

*TimeMap*TM Open Source Consortium

LICENCE AGREEMENT

*TimeMap*TM

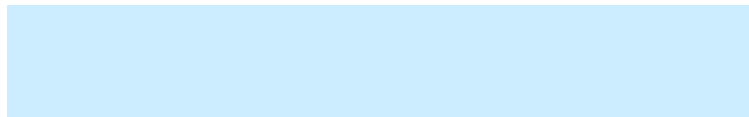
Trademark & Computer Software

www.timemap.net

THIS AGREEMENT is made the day of 200

BETWEEN **THE UNIVERSITY OF SYDNEY** (ABN 15 211 513 464) a statutory body corporate established pursuant to the University of Sydney Act 1989 of Sydney in the State of New South Wales 2006 (“**the University**”)

AND



(“**the Licensee**”)

Organisation name and address

WHEREAS:

- A. The University is the owner of the Licensed Product.
- B. There are three different categories of membership available to the Licensee.
- C. The Licensee wishes to obtain a licence from the University, in the membership category nominated by the Licensee, to use the Licensed Product for the purposes set forth in this Agreement.

1. DEFINITIONS

In this Agreement, except as the context or subject matter otherwise indicates or requires, the following terms and expressions shall have the following meanings:

“**Agreement**” means this licence agreement and all its schedules.

“**Annual Maintenance Licence Fee**” means the fees payable to the University as detailed in **Schedule 4**.

“**GST**” means GST as defined in the “A New Tax System (Goods and Services Tax)” Act 1999 (Commonwealth Government of Australia) as amended from time to time.

“**Intellectual Property**” means trade marks, patents, copyright, know-how, confidential information, designs and other like rights.

“**Licence Fee**” means the fees payable to the University as detailed in **Schedule 4**.

“**Licensed Product**” means the *TimeMap*[™] Intellectual Property and the *TimeMap*[™] computer software detailed in **Schedule 1**.

“**Parties**” means each of the University and the Licensee and “**Party**” means either one of them as the context requires.

2. GRANT OF LICENCE

- 2.1 The University hereby grants to the Licensee a non-transferable and non-exclusive licence to copy and use the Licensed Product described in **Schedule 1** under the terms and conditions contained in this Agreement.
- 2.2 The Licensee shall have the right to use the Licensed Product on any computer listed in **Schedule 2**. The Licensee may copy the Licensed Product only for the purpose of using the program on the computer(s) listed in **Schedule 2** or for archive purposes. Any part of the Licensed Product included in a modified work shall remain subject to all terms and conditions of this Agreement. The Licensee may copy the supplied documentation as required.
- 2.3 The Licensee shall have the right to use the Licensed Product only for testing, personal and demonstration applications and the additional uses specifically listed in **Schedule 3**. Use of the Licensed Product in a production environment, including but not limited to: institutional web pages; public displays; applications accessible beyond the licensed location, institution or work group; subscription services or commercial applications; are specifically excluded unless listed in **Schedule 3** or subsequently authorised by the University.
- 2.4 In the event of the Licensee selling or disposing of the licensed computer(s), the Licensee must delete all copies of the Licensed Product from those computers and the University will have the right to terminate the Agreement for those computer(s). Where the Licensee replaces an existing licensed computer with another computer, then the licence may be transferred free of cost provided the Licensee continues to use the Licensed Product as per the terms and conditions of this Agreement.
- 2.5 The Licensee is not to use the *TimeMap*[™] trade mark without written approval from the University other than as specified in this Agreement.
- 2.6 The University does not warrant that the Licensed Product, or any part thereof, including without limitation the *TimeMap*[™] trade mark, will be valid, or that the use of the Licensed Product is not or will not be an infringement of the rights of third parties.

3. LICENCE FEE & ANNUAL MAINTENANCE UPDATE FEE

- 3.1 The Licensee shall pay to the University the Licence Fee stipulated in **Schedule 4** and in addition the Licensee shall meet all applicable taxes thereon including GST, such payment being solely for the right to use the Licensed Product pursuant to these terms and conditions and does not constitute the purchase of the Licensed Product, nor the grant of any other right or title

to the Licensed Product.

- 3.2 Payment of the Licence Fee stipulated in **Schedule 4** shall entitle the Licensee to download and use updates of the Licensed Product (including any new features developed) from the **TimeMap™** web site, and to have access to the additional services detailed in **Schedule 5**, for a period of 1 year from the date of this Licence.
- 3.3 Payment of the Annual Maintenance Licence Fee specified in **Schedule 4** shall entitle the Licensee to download updates of the Licensed Product (including any new features developed) from the **TimeMap™** web site, and to have access to the additional services detailed in **Schedule 5**, for a period of 1 year from the due date specified in **Schedule 4**.
- 3.4 Any Licence Fee or Annual Maintenance Licence Fee payable under this Agreement shall be paid, quoting “BLO Ref. No. 7153 - *TimeMap*”, either by cheque written out to “The University of Sydney”, by credit card authorisation, or electronic transfer directed into the University’s nominated bank account:

Bank Account Name:	The University of Sydney
Bank Account Number:	50 944 8377
Name of Bank:	National Australia Bank (NAB)
BSB:	082 372
Swift code:	NATAAU3302S
Address of Bank:	174 City Road, Chippendale NSW 2008.

4. TERM & TERMINATION

- 4.1 This Agreement shall remain in force until the Licensee discontinues the use of the software or until terminated in accordance with Clause 4.2.
- 4.2 In the event the Licensee neglects or fails to perform or observe any of its obligations under this Agreement, the licence granted herein to the Licensee shall immediately terminate.

5 TERRITORY

- 5.1 Worldwide.

6. COPIES

- 6.1 Unless agreed or instructed otherwise by the University in writing, on all copies of the Licensed Product that have not been modified by the Licensee and in any published materials describing applications developed with the Licensed Product, the Licensee agrees to:
- reproduce and include the following University copyright and licence notice “Copyright © University of Sydney. **TimeMap™** used under license from the University of Sydney”; and
 - acknowledge use of the Licensed Product through a hyperlink to the **TimeMap™** web site (<http://www.timemap.net>) displayed within the applet space or in the embedding web page adjacent to the applet, following the guidelines published on the **TimeMap™** web site.

- 6.2 Unless agreed or instructed otherwise by the University in writing, on all copies of the Licensed Product that have been modified by the Licensee and in any published materials describing applications developed with the modified Licensed Product, the Licensee agrees to:
- (a) reproduce and include the following University licence notice “ Copyright © University of Sydney. **TimeMap**TM used under license from the University of Sydney. This **TimeMap**TM software has been modified by the Licensee.”; and
 - (b) acknowledge use of the Licensed Product through a hyperlink to the **TimeMap**TM web site (<http://www.timemap.net>) displayed within the applet space or in the embedding web page adjacent to the applet, following the guidelines published on the **TimeMap**TM web site.
- 6.3 Upon termination of the licence herein granted, the Licensee shall certify to the University in writing that all copies of the Licensed Product in whatever form in its possession or under its control have been destroyed and the Licensee hereby authorises the University to attend premises where same were kept and to verify such destruction. On termination the Licensee shall warrant in writing that it is not in breach of this clause. Any right to damages shall not be prejudiced by termination.

7. SECURITY

- 7.1 The Licensee agrees not to disclose, provide or otherwise make available the Licensed Product or any portion thereof in any form whatsoever to any person other than the University or other Licensed Product licence holders, except as specified in **Schedule 3**, without written approval of the University.
- 7.2 The Licensee will take all reasonable steps necessary to ensure that no unauthorised copies or uses are made of the Licensed Product.
- 7.3 The Licensee agrees to advise the University immediately it discovers any unauthorised copies or uses of the Licensed Product.

8. TITLE AND WARRANTY

- 8.1 Title to, and ownership of, the Licensed Product including all Intellectual Property rights shall at all times remain with the University. In addition, the Licensee hereby unreservedly assigns all Intellectual Property rights in any modifications to the Licensed Product to the University.
- 8.2 The University will not be responsible for the correcting of any bugs or deficiencies found by the Licensee. However, the University may, at its own discretion, provide to the Licensee updated copies of the software for download from the **TimeMap**TM web site (<http://www.timemap.net>).
- 8.3 The Licensed Product is being supplied by the University at the request of the Licensee. It is acknowledged and agreed by the parties that:
- (a) the University does not have any detailed knowledge or understanding of the Licensee's needs, obligations and business;
 - (b) no warranty or undertaking is made by the University that the Licensed Product will be

suitable for or assist the Licensee in its operations or be compatible with the Licensee's equipment;

- (c) to the extent permitted by any Federal or State Laws, all warranties including any express or implied warranties of merchantability or of fitness for a particular purpose are hereby excluded. The University shall not be liable in contract, tort or otherwise to the Licensee for any special, indirect, consequential or other damages in any way resulting from or arising out of the use of the Licensed Product.
- (d) in the event that any conditions or warranties implied by the Trade Practices Act, 1974 (as amended) (hereinafter referred to as “**the Act**”) apply to the use of the Licensed Product by the Licensee, the liability of the University for breach of any such conditions or warranties (other than a condition or warranty implied by section 69 of the Act) shall be limited to:
 - (i) in the case of goods, either:
 - (a) the replacement of the goods or the supply of equivalent goods; or
 - (b) the repair of the goods;whichever the University in its absolute discretion shall think fit; and
 - (ii) in the case of services, the supplying of the services again.

8.4 It is further acknowledged that the University is not and shall not be required to provide any additional backup, support or further information to the Licensee, unless specifically negotiated over and above the provision of the Agreement.

9. GENERAL

9.1 Assignment

This Agreement, the licence granted hereunder and the Licensed Product may not be assigned, sub-licensed or otherwise transferred by the Licensee without prior written consent of the University. The University shall have the right to appoint a nominee to inspect the books and records of the Licensee to determine any unauthorised transfer.

9.2 Applicable Law

This Agreement shall be governed by the laws of the State of New South Wales and all applicable laws of the Commonwealth of Australia. The parties agree to submit to the jurisdiction of the Courts of New South Wales.

9.3 Conciliation

Any dispute or controversy arising out of or in relation to this Agreement shall be referred to the Australian Commercial Disputes Centre.

9.4 Severability

Should any provision of this Agreement be held by a Court to be unlawful, invalid, unenforceable or in conflict with any rule of law, statute, ordinance or regulation, the validity and enforceability of the remaining provisions shall not be thereby affected.

SCHEDULE 1
Licensed Product
Clause 1

TimeMapTM TMJava applet and servlet:

1. Compiled program and supporting files;
2. Source code.

TimeMapTM (<http://www.timemap.net>) is a methodology for recording time-stamped spatial data and delivering it through distributed servers, time-enabled maps and map animations.

SCHEDULE 2
Licensed Computer Systems
Clause 2

Any computer belonging to the Licensee.

SCHEDULE 3
Additional Uses
Clause 2.3

Specific additional permissible product uses (uses which do not fall within testing, personal or demonstration use) for each category of membership are:

Standard Membership

1. License to use **TimeMap**TM software for intranets, CD-ROM delivery up to 500 CD's and non-profit, research unit or local government web sites only.

Gold Membership

1. Intranet and Internet sites served from the Licensee's servers;
2. Inclusion of compiled programs in CD-ROM products developed by the Licensee;
3. Inclusion of compiled programs in software supplied to the Licensee's clients as part of a consultancy;
4. Incorporation of source code in software products developed by the Licensee, provided that these products are not marketed in direct competition with **TimeMap**TM.

Platinum Membership

1. Intranet and Internet sites served from the Licensee's servers;
2. Inclusion of compiled programs in CD-ROM products developed by the Licensee;
3. Inclusion of compiled programs in software supplied to the Licensee's clients as part of a consultancy;
4. Incorporation of source code in software products developed by the Licensee, provided that these products are not marketed in direct competition with **TimeMap**TM.

SCHEDULE 4
Licence Fee & Annual Maintenance Licence Fee
Clause 3

1. The Licence Fees due and payable on the date of execution of this Agreement for each different category of membership are as follows:

Category of Membership	Licence Fees
Standard	US\$500 or more
Gold	US\$5,000 or more
Platinum	US\$10,000 or more (US\$5,000 or more if Licensee has contributed cumulative payments exceeding US\$20,000)

For members with Australian addresses GST is added to the above amounts.

2. The Annual Maintenance Licence Fees due and payable on each anniversary of the date of execution of this Agreement for each different category of membership are as follows:

Category of Membership	Annual Maintenance Licence Fees
Standard	US\$500 or more
Gold	US\$5,000 or more
Platinum	US\$10,000 or more (US\$5,000 or more if Licensee has contributed cumulative payments exceeding US\$20,000)

For members with Australian addresses GST is added to the above amounts.

SCHEDULE 5
Services Provided
Clause 3

The services provided for each different category of membership are as follows:

Standard Membership

Access to a passworded consortium web site providing:

1. The latest TMJava executables;
2. **TimeMap**TM beta source code as released progressively to consortium members and up to 12 months prior to general release under an open source licensing arrangement;
3. End-user and internal technical documentation, and all training materials as developed;
4. Email technical support from the **TimeMap**TM project team (1 week maximum response time).

Gold Membership

In addition to Standard Membership benefits, Gold Members will receive:

1. Priority technical assistance by email, Microsoft Remote Assist or telephone, normally within 48 hours or less (weekdays, depending on time-difference);
2. Custom programming or setup of customised applications, up to 20 hours/year;
3. Free attendance of two staff members at any **TimeMap**TM training session;
4. Listing on **TimeMap**TM web site as a significant sponsor.

Platinum Membership

In addition to Standard Membership benefits, Platinum Members will receive:

1. Priority technical assistance by email, Microsoft Remote Assist or telephone, normally within 24 hours or less (weekdays, depending on time-difference);
2. Priority development of new feature requests, subject to requested features being of general use (otherwise, see 3. below);
3. Custom programming or setup of customised applications, up to 40 hours/year;
4. Free attendance of five staff members at any **TimeMap**TM training session;
5. Listing on **TimeMap**TM web site as a major sponsor.

EXECUTED by the Parties as an agreement on the date of the signature of the latest party to sign this Agreement:

SIGNED for and on behalf of
THE UNIVERSITY OF SYDNEY by
its authorised representative:

Name: **Signature:**.....

Position: **Date:**.....
Sydnovate

In the presence of:

Name: **Signature:**.....

For statistical purposes the number of employees at Licensee (please tick appropriate box):

1-19 Employees 20-199 Employees 200+ Employees

Membership Category applied for by the Licensee (please tick appropriate box):

- Standard Membership** (US\$500 or more)
- Gold Membership** (US\$5,000 or more)
- Platinum Membership** (US\$10,000 or more)
- Platinum Membership** (US\$5,000 or more if Licensee has contributed cumulative payments exceeding US\$20,000)

Amount to be invoiced/enclosed: US\$ _____ (**Note:** GST will be added for Australian addresses)

SIGNED for and on behalf of
THE LICENSEE by
its authorised representative:

Name: **Signature:**.....

Position: **Date:**.....

In the presence of:

Name: **Signature:**.....