

SOFTWARE LICENSE AGREEMENT
(Web Version December 18, 2002)

Whenever LICENSEE licenses software products ("Program(s)" as further defined herein), a License Form shall be executed which shall refer to this Software License Agreement ("Agreement") and which shall be incorporated therein by reference. By signing said License Form, each party has caused this Agreement to be executed by its duly authorized representatives and agrees to be bound by the terms and conditions of this Agreement.

DEFINITIONS

- A. "ASC" means the Support Coordinator and is that person who, by virtue of experience and training, shall be appointed by LICENSEE as LICENSEE'S representative and liaison with LICENSOR or the Channel Partner.
- B. "Channel Partner" means an independent contractor authorized by LICENSOR to distribute, and/or support, and/or service the Program(s) as detailed herein. In the event a local Channel Partner is not nominated, all references to Channel Partner shall mean LICENSOR.
- C. "Contract User(s)" means an individual or entity, not a regular employee of LICENSEE, who is engaged temporarily to perform LICENSEE'S internal data processing services.
- D. "Designated Network" means the network designated per the License Key in which Program(s) use on the network is restricted per the identified License Type on the License Form.
- E. "Designated Site" means LICENSEE'S physical location identified on the License Form where the licensed server resides or where use of the Program(s) is authorized.
- F. "Effective Date of Program(s)" means the date specified in the License Key unless otherwise indicated on the License Form for the licensed Program(s).
- G. "LAN" means the designated Local Area Network(s) specified as the License Type on the License Form in which the network is shared by a grouping of facilities within a 25 mile radius from the Designated Site.
- H. "Lease License" means a license which has a License Term commencing on the Effective Date of Program(s), limited in duration for a specified period of time as identified on the License Form, or if not specified shall be deemed one year, and which may renew pursuant to Section 3 below.
- I. "License Form" means any document signed referencing this Agreement and incorporating the terms and conditions set forth herein. Each License Form shall be treated as a separate agreement, as if a separate instrument had been executed. Each License Form should include the LICENSEE'S name, Designated Site, Program(s) name, Number of Tasks, License Term, and the ASC name and address.
- J. "License Term" means the period of time of the license granted for a Program(s) (e.g. Paid-Up or Lease).
- K. "License Type" means the scope of the license granted in a Program(s) as identified on the License Form, or if not specified shall be LAN (e.g. LAN, EVAL, etc.).
- L. "LICENSEE" means the entity identified on the License Form including its fifty-one percent (51%) or more owned affiliates.
- M. "LICENSOR" means the software vendor identified on the License Form who is granting the license to use the Program(s). The Licensor may be ANSYS, Inc. or its subsidiaries.
- N. "Paid-Up License" means a license that has a License Term commencing on the Effective Date of Program(s) and continuing in perpetuity subject to the terms of this Agreement.
- O. "Program(s)" means the software listed in the applicable License Form including accompanying documentation, as well as any modifications, enhancements, improvements and refinements provided to LICENSEE and not separately priced or marketed by LICENSOR and any related materials in printed or other form. CERTAIN PROGRAM(S) CONTAIN LICENSE KEYS WHICH MAY LIMIT THEIR USE AND REQUIRE LICENSEE TO OBTAIN LICENSOR EXTENSION KEYS OR ADDITIONAL NETWORK KEYS FROM TIME TO TIME.
- P. "TECS" means Technical Enhancements and Customer Support and is the provision by LICENSOR or the Channel Partner of services as specified in Section 9 of this Agreement in exchange for payment by LICENSEE of TECS fees.

2. GRANT

- (a) Upon execution of a License Form by LICENSEE and upon acceptance and execution by LICENSOR, LICENSOR grants to LICENSEE a nonassignable, nonexclusive, nontransferable right and license, without the right to grant sublicenses to use each Program(s) set forth on each License Form entered into hereunder for the number of simultaneous tasks, License Term and within the scope of the License Type specified on the License Form. LICENSEE shall use the Program(s) for Licensee's own internal data processing purposes and shall not make all or any part of any Program(s) available to any third person other than Contract User(s), including without limitation providing data processing services, serving as an application service provider, or providing batch processing services. LICENSEE'S use of each Program(s) shall be restricted to the Designated Site set forth on the applicable License Form in strict accordance with the limitations set forth in this Section and the License Type identified on the applicable License Form. All changes of the Designated Network are permitted only with the prior written consent of LICENSOR and payment of any administration fees. Nothing contained herein shall be deemed to convey to LICENSEE any title, ownership, copyright or any other intellectual property rights in or related to a Program(s). LICENSEE shall not permit the use of the Program(s) by persons other than its employees and its Contract User(s). LICENSEE will require the Contract User(s) to agree in writing to (i) use the Program(s) only to perform internal data processing services for LICENSEE and (ii) to be bound by terms equivalent to those set out in this Agreement. LICENSEE remains responsible for the use of the Program(s) by all Contract User(s).

- (b) LICENSOR or the Channel Partner shall provide LICENSEE access to the Program(s) ("License Key"), including an expiration date, for each Program(s) if applicable. LICENSEE shall be responsible for installation of the Program(s). LICENSEE may make copies of the Program(s) only as are necessary for LICENSEE'S back-up or archival purposes of such Program(s). The license granted to LICENSEE by reason of this Section 2 applies to all copies of the Program(s). In no event shall LICENSEE remove or modify any copyright notices or other proprietary markings contained within the Program(s) and shall ensure that such notices are reproduced within all copies (whether or not authorized to be made) of the Program(s).
- (c) LICENSEE shall not modify the License Key provided with the Program(s) in any way. LICENSEE may only modify the portions of a Program(s) provided in source code form. Except as expressly permitted by this Section 2(c) or as required to be permitted by local law, LICENSEE shall not (and shall not attempt to nor allow any third party to or attempt to) adapt, alter, amend, modify, reverse engineer, decompile, disassemble or decode the whole or any part of the Program(s) or translate the whole or any part of the Program(s) into another language. To the extent that local law expressly grants LICENSEE the right to decompile the Program(s) in order to obtain the information necessary to render the Program(s) interoperable with other computer programs used or to be created by LICENSEE, LICENSOR shall make the information readily available to LICENSEE and LICENSEE undertakes not to decompile (or attempt to do so) the Program(s) without first requesting such information from LICENSOR. LICENSOR shall have the right to impose reasonable conditions (such as the imposition of a reasonable fee) for making the information available. In order to ensure that LICENSEE receives the appropriate information, LICENSEE must first give LICENSOR sufficient details of LICENSEE'S objectives and other software concerned. All requests for the appropriate information shall be given by notice to be served in accordance with the terms of this Agreement. LICENSEE may not create any application programs using the Program(s) unless otherwise permitted in a separate written agreement executed by the parties.
- (d) LICENSEE acknowledges that the Program(s) is a product of the United States of America and that the export, use, transmission or other transfer of the Program(s) is governed by the laws and regulations of the United States of America. LICENSEE agrees that it shall not take, export, or transmit the Program(s) to any other country or entity without LICENSOR'S prior written consent, which consent LICENSOR may grant or withhold in its sole discretion.

3. **TERM AND TERMINATION**

- (a) Lease Licenses are non-cancelable, shall commence on the Effective Date of Program(s), and shall automatically renew at the then-current renewal fees for a like period unless LICENSEE, Channel Partner, or LICENSOR gives prior written notice of their intent to terminate or modify the Lease license. In the event a Lease License is terminated prior to the end of the term, no refund shall be due to LICENSEE for any portion of the prepaid Lease License fee. The Lease License will terminate automatically upon non-payment of the then-current renewal fees.
- (b) The license for a Paid-up License shall commence on the Effective Date of Program(s) and shall be perpetual unless terminated as provided in Section 3(d) below.
- (c) LICENSOR may immediately terminate this Agreement and any Program(s) license upon any material breach of any provision of this Agreement.
- (d) If the license for a Program(s) granted hereunder is terminated for any reason, LICENSEE shall immediately de-install the Program(s) from the computer(s) on which it is installed and shall certify to LICENSOR in writing that the Program(s) is de-installed and all copies thereof have either been destroyed or returned to LICENSOR or the Channel Partner. Any confidential information or material provided to LICENSEE in connection with the Program(s) shall be immediately returned to LICENSOR or the Channel Partner, unless otherwise specified by LICENSOR or the Channel Partner.

4. **PAYMENT**

LICENSEE agrees to pay the license fees for the Program(s). Payments made by LICENSEE under this Agreement shall be paid to the Channel Partner indicated on the appropriate License Form unless LICENSEE is otherwise notified in writing by LICENSOR, in which event LICENSEE agrees to make payments as specified by LICENSOR. In the event a Channel Partner is not nominated on the License Form, payments shall be made to LICENSOR. Fees are exclusive of all value added taxes, sales taxes, use taxes, and the like. LICENSEE shall pay all taxes associated with the Program(s), exclusive of any tax based on the income of LICENSOR or the Channel Partner. If claiming a tax exemption, LICENSEE must provide a valid tax exemption certificate.

5. **CONFIDENTIAL INFORMATION**

- (a) LICENSEE hereby acknowledges that the Program(s) contains confidential and proprietary information including trade secrets of LICENSOR or its affiliates and suppliers. LICENSEE shall not disclose the Program(s) to any third parties, except to the extent permitted by Section 2(a), and will use the Program(s) only in accordance with the terms of this Agreement.
- (b) Excluding the Program(s), the parties agree that any other information disclosed by one party to another party during Customer Support pursuant to Section 9 TECS, and which is identified as confidential or proprietary ("Customer Support Confidential Information") shall remain the property of its respective owner. If initially disclosed orally or visually, Customer Support Confidential Information must be identified as confidential at the time of disclosure and a written summary thereof, also marked with such a legend must be provided to recipient within 15 (fifteen) days of the initial disclosure. The Parties agree that, for a period of five (5) years from the date any such Customer Support Confidential Information is disclosed, the recipient will use the same degree of care, but not less than reasonable care, to protect the confidentiality of the discloser's Customer Support Confidential Information it receives as it uses to protect its own similar confidential and proprietary information that it does not wish to have published or disseminated.
- (c) The obligations of this section shall not extend to any information which:
 - (i) was lawfully known to recipient prior to receipt from disclosing party; or

- (ii) enters the public domain in general through no wrongful act or breach of this Agreement by recipient; or
 - (iii) is received by recipient from a third party having a legal right to disclose such information.
- (d) Recipient has the burden of proving the exceptions in 5(c) above.

6. WARRANTIES

- (a) LICENSOR warrants to LICENSEE that the Program(s) will substantially perform as specified in the most current user's manual(s) ("Manual") applicable to the Program(s) for ninety (90) days from the Effective Date of Program(s) ("Warranty Period"), unless otherwise specified on the applicable License Form. This Warranty Period shall extend for as long as a Program(s) is covered by TECS pursuant to the terms of Section 9 of this Agreement. The warranties provided in this Section 6 shall only apply to the most current release of the Program(s) provided to LICENSEE. This warranty shall not apply if LICENSOR has notified LICENSEE in writing that LICENSOR no longer supports the operating system version on which such Program(s) is licensed.
- (b) LICENSOR further warrants that the Program(s) and the rights granted under this Agreement do not infringe upon or conflict with any patent, trademark, or copyright existing as of the Effective Date of this license.
- (c) LICENSOR and the Channel Partner and their respective affiliates and suppliers do not warrant the accuracy or the applicability of the results obtained from the use of the Program(s) or the Manual. No other documents or oral conversations, statements or representations shall be offered by LICENSEE as evidence to explain, expand, alter, add to or invalidate the express warranties set forth above.
- (d) The warranties and remedies expressed herein are sole and exclusive and extend only to LICENSEE itself. LICENSOR shall not be responsible for any breach of warranty caused by (i) modifications (or attempted modifications) to the Program(s) made by or on behalf of LICENSEE, whether authorized or unauthorized, or (ii) any combination of the Program(s) with any other software, or (iii) any use of the Program(s) other than on the Designated Network, or (iv) use of other than the most-current release of the Program(s) and Manual.
- (e) **THE EXPRESS WARRANTIES SET FORTH IN SECTIONS 6(a) AND 6(b) OF THIS AGREEMENT ARE IN LIEU OF, AND LICENSOR AND THE CHANNEL PARTNER AND THEIR RESPECTIVE AFFILIATES AND SUPPLIERS DISCLAIM ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE PROGRAM(S) OR ANY PART THEREOF, INCLUDING BUT NOT LIMITED TO ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE** (whether or not LICENSOR or the Channel Partner and their respective affiliates and suppliers knows, has reason to know, has been advised, or is otherwise in fact aware of any such purpose), whether alleged to arise by law, by reason of custom or usage in the trade, or by course of dealing. In addition, LICENSOR and the Channel Partner and their respective affiliates and suppliers expressly disclaim any warranty or representation to any person other than LICENSEE with respect to the Program(s) or any part thereof.

7. LIMITATION OF LICENSEE'S REMEDY

- (a) In the event that a Program(s) fails to perform substantially as warranted in this Agreement, LICENSOR'S sole obligation to LICENSEE shall be, at LICENSOR'S option, to:
- (i) Provide a correction or work-around to correct the breach; or
 - (ii) Modify the Program(s) to conform substantially to the Manual; or
 - (iii) If the Manual is in error, modify the Manual to accurately reflect the Program(s)'s intended functionality and actual operation; or
 - (iv) Permit LICENSEE to terminate the license for that Program(s) and refund to LICENSEE a pro-rata share of the license fees for that Program(s).
- (b) In the event LICENSOR breaches the warranty of noninfringement set forth in Section 6(b), LICENSOR will hold LICENSEE harmless from, defend LICENSEE against and indemnify LICENSEE for any and all direct losses, claims, damages, costs and expenses occurring as a result of said breach, so long as LICENSEE promptly notifies LICENSOR in writing of any such claim and gives LICENSOR sole control of and provides full cooperation to LICENSOR at LICENSOR'S expense, in the defense and/or settlement of such claim.
- (c) **LICENSEE'S REMEDIES AS SET FORTH IN THIS SECTION ARE THE SOLE AND EXCLUSIVE REMEDIES TO WHICH LICENSEE IS ENTITLED.**

8. LIMITATION OF LIABILITY

- (a) **SUBJECT TO THE MAXIMUM EXTENT PERMITTED BY LAW, LICENSOR AND THE CHANNEL PARTNER SHALL NOT BE LIABLE TO LICENSEE OR ANY OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES OR LOSSES.** Regardless of whether or not the parties have been advised of the likelihood of such damages or losses, said limitation of liability includes but is not limited to lost profits (whether direct or indirect), revenues, anticipated savings, goodwill, business opportunities, wasted or lost production and/or management's or employees' time, or loss of or corruption of software data, or database configuration, or use of the Program(s) by LICENSEE, or inability of LICENSEE to use the Program(s), or inaccurate output, or LICENSOR'S breach of this Agreement whether in contract, negligence, tort, or under any other theory of liability. In no event shall LICENSOR'S and the Channel Partner's aggregate liability to LICENSEE exceed the fees received by LICENSOR and the Channel Partner respectfully. LICENSEE acknowledges that given all the circumstances, the limits on LICENSOR'S liability are reasonable because of (amongst other matters) the likelihood that without those limitations the amount of damages awardable to LICENSEE for a breach by LICENSOR or Channel Partner of this Agreement may be disproportionately greater than the license fees paid or payable for the Program(s). LICENSEE acknowledges it has taken out adequate insurance to cover its risks under this Agreement. For the avoidance of doubt,

LICENSEE is entirely responsible for keeping full back up copies of its software, data and database configurations in accordance with best industry practice.

- (b) Each of LICENSOR'S and Channel Partner's employees, agents, and sub-contractors may rely upon and enforce the exclusions and restrictions of liability in this Section 8 in that person's own name and for that person's own benefit, as if the words "and their employees, agents, sub-contractors, and suppliers" followed the words "LICENSOR or the Channel Partner" wherever it appears in this Section 8.
- (c) Notwithstanding anything to the contrary in this Agreement, neither party limits its liability (if any) to the other party for any matter which it would be illegal for that party to exclude or to attempt to exclude its liability, but nothing in this clause confers any right or remedy upon the other party to which it would not otherwise be entitled.

9. TECHNICAL ENHANCEMENTS AND CUSTOMER SUPPORT (TECS)

- (a) TECS shall consist of (i) reasonable telephone or email support ("Customer Support"); and (ii) Program releases or corrections provided by Licensor without additional charge to customers generally ("Technical Enhancements"). Customer Support will be provided solely to the ASC specified in the Schedule. The ASC shall provide first-level support to all of Licensee's users permitted to use the Program(s) under the terms of this Agreement. Licensee may change the ASC at any time upon written notice to the Channel Partner. Customer Support will be provided by the Channel Partner unless otherwise specified by Licensor. Technical Enhancements will be provided by Licensor at such times as determined solely by Licensor. All provisions of this Agreement will apply to such Technical Enhancements, which shall become part of the Program(s).
- (b) During the period of time in which Licensee is entitled to receive TECS for a Program, Licensee may request three (3) replacement License Keys due to a change of the Designated Network within one year from the TECS effective date at no additional charge. Additional replacement License Key(s) or replacement License Key(s) during the period of time in which TECS is not current, may be provided in consideration for payment of Licensor's then-current administrative fee.
- (c) For a Leased License, the annual TECS fee is included in the Lease License fee.
- (d) For a Paid-up License, telephone or email assistance for Program installation shall be provided without charge for thirty (30) days from the Effective Date of Program. In consideration for payment of the then-current TECS fees in accordance with the payment terms specified on the Schedule, TECS for a Paid-Up License shall be provided by the Channel Partner or Licensor and shall automatically renew at the then-current TECS fees unless otherwise notified by the Channel Partner or Licensor. TECS will terminate automatically upon non-payment of the TECS fees.
- (e) TECS may be renewed at the then-current TECS renewal fees unless Licensor or the Channel Partner gives prior written notice of their intent to not offer TECS for the Program(s).
- (f) Licensor and the Channel Partner shall have no obligation to provide TECS for other than the two most current commercially available releases of each Program(s).
- (g) During the period of time in which Licensee is entitled to receive TECS for a Program, Licensor shall communicate or make information available to Licensee, through one or more communication channels, of any Class3 errors in the Program(s) of which Licensor is actually aware. A Class3 error shall mean a Program(s) error which permits or generates a solution that may appear reasonable and correct, but which in fact may be erroneous. The ASC shall notify all of Licensee's users of the Program(s) of these Class3 errors.

10. MISCELLANEOUS

- (a) All notices required in this Agreement shall be given in writing to all parties and delivered by registered airmail, international air courier, facsimile, or mutually agreed equivalent. Notices shall be effective when received as indicated on the facsimile, registered mail or other mutually agreeable delivery receipt. All notices will be given by one party to the other at its address stated on the License Form, unless a change thereof previously has been given to the party giving the notice.
- (b) LICENSEE shall not assign this Agreement or individual Program(s) license to any third party by operation of law, or in bankruptcy, or otherwise without prior written consent of LICENSOR. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted assigns and transferees.
- (c) The provisions of Sections 2(d), 4, 5, 7, 8 and 9 shall survive termination of this Agreement or any individual Program(s) license.
- (d) The rights and obligations of the parties hereto shall be governed by the substantive law of the Commonwealth of Pennsylvania, excluding the United Nations Convention on the International Sale of Goods and choice of law provisions.
- (e) The parties hereto submit themselves to the personal jurisdiction of the Commonwealth of Pennsylvania for purposes of the enforcement, in a state or federal court of law or equity, of any of the provisions of this Agreement with venue existing exclusively therein.
- (f) If any provision of this Agreement shall be invalid, such provision shall be ineffective only to the extent of such invalidity without invalidating the remainder of this Agreement.
- (g) Any failure of any party to enforce any of the provisions of this Agreement will not be construed as a waiver of such right of the party thereafter to enforce each and every such provision.
- (h) This Agreement, License Form, and any applicable Appendices or Exhibits, constitutes the complete and exclusive statement of the agreement between the parties and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement. This Agreement shall supersede the terms of any click-wrap, shrink-wrap, or break-the-seal license agreement included in any Program(s) package. Except as specifically provided herein, this Agreement may be modified only by a written amendment executed by duly authorized officers or representatives of LICENSOR and LICENSEE. Unless otherwise specified, the terms and conditions contained in the "General Terms and Conditions" of this Agreement shall take precedence over any conflicting provisions contained in but not limited to any Appendix, Exhibit or any License Form. No purchase order or any other standardized business forms

issued by LICENSEE, and even if such purchase order or other standardized business forms provides that it takes precedence over any other agreement between the parties, shall be effective to contradict, modify, or delete from the terms of this Agreement in any manner whatsoever. Any acknowledgment, written or oral, of any such purchase order or standardized business form is not recognized as a subsequent writing and will not act as acceptance of such terms. The obligations stated in this section shall survive the expiration or termination of this Agreement.

- (i) The benefits and burdens of, and risk of loss and damage to, LICENSEE'S copy of the Program(s) shall remain with LICENSOR until the Program(s) is received (physically or electronically) by LICENSEE.