

## License Agreement

THIS LICENSE AGREEMENT IS BETWEEN YOU AND GOAHEAD (BOTH AS DEFINED BELOW). THIS AGREEMENT GRANTS YOU ONLY A LIMITED LICENSE TO USE GOAHEAD PROPRIETARY COMPUTER SOFTWARE. BY EXECUTING THIS AGREEMENT OR USING THE SOFTWARE, YOU CERTIFY THAT YOU WILL USE THE SOFTWARE ONLY IN THE MANNER PERMITTED HEREIN.

### 1. Definitions.

**1.1 "Documentation"** means any documentation GoAhead provides with the Original Code.

**1.2 "GoAhead"** means GoAhead Software, Inc.

**1.3 "Agreement"** means this document.

**1.4 "Modifications"** means any addition to or deletion from the substance or structure of either the Original Code or any previous Modifications.

**1.5 "Original Code"** means the source code to GoAhead's proprietary computer software entitled GoAhead WebServer that is provided to You by GoAhead.

**1.6 "You"** means an individual or a legal entity exercising rights under, and complying with all of the terms of, this license or a future version of this license. For legal entities, "You" includes any entity that controls, is controlled by, or is under common control with You. For purposes of this definition, "control" means (a) the power, direct or indirect, to cause the direction or management of such entity, whether by contract or otherwise, or (b) ownership of fifty percent (50%) or more of the outstanding shares or beneficial ownership of such entity.

**1.7 "Response Header"** means the first portion of the response message output by the GoAhead WebServer, containing but not limited to, header fields for date, content-type, server identification and cache control.

**1.8 "Server Identification Field"** means the field in the Response Header which contains the text "Server: GoAhead-Webs".

### 2. License.

#### 2.1 Limited Original Code Grant.

Subject to the terms of this Agreement, GoAhead hereby grants You a worldwide, royalty-free, nonexclusive, nontransferable license, without right of sublicense, subject to third party intellectual property claims, (a) to use and reproduce the Original Code, (b) to create Modifications from the Original Code, and (c) to distribute source code copies of the Original Code form solely when embedded in other software (in a manner that does not allow the Original Code to be separated) that provides material functionality in addition to the functionality provided by the Original Code.

## **2.2 Binary Code.**

Subject to the terms of this Agreement, GoAhead hereby grants You a worldwide, royalty-free, nonexclusive, nontransferable license, without right of sublicense, to copy and distribute binary code copies of the Original Code together with Your Modifications in binary code.

## **2.3 Restrictions on Use.**

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## **2.4 Documentation.**

Subject to the terms of this Agreement, GoAhead hereby grants You a worldwide, royalty-free, nonexclusive, nontransferable license, without right of sublicense, to copy and distribute the Documentation in connection with the authorized distribution of the Original Code and Modifications.

## **2.5 Copyright Notice.**

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## **2.6 License Back to GoAhead.**

You hereby grant in both source code and binary code to GoAhead a world-wide, royalty-free, non-exclusive license to copy, modify, display, use and sublicense any Modifications You make that are distributed or planned for distribution. Within 30 days of either such event, You agree to ship to GoAhead a file containing the Modifications (in a media to be determined by the parties), including any programmers' notes and other programmers' materials. Additionally, You will provide to GoAhead a complete description of the product, the product code or model number, the date on which the product is initially shipped, and a contact name, phone number and e-mail address for future correspondence. GoAhead will keep confidential all data specifically marked as such.

## **3. Terms, Trademarks and Brand.**

### **3.1 License and Use.**

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In consideration for the licenses granted by GoAhead to You herein, You agree to notify GoAhead when You incorporate the GoAhead WebServer in Your product and to inform GoAhead when such product begins to ship. You agree to promote the Original Code by prominently and visibly displaying a graphic of the GoAhead WebServer mark on the initial Web page of Your product that is displayed each time a user connects to it. You also agree that GoAhead may identify your company as a user of the GoAhead WebServer by placing your company logo on its Web site. You may further promote the Original Code by displaying the GoAhead WebServer mark in marketing and promotional materials such as the home page of your Web site or Web pages promoting the product. You also agree to use the latest available logo and script code from GoAhead available from the official GoAhead download location.

### **3.3 No Modifications to Server Identification Field.**

You agree not to remove or modify the Server identification Field contained in the Response Header as defined in Section 1.7 and 1.8.

## **4. Term.**

This Agreement and license are effective from the time You execute this Agreement until this Agreement is terminated. You may terminate this Agreement at any time by uninstalling or destroying all copies of the Original Code including all binary versions and removing any Modifications to the Original Code existing in any products. This Agreement will terminate immediately and without further notice if You fail to comply with any provision of this Agreement. All restrictions on use, and all other provisions that may reasonably be interpreted to survive termination of this Agreement, will survive termination of this Agreement for any reason. Upon termination, You agree to uninstall or destroy all copies of the Original Code, Modifications, and Documentation.

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Any warranties that by law survive the foregoing disclaimers shall terminate 90 days from the date You received the Original Code.

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YOUR SOLE REMEDIES AND GOAHEAD'S ENTIRE LIABILITY ARE SET FORTH ABOVE. IN NO EVENT WILL GOAHEAD OR ITS DISTRIBUTORS OR DEALERS BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OF THE ORIGINAL CODE, THE INABILITY TO USE THE ORIGINAL CODE, OR ANY DEFECT IN THE ORIGINAL CODE, INCLUDING ANY LOST PROFITS, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

You agree that GoAhead and its distributors and dealers will not be LIABLE for defense or indemnity with respect to any claim against You by any third party arising from your possession or use of the Original Code or the Documentation.

In no event will GoAhead's total liability to You for all damages, losses, and causes of action (whether in contract, tort, including negligence, or otherwise) exceed the amount You paid for this product.

SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, AND SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE.

## **7. Indemnification by You.**

You agree to indemnify and hold GoAhead harmless against any and all claims, losses, damages and costs (including legal expenses and reasonable counsel fees) arising out of any claim of a third party with respect to the contents of the Your

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The Original Code is not fault-tolerant and is not designed, manufactured or intended for use or resale as online control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines or weapons systems, in which the failure of the Original Code could lead directly to death, personal injury, or severe physical or environmental damage. GoAhead and its suppliers specifically disclaim any express or implied warranty of fitness for any high-risk uses listed above.

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## **10. Governing Law and Interpretation.**

This Agreement shall be interpreted under and governed by the laws of the State of Washington, without regard to its rules governing the conflict of laws. You hereby consent to the exclusive jurisdiction of the state and federal courts located in King County, Washington over any disputes arising out of related to this Agreement. If any provision of this Agreement is held illegal or unenforceable by a court or tribunal of competent jurisdiction, the remaining provisions of this Agreement shall remain in effect and the invalid provision deemed modified to the least degree necessary to remedy such invalidity.

## **11. Entire Agreement.**

This Agreement is the complete agreement between GoAhead and You and supersedes all prior agreements, oral or written, with respect to the subject matter hereof.

If You have any questions concerning this Agreement, You may write to GoAhead Software, Inc., 10900 N.E. 8th Street, Suite 1200, Bellevue, Washington 98004 or send a note via the [contact us](#) page of the GoAhead Website