

SOFTWARE LICENSE AGREEMENT
VI PACKAGE MANAGER SOFTWARE
JAMES KRING, INC.

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This Software License Agreement (the "Agreement") is made by and between James Kring, Inc. and you as the customer. In this Agreement, the customer will be referred to as "you" and "your"; James Kring, Inc. will be referred to as "JKI" or as "we", "us" and "our".

WHEREAS, JKI has developed and is willing to supply the computer software, documentation, and related materials known as the VI Package Manager ("the Product") to you subject to the terms and conditions stated herein;

WHEREAS, You desire to have access to the Product, and you are willing to use the Product in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth, you agree as follows:

1. Use of the Product and Software License.

1.1 Scope of License. JKI grants to you a personal, worldwide, fully-paid, non-exclusive, non-transferable (except as permitted under Section 13(a)), nonsublicensable, perpetual (except as revocable under Section 7) license to use the Product that you obtain under this Agreement, in accordance with the documentation and instructions supplied by JKI, and for your own internal use and evaluation purposes. You may make a reasonable number of copies of the Product subject to the license terms herein and solely for non-production archival or back-up purposes. All titles, trademarks, and copyright and restricted rights notices shall be reproduced in such copies. No other copies shall be made without JKI's prior written consent.

1.2 Restrictions on License. You will not, directly or through others: (a) market, license, distribute, transfer, sublicense or otherwise commercially exploit the Product, except as expressly permitted herein; (b) permit the use of the Product by others, except that you may permit your third party subcontractors and agents ("Agents") to use the Product for your internal business purposes only as described above so long as you ensure that your Agents are bound by appropriate restrictions on nondisclosure of JKI's Confidential Information and will use the Product only in accordance with the terms of this Agreement; (c) modify or create derivative works of the Product nor translate or port the Product into any other computer or human language without the prior written consent of JKI; (d) disassemble, reverse engineer or decompile the Product or otherwise attempt to discover any portion of the object or source code or trade secrets related to the Product; (e) reproduce the Product without JKI's copyright and trademark notices; (f) sell, lend, rent, give, assign or otherwise transfer or dispose of the Product; or (g) use the Product to provide time-sharing, outsourcing, service bureau, application service provider, managed service provider environment or similar services.

1.3 Ownership; Proprietary Rights. The Product is licensed, not sold, to you and any and all rights not specifically granted to you by this Agreement, remain in JKI and its suppliers. The Product is protected by copyright, trademark, trade secret and other proprietary rights of JKI, and you do not acquire any rights, express or implied, in the Product, other than those specified in this Agreement. No title to or ownership of the Product, nor any copyright, trademark, trade secret or other proprietary rights in the Product, are transferred to you under this Agreement. All modifications, adjustments, enhancements, bug fixes, error corrections or other updates to the Product will become part of the Product, as applicable, and will remain the exclusive property of JKI.

2. Use of Third Party Software:

You understand that the Product is a software package management tool that accesses, interacts with and/or utilizes software object and/or source code obtained by JKI from third parties and that is separate from the Product (the "Third Party Software"). (For purposes of this Agreement, the Product and any Third Party Software shall be referred to as the "Software".) Together with its distribution to you of the Product, JKI is making some Third Party Software available to you via download or other distribution. In addition, following your installation of the Product, the Product will be able to and will, based on your instruction, connect to the internet and identify additional Third Party Software for download and installation on your computer on your behalf. This identification and installation process will require you to provide certain information, including information about the Product as installed on your computer, all of which information will be gathered and used by JKI in accordance with its Privacy Policy then in effect. You understand and agree that all such Third Party Software is made available to you by JKI for the sole purpose of facilitating your download, installation and use of the Product as permitted herein. You further acknowledge and agree that your use and distribution of any such Third Party Software is subject to the terms of the applicable Third Party Software license(s), and that you will comply with the terms of such Third Party Software license(s). You expressly acknowledge and agree that, prior to using the Third Party Software for any other purpose, and in any case before copying, modifying, or distributing any Third Party Software, you will confirm that you have all necessary rights and permissions to do so from the applicable third party licensor (the "Licensor"), which confirmation may include obtaining a separate license from the Licensor expressly authorizing you to do so.

3. You Will Not Use nor Disclose Our Confidential Information. Confidential Information hereunder includes, but is not limited to, JKI Product specifications, Product source code, trade secrets, know-how, inventions (whether or not patentable), techniques, processes, programs, ideas, algorithms, schematics, testing procedures, software design and architecture, internal documentation, design and function specifications, product requirements, analysis and performance information, benchmarks, software documents, and other non-public technical, business, product, marketing and financial information, plans and data of JKI (the "Confidential Information"). You agree that all Confidential Information is the confidential property of JKI and, except with JKI's prior written consent or as required (and then only to the extent required) by law, you agree to use any Confidential Information you obtain only as permitted by this Agreement, and not to disclose any Confidential Information to third parties. Notwithstanding the foregoing, you may disclose Confidential Information only to those of your employees and consultants as is necessary for the use expressly and unambiguously licensed hereunder, and only after such employees and contractors have agreed in writing to be bound by the obligations of nondisclosure at least as restrictive as those contained in this Agreement. Your nondisclosure obligations hereunder shall not apply to information you can document: (i) is generally available to the public other than through breach of this Agreement; (ii) is rightfully disclosed to you by a third party without any associated obligation of confidentiality; or (iii) is independently developed by you without use of any JKI Confidential Information. Because of the unique and proprietary nature of the Confidential Information, you understand and agree that JKI's remedies at law for your breach of your obligations under this Section may be inadequate and that JKI shall be entitled to seek equitable relief (including without limitation provisional and permanent injunctive relief and specific performance). Nothing stated herein shall limit any other remedies provided under this Agreement or available to JKI at law. Upon expiration or termination of this Agreement for any reason, you will return or destroy all copies of all JKI Confidential Information in your possession or control.

4. Communications and Feedback.

4.1 Feedback. In the course of your use of the Product and in connection with any related support or other services that may be offered to you by JKI (the "Services"), you may provide JKI with comments and feedback regarding your use and evaluation of the Product, including any defects found therein and any recommendations for changes or modifications to the Product (the "Feedback"). Such Feedback may include, but will not be limited to, any communications from you to JKI, including (i) any messages, content, materials or other communications posted to the jkisoft.com, jameskring.com or any other website(s) owned or maintained by JKI; and/or (ii) relating to your use and evaluation of the Product. Feedback may include communications regarding: (1) which portions of the Product have been used, (2) the nature of that use, (3) the extent or amount of use, (4) any errors or difficulties discovered and (5) the characteristic conditions and symptoms of the errors and difficulties. You acknowledge and agree that (i) JKI may use, in any manner and for any purpose, the information gained as a result of your use and evaluation of the Product, including but not limited to the Feedback; (ii) any corrections, modifications, upgrades or improvements to the Product based on such Feedback or other input shall be owned and retained entirely by JKI; and (iii) JKI shall have no obligation to correct, upgrade, modify, or otherwise support or maintain the Product pursuant to this license.

4.2 Assignment. If you are ever held or deemed to hold any right, title or interest (including, without limitation, any intellectual property rights, moral rights or trade secret rights) in or to: (a) the Product (including any changes, modifications or corrections thereto) and/or (b) the Feedback, whether by virtue of your provision of Feedback to JKI or otherwise, then you hereby irrevocably assign to JKI all such right, title and interest. Such assignment includes all rights in or to any invention, work of authorship, mask work, idea, information, feedback or know-how (whether or not patentable) that is conceived, learned or reduced to practice in the course of performance under this Agreement and any patent rights, copyrights (including moral rights; provided that any non-assignable moral rights are waived to the extent permitted by law), trade secret rights, mask work rights, sui generis database rights and all other intellectual and industrial property rights of any sort with respect thereto that in any way relate to or constitute the Feedback or the Product. In the event that any such rights (including, by way of example and without limitation, "moral rights," or other similar rights) cannot be assigned, you hereby agree to waive enforcement worldwide of such rights against JKI and hereby grant to JKI an exclusive, fully paid, worldwide, irrevocable, perpetual license, with right to sublicense through multiple tiers of sub-licensees, to use, reproduce, create derivative works of, publicly perform, publicly display, transfer, assign and distribute in any medium or format, whether now known or later developed, any and all property that is subject to such rights. You agree to take any action reasonably requested by JKI to evidence, perfect, obtain, maintain, enforce or defend the foregoing, including executing any and all documents necessary to implement and confirm the letter and intent of this Agreement.

5. WARRANTY DISCLAIMERS;

5.1 Warranty Disclaimer You acknowledge that the Product and any Services are provided "AS IS". The Product's accuracy or reliability are not guaranteed, it may not be functional on any particular machine or environment, and it may be modified substantially in future releases, if any. You waive any and all claims you may have against JKI arising out of the performance or nonperformance of the Product. Nothing in this Agreement obligates JKI to provide any bug fix, hot fix, service pack or other update to the Product or any Third Party Software. Further, JKI makes no warranty with respect to any Third Party Software; warranty terms applying to such Third Party Software may or may not be found in the applicable Third Party Software license agreement. JKI DISCLAIMS ALL WARRANTIES RELATING TO THE PRODUCT AND ANY SOFTWARE AND SERVICES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES AGAINST INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. JKI DOES NOT WARRANT THAT THE USE OF THE PRODUCT WILL BE, OR THAT ANY SOFTWARE IS, UNINTERRUPTED OR ERROR-FREE.

5.2 HIGH RISK ACTIVITIES. THE PRODUCT IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN CONNECTION WITH HAZARDOUS OR "HIGH RISK" ACTIVITIES OR

WITH APPLICATIONS THAT REQUIRE FAIL-SAFE PERFORMANCE (TOGETHER, "HIGH RISK" ACTIVITIES). HIGH RISK ACTIVITIES INCLUDE BUT ARE NOT LIMITED TO ACTIVITIES OR APPLICATIONS RELATING TO THE OPERATION OF NUCLEAR FACILITIES, AIR TRAFFIC CONTROL, AEROSPACE OPERATIONS, OR DIRECT LIFE SUPPORT MACHINES, AND ANY OTHER ACTIVITIES OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE. ACCORDINGLY, WE SPECIFICALLY DISCLAIM ANY AND ALL EXPRESS OR IMPLIED WARRANTIES OF FITNESS FOR HIGH RISK ACTIVITIES, AND YOU AGREE THAT JKI WILL HAVE NO LIABILITY OR RESPONSIBILITY RELATING TO YOUR USE OR OPERATION OF THE SOFTWARE IN CONNECTION WITH HIGH RISK ACTIVITIES.

6. INDEMNIFICATION BY YOU. YOU AGREE TO, AT YOUR EXPENSE, INDEMNIFY AND HOLD HARMLESS JKI FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, ACTIONS, DAMAGES, OR CLAIMS (INCLUDING ALL REASONABLE EXPENSES, COSTS, AND ATTORNEYS FEES) THAT RESULT FROM YOUR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS CONTAINED IN ANY SOFTWARE OR YOUR USE OF THE SOFTWARE IN CONNECTION WITH ANY HIGH RISK ACTIVITIES.

7. Termination. This Agreement may be terminated by JKI immediately upon notice of any breach by you of the provisions of this Agreement. Upon termination, the license granted hereunder shall terminate and you shall immediately cease all use of the Product. Upon any such termination, you shall immediately destroy all copies of the Product, together with any and all documentation regarding the Product, any other Confidential Information and any and all copies and extracts of the foregoing. All other terms of this Agreement shall remain in effect following termination.

8. OUR LIABILITY IS LIMITED. BY DOWNLOADING, INSTALLING AND/OR USING THE PRODUCT, YOU AGREE THAT, DESPITE ANY OTHER PROVISION OF THIS AGREEMENT OR OTHERWISE, JKI WILL NOT BE LIABLE OR OBLIGATED WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY: (I) FOR ANY AMOUNTS IN EXCESS OF THE TOTAL OF THE FEES PAID TO US HEREUNDER IN THE TWELVE (12) MONTHS PRECEDING ANY CLAIM; (II) FOR ANY COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY, SERVICES OR RIGHTS; OR (III) FOR INTERRUPTION OF USE OR LOSS OR CORRUPTION OF DATA. DESPITE ANY OTHER PROVISION OF THIS AGREEMENT, WE SHALL NOT BE LIABLE NOR OBLIGATED WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT OR UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY: (I) FOR ANY MATTER BEYOND OUR REASONABLE CONTROL, OR (II) FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, LOST DATA OR LOST PROFITS, EVEN IF WE ARE INFORMED OF THEIR POSSIBILITY. THESE LIMITATIONS SHALL APPLY DESPITE THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. ANY ACTIONS BASED ON OR ARISING OUT OF THIS AGREEMENT, OR THE SOFTWARE SUPPLIED HEREUNDER, MUST BE BROUGHT WITHIN ONE YEAR OF THE DATE OF TERMINATION OF THIS AGREEMENT.

9. Payment. You agree to pay us for the Licenses and any Services you are purchasing concurrently, at the time you accept the terms of this Agreement. All payments are non-cancelable and non-refundable. Fees charged by us do not include any sales, use, excise, value-added, or similar taxes, and do not include any duties or fees payable on the delivery of software in countries other than the United States. Any such taxes, duties, or fees shall be either added to our invoice or paid directly by you. You will not, however, be liable for taxes imposed on us based on our income.

10. Publicity. Except as provided under Section 4 hereof, neither party may issue press releases or endorsements which reference the other party or make any use of the other party's name, logo or trademark without the prior written consent of the other party.

11. You Will Comply with Export Regulations and other Applicable Laws; Transfer of Personal Data. You agree that the Software will not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other applicable laws, restrictions or regulations (collectively the "Laws") In addition, if all or any portion of the Software is identified as an export controlled items under any export Laws, you represent and warrant that you are not a citizen, or otherwise located within, an embargoed nation (including without limitation Iran, Iraq, Syria, Sudan, Libya, Cuba, North Korea, and Serbia) and that you are not otherwise prohibited under any Laws from receiving or using the Software. If you reside in any part of the European Union or any other jurisdiction in which the transfer of your personal data may apply, you expressly consent to the transfer of any personal or other data identifying or relating to you or the entity on whose behalf you are accepting this Agreement.

12. U.S. Government Users. The Product is a "Commercial Item," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 and 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Product is being provided to U.S. Government end users (1) only as a Commercial Item, and (2) with only those rights as are granted to all other end users pursuant to the terms and conditions of this Agreement.

13. Miscellaneous.

(a) You may not assign, transfer, or sublicense any obligations or benefit under this Agreement without the written consent of JKI. This restriction shall not apply to any redistribution of software provided under a separate Third Party Software license allowing for such redistribution.

(b) We agree that we are independent contractors and neither of us has the right or authority to assume or create any obligation or responsibility on behalf of the other.

(c) All notices under this Agreement shall be in writing, and shall be deemed given when personally delivered or three (3) days after being sent by prepaid certified or registered mail to the address of the party to be noticed as set forth herein or such other address as such party has provided to the other.

(d) No failure or delay in exercising any right hereunder will operate as a waiver thereof, nor will any partial exercise of any right or power hereunder preclude further exercise.

(e) If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

(f) This Agreement shall be deemed to have been made in, and shall be construed pursuant to the laws of, the State of California and the United States without regard to the conflict of law provisions thereof. The United Nation's Convention on Contracts for the International Sale of Goods is expressly excluded from application to this Agreement. The sole venue for all disputes relating to this Agreement shall be in San Francisco County, California.

(g) This Agreement may be executed in any number of counterparts, each of which shall be considered an original, but all of which together will constitute one and the same instrument.

(h) This Agreement constitutes the entire agreement between us pertaining to the subject matter hereof, and any and all written or oral agreements previously existing between the parties are expressly cancelled. This Agreement may be modified, replaced or rescinded only in writing, and signed by a duly authorized representative of each party.

(i) In any action to enforce this Agreement the prevailing party will be entitled to reasonable costs and attorneys' fees. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the

minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

(j) You acknowledge and agree that JKI will treat any information it gathers about or from you in accordance with its Privacy Policy currently in effect and available at jkisoft.com/legal.

13. BASIS OF BARGAIN. EACH PARTY RECOGNIZES AND AGREES THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN THIS AGREEMENT ARE MATERIAL, BARGAINED FOR BASES OF THIS AGREEMENT AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.

December 2006