

1. License.

NetBryx Technologies. here by grants you a non-exclusive, limited license to use the Software as set forth in this Agreement.

2. Restrictions.

You shall not modify, copy, duplicate, reproduce, license or sublicense the Software(including but not limited to any software components, product documentation and associated media, sample files, extension files, tools and utilities, miscellaneous technical information, collectively referred to herein as the "Software"), or transfer or convey the Software or any right in the Software to anyone else without the prior written consent of NetBryx Technologies; provided that you may make one copy of the Software for backup or archival purposes.

3. Fee.

In consideration for the grant of the license and the use of the Software, you agree to pay NetBryx Technologies the sum of license fee.

4. Software Maintenance.

A. Standard maintenance. During the Warranty Period, NetBryx Technologies shall provide to Licensee any new, corrected or enhanced version of the Software as created by Developer. Such enhancement shall include all modifications to the Software, which increase the speed, efficiency or ease of use of the Software, or add additional capabilities or functionality to the Software, but shall not include any substantially new or rewritten version of the Software.

B. Optional maintenance.

After expiration of the Warranty Period, Licensee may continue to receive maintenance support for successive twelve (12) month periods. The charge for such optional maintenance support shall be Developer's regular list price for maintenance and support for the Software as published from time to time by Developer. Licensor shall notify Developer in writing if it desires to receive optional maintenance. If Licensee fails to take optional maintenance and later elects to receive it, Developer reserves the right to charge Licensee its maintenance fees for the period of the lapse in maintenance. Developer may elect to discontinue maintenance at any time upon notice to Licensee, and refund of any then unearned maintenance fees.

5. Taxes.

In addition to all other amounts due hereunder, Licensee shall also pay to Developer, or reimburse Developer as appropriate, all amounts due for property tax on the Software and for sales, use, excise taxes or other taxes which are measured directly by payments made by Licensee to Developer. In no event shall Licensee be obligated to pay any tax paid on the income of Developer or paid for Developer's privilege of doing business.

6. Warranty Disclaimer.

NetBryx Technologies's WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. Limitation of Liability.

NetBryx Technologies shall not be responsible for, and shall not pay, any amount of incidental, consequential or other indirect damages, whether based on lost revenue or otherwise, regardless of whether Developer was advised of the possibility of such losses in advance. In no event shall Developer's liability hereunder exceed the amount of license fees paid by Licensee, regardless of whether Licensee's claim is based on contract, tort, strict liability, product liability or otherwise.

8. Final Agreement.

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof.