

Terms and Conditions for API Management Software

The following terms and conditions govern your use of the API Management Software provided to you by InterSystems to be used in conjunction with your use of the Licensed Software.

Definitions. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the License and Support Services Agreement governing your use of the Licensed Software.

“**API Management Software**” means the proprietary software that allows users to create, document, and manage APIs in a secure development environment.

“**Third Party Licensor**” means the third party that has authorized InterSystems to provide the API Management Software to you pursuant to these terms and conditions.

“**Internal Business Use**” means your use of the API Management Software solely in conjunction with your use of the Licensed Software for purposes of carrying out software development, integration, maintenance and support for your internal business purposes.

Terms and Conditions.

1. If you obtained the API Management Software from InterSystems or one of its authorized licensees, and subject to your compliance with these terms and conditions, you are granted a nontransferable, nonexclusive, nonsublicenseable license to use the API Management Software for your Internal Business Use and the purposes described herein. No external use of the API Management Software is permitted. You may only use the API Management Software during the period for which InterSystems has paid the applicable licensing fees to the Third Party Licensor.
2. For a period of sixty (60) days from the Effective Date of the License and Support Services Agreement, the API Management Software will materially conform to its published specifications described in the relevant documentation supplied by the Third Party Licensor. Your exclusive remedy for a breach of the above sentence shall be for InterSystems to use reasonable efforts to repair, replace or re-perform any non-conforming API Management Software. NO OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY, TITLE, NON-INFRINGEMENT, DESIGN, OPERATION OR FITNESS FOR A PARTICULAR PURPOSE OF THE API MANAGEMENT SOFTWARE IS MADE. MOREOVER, THE API MANAGEMENT SOFTWARE IS NOT A SUBSTITUTE FOR THE SKILL, KNOWLEDGE AND EXPERIENCE OF THE INDIVIDUALS WHO MAY USE THE API MANAGEMENT SOFTWARE.
3. In the event of a valid claim that the API Management Software that has not been altered, modified, misused or damaged infringes upon the intellectual property rights of a third party when used in accordance with the Third Party Licensor’s documentation and instructions, InterSystems shall either (a) modify the API Management Software, (b) procure a license for you to use the API Management Software or (c) terminate your license, at InterSystems' sole discretion.
4. The API Management Software and related documentation are and shall remain the sole property of the Third Party Licensor. You agree not to (i) decompile, disassemble, or reverse engineer or attempt to derive the source code the API Management Software or (ii) disclose to others the API Management Software or any data or information relating to the API Management Software. In addition, you agree not to use or disclose any confidential information provided to you by InterSystems or its affiliates contained in or relating to the API Management Software or this business relationship.

5. You agree to allow InterSystems or its representatives the right to audit your use of the API Management Software upon five (5) days advance notice by InterSystems. You agree to provide access to your premises and otherwise cooperate with InterSystems in such audit.
6. You agree to comply with all applicable laws, including, but not limited to: U.S. export control or similar laws with respect to the distribution of the API Management Software and technical data; the US Foreign Corrupt Practices Act and any other anti-corruption laws; and applicable data protection laws. Without InterSystems' prior written consent, you may not allow the API Management Software or technical data to be exported to or used in a country or region where a license, permit or special permission is required. InterSystems may, but shall not be required to, apply for such license, permit or permission at your expense
7. Except as provided in Section 3, in no event will InterSystems, its affiliates, or the Third Party Licensor be liable or responsible to you for any loss or damage directly or indirectly caused by, or resulting from the use or operation of, the API Management Software, including, without limitation, any injuries to persons or property, interruption of service, loss of business or profit. In no event shall InterSystems, its affiliates, or the Third Party Licensor be liable to you for any special, incidental, exemplary, indirect or consequential damages or lost profits.
8. Either party may terminate this Agreement with thirty (30) days advance written notice upon the other party's breach if the breach is not cured during that period. Either party may terminate this Agreement immediately upon written notice to the other party if the other party declares bankruptcy, makes an assignment for the benefit of creditors, or ceases to function as a going concern
9. Federal Government End Use Provisions (if applicable). InterSystems provides the API Management Software for federal government end use solely in accordance with the following: Government technical data and software rights related to these terms and conditions include only those rights customarily provided to the public as defined in these terms and conditions. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202.3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a "need for" right not conveyed under these terms, it must negotiate with InterSystems to determine whether there are acceptable terms for transferring additional rights. A mutually acceptable addendum specifically conveying such rights must be executed by the parties in order to convey such rights beyond those set forth herein.
10. The parties are and shall be independent contractors to one another, and these terms and conditions shall not create an agency, partnership or joint venture between the parties.
11. This Agreement shall be governed by and construed in accordance with the laws of, and the parties agree to submit to exclusive jurisdiction of the state under which you have licensed the Licensed Software from InterSystems. The English version of this Agreement shall control unless otherwise required by local law.
12. InterSystems shall have the right to transfer or assign this Agreement without your consent or prior notice to you. You may not assign this Agreement without InterSystems' prior written consent.