

Licencing Agreement

United States of America
2009-10-09

IMPORTANT NOTICE: Read this Licence Agreement ("Agreement") carefully before using the enclosed Program. You may Use the Program acquired in Canada only, and only in accordance with the following terms and conditions. **IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, YOU MAY NOT USE THE PROGRAM.** By downloading, installing, or using the Program in any way, you acknowledge that you have read, understand and agree to the terms of this Agreement. If you do not agree with these terms delete the Program from your computer or do not install the Program. **THIS IS A LICENSE AND NOT A SALE.**

If you, your company, or your public agency have signed a written software license agreement with Scriptarus Solutions Inc ("Scriptarus"), located at 159 Stillview Avenue, Pointe Claire, QC, H9R 2Y1, Canada, covering the Use of the downloaded Program, the terms of the signed license agreement shall take precedence over any conflicting terms of this Agreement. The parties agree to the following:

1. DEFINITIONS

- 1.1 "Application" means a computer program, set of programs, registry entries, and files designed for commercial distribution to End Users. The Application includes a Database Engine. The application referenced in this agreement is called ScriptGuru.
- 1.2 "Concurrent Users" is the maximum number of seats licenced to an End User.
- 1.3 "Database Engine" is a computer program that comes with the Application that allows data to be:
 - i) Stored in a structured manner, and
 - ii) Retrieved by the Application or a Report Generator.The Database engine is a Sybase product.
- 1.4 "Distributor" is any party authorized by Scriptarus Solutions Inc to supply the Application to End Users. At the time of this agreement the sole distributor is Scriptarus Solutions Inc.
- 1.5 "Documentation" means any Scriptarus Solutions Inc technical manuals relating to the use of the Application or the Database.
- 1.6 "Effective Date" is the date the user first contacts Scriptarus to obtain a licence serial number.
- 1.7 "End User" is a third party who is licenced to use the software internally and does not have the authority to distribute or supply the Application.
- 1.8 "Evaluation Copy" means a copy the Application used solely for a limited time.
- 1.9 "Machine" means a specified hardware platform running a single copy of the operating system software in a supported Operating Environment.
- 1.10 "Maintenance Release" is any version of the Application or Database Engine that has fixes to identified errors.
- 1.11 "Major Release" is a version of the Application and Database Engine that has enhanced capabilities, compared to the current version, and patches to fix identified errors.

- 1.12 "Operating Environment" means a specified hardware platform and operating system combinations that correspond to specific versions of the Application available from Scriptarus.
- 1.13 "Program(s)" means any portion of the object code available at the Effective Date that operates in the supported Operating Environment and is specified in the Schedule(s) together with the related documentation.
- 1.14 "Report Generator" is a program that allows End Users to extract data from the database and make customised reports.
- 1.15 "Seat" is a specific identifiable unique computer that is connected to the Database through the Application or a Report Generator.
- 1.16 "Script Order" is an order prepared by Wal-Mart vendors for submission to Wal-Mart using data downloaded from the Wal-Mart Retail Link system.
- 1.17 "Server" is any copy of the Database used on a machine that allows more than one Seat.
- 1.18 "Term" is the period set forth in this Agreement.
- 1.19 "Territory" means world wide, subject to exclusions and limitations set forth in this Agreement.
- 1.20 "Updates" means any Maintenance Releases or Major Release of the software made available to End Users who have paid for updates, but does not include new products available for an additional fee.
- 1.21 "Upgrade" is any change to the Usage of the Application (including an increase in the number of Seats or Concurrent Users, or the installation of a new or upgraded machine) that would result in additional fees hereunder.

2. GRANT OF LICENCES

- 2.1 Application software. Scriptarus Solutions Inc grants the End User the non-exclusive, non-transferable (except as set forth herein) licence to:
- a) Use the Application and Database Engine for the Term and subject to the terms and conditions set forth in the Agreement.
 - b) The End User can make copies only of the database files. Database files end with .db.
 - c) The end user cannot make copies of either the Application or the Database Engine software.
 - d) A licence is granted whenever a serial number is activated for the software. To obtain a serial number the End User contacts Scriptarus and shall provide to Scriptarus:
 - i) The user's first and last name,
 - ii) The purchasing organization and user's department,
 - iii) The organization's suite number, street number, and address
 - iv) The organization's city and postal code,
 - v) The organization's country.
- 2.2 Evaluation copies. Scriptarus Solutions Inc grants End User the right to use evaluation copies for a period of up to 14 days.
- 2.3 Distribution Limitations.

- a) The Distributor or End User shall not transfer, directly or indirectly, any registered programs or technical data received from Scriptarus Solutions Inc to third parties without the express permission of Scriptarus Solutions Inc.
- b) The serial number is non-transferable and can only be used on one machine.
- c) The End User is permitted to use the Database Engine for internal business purposes with the Application and is prohibited for using the Database Engine for application development or uses other than with the Application.
- d) The End User shall comply with all export and re-export restrictions and regulations imposed by the Government of the United States with respect to the Database Engine. If any Application or Database Engine is provided to U.S. government licensee use, duplication or disclosure of the software and documentation by the U.S. Government shall be provided subject to the terms and conditions consistent with the terms set out herein and any applicable FAR provisions, for example FAR 52.227-19

2.4 Modifying the Application or Database Engine.

- a) Neither Distributors nor End Users shall be permitted to:
 - I) Copy any Scriptarus Solutions Inc Application or Database Engine (except where authorized herein),
 - II) Translate, modify, adapt, enhance, decompile, disassemble or reverse engineer any Scriptarus Solutions Inc Application or Database Engine,
 - III) Use the Application or Database Engine to provide sub-licensing, timesharing, rental, facility management, service bureau, or similar services to third parties,
 - IV) Permit the Application or Database Engine to be accessed by third parties over the Internet unless approval to do so is granted by Scriptarus Solutions Inc.

2.5 Concurrent Users. End Users are restricted to the number of Concurrent Users granted in the Schedule.

2.6 The User will allow Scriptarus programs to access the Internet and the Scriptarus server.

3. OBLIGATIONS

3.1 Trademarks. The trademarks, service marks, logos, and trade names associated with the Application are the exclusive property of Scriptarus Solutions Inc. Trademarks, service marks, logos, and trade names associated with the Database Engine are the exclusive property of iAnywhere Solutions.

3.2 Audit. Scriptarus Solutions Inc shall have the right to conduct and/or direct an independent accounting firm to conduct, during normal business hours, an audit of the appropriate records of the End User to verify the number of copies of the Application and Database Engine in use, the computer system on which the application or Database Engine reside, and the number of seats and concurrent users.

4. CUSTOMER SUPPORT

4.1 Customer Support. With the purchase of an annual support contract from Scriptarus Solutions Inc, for support of the Application and Database Engine, Scriptarus Solutions Inc will provide the

End User with support services during normal Scriptarus Solutions Inc business hours. Support Fees are set forth in the Schedule.

4.2 Updates. In consideration of the fees set forth in the Schedule, Scriptarus Solutions Inc will provide the End User copies of updates as they become available.

5. LICENCE AND SUPPORT FEES

5.1 Licence Fees. The End User shall pay Scriptarus Solutions Inc or the Distributor the required licence fee set forth in the Schedules. The Distributor shall pay Scriptarus Solutions Inc the licence fees collected set forth in the Schedules.

6. GENERAL TERMS AND CONDITIONS

6.1 Term. The Term of this agreement shall commence on the Effective Date and continue for a period of two years. This Agreement may be renewed at the end of two years if mutually agreed to by both parties prior to the end of the term.

6.2 Payments.

- a) Payment shall be due and payable net 30 days from the invoice date. Payment shall be in United States dollars.
- b) Payments that are over 30 days in being paid will be subjected to interests at the rate of the Canadian Prime rate plus 2.5% compounded each month of late payment.
- c) All prices listed are exclusive of tariffs, duties, or taxes (including sales, use, value added or goods and services taxes). The End User or Distributor shall pay all applicable tariffs, duties or taxes (other than franchise or income taxes for which Scriptarus Solutions Inc is responsible) imposed or levied by any government or agency and included in Scriptarus Solutions Inc invoices. A tax exemption certificate and other proper documentation must support any claimed exemption from duties and taxes.
- d) Payment to Scriptarus will be made by direct interbank transfer as soon as possible upon the End User receiving a valid serial number.

6.3 Proprietary Information

- a) Whereas the Application and Database Engine are copyrighted, unpublished and contain proprietary and confidential information, the End User agrees to maintain the application and Database Engine in confidence and shall use a reasonable degree of care to protect the confidentiality of the Applications and Database Engine.
- b) Scriptarus Solutions Inc retains title of the Application and copies thereof, and associated copyright therein. iAnywhere Solutions retains title of the Database Engine and copies thereof, and associated copyright therein.
- c) iAnywhere Solutions retains ownership of intellectual property rights (including and without limitations: patent, copyrights, trade secrets and trademarks) in and relating to the Database Engine and all enhancements, modifications, and Updates thereof. Except for licences specifically granted in this Agreement, no other express or implied licences are granted by Scriptarus Solutions Inc with respect to the Database Engine.
- d) Scriptarus Solutions Inc retains ownership of intellectual property rights (including and without limitations: patent, copyrights, trade secrets and trademarks) in and relating to the Application and all enhancements, modifications, and Updates thereof. Except for licences specifically

granted in this Agreement, no other express or implied licences are granted by Scriptarus Solutions Inc with respect to the Application.

- e) Each party will not disclose or use any business and/or technical information of the other designated in writing or orally (and promptly confirmed in writing) and "Confidential" ("Confidential Information") without prior written consent by the other party. Such restrictions do not extend to any item of information which:
 - i) is or becomes available in the public domain by no fault of the receiving party,
 - ii) is disclosed or made available to the receiving party by a third party without restriction and without breach of any relationship of confidentiality,
 - iii) is independently developed by the receiving party without access to the disclosing party's Confidential Information,
 - iv) is known by the recipient at the time of disclosure, or
 - v) is produced in compliance with applicable law or court order, provided the disclosing party is given reasonable notice of such law or order and opportunity to attempt to preclude or limit such production.
- f) Upon termination of this agreement, each party shall upon request return all copies of confidential information received from the other party.

6.4 Limited Warranty

- a) Scriptarus Solutions Inc warrants that the then current, unmodified version of the Application and Database Engine, provided to the End User will operate in all material respect in accordance with the Scriptarus Solutions Inc and iAnywhere published documentation for a period of ninety (90) days from the initial shipment to the End User. If the programs do not perform as warranted the End User's sole remedy at Scriptarus Solutions Inc's option is to replace the non-conforming Application or Database Engine or receive a refund of the licence fee paid by the End User for the preparation of one script order. Scriptarus Solutions Inc does not represent that the Application or Database Engine is error free or will satisfy all of the End User's requirements.
- b) The Application is not fault tolerant and are not designed, manufactured, or intended for the on-line controlling of Nuclear facilities, aircraft navigation or communications systems, air traffic control, direct life support machines, or weapons system in which the failure of the program could lead directly to death, personal injury, or sever physical or environmental damage and Scriptarus Solutions Inc and its licensors specifically disclaim any expressed fitness for such purposes.
- c) Scriptarus Solutions Inc's maximum liability for damages under this Agreement (regardless of the form of action) shall not exceed the amount paid by the End User to Scriptarus Solutions Inc for the preparation of one Script Order.

6.5 Indemnification

- a) Scriptarus Solutions Inc will at its own expense
 - i) Defend, or at its option settle, any claim or suite against the End User on the basis of infringement of any Trademark, copyright, trade secret or US patent ("Intellectual Property Rights) by the Application or use thereof, and

- ii) Pay any final judgement entered against the End User in such issue or any settlement thereof, provided:
 - A) Scriptarus Solutions Inc has sole control of the defence and/or settlement,
 - B) End User notified Scriptarus Solutions Inc promptly in writing of such claim or suit and gives Scriptarus Solutions Inc all information known to End User relating thereto; and
 - C) End User cooperates with Scriptarus Solutions Inc in the settlement and/or defence.

End User shall be reimbursed for all reasonable out of pocket expenses incurred in providing any cooperation requested by Scriptarus Solutions Inc. If all or any part of the application are, or in the opinion of Scriptarus Solutions Inc may become, the subject of any claim or suit for infringing on Intellectual Property Rights. Scriptarus Solutions Inc may, and in the event of any adjudication that the Application or any part thereof does infringe or if the use of an Applications or any part thereof is enjoined, Scriptarus Solutions Inc shall, at its expense do one of the following things:

- 1) Procure for the End User the right to use the Program of the part affected thereof,
 - 2) Replace the Application of affected part with a non-infringing program.
 - 3) Modify the program or the affected part to make it non-infringing, or
 - 4) If none of the foregoing remedies are commercially feasible, refund the aggregate payments paid by End User to Scriptarus Solutions Inc for the value of the fee paid for the preparation of one Script Order
- b) Scriptarus Solutions Inc shall have no obligations under this section 6.5 (a) to the extent a claim is based upon:
 - i) The use of a current, unaltered release,
 - ii) The combination, operation or use of the Application which was not provided by Scriptarus Solutions Inc; if such infringement would have been avoided in the absence of such a combination, operation or use, or
 - iii) The use of the application in such a manner not authorized by this Agreement.

The forgoing states the entire obligation of Scriptarus Solutions Inc with respect to the infringement of Intellectual Property.

- c) End User shall indemnify and hold Scriptarus Solutions Inc and licensors harmless from and against all claims, judgements, awards, costs, expenses, damages, and liabilities (including reasonable lawyers' fees) of any kind and nature that may be assessed, granted, or imposed against Scriptarus Solutions Inc directly or indirectly arising from or in connection with:
 - i) Any claims that any software supplied by the End User (other that the Application) infringe on a third party intellectual property rights,
 - ii) Any misrepresentation made by End User regarding the Application, and
 - iii) Any warranty, representation or guarantee made by the End User with respect to the Application in addition to the limited warranty specified in Section 6.4 of this Agreement.

6.6 Default and Termination

- a) If this agreement expires or is terminated by either party for any reason the End User will pay all sums owing to Scriptarus Solutions Inc.
- b) If the End User fails to pay any sum of money past due and owing under this agreement within 15 days of written notice thereof from Scriptarus Solutions Inc, Scriptarus Solutions Inc shall have the right to terminate this agreement without further notice to End User. If either party breaches any of the terms, conditions or provisions of this agreement, and fail to cure such breach within 30 days after written notice thereof, the other party shall have the right to terminate this Agreement without any further notice.
- c) In the event of a party's uncured breach of this Agreement, the non-breaching party may, in addition to the right to withhold its performance under and/or terminate this Agreement, avail itself of all other rights, remedies and causes of action available at law, in equity or otherwise, against such party for damages as a result of such a breach. Unless otherwise provided in this Agreement, remedies shall be accumulative. There shall be no obligation to exercise such a remedy. Except as set forth below in Section 6.6 d, upon termination of this Agreement, End User shall immediately destroy or return to Scriptarus Solutions Inc, at End User's expense, all copies of the Application and Database Engine used internally and all other materials and Confidential Information provided by Scriptarus Solutions Inc under this Agreement.
- d) In the event of any expiration or termination of this agreement (other than termination by iAnywhere (under Section 6.6 b above) End User Shall be entitled to retain all Applications and Database Engines for which the End User has paid. This section 6.6 shall survive the termination or expiration of the Agreement.

6.7 General

- a) The laws of Canada govern this agreement. If either party is compelled to seek judicial enforcement of its rights under this agreement, the prevailing party in any such action shall be entitled to recover its cost and expenses incurred in enforcing its rights, including reasonable attorney's fees.
- b) The parties shall be deemed to be independent contractors.
- c) All notices and demands of any kind or nature relating to this Agreement shall be in writing and may be served personally or by prepaid United States or Canada mail or by private mail if confirmation of delivery is obtained to the address shown on page one of this Agreement.
- d) Each portion of this Agreement is severable from the entire Agreement, and in the events that any provision is declared invalid or unenforceable, that provision shall be amended if possible. In any event, the remaining provisions shall hereof be in effect. No waiver by either party or any default shall operate as a waiver of any other default or of a similar default on a future occasion. No waiver or amendment of any term or condition shall be effective unless in writing and signed by the party against whom enforcement is sought. Neither party shall be liable for any Failure to perform any obligation hereunder (except a failure to pay) due to causes beyond its reasonable control.
- e) This agreement is the complete and exclusive statement of the Agreement between the parties and supersedes all prior agreements and representations between them relating to the subject matter. Purchase orders shall be binding as to the products and services ordered, and the site for delivery of the Application and Database Engine as set forth on the face side of or a special attachment to the purchase order. Other term and pre-printed

terms on or attached to a purchase order shall be void. In the event of any conflict between the terms and conditions of this agreement and the terms and conditions of any Schedule the following order of precedence shall apply:

- i) The schedule for the applicable Application and Database management software, and
- ii) The terms of this agreement.

The End User may not assign this Agreement or any of its rights hereunder without Scriptarus Solutions Inc's prior written consent, which shall not be unreasonably withheld.

Schedule

The nominal fee to use ScriptGuru is set at 0.75% of the wholesale value of each order.

Discounts are available based on usage.