

# INTEL SOFTWARE LICENSE AGREEMENT

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**1. DEFINITIONS.** The following definitions apply in this Agreement:

**1.1 “Confidential Information”** means the Licensed Software provided in Source Code form, and the Documentation.

**1.2 “Customers”** mean Your authorized subcontractors which have signed a license agreement with You not less restrictive than this Agreement.

**1.3 “Derivative Work”** means a derivative work, as defined in 17 U.S.C. § 101, of the Source Code, that You developed.

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**1.6 “Intel Products”** means a processor or chipset products from Intel.

**1.7 “Object Code”** means computer programming code in binary form suitable for machine execution by a processor without the intervening steps of interpretation or compilation.

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**1.10 "Source Code"** means a form in which a computer program's logic is easily deduced by a human being with skill in the art, such as a printed listing of the program or a form from which a printed listing can be easily recognized.

**1.11 "Support"** means any maintenance services, installation assistance, customized support, consulting, or similar assistance that Intel may consent to provide to You related to the Software or to facilitate Your productive use of the Software, as is more particularly described in Section 6.

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### **3. FEES; ROYALTIES; TAXES**

The license is granted under this Agreement for no fee or royalty.

### **4. TERM; TERMINATION**

**4.1 Term.** The term of this Agreement will continue until terminated in accordance with this Section 4.2.

**4.2 Termination.** Intel may terminate this Agreement:

- if You materially breach any other provision of this Agreement or any of Your Customers materially breaches a corresponding provision in a sublicense, and You fail to correct the breach within 30 days of Your receipt of written notice of that breach or, if the breach is incapable of cure within 30 days, You fail to take substantial steps toward a cure within that period;
- immediately, if You breach any provision of Sections 2 or 7; or
- immediately, if You become insolvent or make an assignment for the benefit of creditors, or a trustee or receiver is appointed for You or for a substantial part of Your assets, or bankruptcy, reorganization or insolvency proceedings are instituted by or against You.

#### **4.3 Effect of Termination.**

(A) Expiration or termination of this Agreement will terminate Your license rights under this Agreement. Termination of this Agreement will not affect licenses of the Software that You granted or Licensed Products that You sold prior to the date of termination unless the termination is due to a breach by a Customer of any provision in its agreement that corresponds to a provision in this Agreement. In that case, that Customer's rights will terminate automatically with the termination of this Agreement.

(B) Within 30 days after expiration or termination of this Agreement, You will:

- furnish Intel a written certification that You have either returned to Intel or destroyed the original and all copies, including partial copies, of the Software that Intel furnished under this Agreement or that You made as permitted by this Agreement, and that no copies or portions of the Software remain in Your possession or in the possession of Your employees or agents.

(C) You must retain all sublicense agreements and records pertaining to Royalties due to Intel, if any, for a period of 3 years after termination.

(D) Sections 2.1(C), 2.3, 2.4, 3, 4.3, 5, 7, 8, 9, 10 and 11 will survive expiration or termination of this Agreement.

## 5. OWNERSHIP

**5.1 Derivative Works.** Intel will own all copyrights in all Derivative Works. You irrevocably transfer and assign to Intel in perpetuity all worldwide copyrights (including, but not limited to, applications for registration of those rights and all priority rights under applicable international conventions for the protection of those rights) in the Derivative Works that You may have, as and when those rights arise. You will maintain and protect Intel's copyrights in the Derivative Works including, but not limited to, executing any documents that Intel reasonably considers necessary for that purpose. Intel will have the sole and unlimited right to reproduce, publish and display the Derivative Works, in whole or in part, or combine the Derivative Works with other matter or not use the Derivative Works at all.

Intel grants to You a nonexclusive, worldwide, perpetual, non-transferable license under Intel's copyrights in the Derivative Works to the same extent and subject to the same restrictions as are applicable to Your license of the Software under this Agreement.

**5.2 Feedback.** To the extent You provide Intel with Feedback, You grant to Intel and Intel accepts, a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, transferable license, with the right to sublicense, under Your intellectual property rights to the Feedback to incorporate or otherwise use Feedback as provided by You to Intel. "Feedback" means Your requirements, inputs, comments, responses, opinions, feedback and errata, whether oral or written, concerning the Software and Documentation and Your technical system requirements for Intel to include in the Software definition, design or validation.

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**6.1 Services.** Intel has no obligation to maintain or support the Software or Documentation. You are directed to access Intel's webpage, [<http://software.intel.com/en-us/>], for basic FAQ's and other Intel product resources relating to the Software. Under no circumstances will Intel have any obligation to Your Customers with respect to maintenance or support of the Software.

**6.2 Additional Services.** Intel has no obligation to perform any maintenance or other services not specifically provided for in this Agreement. However, if Intel agrees to perform services requested by You that are not included as part of this Agreement, Intel will bill You for those services at prices and on terms to be agreed by the Parties.

## 7. CONFIDENTIAL INFORMATION

**7.1 Non Disclosure Agreements.** Confidential Information disclosed under this Agreement is governed by Yours Corporate Non Disclosure Agreement with Intel, but always consistent with the provisions of Section 7.2.

**7.2 Obligations of Receiving Party.** You will maintain the confidentiality of the Confidential Information of the Intel with at least the same degree of care as You use to protect Your own confidential and proprietary information, but no less than a reasonable degree of care under the circumstances. You will not disclose any Confidential Information to any employees or to any third parties except to the Yours employees, parent company and majority-owned subsidiaries who have a need to know and who agree to abide by nondisclosure terms at least as comprehensive as those set forth herein;

provided that You will be liable for breach by any such entity. For the purposes of this Agreement, the term "employees" shall include Your independent contractors, who have agreed in writing to You that they are subject to the terms of this Agreement, and they retain no license rights or other rights hereunder once they have discontinued their performance of work on Your behalf. You, however, will not be liable for the disclosure of any Confidential Information which is:

- a. rightfully in the public domain other than by a breach of a duty to Intel;
- b. rightfully received from a third party without any obligation of confidentiality;
- c. rightfully known to You without any limitation on use or disclosure prior to its receipt from Intel;
- d. independently developed by Your employees; or e. generally made available to third parties by Intel without restriction on disclosure.

Title or the right to possess Confidential Information as between the parties will remain with Intel.

**7.3 No Publicity.** You may not use Intel's name, or the names of any Intel employees, in any publication, advertisement or other announcement, without Intel's prior written consent in each instance.

## **8. INDEMNITY**

**In no event will Intel be liable in indemnity to You. This includes, without limitation, liability for loss or corruption of data or infringement of intellectual property of any kind.**

The Software licensed under this Agreement is not designed not intended for any application in which the failure of the licensed Software could lead to personal injury or death. You shall indemnify and hold Intel harmless against all claims, costs, damages, and expenses and reasonable attorney fees arising out of, directly or indirectly, the use and distribution of the licensed software by You, distributors, end users or any third party, and any claim of product liability, personal injury or death associated with any unintended use, even if such claim alleges that Intel was negligent regarding the design or manufacture of the Licensed Software.

## **9. WARRANTY**

**The Software and Documentation are provided "as is" with no warranties of any kind, whether written, oral, implied or statutory, including warranties of merchantability or fitness for a particular purpose, non-infringement or arising from course of dealing or usage in trade.**

## **10. LIMITATION OF LIABILITY**

**In no event will Intel be liable for any damages whether arising from loss of profits, loss of use, incidental, consequential, or special damages, irrespective of whether Intel has advance notice of the possibility of such damages.**

**The Warranty disclaimer and limited liability are fundamental elements of the basis of the bargain between Intel and You. Intel would not be able to provide the**

**Software without such limitations.**

**11. GENERAL PROVISIONS**

**11.1 Export.** The Software, Documentation and all related technical information or materials are subject to export controls and (are or may be) licensable under U.S. Government export regulations. You will not export, re-export, divert, transfer or disclose, directly or indirectly, the Software, Documentation and any related technical information or materials without complying strictly with all legal requirements including, without limitation, obtaining the prior approval of the U.S. Department of Commerce and, if necessary, other agencies or departments of the U.S. Government. You also agree to implement measures to ensure that foreign national employees are authorized to receive any information controlled by U.S. export control laws. An export is “deemed” to take place when information is released to a foreign national wherever located. You will execute and deliver to Intel “Letters of Assurance” as may be required under applicable export regulations. You will indemnify Intel against any loss related to Your failure to conform to these requirements.

**11.2 No Sublicensing, Assignment or Transfer.**

(A) You may not delegate, assign or transfer this Agreement, or any of Your rights and obligations under this Agreement, and any attempt to do so will be void. In addition, You may not sublicense, assign or transfer any Software, Documentation, Confidential Information or any part of the Software, Documentation or Confidential Information, or any right in this Agreement to any third party temporarily (such as loaning, rental, licensing or timeshare) or permanently, except as expressly permitted under Section 2, without the prior written consent of Intel in each instance which consent Intel may withhold in its sole discretion. Any attempted sublicense, assignment or transfer that is not expressly permitted under Section 2 or is without consent will be void.

(B) You agree that this Agreement binds You and each of Your affiliates and the employees, agents, representatives and persons associated with any of them. Without limitation of the foregoing, if there is a sale of substantially all of Your assets, a merger, a re-organization, or a change in control of 50% or more of Your equity, transfer or assignment (including, without limitation, an assignment by operation of law) of this Agreement may be made without the prior written consent of Intel.

**11.3 U.S. Government Contract Provisions.** This Agreement is for Your temporary license of Software. No Government procurement regulation or contract clauses or provision will be considered a part of any transaction between the Parties under this Agreement unless its inclusion is required by statute, or mutually agreed upon in writing by the Parties in connection with a specific transaction. The technical data and computer software covered by this license is a “Commercial Item,” as that term is defined by the FAR 2.101 (48 C.F.R. 2.101) and is “commercial computer software” and “commercial computer software documentation” as specified under FAR 12.212 (48 C.F.R. 12.212) or DFARS 227.7202 (48 C.F.R. 227.7202), as applicable. This commercial computer software and related documentation is provided to end users for use by and on behalf of the U.S. Government, with only those rights as are granted to all other end users under the terms and conditions in this Agreement. Use for or on behalf of the U.S. Government is permitted only if the party acquiring or using this

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**11.4 Force Majeure.** Except for Your obligations under Section 3, neither Party will be liable to the other Party for delay in performing its obligations, or failure to perform any obligations, under this Agreement, if the delay or failure results from circumstances beyond the control of that Party including, but not limited to, any acts of God, governmental act, fire, explosion, accident, war, armed conflict, terrorist act or civil commotion. If there is a delay, the time for performance will be extended by the amount of time lost by reason of the delay; provided, however, should an event of force majeure described in this Section delay either Party's performance in any material respect for a period of more than 90 days, then the other Party will have the option, upon giving written notice, to terminate this Agreement or the relevant portion of this Agreement affected by the delay.

**11.5 Waiver and Severability.** If either Party fails to enforce at any time any of the provisions of this Agreement, or to exercise any election of options provided in this Agreement, that failure will not constitute a waiver of that provision or option, or affect the validity of this Agreement or any part of this Agreement, or the right of the waiving Party to enforce subsequently each and every provision. If any provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement will continue in full force and effect.

**11.6 Governing Law; Jurisdiction.**

(A) The procedural and substantive laws of the State of Delaware, U.S.A., without regard to its conflicts of laws principles, will govern this Agreement. This Agreement is prepared and executed and will be interpreted in the English language only, and no translation of the Agreement into another language will have any effect. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods (1980) is specifically excluded from and will not apply to this Agreement.

(B) The state and federal courts located in the State of Delaware will have exclusive jurisdiction of all disputes and litigation arising out of or related to this Agreement including, without limitation, matters connected with its performance. Each Party irrevocably submits to the personal jurisdiction of those courts and irrevocably waives all objections to such venue.

**11.7 Entire Agreement.** This Agreement and the Attachments contain the complete and exclusive statement of the agreement between the Parties and supersede all proposals, oral or written, and all other communications between the Parties relating to the subject matter of this Agreement. Only a written instrument duly executed by authorized representatives of Intel and You may modify this Agreement.

**ATTACHMENT A**  
**End User Agreement Terms**

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## **ATTACHMENT B**

### **Customer Agreement Terms**

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