

EXCELISYS BUSINESS TRACKER SOFTWARE LICENSE

IMPORTANT -- READ CAREFULLY: BY INSTALLING, COPYING, DOWNLOADING, ACCESSING OR OTHERWISE USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT INSTALL, ACCESS OR USE THE SOFTWARE.

1. License Grant. This Excelisys Business Tracker software ("Software") is licensed, not sold, to you by Excelisys, Inc. and/or its subsidiaries (collectively referred to as "Excelisys") for use only under the terms of this License, and Excelisys reserves any rights not expressly granted to you. Subject to all the terms and conditions of this License, Excelisys grants you a nonexclusive, nontransferable license to use, modify, copy and distribute the Software, provided that the Software is only used with an authorized licensed copy of the FileMaker Pro software application, version 10.0 or later, and/or FileMakerGo, version 2.0 or later. You must reproduce on each copy any copyright or other proprietary notices that were on the original copy supplied by Excelisys, along with a copy of this software license.

2. Restrictions.

(a) THE SOFTWARE IS NOT INTENDED FOR USE IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, AIR TRAFFIC CONTROL, OR OTHER ENVIRONMENTS IN WHICH THE FAILURE OF THE SOFTWARE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

(b) YOU MAY NOT TRANSFER OR ASSIGN YOUR RIGHTS UNDER THIS LICENSE TO ANOTHER PARTY WITHOUT EXCELISYS' PRIOR WRITTEN CONSENT.

3. Termination. This License is effective until terminated. This License will terminate immediately without notice from Excelisys or judicial resolution if you fail to comply with any provision of this License. Upon such termination you must destroy the Software, any accompanying written materials and all copies thereof, and Sections 5, 6 and 7 will survive any termination.

4. Export Law Assurances. You may not use or otherwise export or re-export the Software except as authorized by United States law and the laws of the jurisdiction in which the Software was obtained. In particular, but without limitation, the Software may not be exported or re-exported (a) into (or to a national or resident of) any U.S. embargoed countries (currently Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria), or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the Software you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list.

5. NO WARRANTY. YOU ACKNOWLEDGE THAT THE SOFTWARE MAY NOT SATISFY YOUR REQUIREMENTS OR BE FREE FROM DEFECTS. THE SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND EXCELISYS EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FURTHERMORE, THERE IS NO WARRANTY AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SOFTWARE OR AGAINST INFRINGEMENT OF THIRD PARTY RIGHTS BY THE SOFTWARE.

6. Disclaimer of Liability. EXCELISYS WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES, WHETHER ARISING IN TORT (INCLUDING

NEGLIGENCE), CONTRACT OR OTHERWISE, THAT STEM FROM ANY USE OR INABILITY TO USE THE SOFTWARE OR OTHERWISE ARISING FROM THIS LICENSE. Excelsys's liability to you for any direct or indirect damages for any cause whatsoever, and regardless of the form of the action, will be limited to the money paid for this Software initially and not for any customization that may have been provided after the install and use. The parties agree that this disclaimer of liability provision shall be enforced independently of and survive the failure of essential purpose of any warranty remedy.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. THE ABOVE LIMITATION WILL NOT APPLY IN CASE OF PERSONAL INJURY WHERE AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY.

7. General. If there is a local subsidiary of Excelsys in the country in which this License was purchased, then the local law in which the subsidiary sits shall govern this License. Otherwise, this License shall be governed by the laws of the United States and the State of California. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (1980), as amended, is specifically excluded from application to this License. This License constitutes the entire agreement between you and Excelsys concerning the subject matter, and any proposals for additional or different terms, including but not limited to the terms set forth in any purchase order, are hereby rejected. Any waiver or amendment of any provision of this License shall be effective only if in writing and signed by both you and Excelsys. If any provision of this License shall be held by a court of competent jurisdiction to be contrary to law, that provision will be enforced to the maximum extent permissible, and the remaining provisions of this License will remain in full force and effect. If the Software is supplied to the United States Government, the Software is classified as "restricted computer software" as defined in clause 52.227-19 of the FAR. The United States Government's rights to the Software are as provided in clause 52.227-19 of the FAR.