

END-USER LICENSE AGREEMENT
For Mediachase .NET eCommerce Framework (ECF™)

IMPORTANT: PLEASE READ CAREFULLY THE TERMS AND CONDITIONS OF THIS END-USER LICENSE AGREEMENT (“AGREEMENT”) BEFORE USING THE MEDIACHASE .NET ECOMMERCE FRAMEWORK (ECF™) SOFTWARE AND ACCOMPANYING DOCUMENTATION (“SOFTWARE”). MEDIACHASE, LTD. AND/OR ITS SUBSIDIARIES (“MEDIACHASE”) IS WILLING TO LICENSE THE SOFTWARE TO YOU AS AN INDIVIDUAL, A COMPANY, OR A LEGAL ENTITY (“YOU” OR “YOUR”) ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. BY CLICKING THE “I ACCEPT” OR “YES” BUTTON OR OTHERWISE INDICATING ASSENT ELECTRONICALLY, BY LOADING THE SOFTWARE, OR BY OPENING THIS PACKAGE (IF APPLICABLE), YOU AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, PLEASE CLICK THE “I DO NOT ACCEPT” OR “NO” BUTTON OR OTHERWISE INDICATE REFUSAL, AND MAKE NO FURTHER USE OF THE SOFTWARE.

1. GRANT OF LICENSE.

Subject to the terms and conditions of this AGREEMENT, MEDIACHASE hereby grants to YOU, and YOU accept, only those rights provided below that correspond to the type of license YOU purchased (as identified in your online confirmation order or invoice):

1.1. ECF™ Developer Seat License: If YOU have purchased an “ECF™ Developer Seat License,” YOU are hereby granted a non-exclusive, non-transferable license for one (1) developer (individual) to install the SOFTWARE on an unlimited number of development servers, and to use it for the purpose of developing, customizing and testing any number of PRODUCTION SITES (as defined below); provided, however, that YOU may not deploy any PRODUCTION SITE without purchasing an ECF™ Production Deployment License for each PRODUCTION SITE to be deployed. At no time may the SOFTWARE be used by more than one (1) individual for development purposes.

1.2. ECF™ Production Deployment License: If YOU have purchased an “ECF™ Production Deployment License,” YOU are hereby granted a non-exclusive, non-transferable license to install the SOFTWARE on one (1) production web server, and to use it for the sole purpose of deploying, on a unique URL, one (1) e-commerce website (“PRODUCTION SITE”) developed in accordance with an ECF™ Developer Seat License. For purposes of this ECF™ Production Deployment License, if YOU have developed a PRODUCTION SITE for a third party in accordance with an ECF™ Developer Seat License, YOU are hereby permitted to grant a sublicense to such third party to use the SOFTWARE for the sole purpose of deploying such PRODUCTION SITE.

1.3. ECF™ Source Code License:

(a) If YOU have purchased an “ECF™ Source Code License,” YOU are granted the following:

- (i) A non-exclusive, non-transferable license for one (1) developer (individual) within your organization to install the SOFTWARE on an unlimited number of development servers, and to

use it for the purpose of developing, customizing and testing any number of PRODUCTION SITES. At no time may the SOFTWARE be used concurrently by more than one (1) individual for development purposes unless you have purchased additional developer seats in accordance with section 1.1 above.

(ii) A license to view the source code of the SOFTWARE ("SOURCE CODE") and to copy, create derivative works from, compile, modify and otherwise use it solely for the purpose of exercising YOUR rights under subsection (i) above.

(iii) A license to re-distribute the modified SOURCE CODE solely as part of a compiled solution used to deploy a PRODUCTION SITE; YOU may not, under any circumstances, redistribute the SOURCE CODE in non-compiled form.

(b) Under no circumstances may the SOURCE CODE be used as the basis for creating a product that contains the same, or substantially similar, functionality as any MEDIACHASE product. Notwithstanding the foregoing, YOU shall have the right to create derivative works as provided herein.

(c) MEDIACHASE shall retain all right, title and interest in and to all updates, modifications, enhancements and derivative works, in whole or in part, of the modified SOURCE CODE that is delivered to YOU (but expressly excluding any modification, enhancement or derivative work that MEDIACHASE may perform for you as work for hire pursuant to a separate agreement), including all copyrights subsisting therein, solely to the extent such modifications, enhancements or derivative works contain copyrightable code or expression derived from the SOURCE CODE; provided, however, that MEDIACHASE grants to you a fully-paid, royalty free license, to use, copy and modify such updates, modifications, enhancements and derivative works or copies thereof for use as authorized in this AGREEMENT. YOU shall own all right, title and interest in any modifications, enhancements or derivative works created by or for YOU.

(d) YOU acknowledge that the SOURCE CODE contains valuable and proprietary trade secrets of MEDIACHASE. YOU agree that, at all times during the term of this AGREEMENT and after its termination, YOU will keep the SOURCE CODE in trust and confidence, and YOU shall not use SOURCE CODE other than as expressly provided in this AGREEMENT.

(e) THE SOURCE CODE IS PROVIDED TO YOU "AS IS." MEDIACHASE DOES NOT PROVIDE ANY TECHNICAL SUPPORT FOR SOURCE CODE.

1.4. ECF™- I/S (Integration Services) Source Code License:

(a) If YOU have purchased an "ECF™ - I/S Source Code License," YOU are granted the following:

(i) A non-exclusive, non-transferable license for one (1) developer (individual) within your organization to install the SOFTWARE on an unlimited number of development servers, and to use it for the purpose of developing, customizing and testing any number of PRODUCTION SITES. At no time may the SOFTWARE be used concurrently by more than one (1) individual for

development purposes unless you have purchased additional developer seats in accordance with section 1.1 above.

(ii) A non-exclusive, non-transferable license to install the SOFTWARE on ONE (1) production web server, and to use it for purposes of deploying on ONE (1) PRODUCTION SITE developed in accordance with subsection (i) above. For purposes of this ECF™ - I/S Source Code License, if YOU have developed a PRODUCTION SITE for a third party in accordance with subsection (i) above, YOU are hereby permitted to grant a sublicense to such third party to use the SOFTWARE for the sole purpose of deploying such PRODUCTION SITE.

(iii) A license to view the source code of the SOFTWARE ("SOURCE CODE") and to copy, create derivative works from, compile, modify and otherwise use it solely for the purpose of exercising YOUR rights under subsection (i) above.

(iv) A license to re-distribute the modified SOURCE CODE solely as part of a compiled solution used to deploy a PRODUCTION SITE; YOU may not, under any circumstances, redistribute the SOURCE CODE in non-compiled form.

(b) Under no circumstances may the SOURCE CODE be used as the basis for creating a product that contains the same, or substantially similar, functionality as any MEDIACHASE product. Notwithstanding the foregoing, YOU shall have the right to create derivative works as provided herein.

(c) MEDIACHASE shall retain all right, title and interest in and to all updates, modifications, enhancements and derivative works, in whole or in part, of the modified SOURCE CODE that is delivered to YOU (but expressly excluding any modification, enhancement or derivative work that MEDIACHASE may perform for you as work for hire pursuant to a separate agreement), including all copyrights subsisting therein, solely to the extent such modifications, enhancements or derivative works contain copyrightable code or expression derived from the SOURCE CODE; provided, however, that MEDIACHASE grants to you a fully-paid, royalty free license, to use, copy and modify such updates, modifications, enhancements and derivative works or copies thereof for use as authorized in this AGREEMENT. YOU shall own all right, title and interest in any modifications, enhancements or derivative works created by or for YOU.

(d) YOU acknowledge that the SOURCE CODE contains valuable and proprietary trade secrets of MEDIACHASE. YOU agree that, at all times during the term of this AGREEMENT and after its termination, YOU will keep the SOURCE CODE in trust and confidence, and YOU shall not use SOURCE CODE other than as expressly provided in this AGREEMENT.

(e) THE SOURCE CODE IS PROVIDED TO YOU "AS IS." MEDIACHASE DOES NOT PROVIDE ANY TECHNICAL SUPPORT FOR SOURCE CODE.

2. RESTRICTIONS.

2.1. Except as expressly permitted in this AGREEMENT, YOU may not, without the prior written permission of MEDIACHASE: (i) Disassemble, decompile or "unlock", decode or otherwise reverse translate or engineer, or attempt in any manner to reconstruct or discover any source code or underlying algorithms of the SOFTWARE, if provided in object code form only; (ii) use, copy, modify, or merge copies of the SOFTWARE and any accompanying documents; (iii) transfer, rent, lease, or sublicense the SOFTWARE; or (iv) separate the software programs comprising the SOFTWARE for use by more than one (1) user at a time.

2.2. For applications distributed outside of the licensed organization, YOU are required to ensure that the SOFTWARE is not distributed in any form that allows it to be reused by any application other than that with which you distribute it.

3. OWNERSHIP AND COPYRIGHT.

This is a license agreement, and not an agreement for sale. MEDIACHASE and its licensors retain ownership of and copyrights in the copy of the SOFTWARE (including SOURCE CODE) delivered to YOU, and all copies YOU may be licensed to make. The SOFTWARE and SOURCE CODE is protected U.S. copyright laws and other intellectual property laws and international treaty provisions. MEDIACHASE retains all rights not expressly granted to YOU in this AGREEMENT.

4. TERMINATION.

Without prejudice to any other rights, MEDIACHASE may terminate this AGREEMENT if you fail to comply with the terms and conditions of this AGREEMENT, which failure is not cured within 30 days following written notice by MEDIACHASE; provided, however, that in the event that YOU materially breach any of the restrictions set forth in Section 2.1 hereof, MEDIACHASE shall have the right to terminate this AGREEMENT immediately (and without any opportunity for YOU to cure such breach). In such event, upon notice from MEDIACHASE, you must destroy all copies of the SOFTWARE and all of its component parts, source code, associated documentation, and related materials. The disclaimers of warranties and damages and limitations on liability shall survive termination.

5. NO WARRANTY.

THE SOFTWARE IS PROVIDED TO YOU "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MEDIACHASE DISCLCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE SOFTWARE REMAINS WITH YOU.

6. LIMITATION OF LIABILITY; INDEMNITY.

SOME STATES AND COUNTRIES, INCLUDING MEMBER COUNTRIES OF THE EUROPEAN ECONOMIC AREA, DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO LIMITATION OR EXCLUSION SET FORTH BELOW MAY NOT APPLY TO YOU.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT WILL MEDIACHASE OR ITS LICENSORS BE LIABLE TO YOU FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, OR SIMILAR DAMAGES, INCLUDING ANY LOST PROFITS OR LOST DATA ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE EVEN IF MEDIACHASE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL MEDIACHASE'S OR ITS LICENSORS' LIABILITY EXCEED THE PURCHASE PRICE FOR THE SOFTWARE. THE DISCLAIMERS AND LIMITATIONS SET FORTH ABOVE WILL APPLY REGARDLESS OF WHETHER YOU ACCEPT THE SOFTWARE.

SUBJECT TO THE FOREGOING LIMITATIONS OF LIABILITY, MEDIACHASE SHALL INDEMNIFY, DEFEND, AND HOLD YOU AND YOUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND AFFILIATES HARMLESS FROM AND AGAINST ANY AND ALL LOSSES RESULTING FROM OR RELATED TO ANY CLAIM OR ALLEGATION THAT THE SOFTWARE INFRINGES UPON OR VIOLATES ANY INTELLECTUAL PROPERTY RIGHT (INCLUDING BUT NOT LIMITED TO COPYRIGHT AND PATENT) OF A THIRD PARTY.

7. U.S. GOVERNMENT RESTRICTED RIGHTS.

Any SOFTWARE provided to the U.S. Government pursuant to solicitations issued on or after December 1, 1995 is provided with the commercial license rights and restrictions described elsewhere herein. All SOFTWARE provided to the U.S. Government pursuant to solicitations issued prior to December 1, 1995 is provided with "Restricted Rights" as provided for in FAR, 48 CFR 52.227-14 (JUNE 1987) or DFAR, 48 CFR 252.227-7013 (OCT 1988), as applicable

8. EXPORT RESTRICTIONS.

YOU acknowledge that the SOFTWARE IS subject to U.S. export jurisdiction unless otherwise indicated by MEDIACHASE. YOU agree to comply with all applicable international and national laws that apply to the SOFTWARE, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments.

9. GENERAL.

This AGREEMENT will be governed by the laws of the State of California, United States of America. This AGREEMENT constitutes the entire agreement between YOU and MEDIACHASE relating to the SOFTWARE and: (i) supersedes all prior or contemporaneous oral or written communications, proposals, and representations with respect to its subject matter; and (ii) prevails over any conflicting or additional terms of any quote, order, acknowledgment, or similar communications between the parties. If a court holds any provision of this AGREEMENT to be illegal, invalid or unenforceable, the remaining provisions will continue in full force and effect and the parties will amend this AGREEMENT to give effect to the stricken clause to the maximum extent possible. The SOFTWARE is delivered Ex Works California, U.S.A. (ICC INCOTERMS 2000). This AGREEMENT may only be modified by a written document that has been signed by both YOU and MEDIACHASE. Should YOU have any questions concerning this AGREEMENT, or if YOU desire to contact MEDIACHASE for any reason, please write to: Mediachase Ltd., 7411 Beverly Boulevard, Los Angeles, CA 90036. With prior written consent of the other party, a party may assign or delegate this AGREEMENT or any of its licenses, rights or duties under this AGREEMENT in the case of a sale or other transfer of substantially all of such party's assets or equity, whether by sale of assets or stock or by merger or other reorganization, or re-incorporation.

"Confidential Information" means information, documents, data, or materials of any type or kind (including, without limitation, developments, technical data, specifications, designs, ideas, product plans, test information, research and development, personal information, financial information, customer lists, business methods and operations, and marketing programs), whether in paper, electronic, digital, pictorial, ephemeral, visual, audible, or tangible or intangible form, relating to or arising out of, from or in connection with any assets, operations, property, technology, inventions, developments, ideas, trade secrets, techniques, clients, and/or past, present, and future business of the disclosing party, proprietary to the disclosing party, any of its affiliates or third party licensors, and which is stated to be confidential or is marked confidential, or if not stated to be or marked confidential, by the nature of the information or the circumstances of its existence or disclosure, the receiving party ought reasonably to consider such information to be confidential. The term "Confidential Information" shall not include information that is: (i) in the public domain at the time such information is developed or obtained by, or is disclosed by the disclosing party to, the receiving party; (ii) is known by the receiving party at the time of its disclosure by the disclosing party to the receiving party unless such knowledge is the result of a direct or indirect violation of an obligation of confidentiality or secrecy owed to the disclosing party; or (iii) independently developed by the receiving party without use of the disclosing party's confidential information.

Each party agrees not to use any Confidential Information of the other party for any purpose except for purposes of performing such party's obligations under the Agreement.

Each party agrees not to disclose any Confidential Information of the other party or, except as expressly permitted under this Agreement, the terms of this Agreement, to third parties or to such party's employees, except to those employees of the receiving party who are required to have the information in order to perform their obligations in connection with the Agreement.

The obligations of each receiving party hereunder shall survive until such time as all Confidential Information of the other party disclosed hereunder becomes publicly known and made generally available through no action or inaction of the receiving party, or one year after the termination of the Agreement or any extension or renewal thereof, whichever is later.

Each party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.