

LICENSING AGREEMENT

THIS AGREEMENT is made between GoMax Solutions Inc. and you the customer. **By using the software, you accept these terms. If you do not accept them, do not use the software.**

1. DEFINITIONS

1.1 In this Agreement the following terms shall have the following meanings:

- (a) Confidential Information means any non public information that GoMax marks and designates, either orally or in writing, as confidential or which, under the circumstances surrounding the disclosure, ought to be treated as confidential, including but not limited to product schematics or drawings, descriptive material, specifications, source code or object code, GoMax's business policies or practices, information received from others that GoMax is obligated to treat as confidential, and all other materials and information of a confidential nature; Provided that for the purposes of clarification, Confidential Information shall not include any materials or information which the Customer shows: is at the time of disclosure generally known or available to the public or which becomes so known or available thereafter through no fault of the Customer; is legally known to the Customer at the time of disclosure; is furnished by GoMax to third parties without restriction; or, is developed independently by the Customer where the Customer can document such independent development;
- (b) "Documentation" means all operating manual materials, whether in printed or electronic format, including users' manuals, flow charts, drawings, and software descriptions; all designed to assist or supplement the Customer's understanding or use of the Product;
- (c) Encoded Code means the code resulting from the translation of the Source Code by a computer into a form that is appropriate for execution or interpretation by a computer, but which is not convenient to human understanding of the program logic;
- (d) Product means the web-based product and services described in Schedule "A" attached to this Agreement, the Documentation and the limited use of the trademarks and logos of GoMax as set out in paragraph 2.5 of this Agreement;
- (e) Software means the GoMax Solutions line of: web-based computer software server applications; compression and caching software; and, related documentation; developed, owned, manufactured and distributed by GoMax;
- (f) Source Code means the Software in a form in which the program logic is easily read and understood by a human being, and includes both printed listings and machine readable copies from which a printed listing is made; and
- (g) Unit of Product means a version of the Product accessible by the Customer off the world wide web and a license to use the Product.

2. TERMS OF LICENSE

2.1 License. Subject to the terms and conditions of this Agreement, GoMax hereby grants the Customer a non-exclusive, non-transferable license to use the Product, in accordance with and subject to the terms and conditions of this Agreement.

2.2 Term. The term of this license commences on the date of execution of this Agreement and shall continue on a month to month basis until terminated in accordance with the provisions of this Agreement (the "Term").

2.3 Title to the Technology. GoMax retains ownership of all right, title and interest in and to the technology contained in the Product, including trade secrets, copyright, know-how and derivative works, and without limitation all copyright in all computer code whether Encoded Code, Source Code, or compilations, adaptations, or translations thereof, in any language, and the Customer shall acquire no rights therein except as expressly set out in this Agreement. The Customer shall take no action which may adversely affect or impair GoMax's ownership of such rights, titles or interests.

2.4 Title to the Customer's Data. The Customer is the sole owner of all data on the clients, customers and suppliers of the Customer which may be in GoMax's possession as a result of the Customer's use of the Product. GoMax will not utilize any such data for purposes other than providing the Product to the Customer hereunder, and for clarity purposes, without limiting the Customer's ownership rights therein, both before and after the Term, GoMax shall not utilize such data for any of GoMax's own business purposes.

2.5 Conditions of Licensed Appointment. The licensed appointment granted to the Customer under this Agreement is subject to the following conditions and restrictions:

- (a) All copies of the Encoded Code, the Source Code, the Software and any Unit of Product will remain at all times with GoMax;
- (b) GoMax shall permit the Customer to have access to the Product on GoMax's server through the world wide web; and
- (c) The Customer shall not alter or remove any identification, confidentiality, copyright or other proprietary rights notice of GoMax contained in any Unit of Product or any other material delivered to the Customer pursuant to this Agreement.

2.6 Trademark Use. As part of the license hereunder, during the Term, GoMax authorizes the Customer to use the trademarks and logos of GoMax which GoMax has designated for use generally by its licensees, solely in connection with the use of the Product and subject to the policies governing the use of such trademarks and logos as GoMax may publish and provide to the Customer from time to time. No advertisements, brochures and other materials incorporating such trademarks or logos will be used by the Customer without having received GoMax's written approval prior to any such use or publication thereof. All such use shall enure to the benefit of GoMax and the Customer will not acquire any rights in such trademarks or logos.

3. LICENSING FEE

3.1 In consideration for GoMax providing the Customer with the Product as described in this Agreement, the Customer agrees to pay GoMax the monthly licensing fees.

4. DELIVERY OF THE PRODUCT

4.1 GoMax shall deliver one Unit of the Product to the Customer upon execution of this Agreement. Delivery shall be effected by providing the Customer with the access codes for accessing the Product through the world wide web.

5. WARRANTIES AND REPRESENTATIONS OF GOMAX

5.1 GoMax warrants and represents that:

- (a) it legally and beneficially owns all the right, title and interest to the Product, save and except any components thereof in which copyright vests in third parties, and in which case such components have been validly licensed to, or are being validly used by, GoMax; and
- (b) to the extent it is the owner of the Product, or a valid licensee of components thereof, it has the authority to enter into this Agreement and comply with its obligations hereunder.

5.2 GoMax makes no representations or warranties to the Customer:

- (a) as to whether any patents or other intellectual property protection will be applied for with respect to the Product or any components thereof;
- (b) as to whether the Product infringes or may infringe upon any existing or future patent or intellectual property held by any third parties;
- (c) as to the Product or the Customer's or any third party's ability to use same, except to state that, unless otherwise specified at the time of furnishing the Product, the Product is the same as that developed by GoMax; and
- (d) either express or implied, with respect to the Product, including but not limited to, the implied warranties of merchantability or fitness for a particular purpose.

6. GOMAXS GENERAL OBLIGATIONS

6.1 GoMax agrees and covenants with the Customer that it shall offer technical support to the Customer and its personnel in the use and operation of the Product, and provide that support via online support system, knowledge base or special arrangements made between the Customer and the designated account representative appointed for the Customer by GoMax.

6.2 GoMax shall attempt to provide the Product for the Customer twenty-four (24) hours a day, seven (7) days a week throughout the Term.

6.3 GoMax is under no obligation to provide the Customer with updates to, or new releases of, the Product.

7. THE CUSTOMER'S GENERAL OBLIGATIONS

7.1 The Customer agrees and covenants with GoMax that:

- (a) it shall not sell, sub-license or otherwise transfer the Product to any person or entity;
- (b) its personnel shall provide prompt and meaningful feedback to GoMax regarding the Customers experience in using the Product, the features of the Product and the functionality of the Product, so as to allow GoMax to evaluate and improve the Product;
- (c) it shall promptly report to GoMax all complaints, problems, claims or issues relating to the Product;
- (d) it shall ensure that the Product is protected at all times from misuse, damage, destruction or any form of unauthorized use; and
- (e) it shall not modify the design of, reproduce, alter, reverse assemble, or reverse compile the Product, or merge any part the Product with any other software; without the prior written consent of GoMax;

7.2 If provided as part of the product license, the Customer agrees that GoMax will host, maintain and update the Customer's web site from time to time, except for those areas where features have been provided that allow for personalization of the website content by the Customer. The Customer agrees that it is responsible for providing, updating, uploading and maintaining the content of its own client files, pages, data and information. The Customer agrees that the web site being hosted by GoMax will not be used in connection with any illegal activity.

7.3 If provided as part of the product license , the Customer represents and warrants to GoMax that the content of its web site does not and shall not contain any content, materials, data, work, trade or service mark, trade name, link, advertising or services that actually or potentially violate any applicable law or regulation or infringe or misappropriate any proprietary, intellectual property, contract or tort right of any person.

7.4 The Customer is responsible for ensuring that there is no excessive overloading on GoMax's DNS or servers. The Customer may not use GoMax's servers and the Customer's web site (if provided) as a source, intermediary, reply to address, or destination address for mail bombs, Internet packet flooding, packet corruption, denial of service, or other abusive activities. Server hacking or other perpetration of security breaches is prohibited and GoMax reserves the right to remove sites that contain information about hacking or links to such information. Use of the

Customer's web site as an anonymous gateway is prohibited. GoMax prohibits the use of software or scripts run on its servers that cause the server to load beyond a reasonable level, as determined by GoMax. The Customer agrees that GoMax reserves the right to remove the Customer's web site temporarily or permanently from its virtual dedicated servers if GoMax is the recipient of activities that threaten the stability of GoMax's network.

7.5 The Customer agrees not to engage in unacceptable use of any Product, which includes, without limitation, use of the Product to:

- (a) disseminate or transmit unsolicited messages, chain letters, unsolicited commercial email, or unreasonably large volumes of email on a daily basis, provided, GoMax, in its sole discretion, may permit the Customer, if the Customer has a legitimate purpose and after request, to send more email than GoMax's standard STMP relay limit;
- (b) disseminate or transmit any material that, to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious;
- (c) disseminate or transmit files, graphics, software or other material, data or work that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any person;
- (d) create a false identity or to otherwise attempt to mislead any person as to the identity, source or origin of any communication;
- (e) export, re-export or permit downloading of any message or content in violation of any export or import law, regular or restriction of Canada or the United States and its agencies or authorities, or without all required approvals, licenses and/or exemptions;
- (f) interfere, disrupt or attempt to gain unauthorized access to any computer system, server, network or account for which the Customer do not have authorization to access or at a level exceeding your authorization;
- (g) disseminate or transmit any virus, trojan horse or other malicious, harmful or disabling data, work, code or program;
- (h) engage in any other activity deemed by GoMax to be in conflict with the spirit or intent of this Agreement or any GoMax policy; or
- (i) use your server as an "open relay" or similar purposes.

7.6 The Customer acknowledges that the Documentation contains sufficient information for the adequate use of the Product, except to the extent that GoMax has notified the Customer of any omission or deficiency or of any variation which it considers necessary for the proper use of the Product.

8. STORAGE AND SECURITY

8.1 At all times, the Customer assumes the full risk of loss and damage to its web site and all of the Customer's web site content, and its use thereof in the Customer's business.

8.2 The Customer is entirely responsible for maintaining the confidentiality of its password and account information. The Customer agrees that the Customer is solely responsible for all acts, omissions and use under and charges incurred with its account or password or in connection with the Product or any of the Customer's web site content displayed, linked, transmitted through or stored on GoMax's server.

8.3 The Customer shall be solely responsible for undertaking measures to:

- (a) prevent any loss or damage to the Customer's web site content;
- (b) maintain independent archival and backup copies of the Customer's web site content; and
- (c) ensure the confidentiality of the Customer's password.

8.4 The Customer acknowledges that GoMax's servers and virtual dedicated service are not an archive and GoMax shall have no liability to the Customer or any other person for loss, damage or destruction of any of the Customer's content or data.

8.5 If provided as part of the product license, the Customer shall at all times use the Product as a conventional and/or traditional web site. The Customer shall not use the Product in any way, in GoMax's sole discretion, that shall impair the functioning or operation of GoMax's Product or equipment. Specifically by way of example and not as a limitation, the Customer shall not use the Product as a repository or instrument for placing or storing archived files and/or material that can be downloaded through other web sites.

9. PRODUCT WARRANTIES

9.1 For each Unit of Product, GoMax shall provide the Customer with the same limited warranty for the Product which GoMax provides its other customers.

10. LIMITATION ON LIABILITY

10.1 In no event shall GoMax be liable for any direct, special, incidental, or consequential damages whether in any action for contract, negligence, or other tortious action, arising out of, or in connection with, the use of the Product hereunder.

11. TERMINATION

11.1 GoMax may terminate this Agreement upon providing the Customer with written notice of termination if:

- (a) the Customer is in breach of its payment obligations in this Agreement and such breach is not remedied within three (3) days of written notification of such breach;
- (b) the Customer is in breach of any other obligations set out in this Agreement and such breach is not remedied within fourteen (14) days of written notification of such breach;
- (c) the Customer becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration;

- (d) the Customer, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving;
- (e) the Customer, being a natural person, dies; or
- (f) the Customer ceases or threatens to cease conducting its business in the normal manner.

11.2 Either the Customer or GoMax may terminate this Agreement by providing the other party with thirty (30) days' prior written notice of terminations.

11.3 At the termination of the Term:

- (a) the Customer shall immediately cease using the Product;
- (b) the Customer shall immediately:
 - (i) return all tangible and electronic elements of the Product and any Confidential Information (as defined below) in its possession to GoMax;
 - (ii) permanently delete any elements of the Product in electronic form that may remain in the Customer's computer system; and
 - (iii) provide GoMax with written confirmation of the foregoing upon GoMax's request;
- (c) GoMax shall not transfer or manage the Customer's web site content, and GoMax shall be regarded as discharged from any further obligations under this Agreement;
- (d) the Customer shall be responsible for moving its data off of the GoMax virtual dedicated servers.

12. CONFIDENTIALITY

12.1 The Customer acknowledges the proprietary rights of GoMax to the Confidential Information disclosed to it pursuant to this Agreement. During the Term and for a period of two (2) years after the end of the Term, the Customer covenants with GoMax to keep confidential and secret all Confidential Information. The covenant of the Customer in this Paragraph shall survive the termination of this Agreement and shall endure in respect of and as long as the Confidential Information shall not be generally known to one skilled in the technology of computer science, through no breach of this covenant by the Customer.

12.2 If at any time the Customer becomes aware of any unauthorized access to, use, possession or knowledge of any of the Confidential Information, they shall immediately notify GoMax. The Customer shall provide any and all reasonable assistance to GoMax to protect the confidentiality of any Confidential Information that the Customer may have directly or indirectly disclosed or made available to any person or entity. The Customer shall take all reasonable steps requested by GoMax to prevent the recurrence of such unauthorized access to, use, possession or knowledge.

13. ENFORCEMENT AND SURVIVAL

13.1 Scope of Covenants. Each provision of this Agreement is declared to constitute a separate and distinct covenant and to be severable from all other separate and distinct covenants. Without limiting the foregoing, each provision contained in Paragraphs 11.3 and 12 of this Agreement is declared to constitute a separate and distinct covenant in respect of each capacity and each activity specified in Paragraphs 11.3 and 12, and to be severable from all other separate and distinct covenants. If any of the capacities, activities or periods specified in Paragraphs 11.3 and 12 are considered by a Court of competent jurisdiction as being unreasonable, the parties agree that the Court shall have the authority to limit or alter such capacities, activities or periods to such capacities, activities or periods as the Court deems proper in the circumstances.

13.2 Injunctive Relief. The parties recognize that a breach by the Customer of any of the covenants contained in Paragraphs 11.3 and 12 of this Agreement would result in damages to GoMax and that GoMax could not adequately be compensated for such damages by monetary award. Accordingly, the Customer agrees that in the event of any such breach, in addition to all other remedies available to GoMax, GoMax shall be entitled as a matter of right to apply to a Court of competent jurisdiction for such relief against the Customer by way of restraining order, injunction, decree or otherwise, as may be appropriate to ensure compliance with the provisions of this Agreement.

13.3 Necessary Restrictions. The parties agree that all restrictions contained in Paragraphs 10 and 11 of this Agreement are necessary and fundamental to the protection of GoMax's position and are reasonable and valid, and all defences to the strict enforcement of this Agreement by GoMax are waived by the Customer.

14. IMPROVEMENTS

14.1 The Customer acknowledges that GoMax is continuing to develop and improve various elements of the Product, as well as other related products and services. Any improvements to the Product made by GoMax, its agents, affiliates, licensees, or sub-licensees, including the Customer, and the Customer's agents, affiliates, licensees, or sub-licensees, shall remain the sole property of GoMax. The Customer shall, if deemed necessary by GoMax, sign any documents required to assign all intellectual property rights therein to GoMax.

15. ASSIGNMENT AND SUBLICENSES

15.1 The licence granted to the Customer hereunder is personal to the Customer and may only be assigned or sub-licensed with the prior written consent of GoMax, which may be arbitrarily withheld.

16. FORCE MAJEURE AND INTERRUPTION OF ACCESS TO PRODUCT

16.1 Neither party shall be responsible for the failure or delay to comply with their obligations under this Agreement caused by fire, flood, strike, labour trouble, other industrial disturbance, riot, civil commotion, embargo, blockage, prohibition of exportation, governmental direction, intervention of civil authorities, intervention of military authorities, legal restriction, or any other causes beyond the control of such party, which prevents the party from complying with their obligations under this Agreement.

16.2 The Customer acknowledges that from time to time the Product may be inaccessible or inoperable for any reason, including, without limitation: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs that GoMax may undertake from time to time; or (iii) causes beyond the control of GoMax or that are not reasonably foreseeable by GoMax, including, without

limitation, interruption or failure of telecommunication or digital transmission links, hostile network attacks, network congestion or other failures. The Customer acknowledges that GoMax has no control of availability of the Product on a continuous or uninterrupted basis. The Customer agrees that GoMax shall not bear any responsibility for the consequences of the Product not being accessible or operable in such circumstances.

17. TIME OF THE ESSENCE

17.1 Time shall be of the essence of this Agreement.

18. WAIVER AND DELAY

18.1 No waiver by either party of any breach or series of breaches or defaults in performance by the other party, and no failure, refusal or neglect of either party to exercise any right, power or option given to it under this Agreement or to insist upon strict compliance with or performance of either party's obligations under this Agreement, shall constitute a waiver of the provisions of this Agreement with respect to any subsequent breach thereof or a waiver by either party of its right at any time thereafter to require exact and strict compliance with the provisions thereof.

19. ENTIRE AGREEMENT

19.1 This Agreement contains all of the terms and conditions agreed upon by the parties to this Agreement with reference to the subject matter of this Agreement.

END LICENSE AGREEMENT