

The Licensee shall keep accurate records relating to the use of the Program which shall indicate to whom its use has been authorized and shall indicate the revenue received by the Licensee from the use of the Program for commercial purposes. The Licensee shall at the written request of the Licensor, expeditiously as possible, provide the Licensor with copies of such records, certified under the hand of a duly authorized officer of the Licensee. Upon the failure of the Licensee to provide copies of such records, the Licensor shall have the option, upon giving thirty (30) days written notice to the Licensee, to terminate the within Agreement.

14. Upon the happening of any of the following events, there shall be deemed to be a breach of the terms of the within Agreement and without intending to waive, remove, limit or restrict any legal or equitable right and remedy otherwise available to the Licensor, attendant upon such breach the Licensor shall have the right and option to terminate the within Agreement and upon the written request of the Licensor, the Licensee shall return the Program and all material used in connection therewith belonging to the Licensor within ten (10) days of receipt of the written request of the Licensor terminating the Agreement:

- (a) failure of the Licensee to pay in full, in accordance with terms of this Agreement, the licence fee above referred to;
- (b) violation of or failure of the Licensee to perform any of the other covenants or agreements herein contained;
- (c) the Licensee becoming insolvent, or making an assignment for the benefit of creditors, or if a petition in bankruptcy is filed by or against the Licensee, or proceedings for the appointment of a receiver for the Licensee is filed or if proceedings for a re-organization or for composition with creditors be instituted by or against the Licensee, or if real or personal property of the Licensee shall be sold or levied under a Writ of Execution.

The parties hereto agree that the Licensor would have no adequate remedy at law upon the Licensee's threatened or actual violation of its obligations under the terms of this Agreement and accordingly the parties hereto agree that the Licensor may apply to a Court of competent jurisdiction for an injunction restraining any such threatened or actual violation.

The Licensor shall under no circumstances be under an obligation to refund to the Licensee any amount paid by the Licensee by way of licencing fees upon the happening of any of the events hereinbefore referred to.

15. If, within ninety (90) days after the receipt by the Licensee of the said Program, the Licensee establishes to the satisfaction of the Licensor that the Program, because of its content, has not been beneficial to the Licensee, the Licensee may, by returning to the Licensor the Program and any materials associated therewith, elect to terminate this Agreement and in such event the Licensor shall return to the Licensee the licence fee paid to the Licensor.

16. The Licensor shall have the right, at any time during the term of the within licence or during any renewal thereof, of terminating the said licence, at its absolute discretion, by giving the Licensee ninety (90) days' written notice to that effect, provided that the Licensor shall, upon the expiration of such ninety (90) day period, return to the Licensee that portion of the yearly licence fee related to the unexpired portion of the year of the said licence term.

17. Upon the termination of the within Agreement, whether pursuant to the terms hereof, or by effluxion of time, or otherwise, the Program and any materials associated therewith shall be removed from any location in which the Program is being used and all materials, duplicates and copies relating thereto shall be destroyed by the Licensee. The Licensee, upon such termination, shall provide the Licensor with such reasonable evidentiary information and material as shall enable the Licensor to satisfy itself as to such removal and destruction of the said Program, materials, duplicates and copies relating thereto. Without intending to limit the generality of the foregoing, upon any such termination the Licensee shall complete, execute and give to the Licensor the "Termination of the WATFIV Agreement" form provided by the Licensor.

18. (a) Whenever any representation, written, printed or oral, shall be made by the Licensee relating to the said Program, such representation shall be accompanied by a reference to "WATFIV and the Applied Analysis and Computer Science Department, University of Waterloo", as the originator of the Program.
- (b) Any reference to the term WATFIV shall be accompanied by appropriate notice stating that WATFIV is a trademark of the University of Waterloo.

19. Any notice given under the terms of the within Agreement shall be in writing and shall be delivered in person to the addressee, or, shall be forwarded by prepaid post to the respective parties hereto as follows:
University of Waterloo,
Waterloo, Ontario,
N2L 3G1.

Any such notice mailed as aforesaid shall be deemed to have been given on the next business day following that upon which the letter containing such notice is posted.

20. There are no understandings, agreements, representations or warranties, express or implied, other than as herein set forth or incorporated by specific reference in this Agreement. This Agreement constitutes the entire agreement and understanding between the parties concerning the subject matter hereof and any modification or amendment shall not be binding upon either party unless in writing and signed on behalf of each by a duly authorized representative.

21. This Agreement and any questions concerning its validity, construction or performance shall be governed by the laws of the Province of Ontario.

22. Notwithstanding the terms of the within Agreement, and with regard to the computers herein specified, the Licensor hereby grants to the Licensee permission to allow the following educational institutions to use the Program for educational purposes only:

23. The Licensee agrees to indemnify the Licensor, its successors and assigns, against any and all loss, cost, charge, claim, demand, fee, damage or expense of every nature or kind which may at any time hereafter be sustained by the Licensor by reason of or in consequence of having executed or performed all or any part of this Contract.

24. The Licensor shall not, by reason of termination or nonrenewal of this Agreement, be liable to the Licensee for compensation, reimbursement or damages on account of the loss of prospective profits on anticipated sales or on account of expenditures, investments, leases or commitments in connection with the business or goodwill of the Licensee or otherwise.

25. If any term, clause or provision of this Agreement shall be judged invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to have been deleted from this Agreement.

IN WITNESS WHEREOF the parties have this day of
attested by the hands of their duly authorized officers in that behalf.

19 affixed their corporate seals.

UNIVERSITY OF WATERLOO

Per:

Per:

Per:

Per: