

# End User Licence Agreement

**Important:** this document is a legal agreement governing the use of the software supplied with it. Please read and understand the contents of this agreement before installing or using the software. Installing and/or using the software will be construed as giving your full and unconditional acceptance of the terms and conditions set out in this agreement, including, but not limited to, ownership, copy restrictions and the limitations of liability as set out below.

You agree to the terms of this agreement by the act of accessing or installing the software if not supplied as a sealed package. Do not access or install the software or any component thereof without first reading, understanding and agreeing the terms and conditions of this agreement. If you do not agree to the Licence conditions you are not permitted to install, access or use the software or any part thereof, and within five days after receipt of the software you must return the software to the place where you obtained it, or if supplied electronically you must certify destruction of all electronic copies of the software, for a full refund of any money paid.

## 1 Definitions

Unless otherwise stated in a particular context the following words and expressions shall have the following meanings:

- 1.1 **WestDev:** WestDev Ltd.
- 1.2 **Customer:** the individual, company or other single legal entity that obtained the Product.
- 1.3 **Authorised Partner:** an individual, company or other legal entity that has been granted permission by WestDev to promote, sell or otherwise distribute the Product on behalf of WestDev.
- 1.4 **Agreement:** this document, which is a binding legal agreement between the Customer and WestDev.
- 1.5 **Product:** any or all of the software applications or parts thereof that accompany this Agreement or are subsequently provided and are not covered by their own separate Licence Agreement. This includes but is not limited to any associated media, printed or electronic documentation, software updates and upgrades, online or web services provided to the Customer by WestDev or by an Authorised Partner.
- 1.6 **Permitted Use:** the use of the Product by the Customer in accordance with this Agreement.
- 1.7 **Intellectual Property Rights:** copyright, patent, design right, trade mark, trade secrets and any other form of intellectual property right, whether or not officially registered.
- 1.8 **Security System:** a system of software protection applied during installation and/or use of the Product to limit the installation and/or use to those authorised to do so.
- 1.9 **Security Device:** a device that forms part of or is attached to the computer, and is used as part of the Security System to control access to the Product.
- 1.10 **Network Licence:** a licensing mechanism comprising a Licence file and accompanying software that manages the number of concurrent users of the Product.

## 2 Scope and Entirety

- 2.1 With the exception of any specific agreement relating to the subject matter of this Agreement physically signed by the Customer and by a Director of WestDev Ltd, this Agreement contains the entire understanding on the subject and supersedes all or any preceding or contemporaneous agreements, arrangements or undertakings whether written or oral relating to the subject matter of this Agreement.
- 2.2 This includes but is not limited to any similar Agreement that was supplied with earlier versions of the Product.
- 2.3 Neither party shall rely on any representation, statement, promise or undertaking given by the other whether express or implied from any exchange of information or discussion prior to entering into this Agreement except as expressly defined in this Agreement.

## 3 Ownership and Grant of Licence

- 3.1 On payment of the purchase invoice and/or applicable Licence fees WestDev hereby grants the Customer a non-exclusive Licence to install and use the Product solely in accordance with the terms of this Agreement.
- 3.2 Ownership of the Product and all its constituent parts, and the Intellectual Property Rights therein, is not transferred to the Customer.
- 3.3 WestDev and/or the licensors of the Product retain title and ownership of the Products and all Intellectual Property Rights therein regardless of the form in which those Products are supplied.
- 3.4 Nothing in this Agreement shall be construed as conferring any right, title or ownership of the Product or any part thereof upon the Customer.
- 3.5 The Product is the subject of copyright. Unauthorised copying of the Product or any part thereof contrary to this Agreement is expressly forbidden. The Customer may be held legally responsible for any copyright infringement which is caused or encouraged by the Customer's failure to abide by the terms of the Agreement.
- 3.6 The Customer must use all reasonable efforts to protect the Software, documentation and other material from unauthorised use, reproduction, distribution or publication or otherwise in violation of applicable law.
- 3.7 Certain parts of the Product may be provided by third parties, in which case those parts may be governed by their own Agreement which will be supplied as part of the installable Product. In the absence of any specific Agreement for any third-party elements, those elements will be covered by this Agreement.
- 3.8 Any Intellectual Property relating to or arising from any change or enhancement to the product requested, proposed or suggested by the Customer, whether in the course of using or evaluating the Product, or while receiving support or consulting services, will be the exclusive property of WestDev unless otherwise agreed in writing by a Director of WestDev. The provisions of this subsection 3.8 shall survive termination of this Agreement.

## 4 Installation and Use

- 4.1 The Customer may install the Product in as many locations or on as many computers as is reasonably necessary to use the Product in accordance with the number of Licences granted to the Customer.
- 4.2 The Customer may use any copy of the Product installed as described above, provided that it is not used concurrently on more computers or by more users than the number of Licences granted to the Customer and that the Customer takes the necessary steps to ensure that this number is not exceeded if the Security System does not already enforce this.

- 4.3 All copies of the Product, whether installed on computer or saved, copied or held on any storage medium, shall remain the property of WestDev, and all copies must include this Agreement.
- 4.4 The Product may be used solely in machine-readable, object-code form.
- 4.5 The Customer may not modify, alter, adapt, merge, decompile or reverse-engineer the Product or any part thereof nor create any derivative works based on all or any part of the Product.
- 4.6 The Customer may not remove or obscure any Copyright, Trademark or other ownership notices or marks from the Product.
- 4.7 The Customer is permitted to make the Product available for use by the Customer's employees and on-site contractors as necessary to permit those persons to carry out their job. All such persons are equally bound by the terms and conditions of this Agreement.
- 4.8 The Customer shall ensure that confidentiality of the Product and all its constituent parts is protected, and that any person who is permitted access to the Product or any part thereof does not disclose or use it in any manner contrary to this Agreement. Such protection of confidentiality shall in no event be less than the standard protection used generally in the EDA, semiconductor or software industry for similar materials.
- 4.9 At no time shall the Customer use the Product or permit or make available the Product or any part thereof to be used by any competitor of WestDev or for the purpose of designing, developing or enhancing any product that is or could be in any way a competitor of any WestDev product or part thereof.
- 4.10 The Customer is not permitted to provide any information relating to performance, features, content, benchmarks or other similar information to any third party.
- 4.11 The Customer is not permitted to sub-license, rent, lease, hire, loan, assign or otherwise transfer the Product or the Customer's rights in the Product or any part thereof, whether on a temporary or permanent basis, except as described in this Agreement.
- 4.12 Where the Product is protected by a Security System, including but not limited to the use of expiry dates, time-limited or feature-limited Licences, authorisation codes, Security Devices and Network Licensing, the Customer is not permitted to attempt in any way to remove, alter or circumvent any part of that Security System.
- 4.13 The Customer is not permitted to advertise, sell, hire, loan or otherwise distribute any means of circumventing any Security System, including but not limited to distribution or publication of authorisation or installation codes or of 'cracked' or altered versions of Product or parts thereof, nor to encourage or enable other parties to do so.
- 4.14 The provisions of this entire section (section 4) shall survive the termination of this Agreement.

## **5 Transfer of Product**

- 5.1 The Customer may permanently transfer the Product in its entirety to another owner, subject to the following provisions:
- i) The Customer provides to WestDev in writing prior to any such transfer the full details of the new owner and the expected date of transfer.
  - ii) The new owner understands and agrees to all the terms and conditions of this Agreement in the same way as if they had obtained the Product from WestDev or an Authorised Partner.
  - iii) All complete or partial copies of the Product and all accompanying materials held by the Customer, including but not limited to installed copies and any backup copies on data storage devices, are transferred or destroyed and the Customer provides a written guarantee to WestDev that this has been done.
  - iv) WestDev reserves the right to levy an administrative charge upon the Customer and/or the new owner in relation to transfer of the Product to another owner.

- v) Any attempted transfer without prior written permission from WestDev shall constitute a material breach of this Agreement.

## **6 Duration and Termination**

- 6.1 Other than those sections or provisions explicitly described as out-living the term of this Agreement, the Agreement is effective until terminated. The Customer may terminate it at any time by destroying the Software and all complete or partial copies thereof.
- 6.2 This Agreement will be terminated if the Customer fails to comply with any term or condition of this Agreement, without requiring any action by WestDev to advise the Customer of such termination.
- 6.3 The Customer agrees upon termination of the Agreement to remove the Product from all computers and to destroy all complete or partial copies thereof from all storage media and to return to WestDev or its Authorised Partner all materials relating to the Product.
- 6.4 This Agreement will be terminated should the Customer commit any act of bankruptcy, have a receiving order made against it, make or negotiate for any composition or arrangement with or assignment for the benefit of its creditors or if the Customer being a body corporate, present a petition or have a petition presented by a creditor for its winding up or enter into any liquidation (other than for purpose of reconstruction or amalgamation), call any meeting of its creditors, have a receiver of all or any of its undertakings or assets appointed, or cease to carry on business.
- 6.5 Termination of this Agreement does not remove or reduce the Customer's obligation to pay any outstanding Licence fees or other monies, all of which shall be due for payment immediately on termination of the Agreement.
- 6.6 The provisions of Subsection 3.8, Section 4 and Section 9 shall survive the termination of this Agreement.

## **7 Waiver**

- 7.1 The failure of WestDev to enforce or insist upon adherence to all or any of the provisions of this Agreement shall not constitute a waiver of such provisions and shall not relieve the Customer of the obligation to comply with such provisions.
- 7.2 No waiver of any provision of this Agreement may be exercised or enacted unless prior written permission has been granted to the Customer by a Director of WestDev and such permission is explicitly stated to be a waiver of said provision.

## **8 Warranties**

- 8.1 No warranties are expressed or implied with respect to the Product or any element thereof, including without limitation its quality, performance, accuracy, merchantability or suitability or fitness for any purpose, whether or not that purpose has been communicated by the Customer to WestDev.
- 8.2 The Product is not a 'bespoke' product developed to meet the Customer's specific needs, it is a general product developed by WestDev for a wide range of solutions, requirements and situations. As such the Customer is responsible for ensuring that the Product meets their needs.
- 8.3 The warranty period is ninety (90) days, beginning on the fifteenth (15<sup>th</sup>) day after the Product is delivered to the Customer or when the Product is first installed, whichever is the sooner. This period only applies to the initial delivery or installation of the Product and does not restart, reset or renew upon delivery or installation of any subsequent update or upgrade to the Product, alteration in the number of Licences granted for use of the Product, or any other extensions, upgrades or alterations to the Product where the Product has previously been delivered to or installed by the Customer.

- 8.4 WestDev warrants that for the duration of the warranty period, when properly installed on a supported computer platform as defined in the Support section of our web site and used in accordance with the provisions of the Users' Guide and/or any WestDev-approved training course, the Product will conform substantially to the functional specification as described in the Users' Guide. In particular WestDev makes no warranty that the Product shall be entirely without error or fault nor that it will operate without interruption.
- 8.5 Customer agrees that such errors, faults or interruptions shall not be construed as sufficient cause to terminate this Agreement.
- 8.6 This warranty shall not apply to services, support, or software which is licensed or otherwise made available at no cost, or software that is designated as 'pre-release', 'alpha' or 'beta' code, all of which are provided 'as is' and without warranty, representation or liability.
- 8.7 This warranty shall not apply to the extent that any defect within, or failure of, the Product, arose or was exacerbated as a result of incorrect installation, use or operation of the software, any unauthorised modification or alteration of the Product, or use of the Product in conjunction with other software or on a computer or operating system which is not on the list of supported platforms as designated by WestDev.

## **9 Indemnities and Limitation of Liability**

- 9.1 Except where this restriction would be ineffective under applicable law, WestDev will under no circumstances be liable for any direct, indirect, incidental, punitive or consequential damages or loss (including but not limited to loss of business, profits or savings; business interruption; loss of information, data or designs; loss of goodwill or reputation; performance, validity or operability of any circuit designs or layouts) resulting from the use of the Product, support or other services supplied by WestDev, even if WestDev have been informed of the possibility of such damages.
- 9.2 WestDev shall not be held liable for any damages resulting from or in connection with any application, design or product created with or modified by the Product where the failure of such application might result in death or personal injury.
- 9.3 WestDev's entire liability and the Customer's exclusive remedy in respect of any failure of the Product to perform in accordance with the specification during the warranty period shall be, solely at WestDev's discretion, correction or replacement of the Product, or, should this be deemed to be commercially infeasible, termination of this Agreement and refund of any Licence fees received from the Customer by WestDev in respect of the Product. After the warranty period, WestDev will have no obligation to provide this remedy. Such remedies shall only be available if the Customer has within the warranty period notified WestDev or their Authorised Agent in writing of the failure of the Product to perform and has made available all the information that might reasonably be required to allow WestDev to investigate, recreate and where possible remedy the fault.
- 9.4 The Customer agrees to indemnify and defend WestDev and any of its Directors, employees, Authorised Partners and agents harmless from any third-party claim arising as a result of the Customer's use of the Product or of the content, result or operability of any designs or other files or materials generated by the Product.
- 9.5 Notwithstanding any other provisions of this Agreement WestDev's entire and maximum aggregate liability whether in contract, tort (including negligence) or otherwise shall be limited to a sum equal to the Licence fees paid to WestDev by the Customer for the Product.
- 9.6 The Customer is responsible for ensuring that regular, frequent and effective backups are made of all designs, libraries and any other files produced or modified while working with the Product. WestDev accepts no liability for any loss of or damage to designs, libraries or other files howsoever caused.

- 9.7 The provisions of this entire section (Section 9) shall survive the termination of this Agreement.

## **10 Severability**

- 10.1 If any provision of this Agreement is deemed by a competent court or other authority to be unlawful, void, invalid or unenforceable, such provision shall be severed from this Agreement and the remaining terms, conditions and provisions shall remain in full force.
- 10.2 In the event of the severance of any provision of this Agreement, such provision shall be substituted by a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the severed provision.

## **11 Headings**

- 11.1 Except where designated otherwise, the headings to clauses or provisions in this Agreement are for the purpose of information and identification only and shall not be construed as forming part of this Agreement.

## **12 Governing Law**

- 12.1 The Governing Law of this Agreement shall be that of England.
- 12.2 WestDev reserves the right to bring an action against the Customer in the jurisdiction of the Customer's place of business.
- 12.3 Nothing in this Agreement will be interpreted or construed so as to limit or exclude the rights or obligations of either party (if any) as to which it is unlawful to limit or exclude under the relevant national laws and, where applicable, the laws of any Member State of the European Union which implement relevant European Communities Council Directives.