

# ROBELLE SOFTWARE AGREEMENT

**THIS AGREEMENT** ("Agreement") between **ROBELLE SOLUTIONS TECHNOLOGY INC.**, a limited company with offices at Suite 372, 7360 137 Street, Surrey, British Columbia, Canada, V3W 1A3 ("Robelle") and

\_\_\_\_\_  
("You"), is effective as of the date the Software is delivered to you (the "Effective Date").

**GRANT OF LICENSE.** In return for payment by you to Robelle of the license fee, receipt of a signed Agreement, and subject to the conditions of this Agreement, Robelle will grant to you a non-exclusive license to use the software program(s) described as,

\_\_\_\_\_  
(the "Software") and all related documentation (the "Documentation"), in accordance with the following conditions:

## 1. LICENSE

### 1.1 You may:

- (a) for each fully paid license fee, install and use the Software on any one computer of the specified platform, owned or leased by you; and
- (b) make one copy of the Software for backup purposes only and temporarily use the backup copy on any additional computer being used by you to recover from a failure of the original computer.

### 1.2 The Software and Documentation represent valuable and strategic intellectual property including trade secrets of Robelle. Except as expressly provided herein or by applicable law, or on payment of any then-applicable additional license fees, you may not copy or sublicense the Software. Except on the written consent of Robelle and payment of then-applicable additional license fees, you shall not lend, loan, or rent the Software, nor allow access to or benefit of the Software through a service bureau or other means. You shall not, under any circumstances, make a derivative work from the Software or Documentation, nor translate, reverse engineer, decompile, or disassemble the Software or Documentation, or any part thereof. You will use all reasonable efforts to ensure that the Software and Documentation licensed to you are not copied, misused or misappropriated by any of your employees or third parties.

### 1.3 You shall reproduce and include copyright, trade mark and all other notices on any copies made of the Software or Documentation, such copies to be limited to those expressly allowed by this Agreement and to be strictly used in accordance with this Agreement.

## 2. TERM AND TERMINATION

### 2.1 This license is effective from the Effective Date until terminated according to the terms of this Agreement. You may terminate it at any time on written notice to Robelle and by destroying the Software and Documentation, together with all copies in any form. Robelle may terminate this Agreement if you fail to comply with any term or condition of this Agreement and such failure either cannot be cured or continues for ninety (90) days from the date of the first such failure, unless such failure is a breach of Robelle's intellectual property rights in which case you will have only seven (7) days from receipt of notice from Robelle to cure the breach. Upon such termination you will destroy the Software and Documentation together with all copies in any form and, if requested by Robelle, confirm such destruction in writing to Robelle.

## 3. FEES AND PAYMENT

- 3.1 Robelle's current applicable Software license fee is due and payable by you within thirty (30) days of the shipment of the Software to your location. Interest of 1-1/2% per month (18% per annum) will be charged on any overdue payments without limiting Robelle's other remedies under this Agreement or by law.
- 3.2 All Robelle fees are exclusive of applicable goods, services, sales and use taxes, customs charges and duties, all of which are your responsibility to pay in full.
- 3.3 All Robelle fees are subject to change annually, without notice.

## 4. TITLE

### 4.1 You acknowledge that you do not have any rights, title or interest in or to the Software or Documentation, other than ownership of the

physical media, and that no such rights are granted or shall be implied hereunder except the limited rights to use the Software and Documentation pursuant to the terms of this Agreement. You further acknowledge that the Software and Documentation and any copies, whether made by you or Robelle, contain valuable trade secrets and confidential information which, together with all copyrighted material and trade marks, are Robelle's property.

## 5. ADDITIONAL LICENSES AND SERVICES

- 5.1 Additional Licenses. You may acquire additional licenses to use the Software (a) on additional computers, or (b) for subsidiaries and affiliates, on written notice to Robelle which confirms the application of this Agreement and the terms and conditions hereunder, and on payment of the then-applicable license fee to Robelle.
- 5.2 Support and Maintenance. On payment in advance of the then-applicable annual Software support and maintenance fee, Robelle will provide the then-applicable support and maintenance services. Robelle reserves the right to change support and maintenance services and related fees on an annual basis.
- 5.3 Additional Services. Robelle may provide additional services, such as installation or implementation assistance, upon request and on then-applicable Robelle terms and conditions.

## 6. LIMITED WARRANTY AND REMEDIES

### 6.1 Robelle warrants that,

- (a) the software will, on the date of delivery, perform substantially in accordance with the then-applicable Documentation for a period of ninety (90) days;
- (b) the media on which the Software is furnished will be free from defects for a period of ninety (90) days from the date of delivery, and;
- (c) it holds title to the Software and Documentation and has the right to grant the license hereunder.

You are responsible for selection of the Software to achieve your intended results, and for installation, use and results obtained from the Software. Robelle does not warrant that updates or upgrades from time to time will not require changes to hardware or operating systems. Robelle shall have no obligation to provide services, modifications or replacements due to problems with, or failures of, any non-Robelle software, firmware, hardware or data or the combination, operation or use of the Software with such components.

- 6.2 Subject to all other conditions and limitations herein, upon your discovery of any non-compliance of these warranties, you must promptly notify Robelle in writing. Robelle will assess the problem, and if caused by the Software, modify or replace the Software, or refund the license fees paid by you in respect of the Software, within 30 days of Robelle's receipt of your written notice.
- 6.3 ROBELLE DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL NOT BE INTERRUPTED BY REASON OF ANY DEFECT OR THAT ROBELLE CAN OR WILL CORRECT ALL ERRORS. ROBELLE MAKES NO OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OTHER THAN AS EXPLICITLY PROVIDED ABOVE, AND SPECIFICALLY EXCLUDES

**IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

NO DEALER OR ANY OTHER PARTY HAS ANY AUTHORITY TO MAKE ANY OTHER REPRESENTATION ON BEHALF OF ROBELLE OR OTHERWISE TO BIND ROBELLE WITH RESPECT TO THE SOFTWARE.

IN NO EVENT SHALL ROBELLE BE LIABLE TO ANYONE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE INCLUDING BUT NOT LIMITED TO LOSS OF USE OF DATA OR PROFITS ARISING OUT OF THIS AGREEMENT OR ANY PERFORMANCE UNDER THIS AGREEMENT, WHETHER IN AN ACTION BASED ON CONTRACT OR TORT INCLUDING NEGLIGENCE, OR OTHERWISE, EVEN IF ROBELLE HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGE.

EXCEPT AS PROVIDED IN SECTION 7.1, ROBELLE'S TOTAL LIABILITY FOR DAMAGES AND OTHER MONETARY LIABILITY ARISING OUT OF THIS AGREEMENT, ANY NEGOTIATIONS RELATED TO THIS AGREEMENT, AND ANY RELATIONSHIP CREATED BY THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE AMOUNT PAID BY YOU TO ROBELLE FOR THE USE OF THIS SOFTWARE TO THE DATE OF THE BREACH OR DEFAULT GIVING RISE TO THE LIABILITY.

NONE OF ROBELLE'S SOFTWARE PRODUCTS OR SERVICES ARE DESIGNED OR INTENDED FOR ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, AS A COMPONENT IN THE MAINTENANCE OR OPERATION OF A HIGH-RISK ACTIVITY OR OPERATION, SUCH AS A NUCLEAR FACILITY, AIR-TRAFFIC CONTROL, LIFE-SUPPORT OR MEDICAL MONITORING SYSTEMS.

**7. INDEMNIFICATION**

7.1 Robelle agrees to defend you from and pay all claims and damages finally awarded, including reasonable lawyers' fees arising out of any action by a third party against you that is based on any claim that the Software infringes a registered trade mark or copyright in North America. If the Software is held to infringe, or is believed by Robelle to infringe, Robelle shall have the option, at Robelle's expense, to (a) modify the Software to be non-infringing, (b) obtain for you a license to continue using the Software, or (c) terminate the license for the infringing Software and refund the unamortized portion of the license fees paid (based on a five year, straight-line depreciation, such depreciation to commence 14 days after delivery of the Software to you). Robelle accepts no responsibility for any claim based upon the combination, operation or use of any programs not supplied by Robelle or based upon an unauthorized modification of the Software.

**8. GENERAL**

8.1 This Agreement and all matters thereto shall be governed by the laws of British Columbia, Canada, excluding rules of conflict of laws, and the parties attorn to the International Commercial Arbitration Centre in Vancouver, British Columbia. The application of the United Nations Convention of Contracts for the International Sale of

Goods are expressly excluded. Les parties ont exigé que cette entente soit rédigée en anglais.

8.2 You shall not assign this Agreement or sublicense the Software or Documentation, without Robelle's prior written consent, which consent will not be unreasonably withheld. Any attempt to assign this Agreement or sublicense the Software without Robelle's prior written consent shall constitute a breach of this Agreement and Robelle may exercise Robelle's option to terminate this Agreement in accordance with Section 2.1 above. Any such attempted assignment shall be null and void.

8.3 All notices and other communications required or permitted under this Agreement shall be in writing and shall be sent by pre-paid registered mail, or fax, to the address set out herein. Either party may change its address for notice purposes by written notice to the other party. This Agreement may be signed in counterparts and will have effect on the receipt by Robelle of a fax signature from you. You will be responsible for providing Robelle with an originally signed copy.

8.4 No provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent is in writing signed by the party claiming to have waived or consented. The waiver of any breach or the acceptance of any defective performance shall not constitute a waiver of, or consent to, any other breach of the same or any other provision. The acceptance of any late payment and any interest on such late payments shall not affect Robelle's rights and remedies for such payment having been made late, including any right to terminate this Agreement.

8.5 THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL TAKE PRECEDENCE OVER AND SUPERCEDE ANY AND ALL PURCHASE ORDERS OR OTHER STANDARD FORM CONDITIONS NOT EXPRESSLY AGREED UPON IN WRITING BY ROBELLE, WHETHER BEFORE OR AFTER THE EFFECTIVE DATE. THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL APPLY TO THE VERSION OF THE SOFTWARE FIRST LICENSED BY YOU, AND THE NEXT VERSION RELEASED BY ROBELLE. ROBELLE RESERVES THE RIGHT THEREAFTER TO CHANGE ITS SOFTWARE LICENSE CONDITIONS IN ITS SOLE DISCRETION ON NOTICE TO YOU IN ACCORDANCE WITH REASONABLE RISK MANAGEMENT POLICIES. IN THE ABSENCE OF SUCH NOTICE, THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL APPLY.

8.6 Sections 2.1, 3.1, 4.1, and Articles 6, 7 and 8 shall survive the termination of this Agreement.

8.7 YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. YOU FURTHER AGREE THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES WHICH SUPERSEDES ALL PRIOR PROPOSALS, REPRESENTATIONS OR COMMUNICATIONS, ORAL OR WRITTEN, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT.

**IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE EFFECTIVE DATE.**

**ROBELLE SOLUTIONS TECHNOLOGY INC.** [Fax: 604.501.2003]

Authorized Signatory: \_\_\_\_\_

Name/Title: Tammy Roscoe, Contracts Representative

Date: \_\_\_\_\_

**CUSTOMER:** \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_ Fax : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_