

SOFTWARE LICENSE TERMS AND CONDITIONS

These SOFTWARE LICENSE TERMS AND CONDITIONS apply to the Software License Agreement (“Agreement”) made as of the Effective Date by and between Intellias Inc., a Texas corporation with offices located at 100 E Royal Lane Ste T-125, Irving, TX 75039 (“Intellias”) and the Licensee identified there under.

ARTICLE I: DEFINITIONS

Section 1.01 -- Definitions: The following definitions shall apply:

- (1) Access: The term “access” and variants thereof shall mean to store data in, retrieve data from or otherwise approach or make use of (directly or indirectly) through electronic means or otherwise.
- (2) Authorized Person: The term “Authorized Person” shall mean a person or organization who is authorized in writing by Intellias to receive Confidential Information and who agrees to maintain the confidentiality of such Confidential Information.
- (3) Cancellation Notice: The term “Cancellation Notice” shall mean that written notice sent by Intellias to Licensee seeking to cancel the Agreement because of breach by Licensee.
- (4) Computer: The term “Computer” shall mean that certain computer system owned or leased by Licensee and identified in the Agreement.
- (5) Confidential Information: The term “Confidential Information” shall mean all information disclosed by Intellias to Licensee which is identified by Intellias as proprietary or confidential at the time such information comes into the possession or knowledge of Licensee and which is not: (i) already known to Licensee; (ii) in the public domain; (iii) conveyed to Licensee by a third party; (iv) released by Intellias without restriction; (v) independently developed by Licensee; and (vi) required by Court Order to be released by Licensee. For purposes of this definition, Confidential Information shall be deemed to include all information concerning the Agreement, the Software and Documentation.
- (6) Defect Notice: The term “Defect Notice” shall mean that certain written notice from Licensee to Intellias identifying discrepancies between the actual performance of the Software and the performance represented in the Documentation.
- (7) Delivery Date: The term “Delivery Date” shall mean the date the Software is delivered to Licensee.
- (8) Documentation: The term “Documentation” shall mean that certain Intellias Software User's Guide as made available to Licensee by Intellias.
- (9) Effective Date: The term “Effective Date” shall mean the date the Agreement is signed by Intellias.
- (10) Enhancement: The term “Enhancement” shall mean an Enhancement as defined under the Maintenance Agreement.
- (11) Implement: The term “implement” and variants thereof (including, but not limited to, the terms “implementation,” “implementing” and “implemented”) shall mean to load and make available for user access.
- (12) Implementation Date: The term “Implementation Date” shall mean the date the Software is implemented on a Computer.
- (13) Implementation Fee: The term “Implementation Fee” shall mean an amount of money specified as the Implementation Fee in the Agreement.
- (14) License Fee: The term “License Fee” shall mean the amount of money specified as the License Fee in the Agreement.
- (15) License Term: The term “License Term” shall mean a period of time starting with the Effective Date and continuing twenty years thereafter.
- (16) Licensee Facility: The term “Licensee Facility” shall mean the office facility of Licensee identified in the Agreement.
- (17) Maintenance Agreement: The term “Maintenance Agreement” shall mean that certain Software Maintenance Agreement between Intellias and Licensee (as Customer there under).
- (18) Maximum Users: The term “Maximum Users” shall mean the maximum number of Users authorized by Intellias to simultaneously access the Software, as specified in the Agreement.
- (19) Payment Terms: The term “Payment Terms” shall mean the payment terms for the applicable

- License Fee and Implementation Fee as specified in the Agreement.
- (20) Remote Access: The term “Remote Access” shall mean access to the Software using a Remote VPN client.
- (21) Software: The term “Software” shall mean the executable code for that certain software commonly referred to as Intellias Software as identified in the Agreement, including Enhancements and Updates thereto.
- (22) Software License Agreement: The term “Software License Agreement” refers to the signature page labeled as such and signed by the parties incorporating by reference the SOFTWARE LICENSE TERMS AND CONDITIONS.
- (23) Termination Notice: The term “Termination Notice” shall mean that written notice sent by Licensee to Intellias seeking to terminate the Agreement.
- (24) Unauthorized Access: The term “Unauthorized Access” shall mean any access to the Software or Documentation except for the exclusive purposes of managing the software life cycle development process, evaluating the performance, utility and functions of the Software, and training employees of Licensee in the use of the Software.
- (25) Unauthorized User: The term “Unauthorized User” shall mean any individual who accesses the Software or Documentation except for: (1) employees of Licensee authorized by Licensee to access the Software for the purposes of managing the software life cycle development process, evaluating the performance, utility and functions of the Software, and training employees of Licensee in the use of the Software and (2) Authorized Persons who are authorized in writing by Intellias to access the Software and Documentation.
- (26) Update: The term “Update” shall mean an Update as defined under the Maintenance Agreement.
- (27) Users: The term “Users” shall mean employees of Licensee authorized by Licensee to access the Software for the purposes of managing the software life cycle development process, evaluating the performance, utility and functions of the Software, and training employees of Licensee in the use of the Software.

ARTICLE II: SCOPE OF LICENSE

Section 2.01 -- Grant of License: Intellias hereby grants to Licensee a non-exclusive and non-transferable license to use the Software on the Computer and to use the Documentation for the License Term.

Section 2.02 -- User Restriction: Licensee shall prevent more than the Maximum Users from simultaneously accessing the Computer or Software.

Section 2.03 -- Acceptance: Intellias shall deliver the Software to Licensee on the Delivery Date. Intellias shall implement the Software on a Computer on the Implementation Date. Upon completing implementation of the Software, Intellias shall demonstrate the Software to Licensee. Upon completing demonstration of the Software, the Software shall be deemed implemented. The Software shall be deemed accepted by Licensee thirty days after delivery of the Software unless Defect Notice is received by Intellias by such thirtieth day. Upon receiving Defect Notice from Licensee, Intellias shall review the asserted discrepancy to determine if the discrepancy is valid. If, in the reasonable professional judgment of Intellias the discrepancy is valid, Intellias shall correct the discrepancy and resubmit the Software for acceptance by Licensee. If, in the reasonable professional judgment of Intellias the discrepancy is not valid, Intellias shall submit to Licensee a written explanation of the reasons why such asserted discrepancy is not valid. The written explanation of Intellias set forth herein shall be deemed accepted by Licensee within ten days after receipt by Licensee of the written explanation unless Intellias receives from Licensee written notice rejecting such explanation and terminating the Agreement within such ten day period. Upon receipt of Defect Notice from Licensee by Intellias as set forth above, the Software shall be deemed accepted by Licensee except as to the discrepancies specified in the Defect Notice.

Section 2.04 -- Risk of Loss: Licensee assumes risk of loss to the Software and Documentation as of the Delivery Date.

Section 2.05 -- Authorized Use: Licensee shall prevent Unauthorized Users from accessing the Software and Documentation. Licensee shall prevent Unauthorized Access to the Software and Documentation.

Section 2.06 -- Site Only: Licensee shall use the Software only on the Computer and only at the Licensee Facility. Excepting access by Intellias, Licensee shall prevent Remote Access.

ARTICLE III: PAYMENT

Section 3.01 -- Fees: Licensee shall pay the License Fee to Intellias in accordance with the Payment Terms.

Section 3.02 -- Implementation Fee: Licensee shall pay the Implementation Fee to Intellias in accordance with the Payment Terms.

Section 3.03 -- Costs: Licensee shall pay all direct costs incurred by Intellias in providing any services pursuant to the Agreement. Such direct costs shall include (without limitation) postage, telephone, travel, material and reproduction costs.

Section 3.04 -- Invoicing and Payment: Intellias shall invoice Licensee monthly for any costs incurred by Intellias in providing services under the Agreement. Such invoice shall be accompanied by receipts evidencing such costs. Licensee shall pay any such invoice in full within thirty days of receipt.

Section 3.05 -- Taxes: Licensee shall pay any and all applicable taxes (excluding income taxes assessed against Intellias).

ARTICLE IV: TERMINATION

Section 4.01 -- Termination Limitations: The Agreement shall only be terminated or canceled as provided under this Article IV.

Section 4.02 -- Term: The Agreement shall be valid for the License Term.

Section 4.03 -- Termination: Licensee may terminate the Agreement upon providing thirty days Termination Notice to Intellias.

Section 4.04 -- Cancellation for Cause: If Licensee violates its obligations under the Agreement, Intellias may cancel the Agreement by sending Cancellation Notice describing the noncompliance to Licensee. Upon receiving Cancellation Notice, Licensee shall have ten days from the date of such notice to cure any such noncompliance. If such noncompliance is not cured within the required ten day period, Intellias shall have the right to cancel the Agreement as of the eleventh day after the date of the Cancellation Notice.

Section 4.05 -- Destruction of Software upon Termination: Upon termination or cancellation of the Agreement, Licensee shall destroy all Software and Documentation provided to Licensee by Intellias pursuant to the Agreement and shall provide Intellias with a certificate of compliance with this Section 4.05 signed by an authorized representative of Licensee.

ARTICLE V: WARRANTY

Section 5.01 -- Representations: Intellias represents and

warrants that the Software shall perform substantially as represented in the Documentation.

Section 5.02 -- WARRANTY LIMITATION: THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY. EXCEPTING THE WARRANTY EXPRESSLY ACKNOWLEDGED HEREUNDER, Intellias HEREBY DISCLAIMS AND LICENSEE HEREBY WAIVES ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY.

Section 5.03 -- Indemnification: Intellias shall defend, indemnify and hold harmless Licensee against any liability arising from the negligence of Intellias and any claim by any third party against Licensee for claimed violations of trade secrets, proprietary information, trademark, copyright or any patent rights resulting from use of the Software by Licensee. If a third party receives a judgment from a court of competent jurisdiction upholding any such claim, Intellias shall perform one or more of the following actions (as determined by Intellias) within one year of the date judgment in favor of such third party's claim is rendered by a court of competent judgment:

- (1) Replacement Replace the Software with a non-infringing software product of equivalent functional and performance capability;
- (2) Modification: Modify the Software to avoid the infringement without eliminating the functional and performance capabilities of the Software;
- (3) Obtain License: Obtain a License for use of the Software from the third party claiming infringement for use of the Software.

The remedies set forth herein shall be the sole and exclusive remedies of Licensee under this Section 5.03.

Section 5.04 -- Limitation of Damages: Neither party shall be liable under the Agreement for any consequential, exemplary, incidental or punitive damages, regardless of whether Intellias has been advised of the possibility of such damages in advance or whether such damages are reasonably foreseeable.

Section 5.05 -- Force Majeure: Intellias shall not be liable to Licensee for failing to perform its obligations under the Agreement because of circumstances beyond the control of

Licensee. Such circumstances shall include, but not be limited to, any acts or omissions of any government or governmental authority, natural disaster, act of a public enemy, riot, sabotage, dispute or differences with workmen, power failure, delays in transportation or deliveries of supplies or materials, acts of God, terrorism, or any events reasonably beyond the control of Licensee.

Section 5.06 – Indemnification: Except as provided in Section 5.03 of the Agreement, Licensee shall release, defend, indemnify and hold harmless Intellias from and against any claims, damages and liability arising from use of the Software or Documentation by Licensee.

ARTICLE VI: INTELLECTUAL PROPERTY

Section 6.01 -- Ownership and Title: Title to the Software and Documentation including ownership rights to patents, copyrights, trademarks and trade secrets therein shall be the exclusive property of Intellias.

Section 6.02 -- Confidential Information: Licensee shall not disclose Confidential Information except to Authorized Persons. Licensee shall not duplicate, use or disclose Confidential Information except as otherwise permitted under the Agreement.

Section 6.03 -- Trade Secrets: Licensee hereby acknowledges and agrees that the Confidential Information derives independent economic value (actual or potential) from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use; are the subject of reasonable efforts under the circumstance to maintain their secrecy; and are trade secrets as defined under Chapter 688 of the Florida Statutes [§688.002(4)] and Section 757 of the Restatement of Torts.

Section 6.04 -- Reverse Engineering: Licensee shall not reverse engineer the Software.

Section 6.05 -- Copies: Licensee shall not copy the Software or Documentation and shall not allow the Software or Documentation to be copied without the prior written consent of Intellias. Intellias shall make available to Licensee an additional copy of the Software for back-up use on the Computer.

Section 6.06 -- Modifications: Licensee shall not modify the Software and shall not allow the Software to be modified without the prior written consent of Intellias. Licensee shall not use the Software or any materials incident thereto to develop computer software without the prior written consent of Intellias. If the Software is modified, such modifications shall be the sole and exclusive property of Intellias and Intellias shall own all of the rights, title and interests to such modifications and any

resulting computer software, including (but not limited to) any and all copyrights, patents and trade secrets related thereto.

Section 6.07 -- U.S. Government Restricted Rights: This Section 6.07 shall not apply unless Licensee is the U.S. Government or an agency or department thereof (collectively “Government”). The Software and Documentation are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1) and (2) of the Commercial Computer Software Restricted Rights clause at 48 C.F.R. 52.227-19.

Section 6.08 -- Continuation: The terms and provisions of this Article VI shall survive termination and cancellation of the Agreement.

ARTICLE VII: MISCELLANEOUS

Section 7.01 -- Assignments: All assignments of rights under the Agreement by Licensee without the prior written consent of Intellias shall be void.

Section 7.02 -- Entire License: The Agreement contains the entire understanding of the parties and supersedes previous verbal and written agreements between the parties concerning licensing of the Software.

Section 7.03 -- Amendments and Modifications: Waivers, alterations, modifications or amendments of a provision of the Agreement shall not be binding unless such waiver, alteration, modification or amendment is in writing and signed by Intellias.

Section 7.04 -- Severability: If a provision of the Agreement is rendered invalid, the remaining provisions shall remain in full force and effect.

Section 7.05 -- Captions: The headings and captions of the Agreement and the Terms and Conditions are inserted for reference convenience and do not define, limit or describe the scope or intent of the Agreement or any particular section, paragraph, or provision.

Section 7.06 -- Counterparts: The Agreement may be executed in multiple counterparts, each of which shall be an original, but which together shall constitute one and the same instrument.

Section 7.07 -- Governing Law: The Agreement is governed by the laws of the State of Texas and venue shall be Dallas, Texas.

Section 7.08 -- Notice: All communications shall be in writing. Notices shall be deemed delivered when delivered

by Certified Mail or by hand to the address set forth on the signature page of the Agreement. Notice shall be deemed given on the date of receipt - as evidenced in the case of Certified or Registered Mail by Return Receipt.

Section 7.09 -- Pronouns/Gender: Pronouns and nouns shall refer to the masculine, feminine, neuter, singular or plural as the context shall require.

Section 7.10 -- Bankruptcy: If either party must institute, defend, appear or attend a bankruptcy proceeding as a result of the filing of bankruptcy by the other party, fees and expenses shall be paid by the filing party. If either party has a bankruptcy proceeding filed against it, the other party shall recover attorney fees, expert witness fees, and other costs incurred by such other party in connection with the bankruptcy proceeding, hearing or trial.

Section 7.11 -- Waiver: Waiver of breach of the Agreement shall not constitute waiver of another breach. Failing to enforce a provision of the Agreement shall not constitute a waiver or create an estoppel from enforcing such provision.

Section 7.12 -- Relationship of the Parties: It is agreed that the relationship of the parties is primarily that of licensee and licensor. Nothing herein shall be construed as creating a partnership, an employment relationship, or an agency relationship between the parties, or as authorizing either party to act as agent for the other. Each party maintains its separate identity.

Section 7.13 -- No Contest: Licensee shall not contest or aid in contesting the ownership or validity of the trademarks, service marks, trade secrets or copyrights of Intellias.

Section 7.14 -- Arbitration: Any controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by arbitration in accordance with the Arbitration Rules of American Arbitration Association in Dallas, TX. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Qualified Arbitrators shall be selected by the parties in accordance with the Arbitration Rules of American Arbitration Association. Each party shall have the right of discovery as set forth in the Federal Rules of Civil Procedure. The Arbitration shall be administered by American Arbitration Association.

Section 7.15 -- Assurances: Each party hereby represents and warrants that all representations, warranties, recitals, statements and information provided to each other under the Agreement are true, correct and accurate as of the date of the Agreement to the best of their knowledge.

Section 7.16 -- Litigation Expense: In the event of litigation or arbitration arising out of the Agreement, the costs of such litigation or arbitration, including, but not limited to, attorney fees, travel expenses, deposition costs, expert witness expenses and fees, court costs, arbitration fees and other costs incurred in connection with bringing or defending such action whether or not incurred in trial or appeal shall be recovered by the prevailing party from the Non-prevailing-party.

