

Software License Agreement and Warranty

Prepared for:

Dennis J. Fellin Code 22550
SPAWAR Systems Center Pacific
Dennis.Fellin@Navy.Mil
53560 Hull Street, San Diego, CA 92152-5001

Contract Number:

N66001-19-A-0052

April 1, 2019

Proprietary and Intellectual Information

© 2018 Adacel Systems, Inc. All rights reserved. Written and published by Adacel Systems, Inc. No part of this document may be reproduced, stored in, or introduced into a database or retrieval system, or transmitted, in any form or by any means, (electronic, mechanical, photocopying, recording, or otherwise) without the prior written permission of Adacel Systems, Inc. The products or architecture names mentioned in this document are registered trademarks, trademarks, and trade names of their respective owners.

Adacel Systems Inc.
9677 Tradeport Drive. Orlando, FL 32827
Tel: 407.581.1560 Fax: 407.581.1581





Table of Contents

1. Definitions 1

1.1 Software 1

1.2 Acceptance..... 1

2. License 1

3. Taxes 2

4. Confidential Information 2

5. Ownership 2

6. Warranty 2

7. Limitation of Liability..... 2

8. Indemnification 2

9. Termination..... 3

10. Assignment 3

11. General Provisions 3

SAMPLE Software License Agreement and Warranty

1. Definitions

1.1 Software

The term “Software” shall mean the **Error! Reference source not found.** system in object code only and the associated user manuals provided to the Licensee under Contract No. N66001-19-A-0052

1.2 Acceptance

The term “Acceptance” shall mean the date upon which the Software has been installed by or for Licensee.

2. License

- a. Licensor grants Licensee, pursuant to the terms and conditions of this Agreement, a non-exclusive, non-transferable license to use the Software as specified in this Agreement for the purposes specified under Contract No. N66001-19-A-0052.
- b. Licensee shall use the Software only on the computer equipment and only at the site or sites listed in Appendix A attached hereto and forming part hereof. Licensee may temporarily transfer the Software to back-up computer equipment at a location different from the site(s) mentioned in Appendix A if the authorized equipment is inoperative for more than twenty-four (24) hours and Licensee provides Licensor advance notice, in writing, identifying the back-up computer equipment and its locations.
- c. Licensee agrees to use the Software only for its own business. Licensee shall not (i) permit any parent, subsidiaries, affiliated entities or third parties to use the Software other than in the normal process of conducting the Licensee's business, (ii) use the Software to process or permit to be processed the data of any other party, or (iii), allow access to the Software through any terminals located outside of the authorized site(s) stipulated in Appendix A.
- d. Licensee, solely to enable it to use the Software, may make one archival copy of the Software's computer program, provided that the copy shall include Licensor's copyright and any other proprietary notices made applicable to the Software by the Licensor. The Software delivered by the Licensor to the Licensee and the archival copy shall be stored at the Licensee's site. Licensee shall have no other right to copy the Software, in whole or in part. Any copy of the Software made by the Licensee is the exclusive property of Licensor.
- e. Licensee agrees that only Licensor shall have the right to alter, maintain, enhance or otherwise modify the Software. Licensee shall not disassemble, decompile or reverse engineer the Software's code or allow anyone else to do the same.
- f. Licensee specifically agrees that each of the terms and conditions of this section 2.0 is material and that failure of Licensee to comply with these terms and conditions shall constitute sufficient cause for the Licensor to terminate this license. The presence of this subsection 2.f. shall not be relevant in determining the materiality of any other provision or breach of this license by either party.
- g. Licensee grants to Licensor throughout the term of this license the right, through mutually acceptable third-party auditors, and subject to Licensee's safety and security policies, to audit the use of the Software by the Licensee to ensure such use conforms to the terms and conditions of this license. Such audits shall be conducted at the expense of the Licensee and at such sites on such equipment, as the Licensor deems necessary.

3. Taxes

- a. Licensee shall, if required, pay all sales, use, value added or other taxes, federal, state or otherwise, however designated, which are levied or imposed by reason of the transactions contemplated by this license.

4. Confidential Information

- a. Licensee acknowledges that Licensor asserts that the Software contains proprietary information, including trade secrets, know-how and confidential information that are the exclusive property of the Licensor. During the period this license is in effect and at all times after its termination, Licensee and its employees and agents shall maintain the confidentiality of this information and shall not sell, license, publish, display, distribute, disclose or otherwise make available this information to any third party nor use such information except as authorized by this Agreement.

5. Ownership

- a. Licensor and Licensee agree that Licensor owns all proprietary rights, including patent, copyright, trade secret, trademark and other proprietary rights, in and to the Software and any corrections, bug fixes, enhancements, updates or other modifications, including custom modifications, to the Software, whether made by Licensor or any other party.
- b. Under no circumstances shall Licensee sell, license, publish, display, distribute, or otherwise transfer to a third party the Software or any copy thereof, in whole or in part, without Licensor's prior written consent.

6. Warranty

- a. The warranty provisions, which apply to the Software, shall be in accordance with the limited warranty described in Appendix B attached hereto and forming part hereof. After expiration of the warranty period, Licensee shall have the right to request Licensor to provide support and maintenance for the Software at additional cost, pursuant to a separately executed maintenance agreement.

7. Limitation of Liability

- a. Licensor shall not be liable to Licensee for indirect, special, incidental, exemplary or consequential damages (including, without limitation, lost profits) related to this Agreement or resulting from Licensee's use or inability to use Software, arising from any cause of action whatsoever, including contract, warranty, strict liability, or negligence, even if Licensor has been notified of the possibility of such damages.

8. Indemnification

- a. Licensor shall indemnify and hold harmless Licensee from and against any claims, including reasonable legal fees and expenses, based upon infringement of any Canadian or United States copyright, patent, or trade secret by the Software. Licensee agrees to notify Licensor of any such claim promptly in writing and to allow Licensor to control the proceedings. Licensee agrees to co-operate fully with Licensor during such proceedings. Licensor shall defend and settle at its sole expense all proceedings arising out of the foregoing. In the event of such infringement, Licensor may replace, in whole or in part, the Software with a substantially compatible and functionally equivalent computer program or modify the Software to avoid infringement.

9. Termination

- a. Either party has the right to terminate this Agreement if the other party (i) breaches or is in default of any material obligation hereunder, or (ii) terminates or suspends its business, becomes subject to bankruptcy or insolvency proceedings, is subject to direct control by a trustee or similar authority, has wound up or liquidated, voluntarily or otherwise ((i) and (ii) to be known herein as an ‘Event of Default’).
- b. Upon the occurrence of an Event of Default, a party shall deliver to the defaulting party a notice of intent to terminate that identifies the default in detail. Should the default not be cured within ten (10) days after receipt of notice of such default, the non-defaulting party may terminate this Agreement and the license granted herein.
- c. Within ten (10) days after termination of the license, Licensee shall return to Licensor, at Licensee’s expense, the Software and all copies thereof, delete or destroy all other copies of the Software, and to notify Licensor in writing that the Software has been returned, all copies deleted or destroyed, and its use discontinued.

10. Assignment

- a. Licensee shall not assign or otherwise transfer the Software or this Agreement to anyone, including any parent, subsidiaries, affiliated entities or third parties, or as part of the sale of any portion of its business, or pursuant to any merger, consolidation or reorganization, without Licensor’s prior written consent.

11. General Provisions

- a. The parties agree that this Agreement is the complete and exclusive statement of the Agreement between the parties, which supersedes all proposals, understandings, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.
- b. This Agreement may not be modified, altered or amended except by written instrument duly executed by both parties.
- c. The waiver or failure of either party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement.
- d. Any invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity of any other of its provisions.
- e. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- f. Each party acknowledges that it has read and understands this Agreement and agrees to be bound by its terms and conditions.

Appendix B – Supplier Limited Warranty

- 1.1 Subject to Article 1.2, 1.3, and 1.4 below, the Supplier warrants, at the time of acceptance of the Products in whole or in part, and for a period of twelve (12) months from such acceptance, the Products shall be free from defects in materials or workmanship and shall function in accordance with the product specification. The software shall allow for training as contemplated by the Contract but may not necessarily be “bug” free.
- 1.2 The entire extent of Supplier’s liability shall be limited to correcting the defective element of the Products or a refund of the License fee, at the Licensor's discretion.
- 1.3 Buyer waives as to the Supplier all other warranties, whether of merchantability, fitness or otherwise. There are no warranties which extend beyond the descriptions contained herein.
- 1.4 The obligations of the Supplier set forth herein shall be the exclusive remedies for any breach of warranty hereunder, and Supplier shall not be liable for any general, consequential, or incidental damages nor damages incurred during a move of the product by non-Adacel personnel.
- 1.5 (Speech Recognition Systems Only): The warranty of the Supplier set forth herein on the grammar performance shall become null and void should **Error! Reference source not found.** resources make changes to the Adacel-provided grammar.

Appendix C – Software List

Product Family	MFG P/N	Product Title/Description	Version	Unit of Issue	Product Type
Simulation	ICETLMS-018	Intelligent Communications Environment (ICE) Training/Learning Management System License: An AICC compliant Learning Management System (LMS). ICE also has an interface to connect ICE lessons with non-Adacel LMS such as Moodle. The TMS/LMS can initiate ICE lessons as well as keep track of the student’s progress and performance.	Advantage	Per System	License
Simulation	ICELB-018	Intelligent Communications Environment (ICE) Lesson Builder: Lesson builder permits the author to place training cards, content, and events on a time-line or sequence for non-time-based applications. Editing tools are also provided to tailor interactive lessons with teaching points and dialog. Students can be presented with text, questions, images, videos, and even external application views. The test results can be sent to the TMS/LMS. Lessons can be created by the user, existing Adacel lessons, and Adacel can also create lessons in conjunction with the customer’s Subject Matter Expert. Lessons can have 2D or 3D displays, incorporate recordings (video and data) from external sources, as well as speech recognition and synthetic speech using Adacel’s Lexix Speech System.	Advantage	Per Seat	License

Product Family	MFG P/N	Product Title/Description	Version	Unit of Issue	Product Type
Simulation	ICELP-018	Intelligent Communications Environment (ICE) Lesson Player: After an ICE lesson is created by the Lesson Builder, the student can run the lesson with the ICE Lesson Player. Lessons can be started directly or launched from the TMS/LMS. Results from the lesson can be sent to the TMS/LMS.	Advantage	Per Seat	License
Simulation	TC-018	Adacel Training Content License: Training content for several domains, including Air Traffic Control training for controllers and pilots, driver training for drivers on airfields, and training for JTAC's. Complete training solutions are available with the license including training content, or the user can create their own lessons. Lesson content is created using the Lesson Builder. Typical Adacel Training Content includes: <ul style="list-style-type: none"> • ATC • Pilot • Driver • JTAC • Custom lessons, regardless of the subject or domain 	Advantage	Per System	License
Service	ICESC-018	Intelligent Communications Environment (ICE) SimCare: Support for ICE and all included bundled ICE SW licensing is provided via an Extended Support Plan called SimCare. SimCare can be whole life support for your Adacel product. Using our fully-staffed support center, incoming calls are handled promptly by our help desk, and	Advantage	Per System	Technical Support



Product Family	MFG P/N	Product Title/Description	Version	Unit of Issue	Product Type
		<p>then disseminated to our technicians via service request. Adacel’s help desk is also available to support your “how to” questions. Optional product support services include:</p> <ul style="list-style-type: none">• Simcare• Web-based services• Engineering Services• On-site support• Software Upgrades• Configuration Management			
Speech Recognition	LexixSDK-018	<p>Lexix SDK License: Speech recognition designed for simulation and control applications. It employs modern graphical user interfaces, open W3C standards, supports any SAPI 5.x voice and obtains superior results by compensating for inconsistent audio signals and poor microphone technique. The system is speaker independent, supports ultra-large voice models and grammar files, can be updated for accents and additional languages, and provides tools for grammar editing. SDK includes a Lexix ASR run-time, the Lexix Command Audio, sample grammar (ideal for cockpit and UAV control), the Lexix Dialog Editor to support adding new phraseology, an API to integrate Lexix with the simulator or operational device, sample code to serve as a development guide, a Unity3D sample program, documentation, and an integration guide.</p>	SDK	Per Seat	License



Product Family	MFG P/N	Product Title/Description	Version	Unit of Issue	Product Type
	LexixASR-018	Lexix ASR License: The Lexix ASR can recognize what the student says and Lexix Text-to-Speech (TTS) can provide feedback using synthetic speech, permitting the student to interact with the system through a natural dialog.	ASR	Per Seat	License
Simulation	Insight-018	Insight: A 3D scene-renderer that provides enhancements to realistic visual scene performance and visual acuity particularly in ATC Tower simulator visual systems. InSight also offers plug-ins for Virtual Reality headset support and Adacel's BioTrack system.	FX1	Per Channel	License
Simulation	WB-018	Whiteboard: Software to design and prepare air traffic control training scenarios and create the graphic objects and data used in a scenario (fixes, sectors, SIDs, STARs, air routes, missed approaches, and so on) using the graphics editor.	FX1	Per Seat	License