGNMENT

11.1 This Licence and all rights granted to the Licensee herein are and shall be personal to the Licensee who shall not assign mortgage or charge or grant sub-licences under this Licence (except to the extent agreed in accordance with Clause 2.4) or any such rights to any third party or otherwise deal in such rights, and any such purported action shall immediately invalidate the Licensee's rights under this Agreement in respect of the Software.

CLAUSE 12 - LAW

12.1 This Agreement shall be a contract made in England and shall be subject to English Law. All differences between the parties arising out of this Agreement shall (except where by its terms the Licensor's decision is to be final and binding) be referred to the arbitration of a sole arbitrator in London to be agreed upon between the parties or, failing agreement, to be nominated by the President for the time being of the Chartered Institute of Arbitrators on the application of the parties or either of them in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof, the provisions whereof shall apply as far as applicable.

12.2 Nothing in this licence agreement shall be construed as prohibiting or restricting the right of the Licensee to use the programs in accordance with the Copyright (Computer Programs) Regulations 1992.