

SOFTWARE LICENSE AGREEMENT

Licensee _____ Agreement No. _____

Licensee Address

In consideration of the valuable promises and mutual covenants contained herein, Marble Computer, Inc., 4110 Rio Bravo, El Paso, TX 79902 (hereinafter "MCI") and the above-identified licensee (hereinafter "Licensee") agree as follows.

1. GRANT

- a. Subject to the terms and conditions contained herein, MCI grants to Licensee a non-transferable and non-exclusive license for the use of the computer software and related materials including documentation (hereinafter "Products") on the computer system or systems (hereinafter "Computer Systems") specified in Schedule A attached hereto and made a part hereof.
- b. The Products shall be used by Licensee only on the Computer Systems specified in Schedule A.
- c. Title to the Products shall remain in MCI. Licensee acquires only the right to use the Products during the term of this Agreement.
- d. If Licensee provides computer time, which uses the Products available, to any unaffiliated third party, Licensee agrees to amend this agreement to authorize such usage.
- e. MCI authorizes Licensee to copy the Products for its own use or for disaster recovery or emergency restart purposes. The original and any copies, in whole or in part, of the Products are the exclusive property of MCI. Licensee agrees that it will not otherwise copy or in any way duplicate the Products, in whole or in part, except as expressly authorized to do so by this Agreement or by prior written consent of MCI.

2. DELIVERY

- a. MCI agrees to deliver the Products on or before the Start Date (hereinafter "Start Date") specified in Schedule A. Delivery of the Products shall consist of a current version of the Products in machine readable form with related documentation.

3. TERM

This Agreement shall be effective on the date of last signing below and shall terminate after the greater of: (a) Twenty-Five (25) years from the Start Date; or, (b) the Maintenance Period and any renewals thereof, unless terminated under one or more of the provisions of this Agreement.

4. PAYMENTS

- a. Licensee agrees to pay MCI the license fees (hereinafter "License Fees") specified in Exhibit No. _____.
- b. Payments of License Fees are due within thirty (30) days of receipt of invoice. Payments not made within such thirty (30) days are subject to a late payment fee of 1-1/2% per month.
- c. The License Fees are exclusive of any tariffs, duties, or taxes imposed or levied by any government agency. Licensee shall be liable for payment of such taxes, however designated, levied, or based on Licensee's possession or use of the Products or on this Agreement, including without limitation, state or local sales, use, and personal property taxes.
- d. All License Fees shall be paid to MCI in U.S. Dollars

5. WARRANTIES

- a. MCI warrants that it has the right to grant this license.
- b. MCI warrants the Products to be free of errors and omissions from its written documentation for the Maintenance Period and any renewals thereof. During this period, MCI will use its best efforts to correct any such errors or omissions within a reasonable time, provided that Licensee notifies MCI of any such problems and provides MCI with information sufficient to identify or recreate the problem.
- c. The foregoing Products warranty shall become void and MCI shall be released from any obligations thereunder, if the Products are modified by anyone other than an authorized representative of MCI.
- d. MCI'S liability for damage, regardless of the form of action, shall not exceed the License Fees paid hereunder.
- e. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ARE THE ONLY WARRANTIES MADE BY MCI IN CONNECTION WITH THE PRODUCTS. IN NO EVENT WILL MCI BE RESPONSIBLE FOR CONSEQUENTIAL DAMAGES.

6. INDEMNIFICATION

- a. MCI shall indemnify and hold Licensee harmless from any claims, demands, liabilities, actions, suits or proceedings asserted or claimed by any third party with respect to any claim of patent, copyright, or other intellectual property right infringement, and shall undertake the cost of defending same, including reasonable attorneys' fees.
- b. Notwithstanding the foregoing, MCI shall not be liable for any claim of infringement which is based on the use or combination of the Products with any other software products not supplied to Licensee by MCI, Licensee's modification of the Products, or Licensee's use of other than the latest available version of the Products.
- c. Licensee shall indemnify and hold MCI harmless from any claims, demands, liabilities, actions, suits or proceedings asserted or claimed by any third party arising out of operation by Licensee of the Products and agrees to undertake the cost of defending same, including reasonable attorneys' fees, where such claims, demands, liabilities, actions, suits or proceedings arise out of Licensee's alleged negligent use of the Products and are not the results of defects in the Products.
- d. Both parties shall be given timely notice of and shall have the option to undertake and conduct the defense of any claim, demand, liability, action, suit or proceeding under the above provisions.
- e. THE FOREGOING STATES THE ENTIRE LIABILITY OF MCI AND THE EXCLUSIVE REMEDY OF LICENSEE WITH RESPECT TO PATENT, COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY RIGHT INFRINGEMENT.

7. MAINTENANCE

- a. During the term of one year from the Start Date (hereinafter the "Maintenance Period"), MCI agrees to provide Licensee with the update, enhancement and support services (hereinafter "Maintenance"), as follows:
 1. Updates and enhancements to Licensee's version of the Products, including new releases and versions, when and if developed.
 2. Reasonable written or telephone consultations.
 3. Reasonable efforts to correct errors and deficiencies in the Products.
 4. Compatibility with the Computer Systems for which the Products are licensed.
- b. Maintenance shall be provided only for the latest release of the Products and only if Licensee has not modified or changed the Products.
- c. The Maintenance Period shall be automatically continued for additional one year periods according to the terms of and at the maintenance fee then in effect unless cancelled in writing by Licensee no later than thirty (30) days prior to the end of any Maintenance Period. Notice of renewal of the Maintenance Period and an invoice therefor shall be submitted to Licensee ninety (90) days prior to the expiration of each Maintenance Period. Payment is due within thirty (30) days of receipt of invoice.

- d. If any payment is more than thirty (30) days late with respect to the beginning of any Maintenance Period, MCI shall have the right to:
 1. Deny the Maintenance.
 2. Charge a reinstatement fee equal to twice the number of months for which payment is late up to a maximum of the then current annual maintenance fee.
- e. If the Maintenance Period shall have ended and Licensee wishes to reinstate the Maintenance, MCI shall have the right to charge up to the then current annual maintenance fee for the period since the Maintenance Period ended in addition to the then current annual maintenance fee.

8. DEFAULT

- a. In the event Licensee fails to comply with any of the material provisions of this Agreement, including payment of any fees, MCI by written notice to Licensee as provided herein shall inform Licensee of the breach and provide a description thereof. If Licensee fails to remedy such breach within thirty (30) days from the date of such notice, Licensee shall be deemed in default and MCI may terminate the license granted herein. This relief for breach shall be in addition to, and shall in no way limit MCI from pursuing whatever other relief it deems appropriate.
- b. If Licensee ceases to do business as a going concern or a petition is filed by or against the Licensee under any federal, state, or local bankruptcy act, and is not discharged within thirty (30) days, then, at the option of MCI, Licensee shall be deemed in default and MCI may terminate the license granted herein.
- c. In the event of default, the amount of all remaining fees shall become immediately due and owing and Licensee agrees to reimburse MCI for any reasonable expenses incurred in the collection of such fees, including, but not limited to, attorney's fees and costs.

9. TERMINATION

- a. MCI shall have the right to terminate this Agreement only upon default by Licensee of any of the material provisions of this Agreement.
- b. Neither expiration or termination of this Agreement shall release Licensee from any liabilities or obligations under this Agreement which have accrued and remain to be performed as of the date of such expiration or termination.
- c. Upon expiration or termination of this Agreement, there shall be no refund, in whole or in part, of any payments already made, and Licensee shall remain liable to pay promptly any fees or other payments which may be due or have accrued up to the date of expiration or termination.
- d. Upon expiration or termination of this Agreement, Licensee shall promptly forward written notice to MCI that all copies of the Products have been destroyed or deleted from any computer libraries or storage, and that the Products are no longer in use or useable by Licensee.

10. ASSIGNMENT

- a. Licensee agrees that this Agreement may not be assigned or transferred without the written consent of MCI, except that during the Maintenance Period or any renewals thereof, Licensee may transfer this License to its parent, subsidiary or related third party upon written notice to MCI.
- b. MCI may assign the license granted herein or any License Fees due or any of its rights hereunder. Licensee upon receiving notice from MCI of any such assignment shall abide thereby.

11. GENERAL

- a. This Agreement supersedes all prior agreements, proposals, representations, and communications between MCI and Licensee relating to the subject matter contained herein.
- b. The headings for each section are stated for convenience only and are not to be construed as limiting.
- c. This Agreement may not be altered or modified except by written agreement signed by both parties.
- d. All notices sent to either party, except emergency requests for services, must be made by U.S. Mail in a postage prepaid letter addressed to the principal address contained herein. Each party shall notify the other in writing as to any change in address.

- e. If a part of this Agreement is held unenforceable or invalid or prohibited under law, that portion is deemed omitted and shall not affect the enforceability of the other parts of this Agreement.
- f. This Agreement shall be interpreted under the laws of the state of Texas.
- g. If any provision of Exhibit No. is in conflict with this Software License, the provision of Exhibit No. shall prevail.

This Agreement is made and accepted at El Paso, Texas

MARBLE COMPUER, INC.

LICENSEE

By: _____

By: _____

Signature

Signature

Title

Title

Date

Date

EXHIBIT No. _____ TO SOFTWARE LICENSE AGREEMENT

This Exhibit No. _____ is make a part of the License Agreement No. _____ executed by the parties identified below.

Products:

CPU's: Make: _____ Model: _____ Serial No. _____ MIPS _____
 Make: _____ Model: _____ Serial No. _____ MIPS _____
 Make: _____ Model: _____ Serial No. _____ MIPS _____

MIPS Level: _____

License Fee: _____

Maintenance Fee: _____ and is subject to annual increase for COLA and/or 5% whichever is greater.

Installation Support and Training Fees: _____ No of Days: _____

Payment Terms: _____

Name, Address, Telephone and Fax Number and Contact Person for Licensee

MARBLE COMPUTER, INC.

LICENSEE

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____