

WASABI TECHNOLOGIES, INC.  
SOFTWARE LICENSE AGREEMENT  
(DOWNLOADABLE COMPONENTS)

Last Update: October 6, 2020

BEFORE DOWNLOADING, INSTALLING AND USING THE WASABI SOFTWARE (THE “SOFTWARE”), YOU SHOULD CAREFULLY READ THIS SOFTWARE LICENSE AGREEMENT (“AGREEMENT”). CLICKING “I AGREE” OR OTHERWISE DOWNLOADING, INSTALLING AND/OR USING THE SOFTWARE ESTABLISHES A BINDING AGREEMENT BETWEEN YOU AS THE PERSON LICENSING THE SOFTWARE, EITHER ON BEHALF OF YOURSELF OR ANY THIRD PARTY ENTITY (“YOU” OR “LICENSEE”) AND WASABI TECHNOLOGIES INC. (“WASABI”). IF YOU DO NOT ACCEPT ALL OF THE TERMS OF THIS AGREEMENT, YOU HAVE NO RIGHT TO DOWNLOAD, INSTALL AND/OR USE THE SOFTWARE. THE RIGHT TO USE THE SOFTWARE IS ONLY ON THE CONDITION THAT YOU AGREE TO THE TERMS OF THIS AGREEMENT.

BY INSTALLING AND/OR BY USING THE SOFTWARE, YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL CAPACITY AND AUTHORITY TO ENTER INTO A BINDING AGREEMENT TO ADHERE TO THE TERMS AND CONDITIONS SET FORTH HEREIN, AND THAT THE SOFTWARE WILL BE USED ONLY IN ACCORDANCE WITH THESE TERMS AND CONDITIONS AND WITH ALL APPLICABLE LAWS. IF AN INDIVIDUAL IS REGISTERING OR USING THE SOFTWARE ON BEHALF OF AN ENTITY OR ORGANIZATION, THAT INDIVIDUAL WARRANTS, REPRESENTS, AND COVENANTS TO WASABI THAT SUCH INDIVIDUAL IS DULY AUTHORIZED TO AGREE TO THESE TERMS AND CONDITIONS ON BEHALF OF THE ORGANIZATION AND TO BIND THE ORGANIZATION TO THEM.

1. **Grant of License.** Wasabi hereby grants to you a non-exclusive, non-transferable license (without the right to grant sublicenses) to execute and use the Software (including any updates or upgrades of thereto provided by Wasabi in its sole discretion), for your internal business purposes only, and only in connection with the Wasabi Service purchased by you.
2. **Ownership.** Wasabi (and, where applicable, its licensors) reserve any and all rights, implied or otherwise, which are not expressly granted to you hereunder, and retain all rights, title and interest in and to the Software. You acknowledge and agree that this Agreement in no way shall be construed to provide to you, or any third party, any express or implied license to use, copy or otherwise exploit the Software or any portion thereof, (including any intellectual property embodied therein) other than as specifically set forth in this Agreement. Without limiting the foregoing, you may not sublicense or otherwise distribute the Software or any portion thereof to any affiliate or any other third party, unless otherwise authorized by Wasabi in writing.
3. **Restrictions.** Except where such restrictions are prohibited by law, you shall have no right, and you specifically agree not to: (i) transfer, assign or sublicense your license rights to any other person; (ii) modify or adapt the Software or create derivative works based upon the Software, or to permit third parties to do so; (iii) rent, lease, loan or use the Software as a service bureau, as an application service provider, to perform consulting or training services for a third party or in any commercial time share arrangement; (iv) decompile, decrypt, reverse engineer, disassemble or otherwise reduce the Software or any part thereof to human-readable form to gain access to trade secrets or confidential information in the Software; (v) use the Software in contravention to any applicable laws or government regulations; or (vi) remove any product identification, trademark, copyright or other notices contained in or on the Software.
4. **Diagnostics.** You understand and acknowledge that the Software may transmit to Wasabi technical and related information about your use of the Software and Wasabi Service with which it is used (“Usage Data”), which may include, without limitation, performance, usage, internet protocol address, operating system, application software, and other usage statistics. Wasabi may use the Usage Data in order to facilitate the provisioning of updates, upgrades, and to troubleshoot the Software support, and to enhance, improve, and develop current and future Wasabi products and services. Such transmissions and/or notices may be on a daily or other periodic basis, or upon a failure or crash of the Software. You also agree that Wasabi may transfer such information to Wasabi affiliates and partners from time to time for use as set forth herein.
5. **Termination.** You may terminate this license at any time for any reason, upon written notice to Wasabi. Wasabi shall have the right to terminate this Agreement, and/or any licenses granted herein, without liability, in the event you (i) fail to cure a material default under this Agreement within thirty (30) days of the date of Wasabi’s default notice, or (ii) become insolvent or takes any action to wind-up, liquidate or otherwise cease doing business. In addition, this Agreement and all licenses granted hereunder shall automatically terminate if you transfer the Software to a third party.

Upon any termination of this Agreement for any reason, all applicable licenses are also terminated, and you shall immediately cease use of the Software and delete and destroy all copies. Termination of the term of this Agreement or an Order shall not limit either party from pursuing any remedies available to it, including injunctive relief, or relieve you of your obligation to pay all fees that have accrued, have been paid, or have become payable by you hereunder. Provisions of this Agreement which by their nature should survive termination, shall so survive.

6. No Warranty. THE SOFTWARE IS PROVIDED "AS IS" AND "WHERE IS" ONLY. WASABI DOES NOT PROVIDE ANY WARRANTY WITH RESPECT TO THE SOFTWARE, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR NON-INFRINGEMENT.

7. Limitation of Remedies and Damages. THE TOTAL LIABILITY OF WASABI AND ITS LICENSORS/SUPPLIERS ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF ACTION, WILL NOT EXCEED \$250. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT. IN NO EVENT SHALL WASABI OR ITS LICENSOR/SUPPLIERS BE LIABLE FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS (INCLUDING WITHOUT LIMITATION DUE TO A MALFUNCTION OR DEFECT IN THE SOFTWARE), LOST PROFITS, OR LOST DATA, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) STRICT LIABILITY OR OTHERWISE, EVEN IF WASABI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. Confidentiality. Either party may, from time to time, deliver to the other certain non-public information including formulas, flow charts, diagnostic routines, business information, forecasts, financial plans and data, balance sheet information, customer information, marketing plans, hardware, software and unannounced product information (collectively, "Confidential Information"). Such Confidential Information, if in writing, shall be marked prominently with the legend "confidential", "proprietary", or with a similar legend, or if disclosed orally shall be described as Confidential Information at the time of oral disclosure. However, regardless of any marking or subsequent summary, information disclosed shall be considered confidential if a reasonable person under the circumstances would understand such information to be of a confidential nature. Notwithstanding anything to the contrary herein, the Product, Documentation and non-public information shall be deemed Confidential Information. A party shall not use or disclose Confidential Information of the other, except as expressly authorized by this Agreement or in writing by the disclosing party, using the same degree of care which the receiving party uses with respect to its own proprietary information, but in no event with less than with reasonable care. The foregoing obligations of confidentiality shall not apply to any information that the receiving party can show is or was (i) already known to the receiving party at the time of disclosure without obligation of confidentiality; (ii) independently developed by the receiving party without use of or access to the other party's Confidential Information; (iii) approved for disclosure by the disclosing party beforehand and in writing; (iv) publicly known without breach of this Agreement; (v) lawfully received by receiving party from a third party without obligation of confidentiality; or (vi) required to be disclosed by applicable law or order of a court, tribunal or other governmental agency; provided, however, that the receiving party shall promptly notify the disclosing party in writing of such requirement, and shall cooperate with the disclosing party to minimize the scope of any such disclosure, and in the obtaining of a confidentiality, protective or similar order.

9. U.S. Government Users. If you are a U.S. Government user, then the Software is provided with "RESTRICTED RIGHTS" as set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at FAR 52 227-19 or subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, as applicable.

10. Support. Wasabi may from time to time make available updates, enhancements and/or modifications to the Software and may, at its sole discretion, provide such updates to you, which will be identified by a change in the Software version number; however, Wasabi is under no obligation to do so. The provision by Wasabi to you of such updates, enhancements and/or modifications to the Software shall be subject to all covenants and conditions of this Agreement. Wasabi has no obligation to support or provide support services to you relating to the Software. Wasabi may, however, make such services available to you in Wasabi's sole discretion.

11. General. This Agreement shall be governed by the laws of the State of Delaware, exclusive of its conflicts of laws provisions and without regard to the United Nations Convention on Contracts for the International Sale of Goods. Any action against Wasabi under this Agreement must be commenced within one year after such cause of action accrues. You hereby acknowledge that the Software may be subject to export controls under the laws and regulations of the United States, as well as any applicable laws and regulations of the territories outside of the United States. You shall comply with such laws and regulations and agree not to export, re-export or transfer the Software without first obtaining all required

governmental authorizations or licenses. The delay or failure of either party to exercise any right provided in the Agreement shall not be deemed a waiver. Except for any obligation to pay monies due and owing, neither party shall be liable for any delay or failure in performance due to events outside the defaulting party's reasonable control, including without limitation acts of God, labor disputes, shortages of supplies, fire, war, and disruption related to terrorism, epidemics, pandemics, or delays of common carriers. All notices must be in writing and shall be delivered by hand (effective when received) or mailed by registered or certified mail (effective on the third day following the date of mailing). If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, the remainder of this Agreement will continue in full force and effect. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. Any amendment to any provision of this Agreement will be effective only if in writing and signed by both parties.

You may not assign or transfer any of your rights or obligations under this Agreement to a third party without the prior written consent of Wasabi. Any attempted assignment or transfer in violation of the foregoing will be void from the beginning.