

AQUA CONNECT, INC.
Software License Agreement

AQUA CONNECT, INC ("Licensor") IS WILLING TO LICENSE THE ENCLOSED SOFTWARE AND DOCUMENTATION (the "Software") TO YOU ("You OR Licensee") ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS IN THIS LICENSE AGREEMENT (the "Agreement"). IF YOU ARE AN EMPLOYEE OR AGENT OF A COMPANY (The "Company") AND ARE ENTERING INTO THIS AGREEMENT TO OBTAIN THE SOFTWARE FOR USE BY THE COMPANY FOR ITS OWN BUSINESS PURPOSES, YOU HEREBY AGREE THAT YOU ENTER INTO THIS AGREEMENT ON BEHALF OF THE COMPANY AND THAT YOU HAVE THE AUTHORITY TO BIND THE COMPANY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

BY CLICKING ON THE "ACCEPT" BUTTON BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY IT. IF YOU DO NOT AGREE TO ANY OF THE TERMS BELOW, LICENSOR IS UNWILLING TO LICENSE THE SOFTWARE TO YOU, AND YOU SHOULD CLICK ON THE "DO NOT ACCEPT" BUTTON BELOW TO DISCONTINUE THE INSTALLATION PROCESS. IN SUCH CASE, ANY AMOUNTS ALREADY PAID BY YOU, IF ANY SHALL BE REFUNDED BY LICENSOR.

NOW THEREFORE, in consideration of the foregoing recitals and the terms and provisions set forth below, the receipt and sufficiency of which consideration is hereby acknowledged, the parties agree that Licensor agrees to license the Software to Licensee upon the terms and subject to the conditions set forth below:

1) LICENSE TERM.

(a) The Term of the License Agreement (the "License Period") is perpetual. However, Support & Maintenance, if purchased, will only be provided up to one (1) year from the date of purchase.

2) DELIVERY AND INSTALLATION OF THE SOFTWARE.

(a) Licensor shall deliver the download link via email to Licensee on the date of purchase (the "Deliver Date").

3) SOFTWARE MAINTENANCE AND INSTALLATION SUPPORT.

(a) Licensee agrees that Standard Support & Maintenance Materials have been provided to Licensee prior to entering into this Agreement. Licensee further understands and agrees to all Support & Maintenance terms as per the Support & Maintenance Materials. Licensee should not enter into this Agreement if Licensee has not received the agreed upon Support & Maintenance Materials.

(b) Licensor agrees to offer installation tech support only related to the

installation and configuration of the Software to Licensee within the first Ten (10) days from Delivery Date of the Software ("Installation Tech Support"). Licensor will offer Installation Tech Support via phone or electronic delivery only and the Installation Tech Support will be offered only during normal business hours of 9:00AM - 5:00PM, Pacific Standard Time, Monday-Friday.

4) SOFTWARE LICENSE.

(a) Licensor grants to Licensee a limited, nonexclusive license to use the Software for the duration of the License Period. For purposes of this Agreement, the licensed Software shall include the Software as delivered to Licensee, including but not limited to, appropriate documentation and information provided by Licensor to Licensee under this Agreement.

(b) Licensee acknowledges that the Software is the property of Licensor and that the Software is being made available to Licensee in confidence and solely on the basis of its confidential relationship to Licensor. Licensee further agrees to use best efforts to prevent Licensee's employees or vendors from printing, copying, providing or otherwise making the Software available, in whole or in part, for any of the employees' or vendors' private use outside the scope of Licensee's business or to any third parties.

(c) Licensee shall not reverse engineer, reverse compile or disassemble the Software, or otherwise attempt to derive the source code to the Software. Licensee shall have no right to, and shall not, sublicense any of its rights under this Agreement. Furthermore, Licensee agrees not to "clean room design" the Software or publish any "benchmarking" results of the Software.

(d) Licensee's license to use the Software will expire and will automatically be revoked upon a breach of this Agreement by Licensee. Licensee also agrees and acknowledges that updates may become available to Licensee during the License Period. However, new upgrades and versions of the Software will require Licensee to sign a new License Agreement and pay an additional fee, if applicable.

(e) Licensee acknowledges and understands that in order for this Software License Agreement to be valid, Licensee is required to have the appropriate Apple Mac OS X Server license.

5) WARRANTIES.

(a) Licensor warrants that the Software that is delivered to Licensee will be free from defects for a period of Thirty (30) days (the "Warranty Period") from the date of delivery. Licensor further warrants that the Software will perform as outlined in the current documentation available on the Software, at the time of delivery, for the entire Warranty Period. Licensee's sole remedy in the event of a breach of warranty will be that Licensor will, at its option, after best efforts to resolve the breach, replace the defective item within the Warranty Period or refund the money paid by Licensee to

Licensor for the defective item only.

(b) The warranties contained in this Agreement will not apply to the Software which:

- (i) has been altered, supplemented, upgraded or modified in any way by Licensee; or
- (ii) has been repaired except by Licensor or its designee.

(c) Additionally, the warranties contained in this Agreement do not apply to repair or replacement caused or necessitated by: (i) events occurring after risk of loss passes to Licensee, such as loss or damage during shipment; (ii) acts of God, including without limitation natural acts such as fire, flood, wind, earthquake, lightning or similar disaster; (iii) improper use, environment, installation or electrical supply, improper maintenance, or any other misuse, abuse or mishandling; (iv) governmental actions or inactions; (v) strikes or work stoppages; (vi) Licensee's failure to follow applicable use or operations instructions or manuals; (vii) Licensee's failure to implement, or to allow Licensor or its designee to implement, any corrections or modifications to the Software; or (viii) such other events outside Licensor's reasonable control.

(d) EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, THERE ARE NO EXPRESS WARRANTIES, WHICH EXTEND BEYOND THE DESCRIPTION SET FORTH IN THIS AGREEMENT.

(e) IN NO EVENT SHALL LICENSOR BE LIABLE TO LICENSEE FOR LOSS OF PROFITS ARISING OUT OF ANY CLAIMED BREACH BY LICENSOR OF ITS OBLIGATIONS HEREUNDER.

(f) The Licensor understands that Licensee may use certain third party software and/or equipment in conjunction with the Software. LICENSOR MAKES NO WARRANTIES OR REPRESENTATIONS FOR THE SOFTWARE, INCLUDING BUT NOT LIMITED TO THOSE IN THIS AGREEMENT, EXPRESS OR IMPLIED, AS TO THE QUALITY, CAPABILITIES, OPERATIONS, PERFORMANCE OR SUITABILITY OF THE THIRD PARTY SOFTWARE AND/OR EQUIPMENT, INCLUDING THE ABILITY TO INTEGRATE THE SAME WITH THE SOFTWARE. THE QUALITY, CAPABILITIES, OPERATIONS, PERFORMANCE AND SUITABILITY OF THE THIRD PARTY SOFTWARE AND/OR EQUIPMENT LIE SOLELY WITH THE LICENSEE AND THE VENDOR OR SUPPLIER OF SUCH THIRD PARTY SOFTWARE AND/OR EQUIPMENT, AS THIS CASE MAY BE.

(g) Licensor discloses that the Software is protected by United States copyright and patent pending laws and applicable international treaties and/or conventions.

6) REMOVAL OF SOFTWARE

(a) Licensee understands and agrees that the Software is solely owned by Licensor.

(i) (b) Licensee must destroy any and all copies of the Software beyond recovery from Licensee's computer system(s) at the sole cost to Licensee immediately following any breach of this Agreement by Licensee.

7) COMPLIANCE WITH LAWS.

(a) Licensee shall, at its own expense, use the Software in a careful and proper manner and shall comply with and conform to all laws, ordinances and regulations in any way relating to the possession, use and/or maintenance of the Software.

(b) Licensees using the Software in North America must use the Software in North America only. Unless specifically authorized in writing by Licensor, North American Licensees shall not export, or in any way transfer the Software to any destination outside North America without the prior written consent of Licensor. Regardless of any disclosure made by Licensee to Licensor of an ultimate destination of the Software, Licensee shall not export either directly or indirectly, the Software without first obtaining a license to re-export from the United States Government, as required, and will comply with United States Government export regulations, as applicable.

8) DEFAULT.

(a) The following will result in a default by Licensee, including but not limited to:

- (i) Licensee shall default in any payment due under this Agreement.
- (ii) Licensee breaches Licensee's duty of confidentiality.
- (iii) Licensee fails to use best efforts to prevent Licensee's employees or vendors from printing, copying, providing or otherwise making the Software available, in whole or in part, for any of the employees' or vendors' private use or to any third parties.
- (iv) Licensee reverse engineers, reverse compiles or disassembles the Software, or otherwise attempts to derive the source code to the Software.
- (v) Licensee sublicenses any of its rights under this Agreement.
- (vi) Licensee fails to comply with any law while using the Software.

9) MISCELLANEOUS.

(a) Waiver of Rights. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior or subsequent breach of the same provision or a waiver of any breach of any other provision. No waiver shall be effective unless made in writing and signed by an authorized representative of each party hereto.

(b) Governing Law. This Agreement shall be governed by and construed and enforced according to the laws of the State of California, U.S.A. This Agreement contains the entire, integrated Agreement between the parties, and shall be binding upon both parties and their respective heirs, successors and permitted assigns.

(c) Date of Effectiveness. This Agreement shall become binding and effective as

of the date as listed above.

(d) Headings. Section headings are inserted for convenience only and shall not be used in any way to construe the terms of this Agreement.

(e) Severability. If any immaterial provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

(f) Notices. Except as otherwise provided, any notice, request, demand, consent or other communication provided or permitted hereunder will be deemed given on the date it is sent and will be in writing and delivered by personal delivery, by certified mail, or by ordinary mail, postage prepaid, addressed to the party for which it is intended at the party's address as indicated in the heading of this Agreement and until such time as either party has given the other notice of a change of address.

(g) Provisional Conflicts. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any exhibit or schedule annexed hereto or any document referred to herein including but not limited to the maintenance agreement for the Software, the provisions of this Agreement will prevail and govern the interpretation thereof.

(h) Attorneys' Fees. In the event that one party brings suit against the other party for any matter arising out of or in connection with this Agreement, and the party which is sued is ultimately adjudicated to not have liability, then the party bringing suit agrees to pay the other party's reasonable attorneys' fees and litigation costs.

(i) Force Majeure. No party shall be liable for delay in performance hereunder due to causes beyond its control including, but not limited to, acts of God, fires, strikes, delinquencies of manufacturers or suppliers or acts of war. However, each party undertakes to minimize any such delay to the extent possible.

(j) Amendments. This Agreement may only be amended or modified by written instrument executed by all parties.

(k) Plurality. The use of singular usage shall include the plural usage and the use of the plural usage shall include the singular usage, especially when referring to the Software. In the event Licensee has purchased more than one copy of Software this Agreement will refer to all Software purchased by Licensee in this Agreement.

(l) Third Party Rights. The parties do not intend the benefits of this Agreement to inure to any person or entity not a party or signatory to this Agreement.