

Ref. L-S.: 002870/0

ESD LICENSE AGREEMENT



Avanquest®software

ESD AGREEMENT

This Electronic Software Download License Agreement (the "Agreement") is made and entered into by and between the undersigned:

AVANQUEST SOFTWARE, a French corporation having its principal place of business at 89-91 Boulevard National, Immeuble Vision Défense, 92257 La Garenne-Colombes Cedex France

Hereinafter referred to as the "AVANQUEST" or **Licensor**

OF THE FIRST PART,

And

ParetoLogic Inc., incorporated in Canada, having its principal place of business at 1827 Fort Street, Victoria, BC V8R1J6, Canada;

Hereinafter referred to as the "RESELLER" or **Licensee**

OF THE SECOND PART,

Hereinafter referred to collectively as the "Parties".

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PREAMBLE

AVANQUEST is involved in the business of software development and desires to market its software to the attention of a new public and particularly by means of the conclusion of an agreement with a reputable software publisher.
 RESELLER is involved in the business of software publishing and marketing including through several Internet platforms.
 It is within this framework that AVANQUEST allows RESELLER, under the conditions defined below, to commercialize the Software in a downloadable format.

**THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION,
 THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY
 ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:**

Term Sheet

Effective Date:	July 22, 2013
Term	1 year
Renewal Terms	1 year
Territory:	Worldwide
Software / Product Name	Outlined in Exhibit A
Channel	ESD [through all RESELLER websites]
Non Exclusive Rights	ESD
Exclusive Rights	None
Localization Right	No
Notice	Ninety (90) days before expiration of Term.
Trademark:	
Royalty:	Licensee shall pay royalties as outlined in Exhibit B
Calculation Period:	Monthly
Payment Terms:	30 days from receipt of invoice
Interest Rate	means the last published 3-month LIBOR rate

1. DEFINITIONS

- 1.1. **"Calculation Period"** means the period stated in the Term Sheet during which RESELLER has to record the number of distributed Software and correlative royalties owed by RESELLER to AVANQUEST.
- 1.2. **"Documentation"** means every document related to the use of the Software without limitation, in whatever media. This includes manuals, commercial documentations and end-user license agreement.
- 1.3. **"Localization" or "Localize"** means the process of translation of the Software by RESELLER in one or several other language versions than the one delivered by AVANQUEST.
- 1.4. **"Marketing Materials"** means each and every material provided by AVANQUEST to RESELLER for the marketing of the Software, without limitation, logos, term sheets, commercial documentations, banners, editorial texts...

1.5. **"Master"** means the master copy of the Software delivered by AVANQUEST to RESELLER in order to allow RESELLER to proceed to online distribution of the Software.

1.6. **"Net Revenues"** Intentionally left in blank.

1.7. **"Royalties"** means the fees payable to AVANQUEST by RESELLER as consideration for the right to distribute the Software.

1.8. **"Technical Support Level 1"** means the assistance bound to end-user via Website by email or by phone, to manage the problems associated with downloading the Software, Software installation and acceptance of key Software license.

1.9. **"Technical Support Level 2"** means the assistance regarding questions relating to the use of the Software and to major technical problems insoluble at Level 1.

1.10. **"Software"** means AVANQUEST's software subject to this Agreement which is/are listed in the Term Sheet and Exhibit A including updates and upgrades.

1.11. **"Trademark"** means AVANQUEST's, and/or AVANQUEST's licensor's, trademarks and logos as described in the Term Sheet if any, that Avanquest has the right to license to.

1.12. **"Subsidiary"** means a company in which RESELLER owns directly or indirectly at least 50% of share capital or votes.

1.13. **"ESD"** means the sale of the Licensed Software by Licensee or its Resellers via an online electronic download service made available over the Internet.

2. LICENSE

2.1. AVANQUEST hereby grants, and RESELLER hereby accepts on terms and conditions stated herein and for the duration of this Agreement a license, under the exclusive conditions set forth in the Term Sheet and Exhibit A hereof, to directly or indirectly through third party resellers :

(i) market and distribute electronically the Software and the Documentation including the right to make copies of the Software for download sales or sales of back-up media;

(ii) sublicense the Software to end-users;

(iii) use internally a reasonable number of copies of the Software notably for support.

2.2. RESELLER shall not, or permit others, to modify, correct any error contained in the Software, decompile, reverse engineer or disassemble the Software under any conditions.

2.3. RESELLER acknowledges that the Trademarks are the exclusive and sole property of AVANQUEST, or its licensors, and that AVANQUEST, or its licensors, retains full ownership of the Trademarks and all rights and appurtenances thereto, and that RESELLER shall not obtain any rights whatsoever in the Trademarks as a result of such use. RESELLER shall not use the Trademarks in connection with the marketing, promotion and distribution of the Licensed Software in the Licensed Territory, without Licensor's prior written consent and Licensee agrees that all uses of the marketing materials or distribution materials or otherwise will be in a manner consistent with Avanquest's guidelines. Licensee agrees that it shall abstain from endangering the validity of the trademarks comprised in the marketing materials or otherwise (if any), and comply with all applicable laws and regulations.

2.4. No rights or licenses are granted either directly or by implication by AVANQUEST except as expressly set forth herein.

2.5. RESELLER acknowledges that AVANQUEST, and its licensors, own and retain all right (except those expressly licensed herein), title and interest in and to the Software (including all copies, localizations, modifications, and derivative works thereof) including all intellectual property rights embodied therein; and all

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copyrights, patent rights, trade secret rights, and other proprietary rights relating to the Software.

3. SOFTWARE AND MATERIAL DELIVERY

3.1. AVANQUEST shall provide RESELLER within sixty (60) days of execution of this Agreement with the Master and the Marketing Materials. The Master will be either in electronic format or on a non-modifiable material support (CD-Rom or other). The Master will contain the Software in the languages and versions specified in the Term Sheet and in Exhibit A.

3.2. RESELLER shall accept the Master within fourteen (14) business days from receipt. If RESELLER doesn't accept the Master, RESELLER shall send AVANQUEST a written notice with the list of errors observed. If there is no answer from RESELLER within this period, the acceptance will be deemed pronounced. AVANQUEST shall, promptly or within a maximum of sixty (60) days, correct or contest the errors by written notice. RESELLER shall pronounce the final receipt, after AVANQUEST has corrected the Software, by means of the signature of an acceptance report.

3.3. AVANQUEST shall provide RESELLER all kinds of elements required to sell and promote the Software according to the terms below:

3.3.1. AVANQUEST will supply RESELLER with 1,000 activation keys, per product, in a text format.

3.3.2. RESELLER will assign such activation keys to each end-user that purchases Software.

3.4. It is expressly understood that RESELLER shall market and promote the Software in the Territory at its own costs and expenses.

4. TECHNICAL AND CUSTOMER SUPPORT

4.1. The Parties agree that AVANQUEST shall be responsible for the Technical Support Level 2, to RESELLER's Quality Assurance Support Team and end-users. RESELLER shall be responsible for providing pre-sale and post-sale end-user's Technical Support Level 1 to its end users.

4.2. The parties agree that if any communications costs are incurred by either party, then these are to be borne by the initiating party.

5. TERM

5.1. This Agreement shall enter into effect on Effective Date and will be running for the Term ("Initial Period"). The Agreement will renew automatically at the end of the Term for subsequent Renewal Terms (hereinafter "anniversary date"), except when a notice of termination is given by one or the other of the Parties via a notice of 90 calendar days, notified via a registered letter with proof of receipt. It is agreed that, at the end of the Initial Period, either Party may terminate this Agreement on ninety (90) days written notice.

5.2. **Termination Effects:** Upon termination or expiration of the Agreement, RESELLER shall immediately cease to continue the marketing and selling of the Licensed Software. Licensee commits itself that when granting the Licenser Software, its end-user license agreement shall contain all limitations as to the duration or use of the Licensed Software so as to be compliant with the terms and conditions of this Agreement. The termination or expiration of the Agreement shall not affect the end-user's right to use the Licenser Software it has purchased prior to the effective date of termination or expiration.

6. ROYALTIES

6.1. **Calculation.** According to the license granted hereto, RESELLER shall pay AVANQUEST Royalties as outlined in Exhibit B, unless otherwise stated under article 6 and/or the Term Sheet notwithstanding any provision to the contrary. A royalty statement shall be sent to AVANQUEST no later than the 10th of the month after Calculation Period. Such royalty statement shall specify a break-down of sales and if applicable any Refunds per an attached separate Refund Statement as stated under article 6.3 hereunder. No set off between amounts is permitted by AVANQUEST whatever the circumstances, unless by prior written and express approval duly signed by Avanquest. Should payments be due by Avanquest to Licensee pursuant to article 6.3, Licensee shall submit an invoice with all details pertaining thereto as per article 6.3 herein prior to Avanquest's reimbursement of the due amounts if applicable. Avanquest shall refund the amounts due per payment terms as set forth in exhibit B hereunder, and as per a unique payment upon expiry of the Term or every anniversary date.

6.2. RESELLER shall determine, at its sole discretion, the price charged to the end user for each Software license sold.

6.3. **Refunds** - RESELLER at its sole discretion shall be entitled to refund its customers for any sale of the Software license within 30 (thirty) calendar days the latest after the sale of the Software license as justified per the customer invoice and subject always to customer's prior request of the refund within such delay, provided always that RESELLER shall notify to Avanquest of the refunds made to the customers (hereinafter the "refund statement") together with the royalty statement per article 6.1. Such refund statement shall specify a monthly break-out of sales and refunds with their corresponding dates.

6.4. **No Guarantee.** AVANQUEST acknowledges that the distribution of the Software licenses is speculative and that RESELLER has not made and does not make any guarantee or warranty with respect to its success in distribution of the Software licenses or to the anticipated level or amount of Royalties (if any) that AVANQUEST may earn as a result thereof.

6.5. **Payments.** AVANQUEST will send an invoice based upon the royalty statement of RESELLER, that shall be payable under the conditions as stated the Term Sheet. In case of expiration or termination of this Agreement RESELLER will pay all sums due to AVANQUEST.

6.6. **Records.** RESELLER undertakes to keep accurate records of the number of sold Software and correlative earned royalties in its books for two (2) years. AVANQUEST reserves expressly the right to audit these records by means of an independent third party of its choice once a year. Such an audit is subject to fourteen (14) days prior written notice to RESELLER and shall occur, upon coordination with RESELLER, during normal business hours at RESELLER's premises. AVANQUEST will support the costs related to such an audit. In case an underpayment or declaration of royalties in excess of five percent (5%) is revealed, RESELLER will support the costs and expenses related to such an audit. RESELLER will then pay immediately the royalties to AVANQUEST for all the royalties owed.

6.7. Without prejudice of any other remedy at law or in equity, failure to pay an invoice as per the applicable due date will entitle automatically and without prior notice AVANQUEST to charge RESELLER interest on the unpaid amount equal to five percent (5%) above the Interest Rate.

6.8. **TAXES.** All amounts payable hereunder shall be exclusive of all use, sale, value-added and other similar taxes and all duties and governmental charges whether presently in force or that come into force in the future relating thereto. If any such taxes or duties are payable to Avanquest by Licensee, Licensee will pay such taxes or duties to Avanquest on receipt of an appropriate invoice. In the event that any tax exemptions may apply, both parties agree to undertake all reasonable actions to obtain those tax exemptions. Licensee shall pay, and hold Avanquest forever

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harmless from, all taxes, customs, duties, levies, imposts or similar charges now or hereafter imposed or based upon the manufacture, delivery, license, sale, possession or use hereunder to or by Licensee of the Software. In the event of any withholding required to be made to any amounts to be paid to Avanquest, Licensee shall gross up any amount to be paid to ensure that Avanquest receives payment in full without deduction (ie an amount equal to the one that Licensor would perceive if no withholding occur).

7. REPRESENTATIONS AND WARRANTIES/ INDEMNIFICATION

7.1 AVANQUEST represents and warrants to RESELLER that:

- i. it has and will have throughout the term of this Agreement the right to license the Software to RESELLER according to the terms and conditions of this Agreement;
- ii. the performance by RESELLER of this Agreement does not and will not violate any agreements, rights or obligations existing between AVANQUEST and any third party.

7.2 Licensee represents and warrants to Avanquest that the making or performance of the Agreement by Avanquest does not violate an Agreement, rights or obligations existing between Licensee and any other person, firm or corporation, or end-user.

7.3 Disclaimer of Warranties

THE WARRANTIES STATED HEREIN ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, AND UNLESS OTHERWISE EXPRESSLY STATED HEREIN, LICENSOR MAKES NO OTHER WARRANTY, EXPRESSED OR IMPLIED, WHETHER IN LAW OR IN FACT, ORAL OR IN WRITING, INCLUDING, BUT NOT LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE LICENSED MATERIALS OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT OR NON-INFRINGEMENT OR THE LIKE.

8 INFRINGEMENT INDEMNITY

Licensor shall defend, indemnify and hold Licensee harmless against, any claim, suit, action, threat, allegation, or proceeding (collectively, the "Claim") brought against Licensee by any person alleging that the Licensed Software infringes a third party copyright or other intellectual property right. Licensor aforementioned obligations are contingent upon Licensee: (a) notifying to Licensor any events that may engage Licensee's liability, as soon as Licensee becomes aware of such Claim and no later than fifteen (15) calendar Days thereafter; (b) granting Licensor the sole control over the defense and settlement of such Claim; and (c) giving to Licensor, at Licensor's reasonable expense, all information and assistance necessary in the defense of the Claim

Notwithstanding the foregoing, Licensor assumes no responsibility and is not liable to the Licensee in the event the Claim is based on: (a) the use of other than the then-current version of the Licensed Software if Licensee was provided the then-current version; (b) the use of the Licensed Software other than as set forth in its accompanying documentation and as permitted herein; (c) the use of the Licensed Software in combination with a product not supplied by Licensor provided that the ground of infringement is the combination and not solely the Licensed Software; (d) the modification of the Licensed Software by any party other than Licensor or its use as so modified; (e) Licensee's non compliance with Licensor's designs, specifications or instructions; or (f) any infringement arising from the use of any Licensed Software by Licensee after Licensor has issued a written notice to Licensee requiring Licensee to cease using such Licensed Software.

In the event of a Claim, Licensor shall either procure for Licensee the right to continue to sell and distribute the Licensed Software or

replace same with non-infringing Licensed Software. If the both aforementioned remedies are not commercially reasonable, Licensor may terminate this Agreement upon written notice.

9 ASSIGNMENT

RESELLER shall assign no right under this Agreement without prior written consent of AVANQUEST, nor delegate or subcontract its obligations hereunder without the prior written consent of Avanquest

10 TERMINATION

10.1 Each Party shall have the right to terminate this Agreement forthwith by notice of writing to the other party by registered letter with acknowledgment of receipt with immediate effect in the event that the other Party shall fail to perform or observe any of the material obligations on its part to be performed or observed under this Agreement provided that prior to such termination notice a default notice per registered letter with acknowledgment of receipt is sent to the breaching party requiring the party in default to remedy such a breach with all reasonable details pertaining to such breach and if so not remedied within thirty (30) days of such notice being served, such notice to terminate this Agreement may be sent by the non-breaching party at the latter's free option.

Upon termination or expiration of this Agreement, all rights granted to Licensee shall revert to Licensor.

10.2 Either Party shall have the right to terminate this Agreement immediately upon giving written notice to the other party in the event of:

- (i) The liquidation or bankruptcy of the other Party, either voluntary or compulsory, but this shall not include a voluntary liquidation for the purposes of reconstruction; or
- (ii) The appointment of a receiver, liquidator, manager or trustee in bankruptcy for the other party.

11 FORCE MAJEURE

Neither Party will incur any liability to the other Party on account of any loss or damages resulting from any delay or failure to perform all or any part of this agreement if such failure is caused by an event of force majeure, by events, occurrences or causes beyond the control and without negligence of the party. Such events, occurrences or causes will include, without limitation: acts of God, strikes, lock-out, riots, acts of war, earthquakes, fire and explosions, act of any government authority, water damage, or interruption in telecommunication network or electricity network.

12 CONFIDENTIALITY

12.1 Each of the Parties hereto undertakes to keep confidential all information (written or oral) concerning the business and affairs of the other Party whether or not labelled "confidential" that it shall have obtained or received as a result of the discussions leading up to or the entering into or during performance of this Agreement.

12.2 Each of the Parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of this section by its employees, agents and sub-contractors.

12.3 All confidential information shall be used solely for the purpose of this Agreement. All confidential information shall remain the property of the disclosing party. Upon expiration or termination of this Agreement, receiving party shall cease the use of the other party's confidential information and, upon disclosing

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party's demand, shall return all such information to the disclosing party.

12.4 The confidentiality obligation hereunder shall remain during the term of the Agreement and for a period of three years as of expiration or termination of this Agreement.

13 CONTACT POINTS

The Parties shall name respectively a contact person for the operational aspects of the Agreement.

For AVANQUEST, the contact person is:

Paula Carlsen

Tel: +1 720-251-4144

E-mail: pcarlsen@avanquest.com

For RESELLER, the contact person is:

Name: Barry Dodd

Tel: (250) 370-9229

E-mail: barry@paretologic.com

14 SEVERABILITY

If any provision of this Agreement is determined to be invalid, unlawful or unenforceable, it shall be declared void or invalid but such decision will not affect the validity or enforceability of the remaining provisions.

15 INDEPENDENT CONTRACTOR

15.1 AVANQUEST's relationship to RESELLER is that of an independent contractor, and neither party is an agent or partner of the other. Either party will not have, and will not represent to any third party that it has, any authority to act on behalf of the other party.

15.2 Licensee may hold itself out to the public as an "Authorized distributor" of Licensor's product hereunder, provided always that Licensee is and shall act solely as an independent contractor operating and performing its obligations hereunder.

16 ENTIRE AGREEMENT

16.1 This Agreement, including its Exhibits which are incorporated therein by reference, constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior communications or agreements, both oral and written, between the Parties, and may only be amended by written agreement signed by both parties.

16.2 Notwithstanding the foregoing, this Agreement shall not affect the validity of any confidentiality agreement concluded between the Parties or the RESELLER Trademark License Agreement (if executed).

17 WAIVER

The waiver of any term, condition, or provision of this Agreement must be in writing and signed by an authorized representative of the waiving party. Any such waiver will not be construed as a waiver of any other term, condition, or provision except as

provided in writing, nor as a waiver of any subsequent breach of the same term, condition, or provision

18 GOVERNING LAW

This Agreement will be governed and construed under the laws of France without reference to the conflict of laws rules.

19 LITIGATION / DISPUTES

In the event of a dispute ensuing from the interpretation or performance of this Agreement, the courts of the Courts of France will have an exclusive competence.

20 LIMITATION OF LIABILITY

20.1 SUBJECT ALWAYS TO THE RESERVATIONS CONTAINED WITHIN SECTION 20.2 BELOW, NOTWITHSTANDING ANY PROVISION UNDER THE AGREEMENT OR IN CONNECTION THERETO, AND TO THE MAXIMUM EXTENT PERMITTED BY THE APPLICABLE LAW, A PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY FOR ALL DAMAGES AND LOSSES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, WHATEVER THE LEGAL CAUSE (CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) SHALL BE LIMITED TO THE AGGREGATE VALUE OF THE ROYALTIES PAID TO LICENSOR BY LICENSEE UNDER THIS AGREEMENT DURING THE SIX MONTHS IMMEDIATELY PRECEDING THE CLAIM GIVING RISE TO THAT PARTY'S LIABILITY, AND

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOSS OF BUSINESS PROFITS, LOSS OF BUSINESS OPPORTUNITY, BUSINESS INTERRUPTION, DOWNTIME, COVER AND THE LIKE) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SHOULD HAVE FORESEEN SUCH DAMAGES.

THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

20.2 RESERVATONS: THE FOREGOING LIMITATIONS WILL NOT AFFECT AND DO NOT APPLY TO:

(I) THE INDEMNITY OBLIGATIONS OF LICENSOR PURSUANT TO ARTICLE 8, AND THE WARRANTY OBLIGATIONS OF LICENSOR PURSUANT TO ARTICLE 7.1,

(II) RESELLER'S RESTRICTIVE USE OF LICENSOR TRADEMARK PER ARTICLE 2.2, THE WARRANTY OBLIGATIONS OF RESELLER PURSUANT TO ARTICLE 7.2, AND RESELLER'S PAYMENT OBLIGATIONS PURSUANT TO ARTICLE 6,

(III) EITHER PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 12 OR EITHER PARTY'S LIABILITY, IF ANY, FOR PERSONAL INJURY, OR DEATH CAUSED BY A PARTY'S NEGLIGENCE, OR LIABILITY FOR FRAUD.

20.3 THE PARTIES AGREE THAT THIS ENTIRE SECTION 20 REPRESENTS A REASONABLE ALLOCATION OF RISK AND CONSTITUTES AN ESSENTIAL CLAUSE OF THIS AGREEMENT, IN THE ABSENCE OF WHICH THIS AGREEMENT WOULD NOT HAVE BEEN EXECUTED.

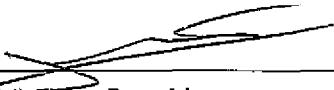
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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives. The individuals signing respectively on behalf of AVANQUEST and RESELLER below hereby represent and warrant that he or she has full authority to sign this Agreement and bind AVANQUEST and RESELLER to perform all duties and obligations contemplated by this Agreement.

RESELLER

By: 
Name (print): Barry Dodd
Title: CEO
Date: Oct 4, 2013

AVANQUEST SOFTWARE

By: 
Name (print): Thierry Bonnefond
Title: Chief Financial Officer

Date: SEPTEMBER 19th, 2013

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EXHIBIT A – DISTRIBUTION TERMS

Licensed Software	OS	Language Version	Channels	Exclusivity	Territory
Smart Driver Updater	Microsoft Windows XP, Windows Vista (32-bit or 64-bit), Windows 7 (32-bit or 64-bit), or Windows 8 (32-bit or 64-bit)	English	ESD	None	Worldwide

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Exhibit B – Royalties

Table 1: Royalty Table

Product	Monthly Volume	Royalty (US Dollars)
Smart Driver Updater – 1 st year sales	1 – 4,999 units	\$2.50 per unit sold
	5,000 + units	\$2.00 per unit sold

Table 2: Royalty Table

Product	Royalty (US Dollars)
Smart Driver Updater – annual renewals	\$1.00 per annual renewal for each unit