

Grafiti LLC Single User License Agreement **Grafiti LLC** 405 Waverley St Palo Alto, CA 94301 **Grafiti LLC** Sales Telephone 800–797–7401 Sales Fax 800–797–7406

# THIS LICENSE AGREEMENT IS YOUR PROOF OF LICENSE.

THIS GRAFITI SINGLE USER LICENSE AGREEMENT (hereinafter the "License Agreement") IS A LEGAL AGREEMENT BETWEEN YOU (EITHER AN INDIVIDUAL OR ENTITY) AND GRAFITI LLC (hereinafter "GRAFITI"). THIS LICENSE AGREEMENT GOVERNS THE USE OF GRAFITI SINGLE-USER VERSION OF THE GRAFITI PRODUCTS (the "Software").

If you do not agree to the terms of this License Agreement, immediately return the package. This License Agreement shall apply only if you have not signed another License Agreement with GRAFITI for the Software. The Software is protected by both United States copyright law and international copyright treaty provisions.

## LICENSE

GRAFITI grants you a non-exclusive license to use the Software in accordance with the following terms. This license does not infer any transfer of ownership or other rights to you.

GRAFITI grants you a single-user license which allows one (1) designated individual, and only one (1) individual, the right to install and use the Software on a home, work or portable computer.

GRAFITI grants you the right to make one (1) archival copy of the Software for the sole purpose of backing up the Software and protecting your investment from loss.

GRAFITI further grants you the right to transfer this License Agreement and the Software to another party provided: 1) the other party accepts all terms of this License Agreement; 2) all copies of the Software are transferred and you discontinue use of the Software after transferring; 3) GRAFITI is promptly notified of the name and address of the other party and the serial number of the Software; and 4) GRAFITI is not required to supply new media.

You may not: (1) copy, reverse engineer, decompile, or disassemble the Software or attempt to derive the source code of the Software, or (2) remove or destroy any of the Software's copyright notices, trademark notices or other proprietary markings.

## **TERM AND TERMINATION**

Your failure to comply with any of these terms will immediately terminate this License Agreement and your right to use the Software. You may also choose to terminate this License Agreement at any time by discontinuing your use of the Software. Upon termination of this License Agreement, you must immediately destroy the Software and all copies of it.

## LIMITED WARRANTY

The media on which the Software is furnished is warranted to be free of defects in workmanship and material under normal use for a period of sixty (60) days from the date of purchase by you. You must notify GRAFITI of any applicable defects within the applicable sixty (60) day period. GRAFITI and its suppliers' sole responsibility and your exclusive remedy under this warranty will be to receive a replacement of the media or a full refund if GRAFITI or its suppliers are unable to deliver media free from defects in workmanship and materials.

You alone are responsible for determining which software best meets your particular needs for installing the Software and for the results obtained.

THIS SOFTWARE IS LICENSED "AS IS" WITHOUT WARRANTY AS TO ITS PERFORMANCE. EXCEPT FOR THE MEDIA WARRANTY PROVIDED ABOVE, THERE ARE NO WARRANTIES EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ALL SUCH WARRANTIES ARE EXPRESSLY DISCLAIMED. IN NO EVENT SHALL GRAFITI OR ITS SUPPLIERS BE RESPONSIBLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES OR LOST PROFITS, EVEN IF GRAFITI AND ITS SUPPLIERS HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO CASE WILL GRAFITI LLC AGGREGATE LIABILITY ARISING OUT OF THIS LICENSE AGREEMENT AND/OR YOUR USE OR INABILITY TO USE THE SOFTWARE EXCEED THE FEES ACTUALLY PAID BY YOU FOR YOUR USE OF THE SOFTWARE.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

## CONSULTANTS

As a consultant, you are free to use the single user Software license to produce solutions for an unlimited number of clients, so long as you generate the output yourself by humanly interacting with the Software.

## SOFTWARE DEVELOPERS

If you are developing and distributing applications with the Software, then any individual receiving a copy of your application and using it in conjunction with the Software must have purchased their own license of the Software.

Numeric and/or graphical solution service providers may not use the Software to automatically generate reports, graphs, or numeric data that are subsequently distributed to clients without first obtaining a separate technology redistribution licensing agreement from GRAFITI.

You agree not to use the GRAFITI name, logo or trademarks to market your application without first receiving the written permission of GRAFITI may use your name or logo on its website or on other marketing and promotional materials to identify you as a customer of GRAFITI. GRAFITI use of your name and logo does not create any ownership or other rights not granted to GRAFITI.

You further agree to indemnify, hold harmless, and defend GRAFITI and its suppliers from and against any claims or lawsuits that arise or result from the use or distribution of your application.

If you wish to distribute the Software, or portions of the Software, in conjunction with your application, then you must contact GRAFITI for procedures and fees associated with the granting of these additional rights.

## GENERAL

If you wish to transfer the Software to a new machine and new media is required, then you must contact GRAFITI for procedures and possible fees associated with the transfer.

You may not sublicense, assign or transfer the license or the Software except as expressly provided in this License Agreement. Any attempt otherwise to sublicense, assign or transfer any of the rights, duties or obligations hereunder by you is void. GRAFITI may assign or transfer this license at any time without notice or consent.

This License Agreement will be governed by the laws of the state of California.

Unless another agreement has been signed with GRAFITI or accepted by you for this Software, you acknowledge that this License Agreement supersedes all prior agreements, proposals, representations and communications between the parties relating to the subject matter herein. In the case of conflict between this License Agreement and purchase orders issued for the Software, the terms of this License Agreement shall prevail.

You may return the Software only in accordance with the return policy of GRAFITI. Contact your GRAFITI representative for the proper procedure.

## **U.S. GOVERNMENT RESTRICTED RIGHTS**

If you are a U.S. Government end user, then this provision applies to you. The Software provided in connection with this License Agreement has been developed entirely at private expense, as defined in FAR section 2.101, DFARS section 252.227-7014(a)(1) and DFARS section 252.227-7015 (or any equivalent or subsequent agency regulation thereof), and is provided as "commercial items," "commercial computer software" and/or "commercial computer software documentation." Consistent with DFARS section 227.7202 and FAR section 12.212, and to the extent required under U.S. federal law, the minimum restricted rights as set forth in FAR section 52.227-19 (or any equivalent or subsequent agency regulation thereof), any use, modification, reproduction, release, performance, display, disclosure or distribution thereof by or for the U.S. Government shall be governed solely by this License Agreement and shall be prohibited except to the extent expressly permitted by this License Agreement. Contractor/manufacturer is GRAFITI, 2479 E. Bayshore Rd, Suite 195 Palo Alto, CA 94303.