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PV-WAVE®, JWAVE™ AND TS-WAVE™ SOFTWARE PRODUCTS

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- 1.1 "Application"** means application(s) created by You or a Third Party (as defined below) using a Rogue Wave Development license (as defined below).
- 1.2 "Computer"** means primarily a single computing device containing not more than 16 processing cores used by a single end user and that utilizes an operating system that runs the Software (as defined below). A "Computer" can be either a PC (defined as having up to but not more than eight (8) processing cores), or a workstation (defined as having at least eight (8) but not more than sixteen (16) processing cores).
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- 1.11 "Node Lock"** means use is limited to a specifically identified Computer or Server at the Site.
- 1.12 "Pack"** means the number of authorized Development or Application Run-Time Node Lock licenses of the Software, as the case may be, allowing access via a Server to the Software for Development of one (1) or more Applications, or enabling display via a Server of the Software output pursuant Application Run-Time Node Lock licenses, respectively, when sold as a group of Development or Application Run-Time licenses. Packs only apply to use of the Software or Application(s) using a Run-Time version of the Software via a Server.
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- 1.15 "Seat(s)"** means the maximum authorized number of Node Lock or Floating Users of the Software.
- 1.16 "Server"** means a multiple processor-computing device accessed and used by more than a single end user that has more than four (4) processors and that utilizes an operating system that runs the Software.

1.17 "Site" is the geographical location of the Server(s) and/or Computers (i) on which the Software is to be installed and used, as specified in Your License Fee Agreement with Rogue Wave, or, if not specified therein (ii) where the Software is delivered to You by Rogue Wave.

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12.2 Governing Law/Forum Selection. The Agreement and the parties' rights and obligations hereunder shall be solely and exclusively construed, interpreted and enforced under and in accordance with the laws of the State of Colorado, United States of America, without any reference to conflicts of law principles. The parties agree that the U.N. Convention on the International Sale of Goods shall not apply to the Agreement. Any and all disputes between the parties shall be brought and resolved solely and exclusively in the state or federal courts located in the State of Colorado, United States of America. Both parties hereby irrevocably consent to the jurisdiction of such courts and service of process in connection therewith. Any judgment rendered by such courts may be entered and enforced by any court having jurisdiction over the party against which an award is entered or its assets. Both parties hereby irrevocably waive any objections to the jurisdiction of such courts based on any ground, including without limitation improper venue or *forum non conveniens*.

12.3 No Joint Venture. Nothing contained in the Agreement will be construed so as to make the parties partners or joint venturers or to permit either party to bind the other party to any agreement or purport to act on behalf of the other party in any respect.

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