

## QUICKTIME FILE FORMAT LICENSE AGREEMENT

### APPLE INC.

Software Licensing Department  
12545 Riata Vista Circle  
MS 198 3-SWL  
Austin, TX 78727  
E-Mail Address:  
sw.license@apple.com

Licensee: \_\_\_\_\_

Individual to Contact: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip Code: \_\_\_\_\_ Country: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_  
(provide name and address of Licensee's page/URL on the World Wide Web, FTP site or online service)

WHEREAS, Licensee desires to receive, and Apple desires to grant to Licensee, a license to use Apple's QuickTime File Format in Licensee's Products;

NOW THEREFORE, in consideration of the promises and premises hereinafter set forth below, the parties hereby agree as follows:

### Agreement

Apple Inc. ("Apple") and Licensee agree that the terms and conditions of this Agreement shall govern Licensee's use and distribution of the QuickTime File Format, as defined below.

#### 1. Definitions

- 1.1 "Apple Intellectual Property" means Apple's copyrights, trade secrets, and patents in the QuickTime File Format, and does not include any other patents or intellectual property rights.

- 1.2 "Author" means the process by which a digital file is created or written within a Licensee Product.
- 1.3 "End-User" means an individual or entity that purchases Licensee Products for his or its own purposes, and not for sale to others.
- 1.4 "Licensee Products" means the consumer electronic products developed by or for Licensee that are identified in Exhibit A to this Agreement and are sold under Licensee's trademark. With Apple's written approval which shall not be unreasonably withheld, Licensee may supplement Exhibit A. The supplement will be effective upon Apple's execution of the revised Exhibit A.
- 1.5 "QuickTime Logo" means the QuickTime logo depicted at: <http://developer.apple.com/mkt/swl/agreements.html#QuickTime>, which location Apple may change.
- 1.6 "QuickTime Logo Guidelines" means the Apple guidelines for using the QuickTime Logo downloadable from: <http://developer.apple.com/softwarelicensing/agreements/quicktime.html>, which location Apple may change.
- 1.7 "QuickTime File Format" means Apple's proprietary File Format used for Authoring and Reading QuickTime files.
- 1.8 "Read" means to read and display QuickTime formatted digital files within Licensee Products.
- 1.9 "Video" means one or more interrelated files containing or referencing time-ordered sequences of multimedia data elements, synchronization information, and other data used to specify spatial and/or time relationships between the individual elements. Multimedia data elements consist of one or more individual data items including, but not limited to, digital images, sound samples, and text data.
- 1.10 "Distribution Report" means a quarterly report indicating for each Licensee Product listed on Exhibit A the number of copies distributed using the QuickTime File Format during the previous quarter and for which platform (i.e, Macintosh and/or Windows).

## **2. License**

- 2.1 Grant of License. Subject to the terms and conditions of this Agreement, including but not limited to Section 2.2 herein, Apple grants to Licensee a nonexclusive, nontransferable, worldwide, royalty-free license under Apple Intellectual Property (as defined in Section 1.1) to (i) enable the Licensee Products to Author and Read digital files using the QuickTime File Format and (ii) distribute such Licensee Products to End Users, directly or through

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- 2.4 **Provision of Samples.** Licensee agrees to provide Apple with one sample of each Licensee Product, within four (4) weeks of initial distribution, in the full product packaging as received by the End User, including the distribution disk and all other delivered components, for the purpose of monitoring Licensee's compliance with the terms of this Agreement and for regression testing for compatibility. Licensee will send the copies to: Apple Inc., Software Licensing Department, 12545 Riata Vista Circle, MS 198 3-SWL, Austin, TX 78727. Licensee authorizes Apple to use the product sample provided to Apple to publicly demonstrate and promote the capabilities of the QuickTime File Format and Licensee Products.
- 2.5 **Brand Code.** Licensee agrees to use a four-character 'brand' code as a compatible brand in the file type atom, with the major brand being a valid QuickTime brand, in order to designate a particular Licensee Product. The atom must be located in the head of the file, being identified with 'ftyp' for its Type code. The brand may be obtained at: [www.qtra.apple.com](http://www.qtra.apple.com).
3. **Labeling**  
Licensee must include an appropriate copyright notice in the documentation accompanying Licensee Products.
4. **Trademarks**
- 4.1 **Trademark Grant.** Apple grants to Licensee a non-exclusive and non-transferable right to use, and Licensee agrees it will use, the QuickTime Logo (i) on and in the sale, promotion and advertising of the Licensee Products, and (ii) on License Product manuals, on software media (e.g., printed on the CD face) and in a visible position on both the inner (e.g., jewel case or sleeve) and outer (e.g., shelf box or marketing folder) portions of the product packaging. In addition, Apple agrees

that Licensee may use the QuickTime Logo on the splash screen of Licensee Products and/or on the Licensee Product itself. Licensee agrees it will use the QuickTime Logo in compliance with this Section 4 and the QuickTime Logo Guidelines. Licensee has no other rights to the QuickTime Logo.

4.2 Quality Control. Licensee agrees that the Licensee Products will (i) include the QuickTime File Format, (ii) meet the highest levels of quality and integrity for similar goods, (iii) not be unlawful, and (iv) be developed, manufactured and distributed in compliance with this Agreement, including notice requirements under the QuickTime Logo Guidelines. Licensee will not interfere with Apple's rights in the QuickTime Logo and all use of the QuickTime Logo shall inure to the benefit of Apple.

4.3 Replacement Mark. Apple may replace the QuickTime Logo with a new QuickTime Logo at any time. In the event that Apple notifies Licensee of the requirement to use a new QuickTime Logo, Licensee will cease using the replaced QuickTime Logo as soon as practical and commence using the new QuickTime Logo under similar logo guidelines as provided by Apple and the terms of this Agreement. Nevertheless, Licensee may continue distributing its then-existing inventory of Licensee Products for six (6) months from the date the revised QuickTime Logo is made available.

**5. Effective Date; Term**

The Effective Date of this Agreement will be the date of execution by Apple, and shall continue for a period of five (5) years. Upon termination or expiration, all licenses to the QuickTime File Format will terminate and Licensee will discontinue all use of the QuickTime File Format, pursuant to this Agreement, including without limitation any further copying or distribution of the QuickTime File Format. Termination of this Agreement will not affect any End-User licenses to any Licensee Products. The provisions of Sections 1, 2.2, 2.3, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18 and 19 shall survive termination or expiration of this Agreement.

**6. Termination for Cause**

If any breach of this Agreement by Licensee continues for more than thirty (30) days after Licensee's receipt of Apple's written notice, Apple may terminate this Agreement by written notice to Licensee, whereupon this license and all rights granted to Licensee herein shall immediately cease. Apple may immediately upon written notice terminate this Agreement if Licensee becomes insolvent, has a receiver appointed, makes an assignment for the benefit of creditors, or becomes the subject of any proceeding under any bankruptcy, insolvency, or debtor's relief law. No delay, omission or failure to exercise any right or remedy provided for in this Agreement shall be deemed a waiver thereof, nor shall it be deemed a waiver of any other or subsequent breach. The rights of the parties under this clause are in addition to any other rights and remedies provided by law or under this Agreement.

**7. Distribution Reports.**

During the term of this Agreement, Licensee agrees to prepare and provide to Apple **an annual** report (the “Distribution Report”) stating the number of copies of each Licensee Product using the QuickTime File Format (listed in Exhibit A) that were distributed during the previous calendar year and for which platform (i.e, Macintosh and/or Windows). Licensee shall submit the Distribution Report electronically to [sw.license@apple.com](mailto:sw.license@apple.com) within thirty (30) days of the close of each calendar year, and Licensee shall maintain such records for one (1) year after the last copy of the QuickTime File Format has been distributed.

**8. Disclaimer of Warranty**

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**9. Limitation of Liability**

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**10. No Indemnification by Apple**

Apple has no obligation to indemnify, defend or hold Licensee harmless from and against any claim that the QuickTime File Format infringes any third party patent, copyright, trademark or other intellectual property right. Licensee will promptly notify Apple of any such claim.

**11. Indemnification by Licensee**

Licensee will indemnify, defend and hold Apple harmless from any and all claims, damages, losses, liabilities, costs and expenses (including reasonable fees of attorneys and other professionals) (collectively, “Claim(s)”) arising out of or in connection with Licensee's and its distributors' or the use of the QuickTime File Format incorporated into Licensee Products; provided, however, Licensee shall have no obligation to so indemnify Apple with respect to any Claim that Apple Intellectual Property as provided to Licensee under this Agreement constitutes an infringement of any such third party's intellectual property rights. Apple will

promptly notify Licensee of any claims for which Licensee is obligated to indemnify Apple under this paragraph and will provide reasonable cooperation and assistance in connection with such claims. In no event may Licensee enter into any third party agreements which would in any manner whatsoever affect the rights of, or bind, Apple in any manner to said third party, without the prior written consent of Apple.

**12. Export**

Licensee may not use or otherwise export or reexport **Licensee Products that implement the QuickTime File Format** except as authorized by United States law. In particular, but without limitation, **Licensee Products that implement the QuickTime File Format** may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By **implementing the QuickTime File Format in Licensee Products**, Licensee represents and warrants that Licensee is not located in any such country or on any such list. Licensee also agrees that Licensee will not use **the QuickTime File Format** for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of nuclear, missiles, or chemical or biological weapons.

**13. Confidentiality**

Each party agrees that it will not disclose the provisions of this Agreement to any third party without the prior written consent of the other party.

**14. Relationship of the Parties**

Neither party may represent or bind the other party in any way and nothing stated in this Agreement will be construed as creating the relationships of joint venturers, partners, employer and employee, franchisor and franchisee, master and servant, or principal and agent.

**15. Assignment**

This Agreement will be binding on the assigns, heirs and successors (whether through merger or otherwise) of the parties, except that it may not be assigned by any means, including without limitation, operation of law or merger, by Licensee without the prior written consent of Apple. Any assignment in violation of this Section 15 will be void.

**16. Notices**

Any notice required under this Agreement will be deemed given: (i) when delivered personally; (ii) by facsimile; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (iv) via electronic mail; or (v) as otherwise expressly provided in this Agreement. All communications will be sent to the parties' physical or electronic addresses noted on the first page of this Agreement. Licensee shall inform Apple in writing of any change in Licensee's physical or electronic address.

**17. Governing Law**

This Agreement will be governed by and construed in accordance with the laws of

the State of California as applied to agreements entered into and to be performed entirely within California between California residents. Any litigation or other dispute resolution between the parties relating to this Agreement will take place in the Northern District of California. The parties consent to the personal jurisdiction of, and venue in, the state and federal courts within that District.

**18. Severability**

If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the economic benefits and intent of the parties, and the remainder of this Agreement will continue in full force and effect.

**19. Complete Understanding**

This Agreement, including all Exhibits attached, constitutes the entire Agreement between the parties concerning the use of the QuickTime File Format licensed hereunder. Any waiver or amendment of any provision of this Agreement will be effective only if in writing and signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement through their duly authorized representatives.

LICENSEE:

APPLE:

By: \_\_\_\_\_  
(signature)

By: \_\_\_\_\_  
(signature)

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Administrator

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **Licensee Products**

1. Licensee Product (Product name and model number):
2. Description of Licensee Product:
3. **Codecs used for Authoring, Reading and playback:**
4. Marketing Contact for Licensee Product (include name, phone, fax, email address and Site URL):
5. Anticipated release date:

All Licensee Products to be covered by this Agreement must be listed in this Exhibit A (attach additional sheets if necessary) prior to submission to Apple for signature.