

## **ORIGINAL EQUIPMENT MANUFACTURER APP AGREEMENT (APPA)**

Use this Agreement if fonts are to be installed primarily into Mobile Applications (apps) or Mobile Devices. Applies if mobile app also runs on Desktop computers.

Install or embed fonts into mobile device Operating Systems/Apps such as iPhone, iPad, Windows Phone, Windows RT, Android or multi-device (mobile/desktop) applications.

An initial royalty is due for distribution of OEM Product up to 500,000 Customer installs in any one year.

### **INSTALLED FONTS** (in Operating System)

20x the Purchase Price of the OEM Fonts value

### **EMBEDDED FONTS** (in applications for runtime use only)

10x the Purchase Price of the OEM Fonts value if fonts are embedded in applications so that fonts are accessible only at runtime.

The same initial royalty is due again if Customer install are greater than 500,000 in any year.

This agreement becomes binding between Dr. Rosemary Sassoon and Adrian Williams (Supplier) and the purchaser (End User) when "Complete Purchase" is clicked or similar label is confirmed to describe completion of the purchase process.

Upon receipt of funds Supplier grants the End User a non-exclusive licence to use fonts supplied as digital file or other delivery media which contains application software and, or digital outline font software (Product).

## **RECITALS**

Whereas, the Supplier has the right to distribute OEM Fonts.

Whereas, the End User wishes to acquire from Supplier a licence to distribute the OEM Fonts.

Whereas, Supplier wishes to grant licence to the End User for the reproduction, manufacture and distribution of OEM Fonts.

## **NOW IT IS HEREBY AGREED AS FOLLOWS**

### **1. Definitions**

1.1 The term "OEM Fonts" shall mean digital outlines and supporting magnetic or optical media that represent typefaces in software programs known as a singular Font or plural Fonts and in Formats including but not limited to PostScript, TrueType or OpenType for use with computers, which have screen representations including but not limited to Outline vectors and Bitmaps.

1.2 The term "encrypted OEM Fonts" shall mean that OEM Fonts have been digitally encoded with a password to protect them from unauthorized access and such password may only be obtained by End User when the Distribution Agreement has been signed by both parties.

1.3 The term "Customer" shall mean, directly or indirectly, a customer of the End User who has purchased or obtained OEM Fonts for use on devices for their own customary personal and internal business use.

1.4 The term "OEM" shall mean an Original Equipment Manufacturer of independent software whether or hardware.

1.5 The term "OEM Product" shall mean a software application program/app, including updates, revisions or modified versions, on multiple platforms/devices, for example but not limited to; mobile platforms iOS, Windows Phone, Android, iPhone, desktop platforms Windows 10, Windows Phone app for Desktop, Mac OS, Linux or hardware manufactured by Distributor or on behalf of a third party and distributed as such, which is capable of utilizing OEM Fonts described in Appendix A of this Agreement.

1.6 The term "typeface" shall mean a set of human readable alphabetic letters comprising upper case, lower case, numeric figures, punctuation marks, accents and other symbolic signs offered for distribution by the Supplier. Each typeface, represented as an individual weight of Font, such as Regular, Bold or Bold Condensed for example, shall be deemed to be a separate OEM Fonts for the purposes of payment calculations if sold separately to the End User.

1.6 The term "CPU" shall mean any central processing unit of a computer whether used as a stand-alone device or, in the case of a Network, any terminals accessed via the Network Server.

1.7 The term "app" shall mean software application program that utilizes OEM Fonts.

## **2. Licence**

2.1. An Agreement, such as this Distribution Agreement, detailing the terms and conditions under which OEM Fonts may be distributed must be signed for and on behalf of both Supplier and End User prior to OEM Fonts being distributed by any party other than the Supplier.

2.2. The encrypted OEM Fonts may not be distributed in any way to a third party unless the Distribution Agreement is in force.

2.3 The Supplier hereby grants the End User a licence to distribute the OEM Fonts with third party OEM Fonts of OEMs. In such instances, both the Supplier and End User will discuss a mutually agreeable Royalty for the OEM Product.

2.4 Supplier may from time to time change or withdraw the OEM Fonts offered for distribution by the End User. For a period of two years the End User will be allowed to continue selling withdrawn OEM Fonts providing that the OEM Fonts are of merchantable quality. If a trade mark or copyright infringement is proven, End User will cease sales of the OEM Fonts in question upon 30 days notice from Supplier.

2.4 End User may appoint sub End Users to capitalize on the sales potential of the OEM Fonts providing that;

- a) the sublicense of reproduction rights must be mutually agreed in writing between End User and Supplier;

- b) a covenant prohibits attempts to reverse engineer, decode, pass-off or otherwise plagiarize the OEM Fonts.

2.5 Supplier grants End User the right to licence use of the OEM Fonts to End User's Customer provided that;

- a) Supplier's End User Licence Agreement or other acceptable form of licensing documentation is distributed with the OEM Fonts;

- b) Supplier's trade mark and copyright information along with any related documents is included in the distribution.

2.6 Supplier grants to the End User a world-wide, non-exclusive licence to convert OEM Fonts into other Font Formats and to modify Bitmaps provided that;

- a) Supplier shall have a right of first refusal to create such additional characters required by the End User;

- b) End User provides a written specification for the additional characters;

- c) the modified or converted Font or Bitmaps remain subject to the same End User Licence Agreement or other acceptable form of licensing documentation as the original distributed OEM Fonts;

- d) the modified or converted Font or Bitmaps are for the customary personal and internal business use of the End User and shall not be distributed in any manner to another party.

Starting from the date of receipt of the written specifications, Supplier will have twelve (12) days in which to accept or refuse the supply of additional characters. If accepted by Supplier, the End User agrees to a one-time fee for such additional characters, the exact amount to be paid and delivery terms to be mutually agreed.

2.7 Supplier grants to the End User a world-wide, non-exclusive licence to convert OEM Fonts into other Font Formats and to modify Bitmaps provided that;

a) the modified or converted Font or Bitmaps remain subject to the same End User Licence Agreement as the original distributed OEM Fonts and,

b) the modified or converted Font or Bitmaps are for the customary personal and internal business use of the End User and shall not be distributed in any manner to another party.

2.8 OEM Fonts used to create file documents are subject to the End User Licence Agreement and due Royalties, however, no Royalties shall accrue if OEM Fonts are saved in an embedded fashion in the file document that is used to display and print the OEM Fonts provided that no such OEM Fonts remain on the End Users computer when the document has been exited.

2.9 The End User licence may permit the storage of OEM Fonts by the primary user of the OEM Fonts on such End User's home computer, portable computer and any output Products attached to them. No further Royalty shall be accrued in such cases.

### **3. Supply, Reproduction and Format Conversion**

3.1 Supplier will supply End User with a digital master of the OEM Fonts in the Windows and Macintosh computer Formats as described in Appendix A. Such OEM Fonts may be reproduced for distribution without modification or in compressed data format for transfer if End User wishes. End User may convert OEM Fonts to other Font Formats only with prior written consent of the Supplier.

#### **3.2 Distribution and Documentation**

3.2.1 End User shall, at its own expense, label, package and distribute OEM Fonts giving due credit and acknowledgment to the Supplier as the originator of the OEM Fonts.

3.3 End User will not rename, change or otherwise modify, reverse engineer or disassemble OEM Fonts unless requested to do so by Supplier in writing.

#### **3.3 Minimum terms of End User Licence Agreement**

3.2.1 The End User Licence Agreement included with OEM Fonts shall have meanings to the effect that;

a) End User shall not make, permit or cause to have made, any parts of the OEM Fonts except for its legal use as expressed within this Agreement,

b) use of OEM Fonts trade marks and copyright notices shall be in accordance with those set out in Appendix C to this Agreement.

### **4. Royalties**

4.1 End User will, for each sale of the OEM Fonts in OEM Product, pay to Supplier the Royalties as described in Appendix B. Royalties shall accrue;

a) upon shipment by End User of any unsealed and accessible OEM Fonts to End User;

b) upon shipment by End User of any sealed OEM Fonts to the End User that have been opened by End User;

c) upon shipment by End User of enabled OEM Fonts or information subsequently enabling any OEM Fonts that have been encrypted to prevent their unauthorised use.

4.2 Such Royalty payments by End User shall;

a) be calculated annually at 31st December and be reported to Supplier within 30 days unless Appendix B Tier states otherwise;

b) become due for payment to Supplier not more than 30 days from the last calculated accounting period according to the applicable Tier;

c) be paid in the National currency prevailing in the United Kingdom.

d) be apportioned as fifty percent of the amount due to be paid to Dr. Rosemary Sassoon and fifty percent to be paid to Adrian Williams. Any Value Added Tax that may be due shall be shown on Supplier invoice or receipt.

4.3 End User shall keep accurate and complete records of all sales and distributions during the term of this Agreement and a further two years from termination of this Agreement. Such records shall be made available by the End User for inspection by a certified public accountant not more than once per End User fiscal year. Further inspections may be mutually agreed provided that End User is given at least 14 days notice.

4.4 If a deficit by End User or Supplier results from an inspection, such amounts shall be paid the the relevant party within 30 days of such proof.

4.5 If inspection determines that End User owes Supplier more than 5% of Royalties reported during the last twelve months, End User will be liable to pay full cost of the inspection.

## **5. Marketing**

5.1 End User has the right to refuse inclusion of any promotion material, OEM Fonts, trade mark, copyright or other notice which it considers offensive.

5.2 End User will offer OEM Fonts for sale, promote and deliver in a manner agreed with the Supplier, to include references to the Suppliers' logo and OEM Fonts icons as are necessary and at the Suppliers' cost.

5.3 End User shall refer to Supplier as the copyright owner of the OEM Fonts in any and all promotional material whether in digital for or in print, according to Appendix C, c) wherever a complete set of alphabet characters from A to Z in either capitals or lower case is displayed.

## **6. Intellectual property**

6.1 End User agrees to include all intellectual property notices for the OEM Fonts in promotion material. Supplier is responsible for registering and protecting its intellectual property with legal trade mark and copyright information. Expired registrations will be reported to End User so that they may be changed or deleted from promotion material.

6.2 All intellectual property rights including but not limited to trade marks, copyright, design right remain vested in the Supplier.

6.3 End User will immediately inform Supplier of any trade mark or copyright infringement of the OEM Fonts.

## **7. Warranties**

7.1 Supplier warrants that OEM Fonts do not infringe existing trade mark, copyright or design right of any third party. End User will immediately inform Supplier of any action against OEM Fonts or Supplier and provide copies of any documents related to the action. End User will cooperate with Supplier in any defence of such action.

7.3 If any OEM Fonts, trade marks or copyright material shall become the subject of a third party action, Supplier may at its own option, either replace the items which are the object of the action, or withdraw them from distribution by the End User.

7.4 End User shall indemnify the Supplier from any and all claims, damages, liabilities, costs, losses, legal fees arising either directly or indirectly from any infringement of the intellectual property rights of any third party as a result of modifications made by End User, unauthorised or improper use of the OEM Fonts by the End User.

7.5 Supplier warrants that media used to deliver the OEM Fonts will be tested for viruses and shall indemnify the End User from any and all claims, damages, liabilities, costs, losses, legal fees arising from the delivery media used to transfer master OEM Fonts to End User which may be infected or otherwise unusable.

7.6 End User shall indemnify the Supplier from any and all claims, damages, liabilities, costs, losses, legal fees arising either directly or indirectly from any virus introduced by the End User, or modification of the OEM Fonts making such OEM Fonts unusable by the End User, which occurred prior to distribution to the End User.

## **8. Term**

8.1 This Agreement shall be in force from the last date signed below and have an initial term of three (3) years unless terminated. Thereafter this Agreement shall continue until terminated by either party giving at least 120 days notice.

8.2 Any notices relating to this Agreement shall be effective when received either by First Class Post or other method which demands a signature as proof of delivery to the Registered Office of the party or last known place of business.

## **9. Termination**

9.1 End User or Supplier may terminate this Agreement in writing to the other in the following events:

9.1.1 Material breach of any kind by either party of its obligations which is not rectified within 30 days of the written notice sent to the party in breach;

9.1.2 Assignment, arrangement or composition with or for the benefit of creditors, whether voluntary bankruptcy or other proposed law;

9.1.3 Cessation of business by the other party or inability to pay its debts or is insolvent or seeks voluntary or involuntary protection under bankruptcy or other proposed law;

9.1.4 Appointment of a receiver or trustee for the other party.

9.1.5 All obligations of the parties, including but not limited to Royalty payments that have accrued or will accrue, indemnifications, warranties, rights, duties which implicitly continue beyond termination shall not be affected by termination of this Agreement.

9.1.6 Starting from the termination date of this Agreement, except under Clause 9.1, the End User has the right to continue distribution of the OEM Fonts for a period of two (2) years in order to complete delivery of OEM Fonts under any existing contracts in force. Payment of Royalties will continue to fall due and End User may continue to use any trade mark, copyright or promotion material it sees fit during this period. At the passing of such two year period, the End User shall cease reproducing, manufacturing, distributing and licensing of the OEM Fonts, remove all instances from its promotion material relating to the OEM Fonts, including trade marks, copyright notices, logos,

icons and other related documentation, returning all OEM Fonts masters and documentation to the Supplier. All Royalties are due not later than 30 days from termination date. End User shall have no further claim for compensation, loss of distribution rights or goodwill.

9.2 End User shall notify Supplier immediately of any change in the ownership of the majority shareholding in the End Users' business. Supplier shall have the right to terminate this Agreement by written notice given to the End User within 30 days of such notification.

## **10. Confidentiality**

10.1 Neither party shall publish or otherwise disclose any details of this Agreement without the written permission of the other party.

## **11. Relationship**

11.1 This Agreement does not indicate nor form any partnership, joint venture or agency between the parties and neither party shall have the right to act on behalf of or bind the other party to any third party.

## **12. Undertakings**

This Agreement constitutes the entire agreement between the parties and any other agreements or undertakings whether oral or written shall be superseded by this Agreement.

### **12.1 Invalidity**

Any part of this Agreement that is proved to be invalid shall not invalidate any remaining parts or provisions thereof.

### **12.2 Unenforceability**

Any part of this Agreement that is unenforceable shall not invalidate any remaining parts or provisions thereof.

### **12.3 New provisions**

If any part of this Agreement becomes unenforceable or invalid, the parties to this Agreement shall immediately make any new or modified provisions as are necessary to ensure such new provision is both enforceable and valid while retaining the main purpose of the original provision.

### **12.4 Assignment**

Neither party shall assign any or all of its rights and obligations under this Agreement unless prior written consent is given by such parties.

### **12.5 Waiver**

A failure to require the performance of any part of this Agreement shall not effect the right to require performance subsequently; nor shall a waiver by either party of a breach constitute a waiver of any subsequent breach or of the provision itself.

### **12.6 Force majeure**

If circumstances beyond its reasonable control prevail such as strikes, riots, flood, fire, storm insurrection, war, government actions, earthquakes, labour shortages, material shortages or acts of God, neither party shall be liable for any non-performance of its rights or obligations under this Agreement.

### **12.7 Signatories**

Signatories to this Agreement warrant that they are duly authorised to sign for and on behalf of their principals.

### **12.8 Text titles in this Agreement**

The text titles contained in this Agreement, which may be of **bold weight** font, are for the sake of clarity only and shall not influence, define or limit any of the parts they describe.

### **12.9 Governing Law**

Any dispute arising out of or in connection with this Agreement shall be governed and enforced subject to the Laws of England and Wales.

### **12.10 Appendices**

These Appendices shall form part of the entire Agreement between the parties and may from time to time be modified by either party with prior consent of the other party in writing:

Appendix A: OEM Fonts

Appendix B: Royalties

Appendix C: Acknowledgements



## **Appendix A: OEM Fonts**

This Appendix lists typefaces at the date of final signature below which are included in OEM Product and may from time to time be revised by either party in writing to the other party and shall be deemed to form part of this Agreement. A maximum of 8 typefaces comprising the OEM Fonts may be included in any single OEM Product.

Licence Tiers identify whether OEM Fonts are installed and/or embedded. For example, a single OEM Product built for multiple platforms/devices may use embedded fonts in its Desktop application (at runtime only for lower Tier rate) and installed fonts in its Mobile app (for better screen rendering at the higher Tier rate). Total of both Desktop and Mobile device installs count towards the OEM Product 500,000 limit.

**OEM Product name/version:**\_\_\_\_\_

### **Licence Tier 1 (for installed fonts)**

#### **OEM Fonts**

Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_

### **Licence Tier 2 (for embedded fonts)**

#### **OEM Fonts**

Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_  
Font name:\_\_\_\_\_

More OEM Products may be listed on a separate sheet(s) attached to this Agreement.

The complete current list of typefaces and purchase prices from which OEM Fonts may be licensed by the Distributor can be viewed on its website, including contact details for technical support.

**<http://www.sassoonfont.co.uk>**

## **Appendix B: Royalties**

This Appendix may from time to time be modified by either party in writing to the other party and shall be deemed to form part of this Agreement. Upon receipt of reported Royalties the Supplier may supply an invoice for the amount due or if payment is made by Internet payment system, as receipt will be displayed online on receipt of funds. End User shall pay to the Supplier an amount in accordance with Clause 4.2 above. The Licence Tier percentages shall apply to each OEM Product separately as described in Appendix A.

### **INSTALLED**

For OEM Fonts installed into the CPU Operating System or Server allowing operation of the OEM Product, therefore making OEM Fonts in documents, software, applications editable, whether or not via any application with a font menu, the Royalty shall be as stated in the following Licence Tier;

Tier 1) For sales of OEM Product less than 500,000 during the next 12 months an initial fee shall be paid as Royalty within 30 days of the final signature to this Agreement equivalent to 20x the Purchase Price of the OEM Fonts value.

If sales exceed 500,000 in any one year for any single OEM Product, End User shall pay the OEM Fonts Purchase Price amount again. For the avoidance of doubt, software built for each Operating System's format is considered a different OEM Product with its own 500,000 limit. Each OEM Product has its own 500,000 limit.

End User may trade until unused licensed OEM Fonts quota has been sold, whereupon this Agreement may be terminated by either party in writing.

### **EMBEDDED**

For OEM Fonts embedded as a resource in the OEM Product and glyphs therefore editable at OEM Product runtime only, the Royalty shall be as stated in the following Licence Tiers;

Tier 2) For sales of OEM Product less than 500,000 during the next 12 months an initial fee shall be paid as Royalty within 30 days of the final signature to this Agreement equivalent to 10x the Purchase Price of the OEM Fonts value.

If sales exceed 500,000 in any one year for any single OEM Product, End User shall pay the OEM Fonts Purchase Price amount again. For the avoidance of doubt, software built for each Operating System's format is considered a different OEM Product with its own 500,000 limit. Each OEM Product has its own 500,000 limit.

End User may trade until unused licensed OEM Fonts quota has been sold, whereupon this Agreement may be terminated by either party in writing.

### **ZERO RETAIL VALUE**

Where OEM Products including but limited to apps are distributed free of charge, Supplier and End User shall agree on a OEM Fonts Purchase Price multiplier value for Product sales less than 500,000 in any one year for a single OEM Product. Comparison should be made with other similar Products currently available.

If sales exceed 500,000 in any one year for any single OEM Product, End User shall pay the OEM Fonts Purchase Price multiplier value amount again. For the avoidance of doubt, software built for each Operating System's format is considered a different OEM Product with its own 500,000 limit. Each OEM Product has its own 500,000 limit.

End User may trade until unused licensed OEM Fonts quota has been sold, whereupon this Agreement may be terminated by either party in writing.

## **Appendix C: Acknowledgements**

a) Trade marks for inclusion in the End User's promotion material, labeling, packing where practical to do so;  
Sassoon is a registered trade mark of Dr. Rosemary Sassoon and Adrian Williams in the United Kingdom.

b) End User may include a reference to the Supplier's website;  
<http://www.sassoonfont.co.uk>

c) Wherever a complete set of alphabet characters from A to Z in either capitals or lower case is displayed;

Copyright Dr. Rosemary Sassoon and Adrian Williams 1988-2015.