

# End-User License Agreement

## NOTICE -- READ BEFORE INSTALLING THE DARTFISH SOFTWARE

### SOFTWARE PRODUCT LICENSE AGREEMENT

**CAREFULLY READ THE TERMS AND CONDITIONS OF THIS AGREEMENT BEFORE INSTALLING THE DARTFISH SOFTWARE. BY INSTALLING AND USING THE DARTFISH SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT INSTALL OR USE THE DARTFISH SOFTWARE.**

Dartfish SA, a corporation organized under the laws of Switzerland, with its principal office at Route de la Fonderie 6, Post box 53, CH-1705 Fribourg 5, ("**Dartfish**") licenses the electronic software product (the "**Software Product**") in accordance with the terms and conditions of this license. Delivered electronically the Software Product is licensed (not sold) to you, and Dartfish owns all copyright, trade secret, patent and other proprietary rights in the Software Product. The term "Software Product" includes all copies of the computer program and its documentation.

This End-User License Agreement ("**Agreement**") constitutes a valid and binding agreement between Dartfish Ltd ("**Dartfish**") and you ("**you**" or "**your**") for the use of the Dartfish Software as those terms are defined below. You must enter into this agreement in order to install and use such Dartfish Software.

### USER LICENSE AGREEMENT

#### Article 1 - Purpose, scope and content of the license

##### 1.1. Purpose of the Agreement

Dartfish hereby grants you a nonexclusive license to use the Software Product on a single computer, except for network license where the Software can be used on your internal local network. You may make one copy of the Software Product's computer program for back-up purposes only.

##### 1.2. Specification of the Documentation

1.2.1 The documentation is available only in English, French, German, Italian, Spanish, Japanese and Korean.

1.2.2 You are authorized to make copies of the printed documentation that comes with the Software Product.

##### 1.3. Conditions for use and operation

1.3.1 You may use of the Software Product and computer equipment (if any) solely in accordance with the instructions stipulated by Dartfish.

1.3.2 You may not unless specifically agreed in additional agreements with Dartfish: (1) copy (other than once for back-up purposes), distribute, rent, lease, transfer, or sublicense all or any portion of the Software Product; (2) modify or prepare derivative works of the Software Product; (3) use the Software Product in a computer-based services business over the Internet or otherwise; (4) utilise the Software Product other than for an educational use, therefore excluding among other industrial and car racing use, (5) transmit the Software Product over a network, by telephone, or electronically using any means; or (6) reverse engineer, decompile, or disassemble the Software Product. You agree to keep confidential and use your best efforts to prevent and protect the contents of the Software Product from unauthorized disclosure or use.

1.3.3 All of the property rights and royalties relating to the Software Product and to the printed documentation

belong to Dartfish. Dartfish expressly reserves all rights that are not explicitly granted by this Agreement.

- 1.3.4 The ideas, methods, and procedures relevant to the Software Product and to the printed documentation are part of the proprietary, confidential, and trade secret information of Dartfish.

## **Article 2 - Description of the use rights**

### **2.1 Right to use other software versions**

- 2.1.1 An 'updated' version of the Software Product may only be used in conjunction with a user license and hardware issued by Dartfish.
- 2.1.2 You are not authorized to use an 'updated' version of the Software Product unless you hold an exclusive user license for it.
- 2.1.3 You are authorized to continue using the existing versions of the Software Product, irrespective of whether new versions are available.

### **2.2 Duration of use and possibility of extension**

You are authorized to use the Software Product as set forth in this Agreement for an unlimited period of time, unless this Agreement is terminated in accordance with Article 8.

## **Article 3 - Maintenance of the Software Product by the software supplier**

Maintenance of the Software Product is not included as part of this Agreement. Maintenance agreements and updates to the Software Product must be provided in separate agreements.

## **Article 4 - Payment**

Dartfish grants you the license under this Agreement, contingent upon your payment of the contractual license fee (the "**License Fee**"). Dartfish will set forth the License Fee in an invoice accompanying the Software Product, and may also include in the invoice the expenses of customs clearance, transport, and VAT.

## **Article 5 - Images created with the Software Product**

You are authorized to make use of videos and images created with Software Product solely for your own needs. You may not use the Software Product to publish any kind of content to third parties, and you are not authorized to sell, broadcast, or permit the broadcast of, any images derived from Software Product, in any form whatsoever, over the Internet or on television networks or to exploit the images for commercial purposes on any support or media, unless specifically agreed in additional agreements with Dartfish.

## **Article 6 - Warranty and Limitation of Liability**

### **6.1 Limited Warranty.**

For 90 days from the date of your first use of the Software Product, Dartfish warrants that the media (for example, diskette) on which the Software Product is contained will be free from defects in materials and workmanship. This warranty does not cover damage caused by improper use or neglect. Dartfish does not warrant the contents of the Software Product nor that it will be error free. The Software Product is furnished "AS IS" and without warranty as to the performance or results you may obtain by using the Software Product. The entire risk as to the results and performance of the Software Product is assumed by you. To obtain warranty service during the 90-day warranty period, you may return the Software Product (postage paid) with a description of the problem to Dartfish. The defective media in which the Software Product is contained will be replaced at no additional charge to you.

## **6.2 Remedy.**

The extent of the liability of Dartfish, as well as your compensation rights, shall be limited, at Dartfish's choice, to either (1) repayment of the price paid, or (2) repair or replacement of the Software Product, provided the Software Product in question is returned to Dartfish accompanied by a copy of the proof of purchase. Nevertheless, Dartfish shall incur no liability where the Software Product fails to function due to accident, abuse, or improper use. All replacement software shall be guaranteed for the remainder of the original guarantee period.

## **6.3 Exclusion of any other warranty. YOU UNDERSTAND AND AGREE AS FOLLOWS:**

6.3.1 THE WARRANTIES IN THIS AGREEMENT REPLACE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DARTFISH DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES. IN NO EVENT WILL THE LIABILITY OF DARTFISH OF ANY KIND INCLUDE ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, EVEN IF DARTFISH HAS KNOWLEDGE OF THE POTENTIAL LOSS OR DAMAGE. IN ANY EVENT, THE EXTENT OF THE LIABILITY OF DARTFISH SHALL BE LIMITED TO THE AMOUNT THAT YOU ACTUALLY PAID FOR THE SOFTWARE PRODUCT.

6.3.2 Dartfish will not be liable for any loss or damage caused by delay in furnishing a Software Product or any other performance under this Agreement.

6.3.3 Dartfish's entire liability and your exclusive remedies for Dartfish's liability of any kind (including liability for negligence) for the Software Product covered by this Agreement and all other performance or non-performance by Dartfish under or related to this Agreement are limited to the remedies specified by this Agreement.

6.3.4 The hardware (if any) is guaranteed solely by the manufacturers thereof. Dartfish shall not be held liable for any hardware.

6.3.5 The conditions for use of the Software Product and/or the hardware (if any) referred to in this Agreement are described in the documentation that will be supplied to you upon delivery of the equipment.

## **Article 7 - Commencement of the License**

This Agreement commences when you install the Dartfish software. Your license to use the Software Product commences upon your payment in full of the License Fee.

## **Article 8 - Termination of the agreement**

Dartfish may terminate this Agreement at any time should you breach any obligation under this Agreement. If Dartfish terminates this Agreement as a result of your breach of your obligations under this Agreement, all of your rights under this Agreement and the license created thereby terminate immediately. Thereafter, you must immediately return all tangible copies of the Software Product, delete all copies of the Software Product from any computer owned or operated by you, and return all copies of the documentation related to the Software Product. After removal of the Software Product, the hardware will remain your property; *provided, however*, that your compliance with such actions shall have no effect on any claim for damages and interest against you that Dartfish may have.

## **Article 9 - Maintenance of the Software Product**

Dartfish's duty concerning maintenance shall arise only in connection with the terms of a maintenance agreement hereafter executed.

**Article 10 - Applicable Law/Jurisdiction**

THIS AGREEMENT SHALL BE EXCLUSIVELY GOVERNED BY SWISS LAW. THE APPLICATION OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (THE VIENNA LAW ON THE INTERNATIONAL SALE OF GOODS OF APRIL 11, 1980) IS EXCLUDED.

ANY DISPUTE BETWEEN THE PARTIES ARISING FROM THIS AGREEMENT SHALL BE RESOLVED EXCLUSIVELY BY THE COURTS OF THE CANTON OF FRIBOURG, SWITZERLAND (SARINE DISTRICT). DARTFISH SHALL HOWEVER BE ENTITLED TO BRING ACTION AGAINST THE OTHER PARTY BEFORE ANY OTHER COMPETENT COURT.

Portions utilize:

Microsoft® Windows Media Technology. Copyright© 1999-2011 Microsoft Corporation.

MPEG LA, LLC. Copyright© GEAR Software B.V., Helmond. Copyright© 1998-2011.

All Rights Reserved.