

## **WIZUTILITIES PAK 2.5**

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### **SITE LICENSE**

If you are interested in obtaining a site license for WizUtilities Pak, please print and read the following End User Site License Agreement, complete pages 1 and 6, sign under LICENSEE, enclose a Check (US\$), Money Order for the correct amount, or credit card information (Visa, MasterCard and Amex accepted) and mail it to:

Mijenix Corporation  
6666 Odana Road, Ste 326  
Madison, WI 53719  
USA

Upon receipt of the completed, signed form, and a check or Money Order for the correct amount, Mijenix Corp. will send a copy of the license agreement with an authorized signature under LICENSOR along with the requested "master" disk(s).

If you have any questions, please call Mijenix Corp. at (608) 277-1981.

# END USER SITE LICENSE AGREEMENT

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terms and conditions contained in this agreement.

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1.1 "Licensed program" means the object code version of the program listed in Exhibit 1 and related program user documentation. No rights to the source code versions of the licensed program are granted by this license.

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3.1 This license is effective until terminated. Licensee may terminate it at any time by destroying the licensed program and all copies of it and notifying Mijenix Corp. in writing. This license will also terminate as otherwise provided in this agreement. On termination, Licensee shall return all materials not destroyed to Mijenix Corp. together with a written verification that the remaining materials have been destroyed.

### **4.0 PAYMENT**

4.1 The fee for this license is set forth in Exhibit 1, payable as set forth.

### **5.0 CONFIDENTIALITY AND PROPRIETARY RIGHTS**

5.1 The licensed program is licensed, not sold. Nothing in this agreement shall be construed as conveying title in the licensed program to Licensee.

5.2 Licensee understands and agrees that the source code for the licensed program and all documentation related thereto constitute the valuable properties and trade secrets of Mijenix Corp., owner of the copyright to the licensed program, embodying substantial creative efforts which are secret, confidential, and not generally known by the public, and which secure to Mijenix Corp. a competitive advantage.

5.3 Licensee agrees during the term of this license, and thereafter, to hold the licensed program, including any copies thereof and any documentation related thereto, in strict confidence and to not permit any person or entity to obtain access to it except as required for Licensee's own internal use thereunder.

5.4 Licensee shall inform Mijenix Corp. promptly and in writing of any actual or suspected unauthorized use or disclosure of the licensed programs or documentation related thereto.

5.5 The obligations under this paragraph shall survive the termination or rescission of this agreement.

## **6.0 LIMITED WARRANTY**

6.1 Mijenix Corp. warrants that for a period of ninety days from the date of delivery of the licensed program, the program, if unmodified by the Licensee, will perform in substantial conformity with the user documentation. Mijenix Corp. does not warrant that the licensed program is free from coding errors. Any program problems reported to Mijenix Corp. during the warranty period and determined by Mijenix Corp. to be actual coding errors will be addressed by Mijenix Corp. within a reasonable time. Any modifications to the licensed program shall thereafter be licensed AS IS.

6.2 The above warranty does not apply to the extent that any failure of the licensed program to perform as warranted is caused by the licensed program being (1) not used in accordance with the user documentation, if any, or (2) modified by any person other than authorized Mijenix Corp. personnel.

6.3 LICENSOR MAKES AND LICENSEE RECEIVES NO OTHER WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

## **7.0 LIMITATION OF LIABILITY**

7.1 The total liability of Mijenix Corp. or its suppliers for any claim or damage arising out of the use of the licensed program or otherwise related to this license shall be limited to direct damages which shall not exceed the license fee(s) which have been paid by Licensee to Mijenix Corp. for the specific client project which is the subject of such claim or damage.

7.2 IN NO EVENT SHALL LICENSOR BE LIABLE TO LICENSEE FOR ADDITIONAL DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE LICENSED PROGRAM, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **8.0 TERMINATION. THIS LICENSE MAY BE TERMINATED BY Mijenix Corp. IF:**

8.1 Licensee fails to comply with any material term or condition of this agreement and Licensee fails to cure such failure within fifteen days after notices of such failure by Mijenix Corp.; and

8.2 Licensee's normal business operations are disrupted or discontinued for more than thirty days by reason of insolvency, bankruptcy, receivership, or business termination.

## **9.0 GENERAL TERMS**

9.1 Neither this agreement nor any rights or obligations thereunder shall be assigned or otherwise transferred by Licensee without prior written consent of Mijenix Corp., which consent will not be unreasonably withheld. Mijenix Corp. may assign this agreement entirely in its discretion upon the express written assumption of the obligations thereunder by the assignee.

9.2 This agreement shall be interpreted and enforced in accordance with and shall be governed by the laws of the State of Wisconsin applicable to contracts between residents. No suit for enforcement of or for a declaration of rights between the parties to this agreement shall be commenced in any court other than the Municipal or County Court in and for Dane County, State of Wisconsin, or in the United States District Court for the Southern District of the State of Wisconsin.

9.3 Any controversy or claim arising out of or relating to this agreement or the breach thereof shall be settled by arbitration in accordance with the commercial rules of the American Arbitration Association, using an arbitrator with knowledge of computers and software, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. No arbitration or other action arising out of any claimed breach of this agreement or transactions under this agreement may be demanded by either party more than one year after the cause of action accrued. The prevailing party in any such action related to or arising under this agreement shall be entitled to reasonable attorneys' fees. This provision shall not apply to any action or proceeding for injunctive relief.

9.4 This agreement and its exhibits contain the entire agreement between the parties hereto, superseding all previous agreements, representations, understandings and negotiations. This agreement may not be amended other than by writing signed by an authorized representative of the parties.

9.5 If any terms or provisions of this agreement shall be found to be illegal or unenforceable then, notwithstanding, this agreement shall remain in full force and effect and such term or provision shall be deemed stricken.

9.6 No amendment of this agreement shall be effective unless it is in writing and signed by duly authorized representatives or both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to or waiver of a breach by the other, whether express or implied, shall not constitute a consent to, waiver of or excuse for any other, different or subsequent breach.

9.7 This agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but nothing in this paragraph shall be construed as a consent to any assignment of this agreement by either party except as provided herein above.

9.8 Timely payment is of the essence of this agreement. All licenses are to be prepaid with a check (U. S.) or Money Order. Corporate purchase orders are accepted only with the approval of Mijenix Corp.

9.9 This agreement may be signed in counterparts.

Effective this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

LICENSEE

LICENSOR

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Typed name

\_\_\_\_\_  
Typed name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Co.

Mijenix Corporation

\_\_\_\_\_  
Address

6666 Odana Rd, Suite 326

Madison, WI 53719 USA

\_\_\_\_\_  
Tel

(608) 277-1981

**EXHIBIT 1**

Licensed Program

WizUtilities Pak, Version 2.5

NUMBER OF USERS

TOTAL LICENSE FEE (US \$)

- Up to 5
- Up to 10
- Up to 25
- Up to 50
- Up to 100
- Up to 200
- Up to 500
- 501+

- \$ 60.00
- \$ 100.00
- \$ 240.00
- \$ 375.00
- \$ 500.00
- \$ 850.00
- \$ 1,000.00
- Please contact Mijenix Corp.

Up to \_\_\_\_\_ users = \$ \_\_\_\_\_

\_\_\_\_\_ additional Master Disk(s) @ \$5.00 each = \$ \_\_\_\_\_

SHIPPING & HANDLING

- Continental US/Canada \$ 5.00
- International (all other) \$12.00 \$ \_\_\_\_\_

Wisconsin residents add sales tax (5.5%): \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

The license prices are in US \$ and include one copy of the Registered Version of WizUtilities Pak. Licensee may make additional copies, up to the number of copies licensed. Mijenix Corp. can supply multiple copies of the distribution diskettes at an additional cost of \$5.00 per copy.