SOFTWARE LICENSING AGREEMENT

INSTRUCTIONS

Overview

Software Licensing Agreements set forth the terms by which licensees can use proprietary software developed by the licensor. Software Licensing Agreements are crucial for software developers to protect the time and resources they put into creating software. By licensing, rather than selling, software, developers can retain ownership rights and (theoretically) control distribution while disclaiming warranties and limiting their liability surrounding the software.

Software Licensing Agreements will vary based upon the nature of the software being licensed but some of the most important clauses address terms of installation, upgrades, bug fixes, transferability and warranties.

Instructions

1. Delete this first page of instructions before using your template
2. Fields [in brackets] are placeholders for your information
3. This template is provided "as is" - please consult your own legal counsel before use.
4. For more detailed instructions for this template, or to find more detailed and comprehensive Licensing Agreements, visit UpCounsel

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Please remove this instructional page before use

SOFTWARE LICENSING AGREEMENT FOR [COMPANY NAME]

This Software Licensing Agreement is entered into this [Date], by and between [Software Owner/Developer] (Licensor), and [License Purchaser] (Licensee).

Recitals. WHEREAS, Licensor is engaged in the business of designing and developing computer-related software and hardware systems and related products and has created and developed a software package called [Name of product] that is [Modify this to match the description in Exhibit A] and is described in greater detail in the attached Exhibit "A" (the "Software"); and
WHEREAS, Licensee desires to utilize such Software in [Describe desired use for software];
WHEREAS, Licensor and Licensee believe it is in their mutual interest and desire to enter into an agreement whereby Licensee would use Licensor's Software on its [Desired platform use for software] pursuant to the terms and conditions hereinafter provided.
NOW, THEREFORE, in consideration of the premises and the mutual covenants of this Agreement, the parties hereto agree as follows:

1. LICENSE.

Licensor hereby grants to Licensee, for the term of this Agreement, a [Pick desired license type: exclusive or nonexclusive], [assignable or non-assignable], right and license to ["use" (define precisely e.g., make copies, distribute, etc.)] the Software in connection with its business of [Describe business] on its [specify type of computer system (e.g., PC LAN)] system in [location (the Site)]. Licensee's [Describe system (e.g., PC-LAN system)] at the [Site] currently includes [current number] personal computers, the serial numbers of which are identified in Exhibit "B." Licensor will place the Software on the LAN Server.
This license is expressly limited to [licensed number] personal computers on Licensee's LAN. In the event that Licensee desires to add more PCs to the LAN, it shall notify Licensor of such fact, provide Licensor with the serial numbers of the additional PCs to be added, and agree to pay the Additional User Fee recited in Schedule A attached hereto.
No right or license is being conveyed to Licensee to use the Software at any other location. Licensee is prohibited from making any copies, archival or otherwise, of the Software. Licensee is further prohibited from using the Software in any manner other than as described above.

2. TERM.

This Agreement shall be effective as of the date of execution by both parties and shall extend for the period of [term years] year(s) thereafter (the "Initial Term"). This Agreement shall be automatically renewed for [additional automatic renewal number of years] year(s) [the "Extended Term(s)"] unless Licensee provides the Licensor notice in writing of its intention not to renew the Agreement, said notice to be provided at least [number of days notice, ex. 30] days prior to the expiration of the then in-effect Term.

3. COMPENSATION.

In consideration for the licenses granted hereunder and during the Initial Term of the Agreement and for each Extended Term, Licensee agrees to pay to Licensor the User Fee recited in Schedule A (the "User Fee") in accordance with the Fee Payment Schedule recited in Schedule A. In the event that Licensee should add additional personal computers to the [LAN] currently being licensed, Licensee agrees to pay Licensor an Additional User Fee per computer as recited in Schedule A attached hereto, prorated in accordance herewith when such additional computers are added to the LAN.

At the time of installation, Licensee agrees to pay Licensor the Installation Fee recited in Schedule A attached hereto. In the event that additional installations are required, Licensee agrees to pay the Additional Installation Fee recited in Schedule A prior to such additional installations.

4. INTELLECTUAL PROPERTY AND CONFIDENTIALITY.

Licensor will retain exclusive interest in and ownership of its intellectual property rights in and to the Software and expressly reserves all rights not expressly granted under this agreement. Licensee recognizes that the Software is the proprietary and confidential property of Licensor. Accordingly, Licensee shall not, without the prior express written consent of Licensor, during the term of this Agreement and for additional years thereafter, disclose or reveal to any third party or utilize for its own benefit other than pursuant to this Agreement, any Software provided by Licensor, provided that such information was not previously known to Licensee or to the general public. Licensee further agrees to take all reasonable precautions to preserve the confidentiality of Licensor's Software and shall assume responsibility that its employees, sub-licensees, [and assignees (optional: depending on type of agreement)] will similarly preserve this information against third parties. The provisions of this clause shall survive termination of this Agreement.

[Optional: "Liquidated Damages" clause in case client breaches the confidentiality clause]
Licensee shall take no steps in attempting to reverse engineer the Software.

5. INSTALLATION, TRAINING, AND ACCEPTANCE.

Licensor shall install the Software on Licensee's server in accordance with the Delivery Schedule recited in Schedule A attached hereto. At the time of such installation, Licensor shall provide Licensee with appropriate documentation for the Software reasonably acceptable to Licensee and a sufficient number of user manuals for each PC on the LAN.

At the time of installation of the Software and for no additional consideration, Licensor shall train at least [number of employees] of Licensee in the use of the Software at Licensee's facility. Subsequent to the installation of the Software, Licensor agrees to provide additional training to Licensee's employees at Licensor's facilities for a fee of [Training Fee] Dollars [($__)] per day per employee.

In the event that Licensee fails to notify Licensor of any difficulties or problems with the Software within [Acceptance Period] days after installation thereof, Licensee shall be deemed to have accepted the Software. Prior to acceptance of such Software, Licensor shall have the right to repair or replace the Software at its discretion. Upon acceptance of such Software, Licensor shall be under no obligation to repair or replace such Software except as provided for in the Warranties provision of this Agreement.

6. WARRANTIES.

Software Licensing Agreement

Licensor represents and warrants that, to Licensor's knowledge, the Software does not infringe the intellectual property rights or other rights of any third party.

Licensor warrants that the Software will perform in accordance with the specifications provided to Licensee, [a copy of which will be added to this Agreement], as determined by Licensor. **THE WARRANTY PROVIDED FOR HEREIN IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, THAT MAY ARISE EITHER BY AGREEMENT BETWEEN THE PARTIES OR BY OPERATION OF LAW, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

In the event of a claim by Licensee under this warranty, Licensor shall have the option to either repair or replace the Software. In the event that Licensor fails to repair or replace the Software within a reasonable period, Licensee's sole recourse shall be to terminate the Agreement and Licensor's sole obligation shall be to return any User and Installation Fees paid by Licensee. In no event shall Licensor be liable for any incidental, consequential, or punitive damages as a result of its performance or breach of this Agreement.

7. IMPROVEMENTS AND MAINTENANCE.

[*Optional:* For a period of [Term of free updates]], Licensor will provide to Licensee, at Licensor's sole expense, any improvements, modifications, updates, extensions and enhancements that Licensor makes to the Software and that Licensor offers to other Licensees of the Software. Any such improvements, modifications, updates, extensions and enhancements shall be automatically included in this Agreement. [*Optional*: During this term] Licensor shall further provide Licensee with bug fixes and code corrections to correct Software malfunctions and defects in order to bring the Software into substantial conformity with its operating specifications, as determined by Licensor. Licensor may, but will not be required to, provide these maintenance services if Licensee has modified the Software or is in default.

8. TERMINATION.

The following termination rights are in addition to the termination rights that may be provided elsewhere in the Agreement:

Right to Terminate Upon Notice. Either party may terminate this Agreement on [Number Days Notice of Termination] days' written notice to the other party in the event of a breach of any provision of this Agreement by the other party, provided that, during the [Number Days Notice of Termination]-day period, the breaching party fails to cure such breach.

Licensee Right to Terminate. Licensee shall have the right to terminate this Agreement at any time on [Month's Notice of Termination] months' written notice to Licensor for any reason.

9. POST-TERMINATION RIGHTS.

Upon the expiration or termination of this Agreement, all rights granted to Licensee under this Agreement shall forthwith terminate and immediately revert to Licensor and Licensee shall discontinue all use of the Software and the like.

Upon expiration or termination of this Agreement, Licensor may require that Licensee transmit to Licensor, at no cost, all material relating to the Software, provided, however, that Licensee shall be permitted to retain a full copy of all material subject to the confidentiality provisions of this agreement.

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10. INDEMNITY.

Licensee (as an indemnifying party) shall indemnify Licensor (as an indemnified party) against all losses and expenses, including reasonable attorneys fees, in connection with any proceeding arising out of Licensee's unauthorized customization, modification, or other alterations to the Software, including claims that its customization, modification, or other alterations infringe a third party's Intellectual Property rights.

11. NOTICES.

Any notice required to be given pursuant to this Agreement shall be in writing and mailed by certified or registered mail, return receipt requested, or delivered by a national overnight express service.
Either party may change the address to which notice or payment is to be sent by written notice to the other party pursuant to the provisions of this paragraph.

12. JURISDICTION AND DISPUTES.

This Agreement shall be governed by the laws of [State].
All disputes hereunder shall be resolved in the applicable state or federal courts of [State]. The parties consent to the jurisdiction of such courts, agree to accept service of process by [mail or electronic] and waive any jurisdictional or venue defenses otherwise available without reference to conflict of laws principles.

13. AGREEMENT BINDING ON SUCCESSORS.

This Agreement shall be binding on and shall inure to the benefit of the parties hereto, and their heirs, administrators, successors, and assigns.

14. WAIVER.

No waiver by either party of any default shall be deemed as a waiver of any prior or subsequent default of the same or other provisions of this Agreement.

15. SEVERABILITY.

If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement.

16. ASSIGNABILITY.

The license granted hereunder is personal to Licensee and may not be assigned by any act of Licensee or by operation of law unless in connection with a transfer of substantially all the assets of Licensee or with the consent of Licensor.

17. INTEGRATION.

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This Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents that may be in conflict therewith.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have each caused to be affixed hereto its or his/her hand and seal the day indicated.

> **DocuSign tip |** Use DocuSign for Google Docs and you can leave the following section blank. DocuSign will fill it automatically when you and your recipients sign.

[Licensor]

Date: _____   Signed: _____
                              Name: _____
                              Title: _____

[Licensee]

Date: _____   Signed: _____
                              Name: _____
                              Title: _____

SCHEDULE A TO SOFTWARE LICENSE AGREEMENT

DATED [date]
BETWEEN
[Licensor]
AND
[Licensee]

1. USER FEE.

During the Initial Term of this Agreement, the User Fee shall be [Initial User Fee] Dollars [($__

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)]. For each Extended Term, the User Fee shall be Extended User Fee Dollars [($__)].

2. ADDITIONAL USER FEE.

For every PC in excess of [Licensed Number] on Licensee's LAN that will have access to the Software, Licensee shall pay Licensor an Additional User Fee of [Additional User Fee Dollars] [($__)] per PC per Term of this Agreement.

3. INSTALLATION FEE.

For the installation of the Software by Licensor on Licensee's LAN, Licensee agrees to pay Licensor an Installation Fee of [Installation Fee] Dollars ($__)].

4. ADDITIONAL INSTALLATION FEE.

For each additional Installation made by Licensor after the initial installation, Licensee agrees to pay Licensor the sum of [Additional Installation Fee] Dollars [($__)].
This fee covers subsequent installations of the software on the server.

5. DELIVERY SCHEDULE.

Licensee agrees to install the Software on Licensee's LAN within [# of Days] days after execution of this Agreement.

6. FEE PAYMENT SCHEDULE.

The User Fee and Installation Fee shall be payable as follows:

[Agreement execution (text)] Percent [Agreement execution (#) %] of User Fee	**Upon execution of this Agreement**
[Software install (User Fee) (text)] Percent [Software install (User Fee) (#) %)] of User Fee	**Upon installation of the Software on the LAN**
[Software install (Install Fee) (text)] Percent [Software Install (Install Fee) (#) %] of Installation Fee	**Upon installation of the Software on the LAN**
[Licensee Accept (User Fee) (text)] Percent [Licensee Accept (User Fee) (#) %] of User Fee	**Upon acceptance by Licensee**
[Licensee Accept (Install Fee) (text)] Percent [Licensee Accept (Install Fee) (# %] of Installation Fee	**Upon acceptance by Licensee**

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EXHIBIT A TO SOFTWARE LICENSE AGREEMENT
DATED [date]
BETWEEN
[Licensor]
AND
[Licensee]
[Attach detailed description of the computer system, including operating specifications.]

EXHIBIT B TO SOFTWARE LICENSE AGREEMENT
DATED [date]
BETWEEN
[Licensor]
AND
[Licensee]
[Attach list of all PC serial numbers currently on the LAN.]