

STARTECH.COM ENTERPRISE SOFTWARE

SOFTWARE LICENSE AGREEMENT

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3. DISCLAIMER OF WARRANTIES

3.1 No Warranties. **THE SOFTWARE IS LICENSED ON AN "AS-IS" BASIS. STARTECH EXPRESSLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SOFTWARE, EXPRESS OR IMPLIED BY OPERATION OF**

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4. LIMITATION OF LIABILITY; INDEMNIFICATION

4.1 Limitations. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL STARTECH OR ITS LICENSORS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LOST PROFITS OR REVENUES, LOSS OF GOODWILL, LOSS OR INACCURACY OF ANY DATA, OR COST OF SUBSTITUTE GOODS, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE) AND EVEN IF STARTECH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, STARTECH'S AND ITS LICENSORS' AGGREGATE LIABILITY TO YOU OR ANY THIRD PARTY WITH RESPECT TO THE SOFTWARE OR THIS AGREEMENT SHALL BE LIMITED TO ACTUAL DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED THE FEES PAID BY YOU FOR THE SOFTWARE.

4.2 Essential Purpose. You acknowledge that the limitations set forth in Section 4.1 are an essential basis of the bargain described in this Agreement and that, were StarTech to assume any further liability, the fees for the Software would out of necessity be significantly greater. THE LIMITATIONS IN SECTION 4.1 SHALL APPLY EVEN IF AN EXCLUSIVE OR LIMITED REMEDY STATED HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

4.3 Indemnity. You agree, upon StarTech's request, to indemnify, defend and hold StarTech harmless from and against all claims, suits, demands, damages, liabilities, loss, cost, and expense (including reasonable attorneys' fees) resulting from: (i) Your misuse of the Software or other breach of this Agreement; or (ii) any third party claim arising out of Your use of the Software. StarTech reserves the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by You, in which event You will be obligated to cooperate reasonably with StarTech in regard to the defense.

5. CONFIDENTIALITY

5.1 Protection of Software and Documentation. You acknowledge that the Software and the Documentation contain trade secrets of StarTech and constitute the proprietary and confidential information of StarTech. You agree to preserve the confidential nature of these trade secrets, and You will not permit the use or copying of the Software or the Documentation by, or disclose any information relating

to the Software or Documentation to, any third party, except as expressly set forth in this Agreement. You will secure and protect the Software and Documentation by using a level of care consistent with the maintenance of Your own confidential and proprietary information of like kind, but in no event less than a reasonable degree of care.

5.2 Equitable Relief. You acknowledge that StarTech would have no adequate remedy at law should You breach Your obligations under this Article 5 and agree that StarTech will be entitled to enforce its rights under this Article 5 by seeking immediate equitable relief from any court of competent jurisdiction, including but not limited to a temporary restraining order and an injunction.

6. BREACH; TERMINATION

6.1 Termination by You. You may terminate this Agreement upon written notice to StarTech and compliance with the procedures described in Section 6.3 below.

6.2 Termination by StarTech. StarTech reserves the right to terminate this Agreement, for any reason or no reason, upon notice to You. This Agreement will terminate automatically, without notice, in the event that You commit any material breach hereunder.

6.3 Effect of Termination. Upon termination, You will immediately discontinue the use of the Software and will destroy all copies of the Software and the Documentation in your possession or control, including all embodiments of these materials stored in or on a reusable electronic or similar medium, including memory, disk packs, tapes, and other peripheral devices. Upon request, You shall certify in writing Your compliance with the foregoing. Termination of this Agreement or any license granted hereunder shall not limit StarTech from pursuing other remedies available to it, including injunctive relief.

6.4 Survival. The provisions of Section 1.2 and Articles 4, 5, 6 and 7 of this Agreement will survive and continue in full force and effect notwithstanding the termination or expiration of this Agreement.

7. MISCELLANEOUS PROVISIONS

7.1 Governing Law. This Agreement will be governed and construed in accordance with the laws of the Province of Ontario, Canada. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. You hereby irrevocably consent and agree to the exclusive jurisdiction and venue for any claim or cause of action arising under this Agreement in the provincial and federal courts located in London, Ontario and hereby expressly waive any and all rights which You may have to contest the choice of such jurisdiction and venue.

7.2 Notices. Any notices to be given hereunder by either party to the other may be effected by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested or via email. Notices to You shall be sent to Your most recent email address on file with StarTech. Notices to StarTech shall be sent to: ProductSoftware@startech.com Notices delivered personally or by email will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of three days after mailing.

7.3 Partial Invalidity. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

7.4 No Waiver. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach.

7.5 No Assignment. You may not assign or sublicense Your rights or obligations under this Agreement without the

prior express written consent of StarTech, which may be given or withheld in StarTech's sole discretion.

7.6 Force Majeure. StarTech shall not be liable to You for any failure or delay caused by events beyond StarTech's control, including, without limitation, Your failure to furnish necessary information, failures or delays in communication infrastructure, failures of equipment, labor disputes or shortages, accidents, pandemic, acts of war or terrorism, acts of God, or laws, decrees or other acts of governmental authorities.

7.7 Entire Agreement. This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the subject matter hereof and contains all the covenants and agreements between the parties with respect to the subject matter hereof. It is expressly agreed that this Agreement shall supersede the terms in any purchase order or other document submitted

by You. Each party acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

7.8 Legal Expenses. If a court action is brought to enforce any provision of this Agreement, the court shall award attorneys' fees and costs, and expert witness fees and costs to the prevailing party.

7.9 Successors. This Agreement shall inure to the benefit of, and be binding upon, StarTech and You, their successors and permitted assigns.

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IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A BUSINESS ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

[I AGREE]

[I DO NOT AGREE]