

CALGOO SOFTWARE LICENCE AGREEMENT

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10.1 THE MAXIMUM AGGREGATE LIABILITY OF THE LICENSOR, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, DISTRIBUTORS, AND RE-SELLERS, UNDER THIS LICENSE FOR ALL LOSSES, DAMAGES, EXPENSES, OR INJURIES, WHETHER UNDER CONTRACT, TORT (INCLUDING WITHOUT LIMITATION, NEGLIGENCE, AND STRICT LIABILITY), BY STATUTE, OTHER LEGAL THEORY, OR OTHERWISE, HOWSOEVER ARISING, SHALL BE LIMITED TO THE LICENSE FEES PAID BY LICENSEE HEREUNDER, REGARDLESS OF A BREACH OF ANY FUNDAMENTAL TERM OR A FINDING THAT THE REMEDIES PROVIDED HEREIN FAILED WITH RESPECT TO THEIR ESSENTIAL PURPOSE. NO ACTION OR PROCEEDING RELATING TO THIS LICENSE MAY BE COMMENCED BY LICENSEE MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION ARISES.

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11. HEADINGS

11.1 The article headings in this Agreement are inserted for convenience of reference only and shall not be considered in the interpretation of this Agreement.

12. PREAMBLE AND SCHEDULES

12.1 The Preamble and Schedules hereto form an integral part of this Agreement.

13. GOVERNING LAW

13.1 This Agreement shall be governed by and construed in accordance with the laws in force in the Province of British Columbia, Canada, and any dispute stemming from this Agreement shall be submitted to the jurisdiction of the courts of the Province of British Columbia, Canada. The Parties hereby expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.

14. CONFIDENTIALITY

14.1 Licensee shall not disclose any business, technical, or financial information of Licensor nor copy or utilize, other than in conjunction with the purposes of this License or the provision of maintenance and support hereunder, any information, trade, or professional secrets of Licensor, which shall be deemed to include the Software (hereinafter "Confidential Information"). Licensee will use at least the same degree of care to protect the Confidential Information of Licensor as it would use to protect its own Confidential Information of a similar nature, but in no event less than reasonable care. Licensee shall ensure that its employees, agents, and subcontractors observe these conditions.

14.2 The parties agree that Confidential Information shall not include any information which: (i) was previously known to the receiving party if the receiving party can prove such prior knowledge and the receiving party did not learn such information from a person whom the receiving party knew was under a duty to the disclosing party not to disclose the information; (ii) is or becomes part of the public domain without breach of this Agreement; (iii) the receiving party receives from an independent third party who is not under an obligation not to disclose it; (iv) is independently developed by the receiving party as evidenced by documentation dated prior to the time of disclosure by the disclosing party; (v) is required to be disclosed pursuant to the order of a governmental agency, legislative body, or a court of competent jurisdiction, provided reasonable prior notice of the intended disclosure is provided to the other party.

15. FORCE MAJEURE

15.1 Licensor shall not be liable to the Licensee for non-performance or delay in performance caused by anything beyond its reasonable control, including without limitation, acts of God, acts or omissions of Licensee, acts of government, war, strikes,

lockouts, embargoes, failure of communications networks, or denial of service/access attacks.

16. NOTICES

16.1 Any notice required or permitted to be given by one party to the other under this Agreement must be in writing and be personally delivered, sent by courier, by facsimile, or by prepaid registered mail. A party may change its address by notice to the other party. Notice that is mailed will be deemed to have been received five (5) business days after date of mailing. Notices personally delivered, sent by courier, or by facsimile will be deemed to be received on the next business day.

17. SEVERABILITY

17.1 Any provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective only to the extent of such invalidity or unenforceability and shall be severed from the balance of this Agreement without invalidating or affecting the remaining provisions of this Agreement in that or any other jurisdiction, which remaining provisions shall continue in full force and effect.

18. TERMINATION

18.1 Termination of this Agreement, for any reason, shall not prejudice or affect the accrued rights, claims, and liabilities of either party hereto.

19. EXPORT LAW ASSURANCES

19.1 Licensee acknowledges that the Software will not be exported except as authorized by the laws of the jurisdiction in which the Software was obtained.

20. ENTIRE AGREEMENT

This Agreement and Schedule "A" hereto together with the Calgoo Software Privacy Policy and the Calgoo Software Terms of Use (as published on the Calgoo Software web site) constitute the entire agreement and understanding between the parties with respect to the matters dealt with herein. All previous agreements, understandings, and representations, whether written or oral, between the parties have been superseded by this Agreement. In the event of discrepancy between this Agreement, the Calgoo Software Privacy Policy and the Calgoo Software Terms of Use, this Agreement shall prevail.

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