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**SOFTWARE LICENSE AGREEMENT**  
**between**  
**InfoSoft Global Private Limited**  
**and**  
**AppDynamics, Inc.**

**FusionCharts Combo License Agreement**

This License Agreement ("Agreement") is entered into by and between InfoSoft Global Private Limited (hereinafter referred as "InfoSoft"), having its principal place of business at 17 Bangur Avenue, Block D, GB-1, Kolkata - 700055, India and AppDynamics, Inc., (hereinafter referred as "AppDynamics ") a corporation having its principal place of business at 303 Second Street, Suite 450, North Tower San Francisco, CA 94107.

**1. DEFINITIONS**

- 1.1. "FusionCharts Software" means the software described in Exhibit A, provided by InfoSoft.
- 1.2. "Documentation" means all end user and developer documentation supplied by InfoSoft for the FusionCharts Software, including subsequent revisions and updates thereto.
- 1.3. "Minor Version Upgrade" means minor upgrade and bug fixes to the current version of the FusionCharts Software
- 1.4. "Major Version Upgrade" means major upgrade to a new version of the FusionCharts Software.
- 1.5. "Person" means any individual, sole proprietorship, joint venture, partnership, corporation, company, firm, bank, association, cooperative, trust, estate, government, governmental agency, regulatory authority, or other entity of any nature.
- 1.6. "AppDynamics Product" means the AppDynamics software product identified in Exhibit A, and any updates, upgrades.
- 1.7. "Effective Date" means the date on which this Agreement is signed by AppDynamics.
- 1.8. "Intellectual Property Rights" means patents, trade or service marks, registered designs or applications for any of the foregoing, copyright, design rights, database right and any other industrial or intellectual property right.
- 1.9. "Confidential Information" means all business information disclosed by one party to the other in connection with this Agreement which is either marked or designated as being confidential, or should reasonably be understood as confidential having regard to its nature or the circumstances in which it was disclosed. Without limiting the generality of the foregoing, Confidential Information shall include each party's data and the details of such party's proprietary software and computer operations.

**2. DELIVERY AND ACCEPTANCE**

- 2.1. InfoSoft will deliver the FusionCharts Software to AppDynamics in electronic form promptly following execution of this Agreement. AppDynamics will have the right to test the FusionCharts Software for an initial period of fifteen (15) days from delivery ("Acceptance Period"), and to reject the FusionCharts Software, if the FusionCharts Software does not comply with the description in Exhibit A and/or the Documentation, and/or suffers any error(s) which render the FusionCharts Software inoperable in any material respect. If AppDynamics

does provide written notice of rejection within the Acceptance Period, InfoSoft shall have a period of thirty (30) days to correct the relevant error and re-submit the FusionCharts Software to AppDynamics for re-testing, and the Acceptance Period shall be extended for an additional fifteen (15) days to accommodate such re-testing. If AppDynamics does not accept re-submitted FusionCharts by InfoSoft, it will send notice of rejection to InfoSoft within 15 days of such re-submission. If AppDynamics has not provided written notice of rejection within the Acceptance Period, AppDynamics will be deemed to have accepted the FusionCharts Software.

### **3. GRANT OF RIGHTS**

3.1. InfoSoft hereby grants to AppDynamics the rights to:

- (a) distribute the FusionCharts Software as part of AppDynamics 's Product (including Evaluation versions), in object code form only as set forth in Exhibit A. AppDynamics 's product should not have similar underlying functionality as that of FusionCharts. This license is being granted for distributing the FusionCharts Software as an embedded part of AppDynamics's Product for deployment on AppDynamics's customer premises.
- (b) deploy the FusionCharts Software in the SaaS application as set forth in Exhibit A.
- (c) incorporate parts of FusionCharts Documentation into AppDynamics 's own product documentation to the extent reasonably necessary to document the functionality of the AppDynamics Product.

3.2. AppDynamics acknowledges that, except for the licenses granted herein, InfoSoft retains all of its right, title, and interest in the FusionCharts Software.

### **4. MAINTENANCE AND SUPPORT**

- 4.1. InfoSoft shall provide error-fixes and technical support (implementation guidelines only) at no additional charge to AppDynamics, as further detailed in Exhibit B.
- 4.2. Version Upgrades of FusionCharts Software shall be provided as specified in Exhibit C
- 4.3. Modification of codes and customization at the request of AppDynamics will be charged extra by InfoSoft as agreed by both parties.
- 4.4. InfoSoft warrants that during the tenure of this agreement all improvements to existing functionality shall be supplied to AppDynamics under this Section 4 as Version Upgrade, however AppDynamics acknowledges that InfoSoft shall have the right to market and license as a separate product or module, for additional fees, any new, separate functionality which InfoSoft develops.

### **5. LICENSE FEE**

- 5.1. Upon delivery of the FusionCharts Software, InfoSoft shall invoice AppDynamics for the licensee fees set forth in Exhibit A. Payment of such license fees will be made to InfoSoft by AppDynamics as per terms set forth in Exhibit A.

### **6. CONFIDENTIALITY**

- 6.1. Except as expressly permitted under this Agreement, AppDynamics will not disclose the FusionCharts source code to third parties without InfoSoft's prior written consent; and AppDynamics will take reasonable steps to protect the FusionCharts source code from unauthorized disclosure. Further, all Confidential Information of one party ("Disclosing Party")

in the possession of the other ("Receiving Party"), whether or not authorized, shall be held in strict confidence, and the Receiving Party shall take all steps reasonably necessary to preserve the confidentiality thereof. One party's Confidential Information shall not be used or disclosed by the other party for any purpose except as necessary to implement or perform this Agreement, or except as required by law, provided that the other party is given a reasonable opportunity to obtain a protective order. The Receiving Party shall limit its use of and access to the Disclosing Party's Confidential Information to only those of its employees whose responsibilities require such use or access. The Receiving Party shall advise all such employees, before they receive access to or possession of any of the Disclosing Party's Confidential Information, of the confidential nature of the Confidential Information and require them to abide by the terms of this Agreement. The Receiving Party shall be liable for any breach of this Agreement by any of its employees or any other Person who obtains access to or possession of any of the Disclosing Party's Confidential Information from or through the Receiving Party

- 6.2. Except as expressly set forth herein, the parties agree not to disclose the terms and conditions of this Agreement to third parties.
- 6.3. Notwithstanding anything else herein, the parties may disclose information that is covered by an obligation of confidentiality under this Agreement (a) to their own legal and/or financial advisers who are bound by a written confidentiality agreement, for the purpose of obtaining legal or financial advice relating to this Agreement, or (b) as required by law in a legal proceeding. In the event that a party is required to disclose this Agreement in a legal proceeding, such party will take reasonable steps to obtain protective treatment of the information to maintain its confidentiality, and will give the other party prior written notice of the required disclosure in sufficient time to enable the other party to seek protective treatment.

## **7. WARRANTIES, DISCLAIMERS, INDEMNITY AND LIMITATION OF LIABILITY**

- 7.1. Warranties. InfoSoft warrants and represents to AppDynamics that (i) it owns the FusionCharts Software provided by InfoSoft to AppDynamics pursuant to this Agreement; (ii) it has the right to license the FusionCharts Software to AppDynamics in accordance with this Agreement, (iii) the FusionCharts Software does not infringe any third party Intellectual Property Rights; (iv) upon delivery of the FusionCharts Software and for a period of 90 days thereafter, the FusionCharts Software will perform substantially in accordance with its Documentation, (v) InfoSoft will perform any support services hereunder in a prompt and professional manner, (vi) the FusionCharts Software (including any future error corrections and Minor and Major Upgrades) have or shall be checked by InfoSoft using high quality and up-to-date virus checking software, and shall not be provided to AppDynamics until any detected viruses have been eradicated or any code designed to limit or prevent AppDynamics's use of the FusionCharts Software in accordance with the terms of this Agreement. InfoSoft agrees that AppDynamics may pass on the benefit of the warranties and indemnities in this Section 7 to end users of the AppDynamics Product.
- 7.2. Limitation of Liability.

EXCEPT AS PROVIDED IN THIS SECTION 7, NEITHER PARTY IS MAKING (OR WILL BE DEEMED TO MAKE) ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. EXCEPT FOR BREACH OF WARRANTY AND INFOSOFT'S CORRESPONDING INDEMNITY OBLIGATIONS, AND EXCEPT FOR A BREACH OF A PARTY'S OBLIGATIONS UNDER SECTION 6 (CONFIDENTIALITY), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS) ARISING FROM THIS AGREEMENT, WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE. EXCEPT FOR BREACH OF WARRANTY AND

INFOSOFT'S CORRESPONDING INDEMNITY OBLIGATIONS, AND EXCEPT FOR A BREACH OF A PARTY'S OBLIGATIONS UNDER SECTION 6 (CONFIDENTIALITY), IN NO EVENT SHALL EITHER PARTY'S LIABILITY EXCEED THE TOTAL LICENSE FEES PAID HEREUNDER IN SECTION 5.1.

## **8. TERM AND TERMINATION**

- 8.1. Term. This Agreement is effective as of the Effective Date and initially will be valid for one year. Thereafter it can be renewed annually as set forth in clause 8.4
- 8.2. Termination for Breach. Either party will have the right to terminate this Agreement immediately upon written notice at any time if the other party is in material breach of any warranty, term, condition or covenant of this Agreement and fails to cure that breach within thirty (30) days after written notice of that breach and of the first party's intention to terminate.
- 8.3. Either party will have the right to terminate this Agreement by giving advance notice to the other party 90 days prior to next renewal due date.
- 8.4. Effect of Termination. Upon any termination of this Agreement, each party will be released from all obligations and liabilities to the other occurring or arising after the date of such termination, except that the provisions of Sections 1, 3.2, 6, 7, 8.3, 9 and 10 will survive termination of this Agreement. Following any expiration or termination, AppDynamics will cease having the rights granted under section 3 hereinabove and will have to stop distribution of FusionCharts Software as part of AppDynamics product forthwith.. However, AppDynamics's customers will be permitted to continue using FusionCharts Software as embedded component of AppDynamics's product provided that AppDynamics's product was delivered to the said customers during the validity of this Agreement. Termination will not relieve either party from any liability arising from any breach of this Agreement. Neither party will be liable to the other for damages of any sort solely as a result of terminating this Agreement in accordance with its terms, and termination of this Agreement will be without prejudice to any other right or remedy of either party
- 8.5. InfoSoft reserves the right to extend validity of this Agreement by one year on receipt of Annual fees as set forth in Exhibit A from AppDynamics, prior to expiry of this Agreement.

## **9. NOTICES**

All notices required or permitted under this Agreement will be in writing, will reference this Agreement and will be deemed given when: (i) delivered personally; or (iii) thirty days after having been sent by registered or certified first class mail, return receipt requested, postage prepaid; or (iv) five days after deposit with a commercial overnight carrier specifying no more than two-day delivery, with written verification of receipt. All notices will be sent to the addresses set forth below or to such other address as may be designated by a party by giving written notice to the other party pursuant to this Section 9:

AppDynamics :  
AppDynamics, Inc.  
303 Second Street, Suite 450, North  
Tower San Francisco, CA 94107

InfoSoft:  
InfoSoft Global Private Limited  
17, Bangur Avenue, Block D, GB-1  
Kolkata 700055 India  
Attention: Pallav Nadhani

## **10. GENERAL**

- 10.1. Relationship of Parties. The parties are independent contractors, and not agents, employees or joint venturers of one another, and do not have any authority to bind the other party by contract or otherwise to any obligation. Neither party will represent to the contrary, either

expressly, implicitly, by appearance or otherwise.

- 10.2. Assignment. The rights and liabilities of the parties hereto will bind and inure to the benefit of their respective successors, executors and administrators, as the case may be.
- 10.3. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of California, United States of America as applied to agreements entered into.
- 10.4. Jurisdiction and Venue. The parties hereby submit to the jurisdiction of, and waive any venue objections against the courts located in San Francisco, California, USA.
- 10.5. Severability. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement will continue in full force and effect.
- 10.6. No Waiver of Rights. The failure of either party to enforce any of the provisions of this Agreement, or the failure to require performance by the other party of any of the provisions of this Agreement, shall not be construed to be a present or future waiver of such provisions, nor affect the validity of either party's right to enforce such provision in future.
- 10.7. Compliance with Export Laws. Each party shall comply with the laws. Neither party shall export or re-export directly or indirectly (including via remote access) any part of the FusionCharts Software or AppDynamics Product to any country for which a license is required under the Export Laws without first obtaining a license.
- 10.8. Trademark Usage and Publicity. Upon AppDynamics' express written consent, InfoSoft may use AppDynamics' Name, logos and Software by name in its marketing, promotion, website etc and legal agreements, as is reasonably necessary to describe and promote FusionCharts software.
- 10.9. Complete Agreement. This Agreement, including all Exhibits, constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. No amendment to or modification of this Agreement will be binding unless in writing and signed by a duly authorized representative of both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives:

**APPDYNAMICS**

DocuSigned by:  
BY: Jason J Heine  
48971411962844D...

NAME: Jason J Heine

TITLE: Director of Finance

08 February 2013  
Date: \_\_\_\_\_  
(Effective Date)

**INFOSOFT**

DocuSigned by:  
BY: Kisor Kumar Nadhani  
737E431ABE58468...

NAME: Kisor Kumar Nadhani

TITLE: Director

## **Exhibit A**

### **I. Description of licensed software in object form:**

- FusionCharts XT
- FusionWidgets XT
- FusionCharts for Flex

### **II. License Fee:**

A. Lump Sum payment

US \$21999 (Twenty one thousand nine hundred ninety nine US Dollars only).

B. Terms of Payment:

US \$21999 within 30 days of Agreement

### **III. Annual Usage Charges**

US \$4399 (Four thousand three hundred ninety nine US Dollars only per Annum, payable at least 15 days in advance prior to expiry of Agreement.

**AppDynamics Products in which Charts listed above can be re-distributed in object form for on-premise deployment at client site and also be deployed in hosted versions of the following applications:**

- Name of On-Premise application: AppDynamics Pro On Premise
- Description of On-Premise application: AppDynamics provides application and database performance monitoring infrastructure and tooling for deployment in a end user data center. Requires an end user to deploy APM infrastructure in their data center.
- Name of the SaaS application: AppDynamics Pro
- Description of the SaaS application: AppDynamics provides application and database performance monitoring infrastructure and tooling. Does not require the end user to deploy APM infrastructure in their data center.
- URL of the SaaS application: <http://saas.appdynamics.com>
- No. Of deployment servers / instances: Unlimited

**Exhibit B****Support Procedures:**

- ☐ Support hours - IST 10.00am to 6.30pm (IST = +5.30 GMT)
- ☐ Email - support@FusionCharts.com <mailto:support@FusionCharts.com>
- ☐ Phone - (+91) 33 40065684
- ☐ Response times - IST 10.00am to 6.30pm (IST = +5.30 GMT)
- ☐ Error definitions and correction timeframes - Error acknowledgement within 48 hours and correction within a week
- ☐ Escalation path for unresolved issues: where AppDynamics has a query or complaint about InfoSoft's compliance with these support procedures, AppDynamics may contact:  
Pallav Nadhani  
+91 9831189489  
pallav@infosoftglobal.com
- ☐ Assistance with general queries relating to functionality / interoperability - Acknowledgement of query within 24 hours and implementation support within 48 hours of receipt of query

**Company Information:**

Department	Contact Person	Phone	Email Id
Accounts Payable	Jason J Heine	415-442-8400	jheine@appdynamics.com
Product Manager	Adam Leftik	415-279-1004	aleftik@appdynamics.com
Procurement	Jason J Heine	415-442-8400	jheine@appdynamics.com
Company Phone		415-442-8400	

**Exhibit C****Upgrades:**FusionCharts

As a part of this Agreement, InfoSoft will provide free Upgrades of FusionCharts software released during the year to AppDynamics, subject to payment of Annual Usage Charges under the terms and conditions of this Agreement.