

SOFTWARE LICENSE AGREEMENT

IMPORTANT-READ CAREFULLY:

This End-User License Agreement (“Agreement”) is a legal agreement between you (either an individual or a single entity) (“You”) and Sesame Software, Inc. (“Sesame”) for the software and documentation that accompanies this Agreement (“Licensed Program”). An amendment or addendum to this Agreement may accompany the Licensed Program if signed by both parties. YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT BY INSTALLING, COPYING, OR USING THE LICENSED PROGRAM. IF YOU DO NOT AGREE, DO NOT INSTALL, COPY, OR USE THE LICENSED PROGRAM; YOU MAY RETURN IT FOR A FULL REFUND, IF APPLICABLE. THE LICENSED PROGRAM IS COPYRIGHTED AND LICENSED ON A NONEXCLUSIVE BASIS. SESAME DOES NOT SELL OR TRANSFER TITLE TO THE LICENSED PROGRAM TO YOU.

1. **License and Delivery.** In consideration of the payment of the applicable license fees, Sesame grants You a nonexclusive, nontransferable license to perform, execute, display and use the Licensed Program in machine-readable form subject to the terms and conditions of this Agreement. The Licensed Program will be delivered, at Your option, by (a) electronically transmitting the Licensed Program; or (b) installing the Licensed Program on physical media provided by You. You may distribute or make the Licensed Program available to your Affiliates and/or use the Licensed Program for the benefit of Affiliates, which Affiliates will be entitled to the rights and benefits available to You hereunder and subject to the restrictions applicable to You hereunder. For purposes of this Agreement, (a) “Affiliates” means entities that You Control, and (b) “Control” means the possession, direct or indirect, of the power to direct or cause the direction of management and policies, whether through the ownership of voting shares. In addition, in the event You divests an entity, such divested entity may continue to use the Licensed Program, subject to the terms and conditions herein, for a transition period of no more than twelve (12) months following such divestiture.
2. **Scope of Rights. You may:**
 - a) Install the Licensed Program any of your computers at location(s) owned or operated by you or by Your third party outsourcer as provided below;
 - b) Use and execute the Licensed Program for purposes of serving the needs of your business internally;
 - c) In support of your authorized use of the Licensed Program as specified above, store the Licensed Program’s machine-readable instructions or data in, transmit it through, and display it on computers; and
 - d) Make one copy of the Licensed Program in machine-readable form, for nonproductive backup purposes only, and make such other copies as are necessary for routine backup and for disaster recovery purposes. Notwithstanding anything herein to the contrary, nothing herein prohibits You from having the Licensed Program hosted by a third-party outsourcer for Your benefit or accessed and operated by third parties for Your benefit, provided such third parties are subject to confidentiality restrictions consistent with this Agreement. Except as specified above, You will have no other right to make use of the Licensed Program in any manner.
3. **Fees and Payments.** You must pay the applicable license fee for the Licensed Program directly to Sesame. You are solely responsible for the payment of any applicable taxes (including, but not limited to, sales or use taxes, intangible taxes, and property taxes) resulting from this license or your possession and use of the Licensed Program (“Licensee Taxes”), exclusive of taxes based on Sesame’s net income. Sesame reserves the right to have you pay any such Licensee Taxes as they fall due to Sesame for remittance to the appropriate authority. You agree to hold harmless Sesame from all claims and liability arising from your failure to report or pay such taxes. Sesame reserves the right to charge You annual fees for Support and Maintenance on 60 days’ advance notice (to apply on a prospective basis only), provided that such fees are applied equally to all licensees. All fees are payable upon invoice.
4. **Support.** Sesame will promptly provide to Company any new functionality, updates and enhancements, and code repairs or fixes required to correct problems with the Licensed Program (collectively, “Upgrades”), regardless of their designation, at the same time as Sesame makes such Upgrades commercially available to other licensees of the Licensed Program. All Updates will become part of the base product, and will be wholly owned by Sesame and made a part of the product offered for general

license to the public. Sesame will also provide to You email, web support, and phone support services for problem resolution. However, Sesame offers support only for the most current and prior major version of the Licensed Program issued by Sesame from time to time, so You must make sure to obtain and substitute or incorporate all new versions issued by Sesame pursuant to its warranty and its Support and Maintenance programs. Unless Sesame give you advance notice as specified above, Support and Maintenance is included in the license fee. Sesame is not responsible for obsolescence of the Licensed Program that may result from changes in Your requirements. The foregoing warranty shall apply only to the most current version of the Licensed Program issued by Sesame from time to time. Sesame assumes no responsibility for the use of superseded, outdated, or uncorrected versions of the Licensed Program.

5. **Your Responsibilities.** You are responsible for selecting operators to operate the Licensed Program on your own equipment and it is Your responsibility to ensure these operators are familiar with the information, calculations, and reports that serve as input and output of the Licensed Program. Except as agreed otherwise in writing, Sesame assumes no responsibility under this Agreement for converting Your data files for use with the Licensed Program.
6. **Proprietary Protection and Restrictions.** Sesame shall have sole and exclusive ownership of all right, title, and interest in and to the Licensed Program and all Updates (including, but not limited to, ownership of all trade secrets and copyrights pertaining thereto), subject only to the license rights and privileges expressly granted to You herein by Sesame. This Agreement does not provide You with title or ownership of the Licensed Program, but only a right of limited use. You must keep the Licensed Program free and clear of all claims, liens, and encumbrances. You agree that:
 - a) You may not modify or distribute to third parties the Licensed Program (electronically or otherwise), or any copy, adaptation, transcription, or merged portion thereof, except as expressly authorized by Sesame. You may not reverse engineer, reverse compile, or otherwise translate the Licensed Program. No service bureau work, multiple-user license, or time-sharing arrangement is permitted, except as expressly authorized by Sesame in writing.
 - b) You will safeguard any information you obtain in connection with this Agreement as Sesame's confidential information and will not disclose or use any such information except as expressly permitted by this Agreement.
 - c) In the event of your breach of any of the foregoing provisions, Sesame will not have an adequate remedy in money or damages. Sesame shall therefore be entitled to obtain an injunction against such breach from any court of competent jurisdiction immediately upon request. Sesame's right to obtain injunctive relief shall not limit its right to seek further remedies.
7. **Infringement Indemnification.** If a third party claims that the Licensed Program infringes its patent, copyright, or trade secret, or any similar intellectual property right, Sesame will defend You against such claims at Sesame's expense and indemnify You against all damages that a court finally awards or that is the subject of a full and final settlement, provided that you promptly notify Sesame in writing of the claim and allow Sesame to control, and cooperate with Sesame in, the defense or any related settlement negotiations. If such a claim is made or appears possible, You agree to permit Sesame to enable You to continue to use the Licensed Program, or to modify or replace it, provided that any modified or replacement programs are at least equivalent in functionality, performance, and compatibility as the Licensed Program. If Sesame determines that none of these alternatives is reasonably available, You agree to return the Licensed Program on Sesame's written request, and You will then receive a refund of the amount paid to Sesame as the license fee for the Licensed Program during the prior 12 months. However, Sesame has no obligation for any claim based on your modification of the Licensed Program or its combination, operation, or use with any product, data, or apparatus not provided by Sesame or identified in the applicable documentation, provided that such claim solely and necessarily is based on such combination, operation, or use and such claim would be avoided by combination, operation, or use with products, data, or apparatus provided by Sesame. THIS PARAGRAPH STATES SESAME'S ENTIRE OBLIGATION TO YOU WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.
8. **Limited Warranty and Limitation of Liability.**
 - a) Sesame warrants, for Your benefit alone, that it owns or otherwise has the right to grant the license to the Licensed Program, and that the Licensed Program will conform in all material respects to the specifications of the Licensed Program during the 30 days following its installation. As Your exclusive remedy for any material defect in the Licensed Program for which Sesame is responsible, Sesame shall attempt through reasonable effort to correct or cure any reproducible defect by issuing corrected instructions, a restriction,

or a bypass. In the event Sesame does not correct or cure such nonconformity or defect after it has had a reasonable opportunity to do so, Your exclusive remedy shall be the refund of the amount paid as the license fee for the defective or nonconforming module of the Licensed Program. Sesame shall not be obligated to correct, cure, or otherwise remedy any nonconformity or defect in the Licensed Program if You have made any changes whatsoever to the Licensed Program, if the Licensed Program has been misused or damaged in any respect, or if You have not reported to Sesame the existence and nature of such nonconformity or defect in a timely manner.

b) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SESAME DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED PROMISES, REPRESENTATIONS, AND WARRANTIES WITH RESPECT TO THE LICENSED PROGRAM, INCLUDING ITS CONDITION, ITS CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, ANY NEGLIGENCE, AND ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE. c) THE CUMULATIVE LIABILITY OF SESAME FOR ALL CLAIMS RELATING TO THE LICENSED PROGRAM AND THIS AGREEMENT, INCLUDING ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT, OR STRICT LIABILITY, SHALL NOT EXCEED THE TOTAL AMOUNT OF ALL LICENSE FEES PAID TO SESAME HEREUNDER DURING THE PRIOR 12 MONTHS. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO THE INDEMNIFICATION PROVIDED IN SECTION 7 HEREOF. d) SESAME SHALL HAVE NO LIABILITY FOR LOSS OF DATA OR DOCUMENTATION, IT BEING UNDERSTOOD THAT YOU ARE RESPONSIBLE FOR REASONABLE BACKUP PRECAUTIONS.

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFITS OR ANY SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON DAMAGES IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

You may have additional rights under certain laws (e.g. consumer laws) that do not allow the exclusion of implied warranties, or the exclusion or limitation of certain damages. If such laws apply, our exclusions or limitations do not apply to You.

9. **Term of Agreement; Termination.** Unless otherwise agreed by the parties in writing, the term of this Agreement (and the license thereunder) is one (1) year beginning upon your receipt of the Licensed Program. This agreement shall automatically renew for successive one (1) year terms unless you give notice of non-renewal no less than sixty (60) days notice prior to the end of the term. Either party may terminate this Agreement immediately in the event that the other party: (a) materially breaches this Agreement and fails to cure such breach within thirty (30) days after receiving notice of such breach; or (b) becomes subject to a proceeding under Title 11 of the United States Code, or a similar proceeding. Upon termination or expiration of this Agreement, all rights granted to you will terminate and revert to Sesame. Promptly upon termination or expiration of this Agreement for any reason or upon discontinuance or abandonment of your possession or use of the Licensed Program, you must return or destroy all copies of the Licensed Program in your possession or control (whether modified or unmodified), and all other materials pertaining to the Licensed Program (including all copies thereof). Sections 3, 6, 8 and 9 shall survive any termination or expiration of this Agreement.
10. **Miscellaneous.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to principles of conflicts of laws. In the event of any litigation between the parties with regard to this Agreement, such proceeding shall be held in the state or federal courts located in Santa Clara County, California, and each party agrees to be subject to the jurisdiction of such courts. The non-prevailing party in any such litigation shall reimburse the prevailing party for the reasonable attorney's fees it incurs in connection with such litigation. No modification of this Agreement shall be binding unless it is in writing and is signed by an authorized representative of the party against whom enforcement of the modification is sought. your rights may not be transferred, leased, assigned, or sublicensed except for a transfer of the Licensed Program in its entirety to a successor in interest of Your entire business who assumes the obligations of this Agreement in connection with your merger, corporate reorganization, or sale of all (or substantially) all of Your assets. Any notices required or permitted under this Agreement shall be in writing and delivered in person or sent by registered or certified mail, return



receipt requested, with proper postage affixed. In the event that any of the terms of this Agreement is or becomes or is declared to be invalid or void by any court or tribunal of competent jurisdiction, such term or terms shall be null and void and shall be deemed severed from this Agreement and all the remaining terms of this Agreement shall remain in full force and effect.

THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF SESAME'S AND YOUR OBLIGATIONS AND RESPONSIBILITIES AND SUPERSEDES ANY OTHER PROPOSAL, REPRESENTATION, OR OTHER COMMUNICATION BY OR ON BEHALF OF SESAME RELATING TO THE SUBJECT MATTER HEREOF.

Accepted and Approved:

Sesame Software Inc.

Richard D Banister

By:

Name: Richard Banister

Title: President

Date: _____

Telephone: (866) 474-7575

Fax: (801) 365-6680

Email: rick.banister@sesamesoftware.com

LICENSEE

Company: _____

By: _____

Name: _____

Title: _____

Date: _____

Telephone: _____

Email: _____