

This License Agreement (“Agreement”) is dated as of its signature by both parties, and constitutes a legal agreement between ImageOptim Ltd. registered in England and Wales under company number 10288649 whose registered office is at International House, 142 Cromwell Road, London, England, SW7 4EF (“We”/“Us”) and you or the organisation on whose behalf you are entering into this Agreement (“You”) for the Licensed Software (as defined below).

1. DEFINITIONS

“Application” means any software, application, or elements that Your Designated Users develop using the Licensed Software or Modifications in accordance with this Agreement; provided that any such Application (i) must add primary and substantial functionality to the Licensed Software, and (ii) must not allow any third party to use the Licensed Software or Modifications, or any portion thereof, for software development or application development purposes.

“Designated User” means a person for whom You have purchased a license to use the Licensed Software, whether such person is an employee acting within the scope of their employment with You or Your consultant or contractor acting within the scope of the services they provide for You.

“End User” means an end user of Your Application.

“Fee” has the meaning given to it in clause 4 of this Agreement.

“Intellectual Property Rights” means patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

“Modification” means: a) any addition to or deletion from the contents of a file included in the original Licensed Software or previous Modifications created by You, and/or b) any new file that leverages any part of the original Licensed Software or previous Modifications.

“Licensed Software” means source code, documentation, and derivative work written by Kornel Lesiński as part of pngquant2, libimagequant and gifski.

“Supported Term” means a period of twelve (12) months beginning on the date of this Agreement, as extended in accordance with clause 7.

“Support” means standard developer support that is provided to assist eligible Designated Users in using the Licensed Software. Support does not include modification or extension of the Licensed Software's functionality.

“Updates” means a public release of the Licensed Software containing enhancements, new features, bug fixes, error corrections and other changes that are generally made available to users of the Licensed Software.

2. DELIVERY

Licensed Software will be made available for You electronically within 7 days of signature of this Agreement.

3. LICENSE GRANT AND RESTRICTIONS

3.1 In consideration for the payment of the Fee, and subject to Your compliance with all of the terms and conditions of this Agreement, We grant to You and your Designated Users a revocable, non-exclusive, non-transferable (subject to clauses 3.1(iii) and (iv)) and non-sublicensable license:

- (i) to use the Licensed Software to create Modifications and Applications;
- (ii) apply Updates to the Licensed Software;
- (iii) for You to distribute or make available the Licensed Software and/or Modifications to End Users solely as integrated into the Applications; and
- (iv) for End Users to use the Licensed Software as integrated into Your Applications in accordance with the terms of this Agreement.

3.2 The rights granted in clauses 3.1(i), (ii), and (iii) shall apply for duration of the Supported Term only. In the event that You elect not to extend the Supported Term in accordance with clause 7, We shall, following the expiry of Supported Term, no longer make the Licensed Software, Support or Updates available to You and the rights granted in to you in clauses 3.1(i), (ii) and (iii) shall come to an end in accordance with clause 7.

3.3 The rights granted in clause 3.1(iv) shall continue in perpetuity for as long as End Users continue to use and have access to Your Application. For the avoidance of doubt, You may not distribute further Applications containing the Licensed Software after the rights granted in clauses 3.1(i), (ii) and (iii) expire in accordance with clause 3.2.

3.4 You are eligible to receive Support and Updates during the Supported Term, in accordance with the terms of this Agreement and Our then current policies and procedures, if any. Such policies and procedures may be changed from time to time.

3.4 You shall:

(i) ensure that the number of Designated Users using the Licensed Software does not exceed 20

(iii) ensure that any End Users making use of the Licensed Software as permitted under clauses 3.1(iii) and (iv) are expressly prohibited from using the Licensed Software other than as part of Your Application, and in particular may not use the Licensed Software for distribution, resale, or software development purposes;

(iv) keep a complete and accurate record of Your copying and disclosure of the Licensed Software and its users, and produce such record to Us on request from time to time; and

(v) notify Us as soon as You become aware of any unauthorised use of the Licensed Software by any person.

3.5 You shall permit Us to have access to, and shall provide on Our request, any records kept in connection with this Agreement, for the purposes of ensuring that You are complying with the terms of this Agreement, provided that We shall keep such records and information contained in them strictly confidential.

4. FEE

4.1 You shall pay to Us a licence fee of (see pricing) on signature of this Agreement.

4.2 All sums payable under this Agreement are exclusive of VAT or any relevant local sales taxes or transfer fees, for which You shall be responsible.

5. OWNERSHIP

5.1 You acknowledge that all Intellectual Property Rights in the Licensed Software and any Updates belong and shall belong to Us or the relevant third-party owners (as the case may be), and You shall have no rights in or to the Licensed Software other than the right to use it in accordance with the terms of this Agreement.

5.2 Subject to clause 5.1, You shall retain all Intellectual Property Rights and other rights in and to any Applications or Modifications authored by You under this Agreement.

5.3 You acknowledge that the Licensed Software may include Intellectual Property Rights owned and licensed to Us from third parties, some of which is available as open-source software. You acknowledge that any third party software, including any open-source software made available to You as part of the Licensed Software is provided "as is" and expressly subject to the disclaimer in clause 8.

6. PROHIBITED USES

6.1 You may not redistribute the Licensed Software other than by including the Licensed Software or a portion thereof within Your Application. You may not redistribute the Licensed Software as part of any Application that can be described as a development toolkit or library.

6.2 You may not use, nor may You permit others to use, the Licensed Software to develop products, solutions, applications or any other materials for any third party distributor.

7. TERM AND TERMINATION

7.1 Subject to clause 7.2, You may request a renewal of the Support Term for further periods of 12 months by giving Us at least 1 month's prior written notice before the expiry of the then current Support Term of your desire to renew.

7.2 We may elect, in Our absolute discretion, not to accept a renewal request made to us under clause 7.1. In the event that We agree to a renewal request, the terms of this Agreement shall continue in full force and effect and the Fee shall continue to be payable.

7.3 This Agreement and Your right to use the Licensed Software and Modifications will terminate immediately if You fail to comply with any of the terms and conditions of this Agreement.

7.4 Upon termination of this Agreement, You shall cease using and distributing the Licensed Software. All copies of Licensed Software in Your possession or control must be erased or destroyed and You must provide Us with written confirmation of such erasure or destruction within 3 days of termination. The provisions of sections 4, 5, 7, 8 and 9, together with any other provisions which impliedly continue in force, will survive any termination of this Agreement.

8. DISCLAIMER OF WARRANTIES

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE AND OUR RESELLERS DISCLAIM ALL WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND TITLE AND NON-INFRINGEMENT, WITH REGARD TO THE LICENSED SOFTWARE. WE DO NOT GUARANTEE THAT THE OPERATION OF THE LICENSED SOFTWARE OR THE CODE IT PRODUCES WILL BE UNINTERRUPTED OR ERROR-FREE, AND YOU ACKNOWLEDGE THAT IT IS NOT TECHNICALLY PRACTICABLE FOR US TO DO SO.

9. LIMITATION OF LIABILITIES

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE UNDER ANY LEGAL OR EQUITABLE THEORY FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR ANY OTHER PECUNIARY LAW) ARISING OUT OF THE USE OF OR INABILITY TO USE THE LICENSED SOFTWARE OR THE CODE IT PRODUCES OR ANY OTHER SUBJECT MATTER RELATING TO THIS AGREEMENT, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, OUR ENTIRE LIABILITY WITH RESPECT TO ANY SUBJECT MATTER RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE LICENSED SOFTWARE.

10. MISCELLANEOUS

10.1 While redistributing the Licensed Software or Modifications thereof as part of Your Application, You may choose to offer acceptance of support, warranty, indemnity, or other liability obligations and/or rights consistent with this Agreement. However, in accepting such obligations, You may act only on Your own behalf and on Your sole responsibility, not on our behalf.

10.2 You agree to be identified as a customer of Ours and You agree that We may refer to You by name, trade name and trademark, if applicable, and may briefly describe Your business in our marketing materials and web site.

10.3 You may not assign or transfer this Agreement without Our prior written consent. Any attempted assignment or delegation in violation of this clause shall be null and void. This Agreement may be assigned by Us in whole or part and will inure to the benefit of Our successors and assigns.

10.4 This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. No oral or written information given by Us or otherwise on Our behalf shall create a warranty or collateral contract, or in any way increase the scope of this Agreement in any way, and You may not rely on any such oral or written information. Any waivers or amendments shall be effective only if made in writing.

10.5 If any provision in this Agreement shall be determined to be invalid, such provision shall be deemed omitted; the remainder of this Agreement shall continue in full force and effect. If any remedy provided is determined to have failed for its essential purpose, all limitations of liability and exclusions of damages set forth in this Agreement

shall remain in effect. The failure of either party to enforce any provision of this Agreement may not be deemed a waiver of that or any other provision of this Agreement.

10.6 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

10.7 This Agreement may be signed in any number of counterparts, and may be signed electronically by either party where such functionality is enabled by Us.

10.8 The Agreement shall be governed by and construed in accordance with English law and each party hereby submits to the exclusive jurisdiction of the English courts.

Signed by Kornel Lesiński
for and on behalf of ImageOptim Ltd.

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Director

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF CUSTOMER]

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Director