

SOFTWARE LICENSE AGREEMENT - SIMages™ Photo Gallery

IMPORTANT – READ CAREFULLY: This End-User License Agreement ("Agreement") is a legal agreement between you (either as an individual or a single entity) (hereinafter "You") and Strategic Edge Partners, Inc., 9792 Edmonds Way, Suite 187, Edmonds, WA 98020 (hereinafter "Strategic Edge") for the Licensed Program, **SIMages™ Photo Gallery**.

YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT BY INSTALLING OR AUTHORIZING STRATEGIC EDGE TO INSTALL THE SIMages™ Photo Gallery ON A SINGLE WEBSITE UNIFORM RESOURCE LOCATOR (URL). THE LICENSED PROGRAM IS COPYRIGHTED AND LICENSED ON A NONEXCLUSIVE BASIS. STRATEGIC EDGE DOES NOT SELL OR TRANSFER TITLE TO THE LICENSED PROGRAM TO YOU.

1. One URL License

Subject to the terms of this Agreement, Strategic Edge hereby grants you, a limited, non-exclusive, non-transferable right to install, have installed, and use The Licensed Program for use on ONE Uniform Resource Locator (URL) only, referred to as the unique URL of where The Licensed Program is installed (activation URL); you may not transfer the license to another URL or change the activation URL after the installation of your SIMages™ Photo Gallery without the express written permission of Strategic Edge. Strategic Edge also grants You a nonexclusive, nontransferable license to perform, execute, display and use the Licensed Program subject to the terms and conditions of this Agreement. If the License granted herein is referenced in a Strategic Edge Products and Services Agreement associated with a website product designed and/or developed by Strategic Edge, this End User License Agreement is hereby made subject to the terms of such Agreement.

2. Delivery/Installation

The Licensed Program will be delivered by allowing Strategic Edge to perform the installation for you. You and Strategic Edge hereby agree to allow delivery of the Licensed Program in a timely manner. Successful delivery and installation may depend, in part, upon You allowing Strategic Edge to install the Licensed Program on Your URL/Website. In the event You fail to allow such timely delivery and installation, Strategic Edge shall provide You a written notice of the situation and work toward a revised delivery date.

3. Scope of Rights.

You may: (a) install or allow Strategic Edge to install the Licensed Program on one URL/Website; (b) use and execute the Licensed Program for purposes of serving the needs of your business; and (c) in support of your authorized use of the Licensed Program as specified above, store the Licensed Program's machine-readable instructions or data in, transmit it through, and display it on computers. Notwithstanding anything herein to the contrary, nothing herein prohibits You from having the Licensed Program hosted by a third-party website hosting provider for Your benefit or accessed and operated by third parties for Your benefit, provided such third parties are subject to confidentiality restrictions consistent with this Agreement. Except as specified herein, You will have no other right to make use of the Licensed Program in any manner.

4. Fees and Payments.

If not included in conjunction with a Website created by Strategic Edge, the one-time fee for this License of the SIMages™ Photo Gallery shall be payable as follows: The automatic debit authorization form or credit card authorization form is hereby made a part of, and is incorporated into this Agreement (*Attachment CC – Credit Card Authorization*). In the event You desire to change Your method of payment (e.g., from one credit card to another), You shall give Strategic Edge written notice and shall complete the appropriate authorization form. Any balance that is outstanding for more than sixty-days (60) shall accrue interest at 1.5% per month. You must pay the applicable license fee for the Licensed Program directly to Strategic Edge. You are solely responsible for the payment of any applicable taxes (including, but not limited to, sales or use taxes, intangible taxes, and property taxes) resulting from this license or your possession and use of the Licensed Program ("Licensee Taxes"). Strategic Edge reserves the right to have You pay any such Licensee Taxes as they fall due to Strategic Edge for remittance to the appropriate authority. You agree to hold harmless Strategic Edge from all claims and liability arising from your failure to report or pay such taxes. Strategic Edge reserves the right to charge annual fees for Support and Maintenance as provided herein or in any other Agreement attached hereto. All fees are payable upon invoice.

5. Fees and Payments: Ongoing Hosting Fee

If separately agreed upon, Strategic Edge shall provide a website hosting environment for the installation and ongoing use of your SIMages™ photo gallery. You agree to pay Strategic Edge a non-refundable \$120 (US Dollars) yearly fee for this service. This fee shall automatically renew for successive one (1) year terms unless you give notice of non-renewal no less than thirty (30) days-notice prior to the end of the term. This Hosting Fee entitles you to store and host your SIMages™ Photo Gallery, upload and store photos, and entitles you to unlimited bandwidth usage for the purpose of the photo gallery. Accordingly, Strategic Edge will also ensure the availability and accessibility of your photo gallery, and the hosting environment it is stored on.

6. Support

Strategic Edge will promptly provide to You any code repairs or fixes required to correct problems with the Licensed Program. In addition, Strategic Edge may make Updates to the Licensed Program commercially available to You and other licensees of the same Licensed Program Version. All Updates will become part of the base product, and will be wholly owned by Strategic Edge and made a part of the product offered for general license to the public. Strategic Edge will provide to You email and phone support

services for problem resolution. However, Strategic Edge offers support only for the most current and prior Major Version of the Licensed Program issued by Strategic Edge from time to time. Unless Strategic Edge gives you advance notice as specified above, Support and Maintenance is included in the license fee. The foregoing shall apply only to the most current version of the Licensed Program issued by Strategic Edge from time to time. Strategic Edge assumes no responsibility for the use of superseded, outdated, or uncorrected versions of the Licensed Program. Strategic Edge is not responsible for obsolescence of the Licensed Program that may result from changes in Your requirements.

7. Your Responsibilities

In addition to the other terms and conditions set forth in this License, You are responsible for providing Strategic Edge personnel necessary access to any URL/Website for installation and Updates of the Licensed Program, and, if using a third-party website host, for maintaining all equipment and Internet connections necessary to install and properly use The Licensed Program, including, without limitation, computer hardware and software, modems, and telephone and/or network services. You are solely responsible for the receipt or transmission of any and all content using The Licensed Program as and when You use The Licensed Program, and you hereby agree to indemnify and hold Strategic Edge harmless for any unauthorized and/or unlawful posting of Photos by You using the Licensed Program. Except as agreed otherwise in writing, Strategic Edge does not warrant the compatibility of Your data files for use with the Licensed Program.

8. Proprietary Protection and Restrictions

Strategic Edge shall have sole and exclusive ownership of all right, title, and interest in and to the Licensed Program and all Updates (including, but not limited to, ownership of all trade secrets and copyrights pertaining thereto), subject only to the license rights and privileges expressly granted herein by Strategic Edge. This Agreement does not provide You with title or ownership of the Licensed Program, but only a right of limited use. You must keep the Licensed Program free and clear of all claims, liens, and encumbrances. You agree that: (a) You may not modify or distribute to third parties the Licensed Program (electronically or otherwise), or any copy, adaptation, transcription, or merged portion thereof, except as expressly authorized by Strategic Edge. You may not reverse engineer, reverse compile, or otherwise translate the Licensed Program. No service bureau work, multiple-user license, or time-sharing arrangement is permitted, except as expressly authorized by Strategic Edge in writing. You hereby authorize Strategic Edge to monitor your Website/URL in order to verify your compliance with the terms hereof. (b) You will safeguard any information you obtain in connection with this Agreement as Strategic Edge's confidential information and will not disclose or use any such information except as expressly permitted by this Agreement. (c) You understand that, in the event of your breach of any of the foregoing provisions, Strategic Edge will not have an adequate remedy in money or damages. Strategic Edge shall therefore be entitled to obtain an injunction against such breach from any court of competent jurisdiction immediately upon request. Strategic Edge's right to obtain injunctive relief shall not limit its right to seek further remedies.

9. Infringement Indemnification

If a third party claims that the Licensed Program infringes its patent, copyright, or trade secret, or any similar intellectual property right, Strategic Edge will defend You against such claims at Strategic Edge's expense and indemnify You against all damages that a court finally awards or that is the subject of a full and final settlement, provided that you promptly notify Strategic Edge in writing of the claim and allow Strategic Edge to control, and cooperate with Strategic Edge in, the defense or any related settlement negotiations. If such a claim is made or appears possible, You agree to permit Strategic Edge to enable You to continue to use the Licensed Program, or to modify or replace it, provided that any modified or replacement programs are at least equivalent in functionality, performance, and compatibility as the Licensed Program. If Strategic Edge determines that none of these alternatives is reasonably available, You agree to return the Licensed Program on Strategic Edge's written request, and You will then receive a refund of the amount paid to Strategic Edge as the license fee for the Licensed Program during the prior 12 months. However, Strategic Edge has no obligation for any claim based on your modification of the Licensed Program or its combination, operation, or use with any product, data, or apparatus not provided by Strategic Edge or identified in the applicable documentation, provided that such claim solely and necessarily is based on such combination, operation, or use and such claim would be avoided by combination, operation, or use with products, data, or apparatus provided by Strategic Edge. THIS PARAGRAPH STATES STRATEGIC EDGE'S ENTIRE OBLIGATION TO YOU WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.

10. Limited Warranty and Limitation of Liability

(a) Strategic Edge warrants, for Your benefit alone, that it owns or otherwise has the right to grant the license to the Licensed Program, and that the Licensed Program will conform in all material respects to the specifications of the Licensed Program during the 30 days following its installation. As Your exclusive remedy for any material defect in the Licensed Program for which Strategic Edge is responsible, Strategic Edge shall attempt through reasonable effort to correct or cure any reproducible defect by issuing corrected instructions, a restriction, or a bypass. In the event Strategic Edge does not correct or cure such nonconformity or defect after it has had a reasonable opportunity to do so, Your exclusive remedy shall be the refund of the amount paid as the license fee for the defective or nonconforming module of the Licensed Program. Strategic Edge shall not be obligated to correct, cure, or otherwise remedy any nonconformity or defect in the Licensed Program if You have made any changes whatsoever to the Licensed Program, if the Licensed Program has been misused or damaged in any respect, or if You have not reported to Strategic Edge the existence and nature of such nonconformity or defect in a timely manner. (b) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, STRATEGIC EDGE DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED PROMISES, REPRESENTATIONS, AND WARRANTIES WITH RESPECT TO THE LICENSED PROGRAM, INCLUDING ITS CONDITION, ITS CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, ANY NEGLIGENCE, AND ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE. (c) THE CUMULATIVE LIABILITY OF STRATEGIC EDGE FOR ALL CLAIMS RELATING TO THE LICENSED PROGRAM AND THIS AGREEMENT, INCLUDING ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT, OR STRICT LIABILITY, SHALL NOT EXCEED THE TOTAL AMOUNT OF ALL LICENSE

FEES PAID TO STRATEGIC EDGE HEREUNDER DURING THE PRIOR 12 MONTHS. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO THE INDEMNIFICATION PROVIDED IN SECTION 9 HEREOF. (d) STRATEGIC EDGE SHALL HAVE NO LIABILITY FOR LOSS OF DATA OR DOCUMENTATION, IT BEING UNDERSTOOD THAT YOU ARE RESPONSIBLE FOR REASONABLE BACKUP PRECAUTIONS.

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFITS OR ANY SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON DAMAGES IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

You may have additional rights under certain laws (e.g. consumer laws) that do not allow the exclusion of implied warranties, or the exclusion or limitation of certain damages. If such laws apply, our exclusions or limitations do not apply to You.

11. Term of Agreement; Termination

Unless otherwise agreed by the parties in writing, the term of this Agreement (and the license thereunder) is one (1) year beginning upon your receipt of the Licensed Program. This agreement shall automatically renew for successive one (1) year terms unless you give notice of non-renewal no less than sixty (60) days-notice prior to the end of the term. Either party may terminate this Agreement immediately in the event that the other party: (a) materially breaches this Agreement and fails to cure such breach within thirty (30) days after receiving notice of such breach; or (b) becomes subject to a proceeding under Title 11 of the United States Code, or a similar proceeding. Upon termination or expiration of this Agreement, all rights granted to you will terminate and revert to Strategic Edge. Promptly upon termination or expiration of this Agreement for any reason or upon discontinuance or abandonment of your possession or use of the Licensed Program, you must return or destroy all copies of the Licensed Program in your possession or control (whether modified or unmodified), and all other materials pertaining to the Licensed Program (including all copies thereof). Sections 3, 6, 8, 9, and 11 shall survive any termination or expiration of this Agreement.

12. HIPAA Compliance

Strategic Edge agrees to maintain the confidentiality, privacy, and security of patient information to the extent required by law and Client policy. Strategic Edge agrees to comply with the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated there under ("HIPAA") with respect to the privacy and security of "protected health information" (as defined by HIPAA) created, transmitted, maintained or received by Strategic Edge pursuant to, or in connection with, the performance of Strategic edge obligations under this Agreement. The provisions of this Section shall survive the termination or expiration of this Agreement. You are solely responsible for ensuring that all text, photographs, graphics or other data installed or used in conjunction with the Licensed Program are provided by You in accordance with HIPAA requirements. You will indemnify and hold harmless Strategic Edge for any loss, cost, damages or expenses arising from breach of this responsibility. Strategic Edge reserves the right to assign employees and subcontractors to the duty of installing the Licensed Program as necessary to ensure on-time delivery. Employees and independent subcontractors shall be covered and bound by HIPAA requirements to the same degree as Strategic Edge.

13. Miscellaneous

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without regard to principles of conflicts of laws. In the event of any litigation between the parties with regard to this Agreement, such proceeding shall be held in the state or federal courts located in Seattle, Washington, and each party agrees to be subject to the jurisdiction of such courts. The non-prevailing party in any such litigation shall reimburse the prevailing party for the reasonable attorney's fees it incurs in connection with such litigation. No modification of this Agreement shall be binding unless it is in writing and is signed by an authorized representative of the party against whom enforcement of the modification is sought. Your rights may not be transferred, leased, assigned, or sublicensed except for a transfer of the Licensed Program in its entirety to a successor in interest of Your entire business who assumes the obligations of this Agreement in connection with your merger, corporate reorganization, or sale of all (or substantially) all of Your assets. Any notices required or permitted under this Agreement shall be in writing and delivered in person or sent by registered or certified mail, return receipt requested, with proper postage affixed. In the event that any of the terms of this Agreement is or becomes or is declared to be invalid or void by any court or tribunal of competent jurisdiction, such term or terms shall be null and void and shall be deemed severed from this Agreement and all the remaining terms of this Agreement shall remain in full force and effect.