# Simian Software License Agreement

## 1. Copyright

The Simian Software (the "Software") is Copyright (c) 2003-2015 Simon Harris (the "Licensee").

#### 2. Licenses and Software

The "Licensor" hereby grants to the purchaser (the "Licensee") including all legal entities that control, are controlled by or are under common control of the Licensee, a limited, revocable, worldwide, non-exclusive, nontransferable, non-sublicensable license to use the Software, including any minor upgrades thereof during the Term (hereinafter defined) up to, but not including the next major version of the Software. The Licensee shall not, or knowingly allow others to, reverse engineer, decompile, disassemble, modify, adapt, create derivative works from or otherwise attempt to derive source code from the Software provided. And, in accordance with the terms and conditions of this Software Licensee Agreement (the "Agreement"), the Software shall be used solely by the Licensee in accordance with the following specific conditions:

- Personal/SOHO License entitles the Licensee to use the Software on one (1) machine only. A Personal/SOHO License does not permit the generation of reports for distribution nor use by other than the Licensee.
- 2. Project entitles the Licensee to use the Software on any number of machines solely for the licensed project.
- 3. Server License entitles the Licensee to use the Software on one (1) machine only. Reports generated are strictly for use by the Licensee only.
- 4. Enterprise License entitles the Licensee to use the Software on any number of machines. Reports generated are strictly for use by the Licensee only.

#### 3. License Fee

In exchange for the License(s), the Licensee shall pay to the Licensor a one-time, up front, non-refundable license fee. At the sole discretion of the Licensor, this fee will be waived for non-commercial/non-government projects and for evaluation purposes for a period of fifteen (15) days only. The Licensee is also entitled to all upgrades including major versions of the Software at no charge. Notwithstanding the Licensee's payment of the License Fee, the Licensor reserves the right to terminate the License if the Licensor discovers that the Licensee and/or the Licensee's use of the Software is in breach of this Agreement.

#### 4. Proprietary Rights

The Licensor will retain all right, title and interest in and to the Software, all copies thereof, and the Licensor website(s), Software, and other intellectual property, including, but not limited to, ownership of all copyrights, look and feel, trademark rights, design rights, trade secret rights and any and all other intellectual property and other proprietary rights therein. The Licensee will not directly or indirectly obtain or attempt to obtain at any time, any right, title or interest by registration or otherwise in or to the trademarks, service marks, copyrights, trade names, symbols, logos or designations or other intellectual property rights owned or used by the Licensor. All technical manuals or other information provided by the Licensor to the Licensee shall be the sole property of the Licensor.

#### 5. Term and Termination

Subject to the other provisions hereof, this Agreement shall commence upon the Licensee's opting into this Agreement and continue until the Licensee discontinues use of the Software or the Agreement terminates automatically upon the Licensee's breach of any term or condition of this Agreement (the "Term"). Upon any such termination, the Licensee will delete the Software immediately.

## 6. Copying & Transfer

The Licensee may copy the Software to use the Software and for back-up purposes only. The Licensee may not assign or otherwise transfer the Software to any third party unless each of the following conditions is met:

- 1. Redistributions are made at no charge and in accordance with these License terms.
- 2. Redistributions are made by and for non-commercial/non-government Licensee(s) or for evaluation purposes set forth as Article 2.
- 3. Redistributions must faithfully reproduce all accompanying materials, including these License terms, and the disclaimer/limitation of liability set forth as Article 7, in the documentation and/or other materials provided with the distribution.

## 7. Specific Disclaimer of Warranty and Limitation of Liability

THIS SOFTWARE IS PROVIDED "AS IS" AND ANY EXPRESSED OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED. IN NO EVENT SHALL THE LICENSOR CONSULTING OR ITS CONTRIBUTORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS Software, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

# 8. Warranties and Representations

Indemnification. The Licensee warrants and represents that the Licensee's actions with regard to the Software will be in compliance with all applicable laws; and the Licensee will indemnify, defend, and hold the Licensor harmless from and against any and all liabilities, damages, losses, claims, costs, and expenses (including legal fees) arising out of or resulting from the Licensee's failure to observe the use restrictions set forth herein.

#### 9. Governing Law

This Agreement shall be governed by the laws of Victoria, Australia.

## 10. Independent Contractors

Assignment: The parties are independent contractors with respect to each other, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, agency relationship or a joint venture between the parties. This Agreement is not assignable or transferable by the Licensee.

## 11. Entire Agreement

This Agreement constitutes the entire Agreement between the parties concerning the Licensee's use of the Software. This Agreement supersedes any prior verbal understanding between the parties and any Licensee purchase order or other ordering document, regardless of whether such document is received by the Licensor before or after execution of this Agreement. This Agreement may be amended only in writing by the Licensor.