

LAST MODIFICATION DATE

August 15, 2016

PARTIES

1. *Alberto Rodríguez Orozco* having its principal place of business at *Violeta 226-33, C.P. 44460, Guadalajara, Jalisco, México* (the "**Licensor**"); and
2. The user of our products (the "**Licensee**").

AGREEMENT

1. Definitions

- 1.1 Except to the extent expressly provided otherwise, in this Agreement:

"**Agreement**" means this agreement including any Schedules, and any amendments to this Agreement from time to time;

"**Business Day**" means any weekday other than a bank or public holiday in México;

"**Business Hours**" means the hours of 10:00 to 18:00 GMT-5 on a Business Day;

"**Charges**" means the following amounts:

- (a) the amounts specified in Part 4 of Schedule 1 (Software License Particulars); and
- (b) such amounts as may be agreed by the parties in writing from time to time;

"**Documentation**" means the documentation for the Software produced by the Licensor and delivered or made available by the Licensor to the Licensee;

"**Effective Date**" means the date of execution of this Agreement;

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"**Minimum Term**" means, in respect of this Agreement, the period of 12 months beginning on the Effective Date;

"**Schedule**" means any schedule attached to the main body of this Agreement;

"**Software**" means the software identified in Part 1 of Schedule 1 (Software License Particulars);

"**Software Defect**" means a defect, error or bug in the Software having an adverse effect OR a material adverse effect on the appearance, operation, functionality or performance of the Software, but excluding any defect, error or bug caused by or arising as a result of:

- (a) any act or omission of the Licensee or any person authorised by the Licensee to use the Software;
- (b) any use of the Software contrary to the Documentation by the Licensee or any person authorised by the Licensee to use the Software;
- (c) a failure of the Licensee to perform or observe any of its obligations in this Agreement; and/or

- (d) an incompatibility between the Software and any other system, network, application, program, hardware or software not specified as compatible in the Software Specification;

"**Software Specification**" means the specification for the Software set out in Part 1 of Schedule 1 (Software Licence Particulars) and in the Documentation, as it may be varied by the written agreement of the parties from time to time; and

"**Term**" means the term of this Agreement, commencing in accordance with Clause 3.1 and ending in accordance with Clause 3.2.

2. Credit

- 2.1 This document was created using a template from SEQ Legal (<http://www.seqlegal.com>).

3. Term

- 3.1 This Agreement shall come into force upon the Effective Date.
- 3.2 This Agreement shall continue in force indefinitely.

4. Supply of Software

- 4.1 The Licensor shall make the Software available for download by the Licensee during the whole of the period of the license subscription, and shall provide to the Licensee such assistance in relation to the download of the Software as the Licensee may reasonably request.

5. Licence

- 5.1 The Licensor hereby grants to the Licensee from the date of supply of the Software to the Licensee until the end of the Term a worldwide, non-exclusive licence to:
 - (a) install of the Software;
 - (b) use the Software in accordance with the Documentation;
 - (c) create, store and maintain up to 5 back-up copies of the Software; andsubject to the limitations and prohibitions set out and referred to in this Clause 5.
- 5.2 The Licensee may not sub-license and must not purport to sub-license any rights granted under Clause 5.1.
- 5.3 The licence granted by the Licensor to the Licensee in Clause 5.1 is subject to the limitations regarding the number of installations, the identity of users and the number of concurrent users set out in Part 3 of Schedule 1 (Software Licence Particulars).
- 5.4 The Software may only be used by the officers and employees of the Licensee, and the officers and employees of the Licensee's agents, subcontractors, customers, clients, suppliers and service providers.
- 5.5 Save to the extent expressly permitted by this Agreement or required by applicable law on a non-excludable basis, any licence granted under this Clause 5 shall be subject to the following prohibitions:
 - (a) the Licensee must not sell, resell, rent, lease, loan, supply, publish, distribute or redistribute the Software;
 - (b) the Licensee must not alter, edit or adapt the Software; and
 - (c) the Licensee must not decompile, de-obfuscate or reverse engineer, or attempt to decompile, de-obfuscate or reverse engineer, the Software.

5.6 The Licensee shall be responsible for the security of copies of the Software supplied to the Licensee under this Agreement and shall use all reasonable endeavours (including all reasonable security measures) to ensure that access to such copies is restricted to persons authorised to use them under this Agreement.

5.7 The Licensee allows the Software to communicate with the Licensor server, with the only purpose of avoiding piracy, the Licensor will never use any information that was not generated by the Software to communicate with the licensor server.

6. No assignment of Intellectual Property Rights

6.1 Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from the Licensor to the Licensee, or from the Licensee to the Licensor.

7. Charges

7.1 The Licensee shall pay the Charges to the Licensor in accordance with this Agreement.

7.2 All amounts stated in or in relation to this Agreement are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Licensee to the Licensor.

7.3 The Licensor may elect to vary any element of the Charges by giving to the Licensee not less than 30 days written notice of the variation expiring on any anniversary of the date of execution of this Agreement, providing that no such variation shall result in an aggregate percentage increase in the relevant element of the Charges during the Term that exceeds 2% over the percentage increase, during the same period, in the Retail Prices Index (all items) published by the México Office for National Statistics.

8. Payments

8.1 The Licensor shall issue invoices for the Charges to the Licensee on or after the invoicing dates set out in Part 4 of Schedule 1 (Software Licence Particulars).

8.2 The Licensee must pay the Charges to the Licensor within the period of 30 days following the issue of an invoice in accordance with this Clause 8.

8.3 The Licensee must pay the Charges by debit card or credit card (using such payment details as are notified by the Licensor to the Licensee from time to time).

8.4 If the Licensee does not pay any amount properly due to the Licensor under this Agreement, the Licensor may charge the Licensee interest on the overdue amount at the rate of 2% per annum above the Bank of México base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each named calendar month). The Licensor acknowledges and agrees that it shall have no right to claim interest or statutory compensation under the Late Payment of Commercial Debts (Interest) Act 1998, and that its contractual rights under this Clause 8.4 constitute a substantial remedy within the meaning of that Act.

9. Warranties

9.1 The Licensor warrants to the Licensee that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

9.2 The Licensor warrants to the Licensee that:

- (a) the Software as provided will conform in all material respects with the Software Specification;

- (b) the Software will be supplied free from Software Defects and will remain free from Software Defects for a period of at least 12 months following the supply of the Software;
 - (c) the Software will be supplied free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs; and
 - (d) the Software shall incorporate security features reflecting the requirements of good industry practice.
- 9.3 The Licensor warrants to the Licensee that the Software, when used by the Licensee in accordance with this Agreement, will not breach any laws, statutes or regulations applicable under Mexican law.
- 9.4 The Licensor warrants to the Licensee that the Software, when used by the Licensee in accordance with this Agreement, will not infringe the Intellectual Property Rights of any person in any jurisdiction and under any applicable law.
- 9.5 If the Licensor reasonably determines, or any third party alleges, that the use of the Software by the Licensee in accordance with this Agreement infringes any person's Intellectual Property Rights, the Licensor may acting reasonably at its own cost and expense:
- (a) modify the Software in such a way that it no longer infringes the relevant Intellectual Property Rights providing that any such modification must not introduce any Software Defects into the Software and must not result in the Software failing to conform with the Software Specification; or
 - (b) procure for the Licensee the right to use the Software in accordance with this Agreement.
- 9.6 The Licensee warrants to the Licensor that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.
- 9.7 All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

10. Acknowledgements and warranty limitations

- 10.1 The Licensee acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, the Licensor gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.
- 10.2 The Licensee acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Licensor gives no warranty or representation that the Software will be entirely secure.
- 10.3 The Licensee acknowledges that the Software is only designed to be compatible with that software specified as compatible in the Software Specification; and the Licensor does not warrant or represent that the Software will be compatible with any other software.
- 10.4 The Licensee acknowledges that the Licensor will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Software; and, except to the extent expressly provided otherwise in this Agreement, the Licensor does not warrant or represent that the Software or the use of the Software by the Licensee will not give rise to any legal liability on the part of the Licensee or any other person.

11. Limitations and exclusions of liability

- 11.1 Nothing in this Agreement will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

11.2 The limitations and exclusions of liability set out in this Clause 11 and elsewhere in this Agreement:

- (a) are subject to Clause 11.1; and
- (b) govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

11.3 The Licensor shall not be liable to the Licensee in respect of any loss of profits or anticipated savings.

11.4 The Licensor shall not be liable to the Licensee in respect of any loss of revenue or income.

11.5 The Licensor shall not be liable to the Licensee in respect of any loss of use or production.

11.6 The Licensor shall not be liable to the Licensee in respect of any loss of business, contracts or opportunities.

11.7 The Licensor shall not be liable to the Licensee in respect of any loss or corruption of any data, database or software.

11.8 The Licensor shall not be liable to the Licensee in respect of any special, indirect or consequential loss or damage.

12. Termination

12.1 The Licensor may terminate this Agreement by giving to the Licensee not less than 30 days' written notice of termination, the end of the Minimum Term.

12.2 The Licensee may terminate this Agreement by giving to the Licensor not less than 30 days' written notice of termination after the end of the Minimum Term.

12.3 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

- (a) the other party commits any breach of this Agreement, and the breach is not remediable;
- (b) the other party commits a breach of this Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or
- (c) the other party persistently breaches this Agreement (irrespective of whether such breaches collectively constitute a material breach).

12.4 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

- (a) the other party:
 - (i) is dissolved;

- (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this Agreement); or
 - (d) if that other party is an individual:
 - (i) that other party dies;
 - (ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
 - (iii) that other party is the subject of a bankruptcy petition or order.

12.5 The Licensor may terminate this Agreement immediately by giving written notice to the Licensee if:

- (a) any amount due to be paid by the Licensee to the Licensor under this Agreement is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and
- (b) the Licensor has given to the Licensee at least 30 days' written notice, following the failure to pay, of its intention to terminate this Agreement in accordance with this Clause 12.5.

13. Effects of termination

13.1 Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 8.2, 8.4, 11, 13, 15 and 16.

13.2 Except to the extent that this Agreement expressly provides otherwise, the termination of this Agreement shall not affect the accrued rights of either party.

13.3 For the avoidance of doubt, the licences of the Software in this Agreement shall terminate upon the termination of this Agreement; and, accordingly, the Licensee must immediately cease to use the Software upon the termination of this Agreement.

13.4 Within 10 Business Days following the termination of this Agreement, the Licensee shall:

- (a) return to the Licensor or dispose of as the Licensor may instruct all media in its possession or control containing the Software; and
- (b) irrevocably delete from all computer systems in its possession or control all copies of the Software,

and if the Licensor so requests the Licensee shall procure that a director of the Licensee certifies to the Licensor, in a written document signed by that person and provided to the Licensor within

5 Business Days following the receipt of the Licensor's request, that the Licensee has fully complied with the requirements of this Clause 13.4.

14. Notices

14.1 Any notice from one party to the other party under this Agreement must be given by one of the following methods (using the relevant contact details set out in Clause 14.2):

- (a) delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery; or
- (b) sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting,

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

14.2 The parties' contact details for notices under this Clause 14 are as follows:

- (a) in the case of notices sent by the Licensee to the Licensor, must send an e mail, and
- (b) in the case of notices sent by the Licensor to the Licensee, must send an e mail.

14.3 The addressee and contact details set out in Clause 14.2 may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 14.

15. General

15.1 No breach of any provision of this Agreement shall be waived except with the express written consent of the party not in breach.

15.2 If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

15.3 This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

15.4 Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

15.5 This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

15.6 Subject to Clause 11.1, this Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

15.7 This Agreement shall be governed by and construed in accordance with Mexican law.

15.8 The courts of México shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

16. Interpretation

16.1 In this Agreement, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

16.2 The Clause headings do not affect the interpretation of this Agreement.

16.3 In this Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.