

## DFLABS GITHUB

### SOFTWARE PROGRAMS LICENSE AGREEMENT

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#### **1. LICENSE OF GITHUB SOFTWARE PROGRAMS**

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Licensee shall not (i) remove or alter any copyright, trademark or other notices included in the Github Software Programs; (ii) use the Github Software Programs except as expressly permitted in this Agreement; (iii) use the Github Software Programs to conduct, publish or disclose any competitive benchmarking tests or analysis; (iv) use the Github Software Programs to disparage, malign or impugn any third party; (v) interfere with or disrupt the integrity or performance of the Github Software Programs or third-party data contained therein; (vi) attempt to gain unauthorized access to the Github Software Programs or related systems or networks; (vii) access the Github Software Programs in order to build a competitive product or service; (viii) attempt to reverse engineer or decompile the Github Software Programs; (ix) create derivative works based on the Github Software Programs; or (x) copy, frame or mirror any part or content of the Github Software Programs, other than copying or framing on Licensee’s own intranets or otherwise for Licensee’s own internal business purposes.

#### **2. TERMINATION**

2.1 Termination. DFLabs may terminate this Agreement (i) if Licensee breaches any material obligations under this Agreement and such breach is not cured within ten (10) days after written notice of such breach; or (ii) if Licensee becomes the subject of a petition in bankruptcy or any other proceeding relating to an assignment for the benefit of creditors, insolvency, receivership or liquidation.

2.2 Effect of Termination. Upon the effective date of termination of this Agreement, Licensee shall immediately cease any and all use of the Github Software Programs, and either return or destroy such Github Software Programs and certify such destruction. Any expiration or termination of this Agreement shall not modify or alter any right or obligation of a party hereto which arose prior to such expiration or termination.

### 3. **DFLABS INTELLECTUAL PROPERTY**

DFLabs does not grant any right or interest in any of the patents, copyrights, trademarks, or trade secrets owned, used or claimed now or in the future by DFLabs. All applicable rights to the Github Software Programs and/or such patents, copyrights, trademarks, and trade secrets are and shall remain the exclusive property of DFLabs.

### 4. **CONFIDENTIALITY**

For purposes of this Agreement, the term “Confidential Information” shall mean any proprietary or confidential information of a party hereto (the “Disclosing Party”) disclosed to the other party hereto (the “Receiving Party”) and furnished in any form, including written, oral, visual, or electronic form and/or in any other media or manner. Confidential Information includes all proprietary technologies, know-how, trade secrets, discoveries, inventions and any other intellectual property (whether or not patented), analyses, compilations, Github Software Programs, methodologies, processes, business, financial or technical information and other materials prepared by either party, containing or based in whole or in part on any such Confidential Information. The terms, conditions and existence of this Agreement shall be deemed Confidential Information.

Confidential Information shall not include information that (i) is or becomes generally available to the public other than as a result of a breach of this Agreement, (ii) is already known by the Receiving Party at the time of disclosure as evidenced by the Receiving Party’s written records, (iii) becomes available to the Receiving Party on a non-confidential basis from a source that is entitled to disclose it on a non-confidential basis, or (iv) was or is independently developed by or for the Receiving Party without reference to the Confidential Information of the Disclosing Party, as evidenced by the Receiving Party’s written records. In the event the Receiving Party is required to disclose such Confidential Information pursuant to law, regulation or court or administrative order, prior to making any such legally required disclosure, the Receiving Party shall notify in writing the Disclosing Party as soon as is practicable under the circumstances in order that the Disclosing Party may seek a protective order. The Receiving Party, prior to any such legally required disclosure, shall obtain an opinion of counsel from Receiving Party’s counsel with respect to the requirements and scope of any such legally required disclosure.

The Receiving Party agrees that it will not use the Disclosing Party’s Confidential Information except in connection with the performance of its obligations hereunder and will not disclose the Disclosing Party’s Confidential Information to any third party, unless such third party has a need to know such Confidential Information; is advised of the terms and conditions of this Section; and agrees to be bound by the terms and conditions of this Section. The Receiving Party shall treat and protect such Confidential Information in the same manner as it treats its own Confidential Information of like character, but with not less than reasonable care.

Upon written request of the Disclosing Party, the Receiving Party shall immediately cease its use of the Disclosing Party’s Confidential Information and within thirty (30) days either return or destroy (and certify as to such destruction) all Confidential Information, including any copies thereof. The obligations of this Section shall continue for a period of three (3) years after termination or expiration of this Agreement. Notwithstanding the foregoing, the obligations of confidentiality with respect to a trade secret of the Disclosing Party shall continue for so long as the Disclosing Party protects such trade secret as a trade secret under applicable law or regulation.

5. **LIMITED WARRANTIES**

THE GITHUB SOFTWARE PROGRAMS ARE PROVIDED “AS IS”. DFLABS DISCLAIMS ANY AND ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE.

6. **INDEPENDENT CONTRACTOR**

The relationship of the parties is that of independent contractors and nothing in this Agreement is intended to create or shall be construed as creating between the parties the relationship of joint venturers, co-partners, employer/employee or principal and agent.

7. **LIMITATION OF LIABILITY**

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES WHETHER FORESEEABLE OR UNFORESEEABLE, OF ANY KIND WHATSOEVER, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. **GENERAL**

8.1 **Entire Agreement, Amendment and Waiver.** This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings, whether oral or written, with respect to the subject matter hereof. Each party acknowledges that it has not relied upon any promise, representation or statement of the other party except as expressly set forth herein. No amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of each party. Failure by either party to insist upon strict compliance with any term of this Agreement in any one or more instances will not be deemed to be a waiver of its rights to insist upon such strict compliance with respect to any subsequent failure.

8.2 **Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. Licensee shall not have the right to assign or otherwise transfer its rights or delegate its duties under this Agreement without the express written consent of DFLabs. DFLabs, at its sole option and without the consent of Licensee, may assign this Agreement in the event of a merger, consolidation or the sale of all or substantially all of DFLabs’ assets or stock.

8.3 **Governing Law and Venue.** This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of New York, USA, without regard to its choice of law provisions or policies. Venue shall be in the applicable state or federal courts in the State of New York, USA. The United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

8.4 Severability. If any term of this Agreement is declared invalid or unenforceable by a court or other body of competent jurisdiction, the remaining terms of this Agreement shall remain in full force and effect.

8.5 Force Majeure. Neither party shall be liable to the other for any loss, injury, delay, expenses or damages arising out of any cause or event not within its reasonable control including, but not limited to: riots, wars or hostilities between any nations; Acts of God, fires, storms, floods or earthquakes; strikes or labor disputes; vendor delays; shortages or curtailments of materials, power or other utility services; governmental restrictions or trade disputes; manufacturing delays; or other contingencies.

8.6 Export Laws. Licensee shall comply with the export control laws or regulations of the United States or other export control laws, rules or regulations, as applicable.

8.7 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

8.8 Use of Licensee Name and Logo. Licensee agrees that DFLabs may publish Licensee's name: (i) in any DFLabs customer lists; (ii) on DFLabs' website; and (iii) in other DFLabs promotional materials where customer lists appear. Licensee grants DFLabs a single license of the Licensee logo to appear on the DFLabs website as part of any published customer list. DFLabs agrees that no other use of Licensee's logo will be permitted without the prior written approval of Licensee.