KDM Analytics Freeware License Agreement

April 04, 2007

License

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      Such fees as may be charged by KDM ANALYTICS to User, or by User to third parties, to compensate for the cost of the media used to transfer the Software.

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      The right for User to use the Software pursuant to the terms and conditions defined herein. The absence of a license fee shall in no way be an indication of a willingness or desire on the part of KDM ANALYTICS to place the Software in the public domain. KDM ANALYTICS intends to retain, and does retain, all intellectual property and ownership rights   in   the   Software.

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   A. This agreement shall be accepted by User upon User's performance of any of the following acts:

      a.   Installation, copying, or use of the Software on one or more of User's computers;

      b.   Distribution of the Software to any party other than KDM ANALYTICS;

      c.   Retention of installable version of the Software for more than fifteen (15) days; or

      d.   Any other act not consistent with non-acceptance of the terms and conditions recited herein.

B. If User does not accept the terms and conditions recited herein, User shall delete, return, and/or discard any files, data, or materials associated with the Software.

C. If User has a License Agreement executed by an authorized representative of KDM ANALYTICS (and "Executed Agreement") containing one or more terms and conditions which are inconsistent with the terms and conditions contained in the shrink-wrap license, then to the extent necessary, the terms and conditions of the Executed Agreement shall supersede those of the shrink-wrap license.

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A. User may use the Software on an unlimited number of computers.

B. User may distribute the Software to third-parties only where such third-parties are aware of, and agree to be bound by, the terms and conditions contained in this Agreement. Such distribution shall include all files associated with the Software.

C. User may only use the Software in accordance with its intended use as documented by KDM ANALYTICS and distributed along with the Software.

D. The Software may not be used to support any third party product without the express written consent of an authorized representative of KDM ANALYTICS.

E. User may not modify the Software, any accompanying documentation, or any file utilized in the delivery or distribution of the Software or any accompanying documentation, without the express written consent of an authorized representative of KDM ANALYTICS.

F. User may not reverse engineer, decompile, nor take any other steps consistent with an attempt to reveal any confidential, trade secret, or other non-public information associated with the Software. Further, User may not assist any other party attempting to reverse engineer, decompile, nor take any other steps consistent with an attempt to reveal any confidential, trade secret, or other non-public information associated with the Software. Should User become aware of any activity in violation of this term, whether or not under User's control or authorization, User will inform KDM ANALYTICS of such activity and assist KDM ANALYTICS in terminating such activity and protecting its threatened rights.

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H. User may not sell, rent, lease, distribute, or use the Software, nor cause the Software to be sold, rented, leased, distributed, or used, where such sale, rental, lease, distribution, or use is prohibited by any statute or governmental agency of the United States or other

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The terms and conditions of this Agreement shall remain effective until this Agreement is terminated. Termination may be affected as follows:

    a.   Termination by User. User may terminate this Agreement at any time by destroying all copies of the Software, as indicated below.

    b.   Termination   by   KDM   ANALYTICS.

        i. KDM ANALYTICS may terminate this Agreement at any point upon notice to User if user, in KDM ANALYTICS' sole discretion, is in breach of any of the terms and conditions contained herein, and fails to remedy such breach within a reasonable period, but in no event more than ten (10) days, following receipt of such notice.

        ii. KDM ANALYTICS may terminate this Agreement at any point upon notice to User if KDM ANALYTICS ceases to offer Freeware licenses, or changes the terms and conditions under which such licenses are offered, and User is unwilling to accept the revised terms and conditions.

        iii. KDM ANALYTICS may terminate this Agreement at any point should User's normal business operations be disrupted or discontinued for more than thirty (30) days due to User's insolvency, bankruptcy, receivership, or business termination.

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c. USER acknowledges that the results of the KDM ANALYTICS Software depend on the data provided by USER for use with the (the "Data"). USER shall bear full responsibility for the accuracy of the Data used with the Software. USER acknowledges that the Software is a tool to assist personnel in the analysis of software code and is not a substitute for personnel with expertise in such analysis.

8. RESTRICTED RIGHTS
If the rights granted hereunder are acquired by or on behalf of the U.S. Government, then this provision applies. The Software
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    b. is "restricted computer software" licensed in accordance with restricted rights provisions of subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights clause FAR 52.227-19 and its successors,
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9. GENERAL
    a. NON-WAIVER. No waiver by either of the parties hereto of any breach of any condition, covenant or term hereof shall be effective unless it is in writing and it shall not constitute a waiver of such condition, covenant or term except in respect of the particular breach giving rise to such waiver.
    b. ENTIRE AGREEMENT. This agreement contains the whole of the agreement between the parties hereto concerning the matters provided for herein and there are no collateral or precedent representations, warranties, agreements or conditions not specifically set forth in this agreement and none have been relied on by either party as an inducement to enter into this agreement. This agreement supersedes any prior proposal, representation or understanding between the parties hereto.
    c. NON-MODIFICATION, No modification, amendment or variation of this agreement shall be of effect or binding upon the parties hereto unless agreed to in writing by them.
    d. LAW AND JURISDICTION. This agreement shall be governed by the laws of the province of Ontario and the laws of Canada applicable therein. The United Nations Convention on the International Sale of Goods shall not apply to this agreement or the transactions contemplated hereunder.
    e. LANGUAGE This agreement has been prepared and drawn up in the English language. In the event that this agreement is translated into any other language and in the event of a discrepancy in the interpretation between the English text and the text of the other language, the English text shall govern.
    f. SEVERABILITY If any provision of this agreement is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed from this agreement and the remaining provisions shall continue in full force and effect.
    g. HEIRS AND ASSIGNS. This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but nothing in this paragraph shall be construed as a consent by KDM ANALYTICS to any assignment of this agreement except as provided hereinabove.