

END-USER LICENSE TERMS EXAMPLE

END USER LICENSE AGREEMENT (“AGREEMENT”) TERMS

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6) Termination

This Agreement shall remain in force and effect unless one of the following occurs:

a) Licensee may terminate, without cause, this Agreement upon thirty (30) days written notice.

b) Licensor may terminate this Agreement in the event of a material breach by Licensee, which is not cured to Licensor's satisfaction with fifteen (15) days written notice. This Agreement shall immediately and automatically terminate if: Licensee becomes insolvent or ceases to do business; Licensee breaches any intellectual property, Licensor Property or Licensor Confidential Information obligations; or Licensee engages in any illegal or unlawful activity.

c) Upon any termination hereunder: the License Grant shall cease to be exercisable; all access to and use of the Software Product shall be immediately terminated and removed from any of Licensee's equipment on which the Software Product resides; any and all copies of the Software Product as well as archival copies of the Software Product shall be destroyed with certification; and all Confidential Information and intellectual property (Licensor Property) as defined, herein, shall be promptly returned.

7) Other Provisions

- a) Each party is not and shall not be deemed to be an employee, agent, contractor, partner or legal representative of the other for any purpose and shall not have any right, power or authority to create any obligation or responsibility on behalf of the other.
- b) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior or contemporaneous oral or written understandings between the parties concerning the subject matter hereof. No representations, inducements, promises or agreements, whether oral or otherwise, between the parties not contained herein or incorporated herein by reference shall be of any force or effect. Except as set forth herein, no modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, nor any agreement or understanding extending this Agreement or varying its terms (including any inconsistent terms in any purchase order, acknowledgement or similar form) shall be effective unless in writing signed by both parties to this Agreement. The provisions of this Agreement are severable; and if any provision shall be deemed invalid or unenforceable, the applicability or validity of any other provision of this Agreement shall not be affected, and if any such provision shall be deemed invalid or unenforceable in any respect, this Agreement shall be construed as if such invalid or unenforceable provisions are not contained in this Agreement. All notices shall be in writing and addressed to the party to be served at the address recited above.
- c) All amendments or modifications of this Agreement shall be binding upon the parties so long as the same shall be in writing and executed by each of the parties hereto.
- d) Licensee shall be responsible for the payment of any and all sales, excise, or use taxes, including any interest and penalties thereon, imposed by any governmental authority on the installation, access, or use of the Software Products or on this Agreement.
- e) Licensee shall comply with all applicable U.S. Export Control laws and regulations.
- f) Licensee shall not, without Licensor's prior written consent transfer, assign or delegate this Agreement, or any rights or duties hereunder, directly, indirectly, by operation of law, or otherwise. Licensor's rights and obligations under this Agreement may be transferred, delegated or assigned and notice shall be provided to Licensee, as a courtesy, in the event of such occurrence. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.
- g) The following Sections shall survive termination of this Agreement: 3, 4, 5 and 7.
- h) Licensee shall promptly notify Licensor of any and all actions at law or equity or claims or governmental administrative proceeding arising out of the operation or performance of this Agreement.
- i) Nonperformance of either party shall be excused to the extent that performance is rendered impossible due to industrial conflicts, mobilization, requisition, embargo, currency restriction, insurrection, general shortage of transport, material or power supply, fire, explosion, terrorism, stroke of lightning, force majeure and similar casualties or other events beyond a party's control, as well as default in deliveries from subcontractors due to such circumstances as defined in this clause. This Agreement shall terminate if the nonperformance continues for a period of ninety (90) days with no possibility of abating or resumption of performance.
- j) The prevailing party in any legal action brought by one party against the other and arising out of this Agreement shall be entitled, in addition to any other rights and remedies it may have and subject to the limitation of liabilities herein, to reimbursement for its expenses, including court costs and reasonable attorneys' fees.
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o) No failure or delay by either party in exercising any right or remedy under this Agreement shall be construed as a waiver of such right or remedy, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise of such right or remedy. All rights and remedies under this Agreement are cumulative and shall not be deemed exclusive of any other rights or remedies provided by law.

p) This Agreement shall be governed by the laws of the State of Texas and of the United States, as applicable, without regard to the applicability of the principles of conflicts of law, and any dispute between the parties shall be adjudicated in the competent courts in the State of Texas. Licensor shall be entitled to seek all available legal and equitable remedies available. The 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement or to any sale or other transaction hereunder.