

IEEE COMPUTER SOCIETY ONLINE PRODUCTS AGREEMENT

The Institute of Electrical and Electronics Engineers, Incorporated, acting through its Computer Society (collectively, "IEEE")

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1. Definitions.

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(b) "Authorized Sites" means the locations identified in Schedule B.

(c) "Authorized Users" means (1) persons affiliated with Licensee as employees, consultants, onsite contractors, students or temporary employees; (2) authorized persons physically present in Licensee's library facilities; and (3) such other persons as IEEE may, at the request of Licensee and in IEEE's sole discretion, authorize in writing to access the Licensed Products.

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(g) "Service Date" means the start date designated in the first Invoice issued under this Agreement by IEEE or its authorized representative to Licensee.

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5. Term and Termination.

(a) Term. Unless terminated sooner in accordance with Section 5(b), this Agreement shall continue in effect for an initial term of twelve (12) months from the Service Date (the "Initial Term"). Licensee may renew the Agreement for additional twelve (12)-month periods (each, a "Renewal Term") upon written notice to IEEE and payment of the annual license fee, as determined by IEEE, within thirty (30) days prior to the expiration of the Initial Term or any Renewal Term.

(b) Termination. Notwithstanding Section 5(a), this Agreement may be terminated as follows:

(1) *Material Breach*. Either party may terminate this Agreement in the event of a material breach by the other party that remains uncured thirty (30) days after the non-breaching party gives the breaching party written notice of such breach.

(2) *Suspension*. In the event that IEEE notifies Licensee of a material breach of Section 3(c)(1), IEEE reserves the right to suspend Licensee's access to the Licensed Products. IEEE will make commercially reasonable efforts to limit suspension to the offending IP address or user account, to the extent that the offending IP address or user account can be reasonably ascertained under the circumstances; otherwise, IEEE reserves the right to suspend all online access to the Licensed Products by Licensee. The suspension shall remain in effect until Licensee has cured the material breach, and Licensee shall not be entitled to a refund of any fees during such suspension. If Licensee does not cure the material breach within thirty (30) days after notice of such breach, IEEE shall be entitled to terminate this Agreement immediately.

(3) *Insolvency*. Either party may terminate this Agreement in the event that the other party becomes insolvent or bankrupt; becomes the subject of any proceedings under bankruptcy, insolvency or debtor's relief law; has a receiver or manager appointed; makes an assignment for the benefit of creditors; or takes the benefit of any applicable law or statute in force for the winding up or liquidation of such party's business.

(c) Events Upon Termination. Upon termination of this Agreement, Licensee shall make reasonable efforts to delete all electronic copies of Articles that are in its possession or control. Licensee may continue to use print copies of Articles made in accordance with the terms and conditions herein during the term of this Agreement, provided that Section 3(c) shall continue to govern use of such materials.

6. Representations, Warranties and Indemnification.

(a) Representations and Warranties. IEEE and Licensee each represents and warrants to the other that: (1) it has the necessary power and authority to enter into this Agreement; (2) the execution and performance of this Agreement has been authorized by all necessary corporate or institutional action; (3) entry into and performance of this Agreement will not conflict with any provision of law or the certificate of incorporation, by-laws or comparable organizational documents of the party or conflict with any condition of any contract to which it is a party; (4) no action by any governmental organization is necessary to make this Agreement valid and binding upon the party; and (5) it possesses all licenses and other governmental approvals necessary to perform its obligations under this Agreement.

(b) Indemnification. IEEE agrees that Licensee shall have no liability and IEEE shall indemnify, defend and hold Licensee harmless against any loss, damage, costs, liability and expense (including reasonable attorneys' fees) arising from any action or claim of a third party (collectively, "Losses") that Licensee's use of the Licensed Products in material conformity with the terms and conditions of this Agreement infringes the copyright or other intellectual property right of such third party ("IEEE Indemnification"). Licensee agrees that IEEE shall have no liability and Licensee shall indemnify, defend and hold IEEE harmless against any Loss, except as to Losses covered by IEEE Indemnification, arising from use of the Licensed Products by Licensee or its Authorized Users. The indemnified party shall: (1) give the indemnifying party prompt written notice of any Loss or threat of Loss; (2) cooperate fully with the indemnifying party, at the indemnifying party's expense, in the defense or settlement of any Loss or threat of Loss; and (3) give the indemnifying party sole and complete control over the defense or settlement of any Loss or threat of Loss; provided, however, that any settlement must include a complete release of the indemnified party without requiring the indemnified party to make any payment or bear any obligation.

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9. Archival Access. Upon termination of this Agreement, except in the event of termination by IEEE pursuant to Section 5(b), Licensee may obtain one (1) static copy of the Licensed Products containing content published between the Service Date and termination date of this Agreement by paying the then-applicable fee assessed by

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10. General.

(a) Notice. Notices given under this Agreement shall be in writing and may be delivered by hand or sent by internationally-recognized courier service, e-mail or fax to the physical address, e-mail address or facsimile number for each party set forth on the first page of this Agreement. Any such notice shall be deemed successfully given: (1) if delivered personally, at the time of delivery; (2) in the case of an internationally-recognized courier service, on the date of delivery confirmation; or (3) in the case of e-mail or facsimile, at the time of successful transmission.

(b) Assignment. Licensee may not assign this Agreement, or sublicense, assign or delegate any right or obligation hereunder, by operation of law or otherwise, without the prior written consent of IEEE.

(c) Entire Agreement. This Agreement, including all annexes, exhibits and schedules, contains the final and entire agreement of the parties on the subject matter herein and supersedes all previous and contemporaneous oral or written negotiations or agreements on the subject matter herein.

(d) Amendment. This Agreement may not be amended except in a writing executed by an authorized representative of each party.

(e) Severability. If any provision of this Agreement shall be held to be invalid or unenforceable under applicable law, then such provision shall be construed, limited, modified or, if necessary, severed to the extent necessary to eliminate its unenforceability. Such provision shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of this Agreement.

(f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the United States of America and the State of New York, without regard to conflict of laws principles.

(g) Forum for Disputes. The parties agree that any action, proceeding, controversy or claim between them arising out of or relating to this Agreement (collectively, "Action") shall be brought in the United States District Court for the Southern District of New York or, if federal jurisdiction is not available, in the Supreme Court of New York County. Each party hereby submits to the personal jurisdiction of such courts with respect to any Action.

(h) Force Majeure. Any prevention of or delay in either party's performance hereunder due to labor disputes, acts of God, governmental restrictions, enemy or hostile governmental action, fire or other casualty or other causes beyond such party's reasonable control shall excuse such party's performance of its obligations hereunder for a period equal to the duration of any such prevention or delay.

(i) Non-Waiver. The failure of either party to require strict performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

(j) Survival. The provisions of this Agreement that should by their nature survive termination of this Agreement shall survive such termination, including, but not limited to, Sections 3(c), 4, 5(c), 6, 7, 8, 9 and 10.

(k) Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its duly authorized representative as of the date set forth below.

**THE INSTITUTE OF ELECTRICAL AND
ELECTRONICS ENGINEERS, INCORPORATED,
acting through its COMPUTER SOCIETY**

LICENSEE

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**SCHEDULE A:
LICENSED PRODUCTS**

1. Licensed Products.

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- IEEE Computer Society Pick5 Package
- IEEE Computer Society Magazines Package
- IEEE Computer Society Periodicals Package

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**SCHEDULE B:
AUTHORIZED SITES**

- A. Name and physical address(es) of Authorized Site(s) of Licensee:
- B. IP Address(es) of Authorized Site(s) - if proxy server is used, skip Part B and go to Part C:
- C. IEEE permits Licensee to make use of one or more proxy servers to provide Authorized Users with access to the Licensed Products. Please provide responses to the questions below so that IEEE can accurately monitor authentication and use of the Licensed Products.
1. Physical address of proxy server(s):

 2. IP address(es) of proxy server(s):

 3. Intended use(s) of proxy server(s) - check all that apply:
 - Load balancing
 - Provide Remote Access
 - Other (please specify): _____

Licensee Responsibilities

Licensee shall: (a) be responsible for verifying the status of Authorized Users; (b) provide lists of valid IP addresses to IEEE and updating such lists promptly as changes are made; and (c) cooperate with IEEE in the implementation of additional security procedures reasonably requested by IEEE. Licensee represents and warrants that the list of IP addresses provided above is accurate and valid, and all such IP addresses are owned or controlled by Licensee.