

## Purchase and Intellectual Property Assignment for Software

Transfers all intellectual property, including full copyright, any associated trademarks and trade names, possible trade secrets and patent rights in a work of software to assignor.

### Purchase and Intellectual Property Assignment Agreement for Software

\_\_\_\_\_ (“Assignor”/”you”), a \_\_\_\_\_ with offices at \_\_\_\_\_ and \_\_\_\_\_  
 (“Assignee”/”we”) , a \_\_\_\_\_ with offices at \_\_\_\_\_  
 \_\_\_\_\_ enter into this agreement for the purposes of transferring all ownership rights, including all intellectual property rights, in the software described in Attachment A (“Software”) from Assignor to Assignee.

#### I. *Capacity to contract*

If you are an individual, you warrant you are 18 years of age or older and have valid legal capacity to enter into and perform your obligations under this Agreement. If you are a representative of a company or entity, you warrant you have the requisite power and authority to enter into this Agreement on behalf of the company or entity and the company or entity has the power and authority to perform its obligations under this Agreement.

#### II. *Consideration*

You acknowledge you are entering into this agreement in exchange for [insert description of consideration] and other good and valuable consideration \_\_\_\_\_.

#### III. *Definition of Intellectual Property Rights*

"Intellectual Property Rights" include, but are not limited to,

- A. copyright in all aspects of the Software including, but not limited to, source code, machine or object code, design components, look and feel of the software, displays, documentation and derivative works;
- B. rights to any inventions, ideas, processes, techniques, designs, know-how, or discoveries embodied in the software which might be protectable under patent, trade secret or other state or federal laws;
- C. any trademarks, trade names, trade dress or other protectable marks associated with the Software and its marketing;
- D. any moral rights, renewal rights, reversion rights and any other rights Assignor might be deemed to have, retain, or acquire by operation of law or otherwise.

#### IV. *Warranty of Ownership/Authority to Transfer Intellectual Property Rights in Software*

Assignor makes the following warranties: (*check all applicable warranties being made*)

- ( ) Assignor created, and is the original rights holder, of the Software.
- ( ) Assignor is the current owner of all intellectual property rights in the Software.
- ( ) Assignor has full right and authority to transfer ownership of all intellectual

property rights in the software.

V. *Transfer of Intellectual Property Rights*

- A. Assignor grants, transfers, and assigns to Assignee and its successors and assigns all right, title and interest in the Software and its associated intellectual property as defined in section III of this agreement.
- B. Assignor acknowledges it will retain no rights to the Software or associated intellectual property.
- C. Assignor agrees to assist Assignee at Assignee's expense and take all actions and execute any conveyances, assignments or other documents necessary to establish and protect Assignee's rights in Software and associated intellectual property. Establishment and protection of Assignor's rights includes, but is not limited to,
  - 1. application for,
  - 2. registration of,
  - 3. proceedings to defend,
  - 4. proceedings to enforce, or
  - 5. infringement proceedings related topatent, trademark, copyright, trade secret, unfair competition or other analogous protections in any country throughout the world. Assignor's obligations under this paragraph include the obligation to execute future assignments or extensions which may be necessary upon accrual of renewal, reissue, reversion or other rights Assignor might acquire in the Software at any point in the future by operation of law or otherwise. Assignor's obligations are binding on Assignor and its successor's, heirs and assigns for the duration of Assignee's ownership of the intellectual property rights in Software subject only to Assignee's obligation to compensate Assignor at a reasonable rate for actual time spent at Assignee's request for assistance.
- D. In the event we are unable for any reason, after reasonable effort, to obtain your signature on any document needed to establish or protect our rights described in paragraph C of this section, you hereby irrevocably appoint \_\_\_\_\_ and its duly authorized officers and agents to be your agent and attorney-in-fact with the power to execute all such documents on your behalf with the same legal force and effect as if executed by you.
- E. You acknowledge there are no currently existing intellectual property rights related to Software which are to be excluded from coverage under this agreement except those listed below. *[insert list of intellectual property to be excluded. Frequently the rights to high level language or certain modules or other stock components used by a software designer are not transferred. Instead include a perpetual royalty free license to use the excluded property along with a right to further sub-license such use.]*

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*VI. Confidentiality*

Assignor agrees not to disclose non-public, confidential, or proprietary information related to the Software to any third parties. Assignor also agrees to take reasonable and necessary measures to protect non-public, confidential, or proprietary information related to the Software from disclosure to third parties or the public.

*VII. Warranties, Indemnification and Compliance with Laws*

Assignor warrants the Software does not infringe any intellectual property rights belonging to third parties. Assignor agrees to defend and hold Assignee harmless against any claim of infringement of third party rights related to Software. Assignor also agrees not to enter into any agreement in conflict with any provision of this agreement.

In addition to indemnification clauses in other sections of this agreement, Assignor hereby agrees to indemnify, defend and hold harmless Assignee, its shareholders, officers, directors, employees, agents, affiliates, successors and assigns, from and against any and all claims, demands, losses, liabilities, damages or expenses (including attorney's fees and costs) of any nature whatsoever incurred or suffered by Assignee (collectively the "losses"), in so far as such losses (or actions in respect thereof) arise out of, are related to, or are based on or are reasonably related to the breach of any representation, warranty, obligation or covenant agreed to by Assignor in this agreement. This clause shall also be effective against Assignor's heirs, assigns, or representatives.

Both parties agree to abide by all federal, state and local laws, regulations and ordinances relevant to the subject matter of this agreement.

*VIII. Damages and relief*

Assignor acknowledges its failure to carry out any of its obligations under this agreement or breach of any provision of this agreement by it will constitute immediate and irreparable damage to Assignee, which cannot be adequately compensated by money damages and will warrant preliminary and other injunctive relief, specific performance and other equitable relief. Assignor also consents to the issuance of such equitable relief and agrees no bond or other security shall be required for Assignee to obtain any such equitable relief. This provision does not limit any other enforcement actions or remedies which may be available for breach of any provision of this agreement.

Assignee will not be liable for indirect, special, or consequential damages, or any loss of revenue, profits, or data, arising in connection with this Agreement other than the consideration set out in section II and the additional compensation obligations set out in section V(C) on intellectual property rights, even if we have been advised of the possibility of such damages.

*IX. Modification clause*

Modifications of this agreement shall be effective only if made in a writing signed by all parties.

X. *Construction of this agreement*

- A. The terms and conditions included or incorporated by reference in this agreement constitute the entire agreement between the parties on the subjects covered by this agreement.
- B. This agreement shall be binding upon the original parties, and their successors, heirs and assigns.
- C. This agreement shall be construed as a whole and not in favor of either party. For example, no provision shall be construed against the party responsible for the language of the provision. Each provision shall be given its fair meaning. The paragraph headings have been added for convenience and shall not be used to interpret the agreement.
- D. The rights, remedies and obligations under this agreement are cumulative. The exercise of any rights and remedies by either party under this agreement or any other agreement shall not preclude or waive that party's right to exercise any and all other rights and remedies. A failure of either party, intentional or otherwise, to exercise in any instance any right under this agreement or any other agreement or law instance does not constitute a waiver of any rights related to any other instance. Any waiver of rights by either party must be made in a writing signed by the waiving party.
- E. Severability and Substitution - If any part of this agreement is determined to be invalid or unenforceable, including but not limited to, the non competition and liability limitations, the remainder of the agreement shall continue in effect and the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision.
- F. Choice of law - This agreement shall be governed by the laws of the United States and the state of [insert state name] and the parties expressly agree to waive any choice of law rules which would result in the application of any other law to the construction or validity of this agreement.
- G. Choice of forum - The parties agree to jurisdiction and venue exclusively in state court in [insert name of county and state] for any litigation arising out of or related to this agreement. In actions related to this agreement where federal courts have exclusive jurisdiction, the parties agree to jurisdiction and venue exclusive in the federal courts in [insert district and state].

XI. *Independent Investigation*

All parties acknowledge they have read this agreement and freely and voluntarily agree to all its terms and conditions without modification. Each party understands this agreement affects intellectual property and other rights and acknowledges it has had the opportunity

to consult legal counsel regarding this agreement. Each party has independently evaluated the desirability of entering into this agreement and is not relying on any representation, guarantee, or statement other than as set forth in this agreement.

Assignee:

Assignor:

By: \_\_\_\_\_

By: \_\_\_\_\_

Print name of person signing:

Print name of person signing:

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_