

ROSS VIDEO LIMITED

END USER SOFTWARE LICENSE AGREEMENT

This License Agreement is a legal agreement between you (the "Licensee") and Ross Video Limited ("Ross Video") specifying the terms and conditions of your installation and use of the software sold and delivered to you by Ross Video concurrently with the delivery to you of this Agreement, as well as all user manuals, instruction guides and other training documentation of any kind in connection therewith (in electronic, hard copy or other media) (such software is hereinafter called "Software" and such documentation is hereinafter called "Documentation"). By downloading, accessing, installing or using the Software and/or Documentation the Licensee agrees to the terms of this Agreement and the License shall be effective from such date. If you do not wish to accept the terms and conditions of this Agreement, do not download, access, install, refer to or otherwise use the Software or Documentation.

1. **DEFINITIONS.** In this Agreement, the following terms shall have the meanings set out below:

"Affiliate" means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to control a Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; and the term "controlled" and "controlling" shall have a similar meaning;

"Agreement" means this End User License Agreement including the recitals hereto and all schedules annexed to this Agreement as the same may be amended from time to time in accordance with the provisions hereof, "hereof", "hereto" and "hereunder" and similar expressions mean and refer to this Agreement and not to any particular article or section;

"Article" or **"Section"** means and refers to the specified article or section of this Agreement;

"Confidential Information" means all data and information relating to the business and management of either Party, including the Software, trade secrets and other technology to which access is obtained hereunder by the other Party, and any materials provided by Ross Video to Licensee provided, however, that Confidential Information shall not include any data or information which:

- (i) is or becomes publicly available through no fault of the other Party;
- (ii) is already in the rightful possession of the other Party prior to its receipt from the other Party;
- (iii) is already known to the receiving Party at the time of its disclosure to the receiving Party by the disclosing Party and is not the subject of an obligation of confidence of any kind;
- (iv) is independently developed by the other Party;
- (v) is rightfully obtained by the other Party from a third party;
- (vi) is disclosed with the written consent of the Party whose information it is; or
- (vii) is disclosed pursuant to court order or other legal compulsion;

"Designated Equipment" shall mean the hardware products sold by Ross Video to the Licensee with which the Software is licensed for use, as the same may be replaced from time to time by Ross Video or, in the case of Software sold on a stand-alone basis, the equipment of the Licensee that is identified to Ross Video as the equipment on which the Software is to be installed and is approved by Ross Video as equipment on which the Software will operate;

“Documentation” shall mean manuals, user documentation and other related materials pertaining to the Software that are furnished to the Licensee by or on behalf of Ross Video in relation to the Software;

“including” means including without limitation and the term “including” shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it; and “includes” means includes without limitation;

“Improvements” means all inventions, works, discoveries, improvements and innovations of or in connection with the Software including without limitation error connections, bug fixes, patches and other updates made by or on behalf of Ross Video;

“Modifications” means any enhancements, changes, corrections, improvements, translations, adaptations, revisions, developments, upgrades or updates thereto; and “Modify” shall mean the creation of any of the foregoing;

“Object Code” means the machine readable executable form of a computer software program;

“Parties” means both Ross Video and Licensee and “Party” means either one of them as the context requires;

“Person” includes an individual, sole proprietorship, corporation, limited liability corporation, not-for-profit corporation, partnership, trust, association, joint venture, unincorporated organization, the Crown or any agency or instrumentality thereof and any other judicial entity recognized by law;

“Software” shall mean the computer programs in machine readable object code form sold and delivered to the Licensee by Ross Video concurrently with delivery of this Agreement and any subsequent error corrections, updates or Modifications provided to the Licensee by Ross Video pursuant to this Agreement as well as Improvements.

“Source Code” means the human readable form of a computer software program, all tools and documentation necessary for a reasonably computer programmer to understand, maintain and Modify the software;

“Use” means to execute, run, display, store, copy, make, use, sell, merge, network, Modify, translate, host, outsource, integrate with Licensee’s products or other third party software;

“Maintenance Period” in connection with the Software has the following meaning as regards the product category referred to:

Product Category	Software Maintenance Period
Switchers	For the life of the Designated Equipment
Routers	For the life of the Designated Equipment
Master Control System Software (Dashboard)	For the life of the Designated Equipment
Gear	For the life of the Designated Equipment
Video Servers	One (1) year from date of shipment
Neilsen Encoders	For the life of the Designated Equipment
XPression Character Generators	One (1) year from the date of shipment
OverDrive Automated Production Control	Fifteen (15) months from the date of shipment
CamBot Robotic Camera Heads	One (1) year from the date of shipment
Furio Robotic Camera Heads	One (1) year from the date of shipment

2. **LICENCE.** Subject to the terms of this Agreement, Ross Video hereby licenses to Licensee, for the internal use of Licensee only, a, non-transferable (except as provided in Section 14 of this Agreement) and non-exclusive right to Use the Software and Documentation. If the Software has been sold together with or installed on Designated Equipment provided by Ross Video, then Licensee shall use the Software only on a primary system of such Designated Equipment and the Licensee's license of the Software and Documentation shall terminate with termination of the Licensee's ownership of the Designated Equipment. If the Software was sold on a stand-alone basis, then the Software shall be used solely in connection with or installed upon the Designated Equipment of the Licensee that is identified by the Licensee to Ross Video and approved by Ross Video. The Software and Documentation are provided for exclusive use by Licensee's organization for its ordinary business purposes and not by others or for any extraordinary purpose. Licensee may redistribute copies of the Software as required for backup and archival purposes. Licensee may distribute copies of the Software and Documentation to members of its organization, provided this Agreement is included with each copy and provided that any member of its organization who uses the Software or Documentation accepts and agrees to be bound by this Agreement and by any other license agreements and other agreement incorporated by reference into this Agreement. Where a copy is permitted, the Licensee agrees to reproduce and include on any copy made or portion merged into another work, all Ross Video proprietary notices, including without limitation any notices with respect to this license, copyrights and trademarks.
3. **LICENCE RESTRICTIONS.** Except as otherwise provided in section 2 above, Licensee shall not: (1) other than as provided in section 2, copy any Software or Documentation, or part thereof, which is provided to the Licensee by Ross Video pursuant to this Agreement, in human readable form, such as written or printed documents, without the prior written consent of Ross Video; or copy any Software, or part thereof, which is provided to the Licensee by Ross Video pursuant to this agreement, in machine readable form, without the written consent of Ross Video, with the exception of saving or copying for backup or archival purposes, in such circumstances the Licensee agrees to keep a record of the number and location of all such copies and will make such record available at Ross Video's request; (2) market, distribute, export, translate, transmit, merge, Modify, transfer, adapt, loan, rent, lease, assign, share, sublicense or make available to another Person, the Software or the Documentation in any way, in whole or in part with the exception that the prohibition on rental or lease of the Software shall not apply to a Licensee to whom Ross Video delivers the Software in circumstances where Ross Video has prior knowledge that the Licensee is in the business of renting or leasing software; (3) reverse engineer, decompile or disassemble the Software or electronically transfer it into another computer language; (4) or otherwise use the Software or the Documentation except as authorized herein. Licensee agrees to take all reasonable precautions to prevent third parties from using the Software and/or the Documentation in any way that would constitute a breach of this Agreement including, without limitation, such precautions as Licensee would otherwise take to protect its own proprietary software or hardware or information. The Software may include mechanisms to limit or inhibit copying.
4. **DELIVERY** Ross Video shall deliver to the Licensee a master copy of the Software in compiled binary (executable) form suitable for reproduction, in electronic files only and Ross Video shall deliver to the Licensee a minimum of one copy of the Documentation (the "Shipment").
5. **IMPROVEMENTS** Improvements shall include error corrections, bug fixes, patches or other updates in object code form to the extent available in accordance with Ross Video's release schedule. The Licensee may from time to time request Ross Video to incorporate certain Improvements such as features, enhancements or modifications into the Software. Ross Video may, in its sole discretion, undertake to incorporate and provide such Improvements to the Licensee with or without payment of a fee to be negotiated at the time. All such Improvements, whether recommended and developed by Ross Video or Licensee shall be considered the sole property of Ross Video and shall be used by the Licensee pursuant to the terms of this Agreement.

6. ROSS VIDEO'S LIMITED REPRESENTATIONS AND WARRANTIES.

(A) Software Warranties

ROSS VIDEO represents and warrants that:

During the Maintenance Period the Software is warranted to be free from defects in materials and workmanship under normal use and that during the Maintenance Period the Software will materially perform when properly installed and used with the Designated Equipment in accordance with this Agreement.

Ross Video has the authority to enter into this Agreement, is the owner of the Software and Documentation and has the right to grant all of the license rights herein.

Ross Video has not granted any rights or licenses to the whole or any part of the Software or any other intellectual property or technology that would conflict with this Agreement;

To the best of Ross Video's knowledge, and except as expressly stated herein, no portion of the Software, as delivered to the Licensee, contains any disabling mechanism or protection feature designed to prevent its use. This includes, without limitation, any computer virus, worm, lock, drop dead device, Trojan-horse routine, trap door, time bomb or any other codes or instructions that may be used to access, modify, delete, damage or disable the Software or any other hardware or computer system.

Ross Video represents and warrants to Licensee that the Software, if properly installed and used with Designated Equipment, will perform substantially as described in Ross Video's then current Documentation for such Software for the Maintenance Period.

(B) Warranty Exclusions and Inclusions

Notwithstanding the above, all of Ross Video's obligations with respect to such warranties shall be contingent on the Licensee's use of the Software in accordance with this Agreement and Ross Video's instructions as provided in the Documentation, as amended from time to time by Ross Video. Ross Video shall have no warranty obligations where any Software failure occurs as a result of misuse, neglect, accident, abuse, misapplication, improper installation, unauthorized modification, extreme power surge or extreme electromagnetic field. Ross Video shall pass through to the Licensee the benefit of all third party manufacturer's / supplier's warranties.

(C) Remedy

If the Software becomes defective, and a valid claim is received by Ross Video during the Maintenance Period, Ross Video will at its sole option and sole discretion: (1) repair the defective software at no charge, or (2) exchange the defective software for a comparable product at no charge and this shall be the full extent of the remedy of the Licensee.

(D) Maintenance Charges

Technical support for the Software by telephone and email contact with Ross Video is provided by Ross Video to the Licensee at no extra charge for the life of the product. During the Maintenance Period, Ross Video shall supply downloadable Software upgrades upon request of the Licensee, when available, at no extra charge to the Licensee. Notwithstanding the foregoing, Ross Video shall be under no legal obligation to create or release Software upgrades at any time or in accordance with a fixed schedule. Upon expiry of the Maintenance Period, where applicable, the Licensee may purchase Software maintenance, including downloadable Software upgrades in one (1) year increments at the then applicable extended maintenance fee rates offered by Ross Video, in which case the warranties granted by this Agreement shall be applicable during each such one (1) year term.

7. **OWNERSHIP.** The Parties acknowledge and agree that as between the Parties, Ross Video shall be the owner of all intellectual property rights in the Software, Documentation and all related Modifications and Improvements, written materials, logos, trademarks, trade names, copyright, patents, trade secret and moral rights, registered or unregistered. No proprietary interest or title in or to the intellectual property in the Software, Documentation or any Improvements or Modifications is transferred to Licensee by this Agreement. Ross Video reserves all rights not expressly licensed to Licensee under section 2.
8. **INTELLECTUAL PROPERTY INDEMNITY.** Ross Video agrees to defend, indemnify and hold harmless Licensee from final damages awarded by a court of competent jurisdiction for third-party claims. (hereinafter referred to as the "Losses"), which Licensee or any of its respective officers or directors, may incur, suffer or become liable for as a result of, or in connection with, any third party claim asserted against Licensee to the extent such claim is based upon a contention that the Software, Documentation or any portion thereof, used within the scope of this Agreement infringes any valid, registered, enforceable patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party, provided that Licensee has notified Ross Video in writing of such claim within ten (10) days of a responsible officer of Licensee becoming aware of such claim. If the Software, Documentation or any portion thereof is held to constitute an infringement of another Person's rights, and use thereof is enjoined, Ross Video shall, at its election and expense, either:
- (i) procure the right to use the infringing element of the Software or Documentation; or
 - (ii) replace or modify the element of the Software or Documentation so that the infringing portion is no longer infringing and still performs the same function without any material loss of functionality;

and shall make every reasonable effort to correct the situation with minimal effect upon the operations of Licensee.

Notwithstanding the foregoing, Ross Video shall have no liability for any claim of infringement based on use of other than a current, unaltered release of the Software and Documentation available from Ross Video if such infringement would have been avoided by the use of a current, unaltered release of the Software or Documentation provided that such current, unaltered release performed substantially in conformance with the Specifications and was provided, at no additional cost by Ross Video, to those subscribing for maintenance services for the Software or Documentation.

9. **CONFIDENTIALITY.** Each of Ross Video and Licensee shall use reasonable efforts (and, in any event, efforts that are no less than the efforts used to protect its own Confidential Information) to protect from disclosure such information that is the Confidential Information of the other. Each of Ross Video and Licensee shall divulge such Confidential Information only to its employees, subcontractors or agents who require access to it for the purposes of this Agreement or as otherwise provided in this Agreement. Each of Ross Video and Licensee (the "Indemnifying Party") agree to indemnify the other (the "Indemnified Party") for all Losses incurred by the Indemnified Party as a result of a failure of the Indemnifying Party to comply with its obligations under this section 9 provided that the Indemnified Party has given prompt notice of any such claim and, to the extent that a claim may lie against a third party for the unauthorized disclosure of such Confidential Information, the right to control and direct the investigation, preparation, action and settlement of each such claim and, further, provided that the Indemnified Party reasonably cooperates with the Indemnifying Party in connection with the foregoing and provides the Indemnifying Party with all information in the Indemnified Party's possession related to such claim and such further assistance as reasonably requested by the Indemnifying Party.

Without limiting any other rights or remedies available to Ross Video in law or in equity, Licensee acknowledges and agrees with Ross Video that the breach by it of any of the provisions of this Agreement would cause serious and irreparable harm to Ross Video which could not adequately be compensated for in damages and, in the event of a breach by Licensee of any of such provisions, Licensee hereby consents to an injunction being sought against it restraining it from any further breach of such provision.

- 10. LIMITATION OF LIABILITY.** The limitation of liability provisions of this Agreement reflect an informed voluntary allocation of the risks (known and unknown) that may exist in connection with the licensing of the Software or Documentation hereunder by Ross Video, and that such voluntary risk allocation represents a material part of the Agreement reached between Ross Video and Licensee. Should Ross Video be in breach of any obligation, Licensee agrees that Licensee's remedies will be limited to those set forth in this Agreement. No action, regardless of form, arising out of this Agreement may be brought by Licensee more than twelve (12) months after the facts giving rise to the cause of action have occurred, regardless of whether those facts by that time are known to, or reasonably ought to have been discovered by, Licensee.
- (A) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6, THE SOFTWARE AND DOCUMENTATION ARE NOT WARRANTED AND ARE PROVIDED "AS IS" AND ROSS VIDEO GIVES NO OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES AS TO UNINTERRUPTED OR ERROR FREE OPERATION, MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE AND THOSE ARISING BY STATUTE OR OTHERWISE, OR FROM A COURSE OF DEALING OR USAGE OF TRADE.
- (B) IN NO EVENT SHALL ROSS VIDEO, ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS BE LIABLE FOR ANY CLAIM FOR: (i) PUNITIVE, EXEMPLARY, OR AGGRAVATED DAMAGES, (ii) DAMAGES FOR LOSS OF PROFITS OR REVENUE, FAILURE TO REALIZE EXPECTED SAVINGS, LOSS OF USE OR LACK OF AVAILABILITY OF LICENSEE'S OR THIRD PARTY MATERIALS OR FACILITIES, INCLUDING COMPUTER RESOURCES AND ANY STORED DATA; (iii) INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES; (iv) CONTRIBUTION, INDEMNITY OR SET-OFF IN RESPECT OF ANY CLAIMS AGAINST LICENSEE; (v) ANY DAMAGES WHATSOEVER RELATING TO THIRD-PARTY PRODUCTS OR SERVICES, LICENSEE'S MATERIALS; OR (vi) ANY DAMAGES WHATSOEVER RELATING TO INTERRUPTION, DELAYS, ERRORS OR OMISSIONS.
- (C) IN ANY EVENT THE MAXIMUM TOTAL LIABILITY OF ROSS VIDEO, ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS, FOR ANY CLAIM WHATSOEVER, INCLUDING WITHOUT LIMITATION CLAIMS FOR BREACH OF CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE) OR OTHERWISE, AND LICENSEE'S SOLE REMEDY, SHALL BE AN AWARD FOR DIRECT, PROVABLE DAMAGES NOT TO EXCEED THE AMOUNT OF FEES PAID TO ROSS VIDEO UNDER THIS AGREEMENT OR ANY OTHER PURCHASE AGREEMENT MADE BETWEEN ROSS VIDEO AND LICENSEE FOR PURCHASE AND SALE OF THE PRODUCT THAT GIVES RISE TO THE LIABILITY.

11. TERM AND TERMINATION.

- (1) The term of this Agreement shall be, (I) in the case of Software sold with Dedicated Equipment provided by Ross Video, the earliest of (a) the life of the Dedicated Equipment (b) unless assigned in accordance with this Agreement, the date on which the Dedicated Equipment is no longer owned by the Licensee; and (c) the termination date determined in accordance with paragraph (2) below; and (II) in the case of Software sold on a stand-alone basis, on the earlier of (a) unless assigned in accordance with this Agreement, the date on which the Licensee is no longer the owner of the Software; and (b) the termination date determined in accordance with paragraph (2) below.
- (2) Either Party shall have the right on notice to the other Party to terminate this Agreement if:
- (a) the other Party should fail to pay an amount to the other when due hereunder or under any other agreement between the Parties in connection with the Software and/or Dedicated Equipment and such breach is not cured within thirty (30) days after written notice of such is given to it by the other Party;

- (b) the other Party shall file a voluntary petition in bankruptcy or insolvency or shall petition for reorganization under any bankruptcy law (and such is not dismissed within ten (10) days);
 - (c) the other Party shall consent to involuntary petition in bankruptcy or if a receiving order is given against it under the *Bankruptcy and Insolvency Act* or the comparable law of any other jurisdiction (and such is not dismissed within ten (10) days);
 - (d) there shall be entered an order, judgment or decree by a court of competent jurisdiction, upon the application of a creditor, approving a petition seeking reorganization or appointing a receiver, trustee or liquidator of all or a substantial part of the other Party's assets and such order, judgment or decree continues in effect for a period of thirty (30) consecutive days; or
 - (e) the other Party shall fail to perform any of the other material obligations set forth in this Agreement and such default: in the case of a default which is remediable continues for a period of thirty (30) days after written notice of such failure has been given by the non-defaulting Party; or (ii) in the case of a non-remediable default, immediately upon notice.
- (3) Notwithstanding this section 10, Ross Video may forthwith terminate this Agreement if Licensee is in breach of any of sections 2, 3 or 9 of this Agreement. Ross Video shall provide written notice of such termination as soon as practicable but written notice shall not be a necessary prerequisite to such termination.
- (4) Upon the termination or expiry of this Agreement:
- (a) Licensee shall immediately deliver to Ross Video any of Ross Video's Confidential Information provided hereunder (including the Software and Documentation) then in its possession or control, if any, and shall deliver a certificate of an officer of Licensee certifying the completeness of same;
 - (b) Licensee shall refrain from further use of such Confidential Information; and
 - (c) Licensee shall forthwith pay all sums owing to Ross Video hereunder.

Nothing in this section 11 shall limit either Party's rights or remedies available at law, in equity or otherwise.

- 12. SURVIVAL.** The provisions of sections 1, 3, 5, 7, 9, 10, 11, 12, 14 and 15 herein shall survive the expiry or termination of this Agreement.
- 13. FORCE MAJEURE.** Dates and times by which Ross Video is required to render performance under this Agreement shall be automatically postponed to the extent and for the period that Ross Video is prevented from meeting them by reason of any cause beyond its reasonable control provided Ross Video notifies Licensee of the commencement and nature of such cause and uses its reasonable efforts to render performance in a timely manner.
- 14. ASSIGNMENT.** Ross Video may assign this Agreement, or any of its rights or obligations hereunder, in whole or in part, subject to providing prior written notice to Licensee. If Licensee sells or transfers the Dedicated Equipment, except in connection with a sale or transfer to a competitor of Ross Video, Licensee shall have the right to assign this Agreement in connection with the Software operating on the Dedicated Equipment subject to providing actual notice of such sale or transfer to Ross Video, including the name and contact information of the transferee. Otherwise, Licensee shall not assign this Agreement, or any of its rights or obligations hereunder, in whole or in part, with the prior written consent of Ross Video, which consent may not be unreasonably withheld.
- 15. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of Ontario and federal laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract. The Parties submit to the exclusive jurisdiction of the courts of Ontario. The Parties have

required that this Agreement and all documents relating thereto be drawn-up in English. Les parties ont demandé que cette convention ainsi que tous les documents qui s'y rattachent soient rédigés en anglais.

16. **CURRENCY.** For a Licensee domiciled in Canada, all references to dollar amounts and the symbol "\$" are to Canadian dollars. For a Licensee domiciled in or Australia or purchasing Software from Ross Video's Australian affiliate,, all references to dollar amounts and the symbol "\$" are to Australian dollars. In all other cases, all references to dollar amounts and the symbol "\$" are to United States dollars.
17. **AMENDMENT.** This Agreement may not be modified unless agreed to in writing by both Parties. Any consent by a Party to, or waiver of a breach by the other, whether express or implied, shall not constitute a consent to or waiver of or excuse for any other different or subsequent breach unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. Except as otherwise provided herein, no term or provision hereof shall be deemed waived and no breach excused.
18. **SEVERABILITY.** If any part of this Agreement is held to be unenforceable or invalid, it will be severed from the rest of this Agreement, which shall continue in full force and effect.
19. **NUMBER AND GENDER.** Words importing the singular include the plural and vice versa; and words importing gender include all genders.
20. **ENTIRE AGREEMENT.** This Agreement and any schedules or other documents referred to herein, constitutes the entire agreement between the Parties relating to the licensing of the Software and Documentation and supersedes all prior written or oral agreements, representations and other communications between the Parties, and shall enure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.