

## License Agreement

This license agreement (hereinafter the "Agreement"), is entered into between Lavasoft AB, 556629-6470 \*, ("Licensor") and [Name, Reg. No. +], ("Licensee"). Licensor and Licensee are referred to in this Agreement as "Party" or "Parties".

## 1. Background

- 1.1 Licensor holds all intellectual and proprietary rights pertaining to the software Ad-aware (the "Software"). The Software includes updates, upgrades and new releases of the Software which have been made officially available for the Licensor's licensees.
- 1.2 This Agreement contains the terms and conditions for Licensee's right to use the Software.
- 1.3 This Agreement does not contain the terms for the other services related to the Software such as installation, adaptation, implementation and conversion of data, support and maintenance (other than as set forth in Section 8) or training. Such services may be rendered by Licensor to Licensee pursuant to specific agreements.
- 1.4 Licensee acknowledges that the license granted in this Agreement entitles Licensee to use the Software only on one computer installation and in relation to Licensee's own business.

## 2. Definitions and Schedules

- 2.1 For the purpose of this Agreement, the definitions set out below will have the following meaning:

"Agreement" shall mean this agreement including the from time to time applicable ap-pendices;

"Confidential Information" shall mean any information and know-how related to the Software or as otherwise provided by one Party to the other Party, provided that such information has been identified to be confidential, or if it is obvious without such identification that the information is to be treated as confidential. In addition, Confidential Information includes any analysis or amalgamation or compilation of the confidential information performed by the receiving Party;

"Date of Delivery" shall mean [DATE];

"Licensee" shall mean the legal entity who acquires the right to use the Software pursuant to this Agreement;

"Software" shall mean the object code (in machine-readable form only) to the Ad-Aware application specified in Schedule 1, including all subsequently released updates and bug-fixes, and technical documentation relating to the Software;

"Specification" shall mean the Software's technical and functional specifications as set out in Schedule 1.

- 2.2 This Agreement has the following appendices which form an integral part hereof:

Schedule 1            Specification of the Software

Schedule 2            License Fee

## 3. License

- 3.1 During the term of this Agreement, and in consideration of the payment of all fees hereunder, Licensor grants to Licensee a non-exclusive and non-transferable right to use the Software on the terms and conditions in this Agreement.
- 3.2 The Software may only be used in Licensee's own business.
- 3.3 This Agreement entitles Licensee to install and operate the Software on one computer installation.

3.4 Licensee may not enter into any outsourcing agreements or by any other means allow a third party to either install or execute the Software in any computer networks without Licensor's prior written consent. Such consent shall not be unreasonably withheld.

## 4. Delivery

4.1 On the Date of Delivery, Licensor shall deliver the most current release of the Software on a compact disc or similar media to Licensee or through electronic transmission via the Internet. The delivery shall also include one copy of all necessary documentation regarding the Software. The Software shall be considered delivered when the Software and the documentation is accessible for Licensee.

4.2 Unless agreed by the Parties in separate agreements, Licensor shall not be responsible for any additional services such as (i) installation, (ii) customized adaptation, (iii) education and training in the use, (iv) implementation and conversion of the Software, or (v) integration - through application protocol interface (API) or otherwise - of the Software with Licensee's other software products.

4.3 Licensee is responsible for the installation of the Software and may install the Software on one computer only.

## 5. Licensee's Obligations

5.1 Licensee undertakes to use the Software only for its sole and exclusive benefits in its own business and undertakes not to modify, translate, reverse engineer, decompile, dis-assemble (except to the extent that this restriction is expressly prohibited by law) or create derivative works based upon the Software or documentation. Licensee also undertakes not to copy the Software or its documentation, rent, lease, transfer, or otherwise transfer rights to the Software or documentation or in any other way make the Software or its functionality available to any third party without Licensor's prior written approval.

5.2 Licensee acknowledges that Licensor assumes no liability for any malfunctions, etc. in the Software performance pertaining to Licensee's computer environment.

5.3 Upon discovery of an error or malfunction in the Software, Licensee shall immediately inform Licensor thereof in a written report. Such report shall contain a detailed description of the error or malfunction.

5.4 Licensee undertakes to see that Licensee's use of the Software is in accordance at all times with this Agreement. Licensee assumes full liability to pay any additional license fee to Licensor due to Licensee's breach of this Agreement. This provision shall not limit Licensor's right to assert other sanctions which may be invoked as a consequence of illegitimate use by Licensee.

## 6. Delay in Delivery

6.1 Where the Software has not been delivered to Licensee on the Date of Delivery and the delay is caused by Licensor, Licensee is entitled to rescind this Agreement provided, however, that Licensor, after confirming the delay, has been granted a period of thirty (30) days to complete the delivery.

6.2 Where, as a consequence of a delay due to circumstances for which Licensee is responsible, Licensee has not fulfilled its obligations pursuant to Section 5, or where Licensor is otherwise prevented from performing its obligations pursuant to this Agreement, the Date of Delivery shall be postponed for the period of time during which the circumstances causing the delay exist, taking into consideration a reasonable start-up period following the cessation of the delay.

## 7. Price and Payment

- 7.1 Licensee shall pay a license fee in accordance with Schedule 2. All fees shall be subject to sales tax/VAT, which shall be added as applicable as well as other special taxes or fees imposed by changes in public regulations introduced after the signing of this Agreement with respect to the deliverables and services of this Agreement.
- 7.2 Where payment has not been made on the due date, Licensor shall be entitled to penalty interest on overdue payments as prescribed by the Swedish Interest Act (SFS 1975:635). Where Licensee fails to pay past-due amounts within thirty (30) days of a demand by Licensor to that effect, Licensor shall be entitled to terminate the Agreement in its entirety by written notice. In the event Licensor terminates the Agreement, Licensor is also entitled to damages.

## 8. Support and Maintenance

- 8.1 In consideration for the Licensee's due payment of the license fee, Licensor shall provide Licensee with support and maintenance services regarding the Software during the term of the Agreement.
- 8.2 The support services available for the Licensee shall consist of reasonable e-mail support during Licensor's business hours.
- 8.3 The maintenance services available for the Licensee shall consist of the provision of bug-fixes, new releases of updates and up-grades of the Software as soon as such are made officially available by Licensor.

## 9. Warranty and Liability for Defects

- 9.1 Licensor warrants that the Software in all material aspects will perform in accordance with the Specification. However, Licensor does not warrant that Licensee's use of the Software will be uninterrupted or that the operation of the Software will be error-free or secure.
- 9.2 The Software shall be considered to be defective where the Software materially deviates from the Specification, provided that Licensee has used the Software in accordance with the documentation and other specific written instructions given to Licensee. Deviation from the Specification that are of no importance for Licensee's intended use of the Software shall not constitute liability for Licensor.
- 9.3 Licensor shall only be liable for defects reported within three (3) months from the Date of Delivery (warranty period) and shall have no responsibility whatsoever for defects relating to the installation of the Software, unless installation has been carried out by Licensor. Defects for which Licensor is liable shall be rectified free of charge and without unreasonable delay after Licensor has received written notice of the defect. Licensor shall carry out uninterrupted remedial work during Licensor's normal working hours until such time as the defect has been rectified. In order to be entitled to rectification, Licensee must notify Licensor in writing of the defect immediately upon its discovery.
- 9.4 Licensor may rectify the defect by (i) providing a bug-fix, (ii) giving Licensee instructions of how to circumvent the defect in order to minimize operational disruptions or (iii) giving instructions in a manner in which Licensee itself can remedy the defect. Rectification shall be carried out without unreasonable delay.
- 9.5 In lieu of rectifying the defect, Licensor may supply new Software of the same release as the delivered Software or a subsequent release of the Software.
- 9.6 Licensee shall be entitled to terminate this Agreement where a material defect (i.e. an error that renders the use of the Software impossible) arises within the warranty period and where such material defect is not rectified, or new Software is not delivered, without unreasonable delay from Licensee's notice thereof. In the event of termination pursuant to this section, the license fee shall be reimbursed to Licensee, subject to a reasonable reduction for the benefits inuring to Licensee's use of the Software.

## 10. Limitation of Liability

- 10.1 Except as provided in Section 9 above, Licensor shall not have any liability for the functionality or quality of the Software.
- 10.2 Licensor shall be liable for damage to Licensee's property caused by negligence on the part of Licensor. Licensor's liability for such damage shall only cover compensation for direct losses and Licensor's total liability under this Agreement shall be limited to an amount corresponding to the amounts received from Licensee at the time of the tortuous/damaging act.
- 10.3 Licensor shall be liable for damages, other than in cases stipulated in Sections 10.2 and 14.3, caused by negligence on the part of Licensor as set forth below. Licensor liability comprises only direct losses and only to an amount corresponding to the amounts received from Licensee at the time of the tortuous/damaging act or omission.
- 10.4 Under no circumstances shall Licensor be liable to compensate Licensee for any indirect and/or consequential losses including, but not limited to, loss of data, loss of profit, loss of production or other indirect damages, regardless of its nature.
- 10.5 The limitations in Sections 10.2 to 10.4 shall not apply, where Licensor has acted with gross negligence or willful misconduct.
- 10.6 Where Licensee is in breach of this Agreement, Licensee shall compensate Licensor for damage incurred by Licensor as a consequence thereof, regardless of whether Licensor chooses to terminate the Agreement or not. Where the breach of this Agreement consists of the unauthorized reproduction of the Software by Licensee, Licensee shall pay an additional license fee for such copies and, in addition hereto, shall compensate Licensor for damages.
- 10.7 Claims for compensation pursuant to this Section 10 must be made within three (3) months after the circumstance giving rise to the claim became known to the Party claiming compensation. This limitation shall not, however, apply to infringements of Licensor's intellectual property rights in the Software or claims for payment of license fee and/or additional license fees.
- 10.8 Licensee agrees that its exclusive remedies and Licensor's entire liability with respect to the Software shall be as set forth herein.

## 11. Force Majeure

- 11.1 Notwithstanding anything else contained in this Agreement, neither Party shall be liable for any delay in performing its obligations hereunder if such delay is caused by circumstances beyond its reasonable control (including without limitation any delay caused by any act or omission of the other Party) provided, however, that any delay by a sub-contractor or supplier of the Party so delaying shall not relieve that Party from liability for delay except where such delay is beyond the reasonable control of the sub-contractor or supplier concerned. Subject to the Party in delay promptly notifying the other Party in writing of the reasons for the delay (and the likely duration of the delay), the performance of such Party's obligations shall be suspended during the period that the said circumstances persist and such Party shall be granted an extension of time for performance equal to the period of the delay. Save where such delay is caused by the act or omission of the other Party (in which event the rights, remedies and liabilities of the Parties shall be those conferred and imposed by the other terms of this Agreement and by law):
- (a) any costs arising from such delay shall be borne by the Party incurring the same; and
- (b) either Party may, if such delay continues for more than three (3) months, terminate this Agreement forthwith on giving notice in writing to the other in which event neither Party shall be liable to the other by reason of such termination.

## 12. Assignment of the Agreement, Change of Control

- 12.1 Licensee is not entitled to assign its rights or obligations pursuant to this Agreement. Licensee may not sub-license, lease, or lend any rights obtained pursuant to this Agreement.
- 12.2 In case Licensee transfers a business unit to a third party in which the Software has been installed in accordance with this Agreement, or should there be a change of control of Licensee, meaning that shares representing more than twenty (20) percent of the shareholdings are transferred from the current shareholders to another party or parties, Licensor shall be entitled to terminate this Agreement or - at Licensor's choice - exclude such unit from the license granted under this Agreement.
- 12.3 Licensor may assign its rights to a third party pursuant to this Agreement or delegate the performance of its obligations to a subcontractor.

## 13. Intellectual Property Rights

- 13.1 All intellectual property rights in or relating to the Software including all documentation submitted to Licensee under this Agreement, or any other work or services pertaining to this Agreement in relation to the Software shall vest in Licensor. Licensee does not acquire any rights, express or implied, in the Software, other than those specified in this Agreement. Licensee further agrees to take and assist Licensor in all other such measures as are necessary to protect the intellectual property rights of the Licensor in the Software.

## 14. Infringement Claims

- 14.1 Licensor warrants that the use of the Software and documentation in accordance with this Agreement does not infringe the intellectual property rights of any third party.
- 14.2 Licensor undertakes, at its own expense, to defend Licensee where claims are made against Licensee based on infringements in connection with Licensee's use of the Software of such third party's rights.
- 14.3 Licensee hereby authorizes Licensor to defend Licensee in proceedings before courts of law as well as in other cases. Licensor undertakes to hold Licensee harmless from claims made against Licensee based on infringements in connection with Licensee's use of the Software, provided that Licensee has used the Software in accordance with the terms and conditions in this Agreement. Immediately upon receipt of such claim, Licensee shall inform Licensor in writing and give a detailed account of the claim.

## 15. Term of the Agreement and Rescission

- 15.1 This Agreement shall enter into force on the day both Parties have signed the Agreement and shall remain in effect for one (1) year. If Licensee wants to prolong the Agreement, the parties shall enter into discussions on the terms and conditions for the prolongation three (3) months prior to termination.
- 15.2 This Agreement may be terminated:
- (a) forthwith by either Party if the other Party commits any material breach or persistent breaches of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within thirty (30) days of receipt of a written request to remedy the same. The Parties acknowledge that Licensee's infringement of Licensor's intellectual property rights always constitute such material breach;
  - (b) forthwith immediately by either Party if the other Party becomes insolvent or starts negotiations about composition with its creditors or a petition in bankruptcy is filed or it makes an assignment for the benefit of its creditors.

- 15.3 Any termination of this Agreement shall be without prejudice to any other rights or remedies a Party may be entitled to hereunder or by law and shall not affect any accrued rights or liabilities of either Party, nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- 15.4 Upon termination of this Agreement, Licensee shall immediately return the Software, all copies thereof, and all documentation to Licensor. In connection herewith, Licensee shall in writing certify that Licensee does not possess, directly or indirectly, in whole or in part, the Software, documentation, or copies thereof, irrespective of the form of such copy.

## 16. Confidentiality and Non-Disclosure

- 16.1 The Software and its documentation are confidential information and a trade secret (Sw. företagshemlighet) of the Licensor. The Licensee agrees not to disclose Confidential Information to any third party, with the exception of its personnel or duly authorized representatives, without having obtained advance written approval from Licensor.
- 16.2 Each Party agrees to communicate Confidential Information only to its employees and only to the extent necessary for the performance of their functions and only to the extent that those employees are bound by the same confidentiality obligations as set forth herein. Each Party agrees not to disclose Confidential Information to any third party whatsoever, and in particular to the competitors of the other Party, and not to make use of the Confidential Information in the performance of projects, missions or any other works undertaken for any other party.
- 16.3 The confidentiality obligation shall remain in full force and effect for a period of five (5) years following the expiration or termination of this Agreement.
- 16.4 The confidentiality obligation does not concern information:
- (a) which has fallen into the public domain without violating this Agreement;
  - (b) known by a Party prior to communication by the other Party;
  - (c) disclosed to a Party by a third party having the authority to disclose it;
  - (d) which must be disclosed by law (it being understood that the concerned Party should use all reasonable efforts to inform the other Party of such disclosure and to limit the required disclosure).

## 17. Amendments to the Agreement

- 17.1 This Agreement may only be amended by a written agreement duly executed by the Parties. This does not, however, in any way limit the right of Licensor to determine its prices and to revise the license fee.

## 18. Disputes and Choice of Law

- 18.1 This Agreement shall be governed by and construed in accordance with the laws of Sweden.
- 18.2 Any dispute, controversy, or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. Irrespective of the provisions set forth above, any demand under SEK 500,000 shall be conclusively settled by arbitration in accordance with the Rules for Expedited Arbitration of the Arbitration Institute of the Stockholm Chamber of Commerce.
- 18.3 The location of the arbitration shall be Stockholm. Unless otherwise agreed between the Parties, the language to be used in the arbitral proceedings shall be Swedish.

18.4 Notwithstanding the above, in respect to any overdue payments by Licensee, Licensor shall be entitled to initiate legal proceedings in a court of competent jurisdiction in Sweden or at the Swedish Executory Authority (Sw. kronofogdemyndigheten).

**19. Entire Agreement**

19.1 This Agreement, including appendices hereto, constitutes the Parties' entire agreement. The provisions of this Agreement and appendices hereby supersede all written or oral undertakings and commitments, including program specifications and suchlike, drafted prior to the Agreement.

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This Agreement has been executed in two originals, each Party taking one copy.

**Place and date:**

**Place and date:**

Gothenburg,

**Licensee:**

**Licensor:**

Lavasoft AB

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Printed Name**

## SPECIFICATION OF THE SOFTWARE

## LICENSE FEE