

## END-USER SOFTWARE LICENSE AGREEMENT

**IMPORTANT - PLEASE READ THIS AGREEMENT CAREFULLY BEFORE DOWNLOADING OR INSTALLING THE SOFTWARE. THIS AGREEMENT PROVIDES IMPORTANT INFORMATION CONCERNING THE SOFTWARE, PROVIDES YOU WITH A LICENSE TO USE THE SOFTWARE AND CONTAINS WARRANTY AND LIABILITY INFORMATION.**

**BY DOWNLOADING THE SOFTWARE, YOU AGREE TO ENTER INTO THIS END-USER SOFTWARE LICENSE AGREEMENT WITH ENVEX DEVELOPMENTS INC. (the "Licensor") AS OF THE DATE OF DOWNLOAD OR ORDERING (the "Effective Date"), AND AGREE TO BECOME BOUND BY THE FOLLOWING TERMS AND CONDITIONS. IF YOU DO NOT WISH TO DO SO, PROMPTLY EXIT THIS PAGE WITHOUT DOWNLOADING OR ORDERING THE SOFTWARE.**

1. **Definitions.** In this Agreement, capitalized terms have the meanings ascribed to those terms in Schedule "A" attached hereto.
  2. **Grant of Non-Exclusive License.** Subject to the terms and conditions of this Agreement, the Licensor grants to you a non-exclusive, non-transferable, revocable and personal license to use the Software only for internal business use as follows:
    - (a) you may install and use one copy of the Software on your computer including any workstations, terminals or other digital electronic devices that you use at your place of business ("Computers") up to the number of simultaneous users for which you have paid the License Fee; and
    - (b) you may store or install one copy of the Software on a storage device such as a network server used only to install and run the Software on your other Computers over an internal network to support up to the number of simultaneous users for which you have paid the License Fee.
  3. **License Restrictions.** The Software is licensed and not sold to you. You have no ownership rights in the Software, rather this license gives you limited rights to use the Software.
  4. **Your Covenants.** You will
    - (a) adopt and enforce such internal policies, procedures and monitoring mechanisms to ensure that the Software is used in accordance with this Agreement; and
    - (b) take all steps necessary to ensure that no person or entity will have unauthorized access to the Software;and will not, and will not permit any other person or entity to:
    - (c) sell, assign, rent, lend, transfer, distribute, sublicense or otherwise dispose of any of your rights or obligations under this Agreement or in the Software;
    - (d) possess or use the Software or any portion thereof other than in machine readable object code;
    - (e) modify, decompile, reverse engineer or disassemble the Software or rent, resell, distribute or create any derivative works based upon the Software; or
    - (f) remove or obscure the Licensor's copyright, trademark or other proprietary notices or legends from any of the materials contained in the Software, unless permitted to do so by the plan you have chosen.
  5. **Copying.** You will use the Software only in the manner expressly permitted by this Agreement. Except as permitted herein, you are authorized to use the Software only in connection with a single computer. If you wish to utilize the Software on more than one computer, you must license another copy of the Software. You may only make a copy of the Software as it reasonably requires for performing your obligations hereunder (including back-up and archival copies). You will not otherwise copy or distribute the Software and will accurately reproduce on each copy of the Software all copyright, confidentiality and proprietary notices specified by the Licensor and its suppliers unless otherwise permitted to do so by the plan you have chosen.
  6. **Title to Software.** The Software is protected by copyright laws and international treaties. You acknowledge that the Software, including, without limitation, all modifications, all enhancements and derivatives, and all patents, copyrights, trade secrets and other proprietary rights in and to the Software are and will at all times remain the exclusive property of the Licensor and its suppliers.
  7. **Your Responsibilities.** You, and not the Licensor, are responsible for:
    - (a) the selection of the Software;
    - (b) the installation of the Software on your Computers; and
    - (c) the use of and results obtained from the Software.
    - (d) your operating environment;
    - (e) the maintenance of your Computers or other equipment on which the Software is to operate;
    - (f) the provision of adequate back-up for the Software; and
    - (g) the provision of competent operators for the Software.
  8. **Support Services.** The Licensor will provide support services for the Software as described in the Service Plan [http://docs.envex.com/legal/support\\_policies.pdf](http://docs.envex.com/legal/support_policies.pdf) which may be amended from time to time on thirty days notice posted on the Licensor's website. Other than the foregoing, support services for the Software are not provided as part of this Agreement.
  9. **Upgrades and New Versions.** The Licensor may, from time to time, produce upgrades or new versions of the Software. The Licensor may offer to license such upgrades or new versions to you at subscription prices to be determined by the Licensor, in its sole discretion. You are not obligated to purchase any such upgrades or new versions.
  10. **License Fee and Taxes.** You agree to pay to the Licensor a license fee in the amount (the "License Fee") as determined by the plan you have chosen. You also agree that payment of the License Fee will be made according to the method of payment you have chosen. If you have chosen to pay the License Fee:
    - (a) in a lump sum, your credit card will be charged on the Effective Date, or you must submit a Bank Wire or pay by Planet Payment Assured (PayPal); or
    - (b) through the license financing option, your credit card will be charged the first monthly amount on the Effective Date and, subsequently, the appropriate monthly amount every month for the agreed upon term of lease.
- The License Fee does not include sales, use or other taxes. You will pay any and all taxes arising out of this Agreement or the use of the Software, except taxes imposed on the Licensor's income including,

without limitation, any withholding taxes that may be imposed on the Licensor or you.

- 11. Limited Warranty.** The software is licensed "as is" without warranty of any kind except to the extent provided hereinafter. The Licensor warrants that (a) it has the right to license the Software to you pursuant to this Agreement; and (b) the Software will perform substantially in accordance with the performance standards specified by the Licensor for a period of 30 days after the Effective Date. The Licensor does not warrant that the Software will operate on an uninterrupted, error-free basis or that defects will be corrected or that the Software will meet any particular criteria of performance or quality.
- 12. Your Exclusive Remedy.** Your exclusive remedy and the Licensor's sole liability for any failure of the Software to meet the limited warranty contained in Section 11 hereof will be limited to, provided the Licensor receives notice of such non-conformity within the limited warranty period and at the Licensor's option, either: (a) using its best efforts to correct any defect in the Software; or (b) replacing the Software. If the Licensor fails to correct a material, documented, reproducible defect or error within 15 days of being notified of such non-conformity you may, at your discretion, terminate this Agreement, and the Licensor will refund to you the amount of the License Fee paid by you for the defective Software, less an allowance for the reasonable value of your use of such Software.
- 13. Warranty Exclusions.** The Licensor's warranty obligation under Section 11 hereof will not apply to any defect or non-conformity in the Software resulting from:
- (a) any modification or adaptation to the Software made by a party other than the Licensor;
  - (b) improper use or operation of the Software or the applicable system;
  - (c) accident, neglect, misuse, failure of electric power, failure to provide appropriate maintenance, calibration or environmental conditions, relocation of hardware or causes other than ordinary use;
  - (d) repair or alteration, or attempted repair or alteration, of the Software by persons other than the Licensor;
  - (e) failure caused by a product for which the Licensor is not responsible; or
  - (f) damage or destruction caused by natural or manmade acts or disasters.
- 14. WARRANTY DISCLAIMER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LIMITED WARRANTY CONTAINED IN SECTION 11 HEREOF IS THE SOLE AND EXCLUSIVE WARRANTY MADE BY THE LICENSOR WITH RESPECT TO THE SOFTWARE AND IS IN LIEU OF, AND THE LICENSOR DISCLAIMS, ALL OTHER WARRANTIES, REPRESENTATIONS AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION, WARRANTY OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, MERCHANTABLE QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT THE LICENSOR IS NOT LIABLE IF THE SOFTWARE DOES NOT MEET YOUR REQUIREMENTS OR IF THE SOFTWARE WILL NOT OPERATE FREE OF ERRORS, UNINTERRUPTED OR IF THE SOFTWARE WILL NOT FUNCTION IN YOUR HARDWARE ENVIRONMENT.**
- 15. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING CONTRARY CONTAINED HEREIN, THE**

**LICENSOR'S AND ITS SUPPLIER'S MAXIMUM LIABILITY TO YOU FOR CLAIMS OF ANY KIND IS LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU TO THE LICENSOR FOR THE SOFTWARE. IN NO EVENT WILL THE LICENSOR OR ITS SUPPLIERS BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, DOWNTIME COSTS, LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR BUSINESS INFORMATION OR ANY OTHER DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, EVEN IF THE LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER RESULTING FROM OR AS A RESULT OF BREACH OF CONTRACT, NEGLIGENCE OR ANY OTHER TORT.**

- 16. Term.** This Agreement will remain in effect until it is terminated in accordance with the terms of this Agreement.
- 17. Termination by Licensor.** The Licensor may, at its option, terminate this Agreement and License granted under this Agreement if you fail to perform any or all of your obligations hereunder. In addition to the provisions of section 20, if the Licensor elects to terminate this Agreement, you will immediately pay to the Licensor the unpaid portion of License Fee in respect of the Software. For greater certainty, you agree that if you have chosen the license financing option, you will immediately pay the total remaining monthly installments of the License Fee and that the Licensor may charge your credit card for such on the date of termination.
- 18. Termination by End-User.** You may terminate this License Agreement and receive certain refunds. In the event that you elect to terminate in accordance with this section, the Licensor will refund:
- (a) if you give notice of termination to the Licensor within 30 calendar days of the Effective Date, the paid portion of the License Fee; and
  - (b) any positive balance in your Service Plan Account (which is described at [http://docs.envex.com/legal/support\\_policies.pdf](http://docs.envex.com/legal/support_policies.pdf) ), except that no refund will be provided in respect of a positive balance which remains from any initial balance of \$100.00 provided to you by the Licensor pursuant to the Service Plan (which is described at [http://docs.envex.com/legal/support\\_policies.pdf](http://docs.envex.com/legal/support_policies.pdf) ).
- Any refund referred to above will be less
- (c) any unrefundable taxes; and
  - (d) if the Software has been installed on your web server, a refund fee of U.S. \$50.
- 19. Method of Refund.** If any refund is payable to you, the Licensor will pay this to you through one of the following methods, the choice of which is in the sole discretion of the Licensor:
- (a) by cheque payable to you; or
  - (b) by reversing the applicable charge(s) to your credit card.
- 20. Effect of Termination.** If either you or the Licensor elects to terminate this Agreement, the Licensor may, but will not be obligated, to exercise any or all of the following rights:
- (a) all of the Licensor's obligations hereunder will terminate;
  - (b) all of your rights, other than those set out in section 18, hereunder will terminate; and

- (c) you will:
  - (i) immediately cease using the Software; and
  - (ii) immediately allow the Licensor access to your computer or network so that the Licensor may delete or destroy the Software and all copies.

This requirement as contained in section (c) applies to copies in all forms, partial and complete, in all types of media and computer memory and whether or not modified or merged into other materials.

- 21. Non-Infringement Warranty.** Except to the extent that the Software is modified or enhanced by a person other than the Licensor, the Licensor represents and warrants that neither the Software nor the use thereof as permitted by this Agreement violates or infringes any copyright, trade secret or other intellectual property right of any person.
- 22. Indemnity.** You will indemnify the Licensor for all fees, charges, costs, or expenses, including, without limitation, solicitors' fees and disbursements on a solicitor and his own client basis, (collectively referred to as "Costs") levied or charged by any solicitors or inspectors retained by or on behalf of the Licensor in connection with any action against you to enforce this Agreement or any action against any person or entity resulting from any infringement or improper disclosure of any patent, copyright or other intellectual property by you, including, without limitation, a breach of Sections 4 or 5 of this Agreement by you. Such Costs will be payable by you to the Licensor on demand, and will bear interest at 7.5% until paid.
- 23. Survival.** Sections 6, 11, 12, 13, 14, 15, 16, 20 and 22 will survive termination of this Agreement for any reason.
- 24. Time.** Time will be of the essence of this Agreement.
- 25. Assignment and Binding Effect.** You will have no right to assign the benefit of this Agreement without the prior, express written consent from the Licensor. This Agreement will enure

to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

- 26. Entire Agreement.** This Agreement and the Schedule attached hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior negotiations, prior agreements, representations, warranties, conditions and undertakings (whether oral or written).
- 27. Interpretation.** This Agreement will be read with all changes of gender or number as required by the context. The headings in this Agreement are inserted for ease of reference and do not affect its interpretation.
- 28. Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein. Each of the parties irrevocably attorns to the exclusive jurisdiction of the courts of the Province of Alberta.
- 29. Severability.** Any provision of this Agreement that is void, voidable or unenforceable in any jurisdiction will be ineffective to the extent of it being void, voidable or unenforceable without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction and the remainder of this Agreement will be interpreted so as to reasonably effect the intention of the parties.
- 30. Amendment and Waiver.** No modification, variation or amendment of this Agreement will be effective without the written consent of both parties hereto. No provision hereof may be waived unless in writing and signed by the party waiving its rights under this Agreement. The failure of either party at any time to require strict performance by the other party of any provision hereof will in no way affect the full right to require such performance at any time thereafter. Neither will the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

**SCHEDULE "A" - DEFINITIONS**

In this Agreement, the following terms will have the following meanings:

- (a) "Agreement" means this End-User Software License Agreement, including all schedules attached hereto, as amended or supplemented from time to time;
- (b) "Applications" means the whole or any part or any combination of:
  - (i) the computer software programs currently known as:
    - (A) "Web Site Replicator" which was developed as a network marketing/MLM program application; and
    - (B) "Automatic E-Mail Follow Up System" which was developed as e-mail and mailing list program application;
  - (ii) all present and future modifications or enhancements to, or versions or derivatives of, the applications described in subsection (i) above that the Licensor may elect to provide to you from time to time;
- (c) "Code" means the whole or any part or any combination of the;

- (i) "Object Code", which means the binary or machine-readable version or form of the computer programming code generated by the compilation of the Source Code to execute the Applications; and
- (ii) "Source Code", which means the complete source code version of the Applications (including, without limitation, all modifications and enhancements thereto or derivatives thereof).
  - (A) "Documentation" means all present and future documentation for the Applications including, but not limited to, all documentation intended for an end user, all technical documentation, memoranda, correspondence and other such documentation containing or relating to the design, structure or coding of, or routines used in the Applications;
  - (B) "Software" means the Applications and the whole or any part of or any combination of the Code and the Documentation.