VISUALSCRIPT SDK LICENSE AGREEMENT

PLEASE READ CAREFULLY: SMARTDRAW SOFTWARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY (THE "COMPANY") IS WILLING TO LICENSE THE SDK (AS DEFINED BELOW) ONLY UPON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS CONTAINED IN THIS VISUALSCRIPT SDK LICENSE AGREEMENT (THE "AGREEMENT"). BY SELECTING THE "DOWNLOAD" BUTTON OR BY INSTALLING, DOWNLOADING, ACCESSING OR OTHERWISE USING ALL OR ANY PORTION OF THE SDK, YOU AGREE TO BE LEGALLY BOUND BY THIS AGREEMENT. BEFORE YOU CONTINUE, YOU SHOULD PRINT OR SAVE A LOCAL COPY OF THIS AGREEMENT FOR YOUR RECORDS. IF YOU ARE AGREEING TO THESE TERMS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS, AND ALL REFERENCES TO "YOU" SHALL APPLY TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT WISH TO BE BOUND BY THE TERMS OF THIS AGREEMENT, THEN DO NOT INSTALL, UPLOAD, ACCESS OR OTHERWISE USE THE SDK.

1.   DEFINITIONS. For purposes of this Agreement, the following terms have the meanings set forth below:

The "Company" means SmartDraw Software, LLC, a Delaware limited liability company.

"License" means the license granted to You pursuant to Section 2 of this Agreement.

"SDK" means the VisualScript software development kit and its object model created and distributed by the Company.

"SmartDraw" means the diagramming application created and distributed by the Company.

"VisualScript" means the VisualScript Studio data visualization application created and distributed by the Company.

"VSON File" means any VisualScript object notation file created by using the SDK.

"You" means an individual user of the SDK.

2.   LICENSE AND TERM. Subject to the terms and conditions of this Agreement, the Company grants to You a nonexclusive, nontransferable, nonsublicensable, limited License (the "License") to install and use the SDK. The term of the License perpetual and may only be terminated by the Company if You violate the terms of this Agreement. The License is provided free of charge.

2.   USAGE. The SDK is a software development kit and is designed for use in conjunction with VisualScript and SmartDraw. The SDK permits You to (a) write software code to create VSON Files in the VisualScript object notation language that can direct VisualScript to execute certain actions, including the creation of reports, and (b) write software code to create VSON Files in the VisualScript object notation language to create extensions for SmartDraw. The SDK can only be used for these purposes. Without limiting the foregoing, the SDK may not be used to develop any scripts for use with any other software program or application that does not ultimately deliver a VSON File for use in conjunction with VisualScript or SmartDraw.

3.   ALL RIGHTS RESERVED. Title to and ownership of the SDK and all related intellectual property are retained by the Company. The SDK is proprietary and the SDK is copyrighted. The SDK is licensed to You, not sold. All rights of every kind that are not expressly granted to You in this Agreement are entirely and exclusively reserved by the Company.

4.   VSON Files. You have the right to use and distribute to others for their use any VSON File developed by You using the SDK, but such use is limited to use in conjunction with VisualScript and/or SmartDraw. If You incorporate the SDK or any part thereof into any VSON File, you agree to include this link to these license terms in the code in which you incorporate the SDK:

>   https://www.visualscript.com/_assets/visualscript-sdk-license.pdf

5.   GENERAL RESTRICTIONS. You agree and acknowledge that, unless enforcement is prohibited by applicable law (and then only to the extent prohibited by applicable law), the following actions are expressly prohibited:

        (a)   You may not (and may not permit any third party to) decompile, disassemble or reverse engineer the SDK.

        (b)   You may not (and may not permit any third party to) modify, translate, adapt, arrange or create derivative works of the SDK.

        (c)   You may (and may not permit any third party to) not remove, alter or obscure any copyright or other proprietary notices, labels or marks from the SDK.

6.   INDEMNIFICATION. Any VSON File You develop using the SDK will direct VisualScript or SmartDraw, as applicable, to execute certain actions without any intermediation by the Company. You are responsible for any VSON File developed by You and agree to indemnify and hold the Company harmless against any and all consequences or damages arising from the execution by VisualScript or SmartDraw, as applicable, of actions pursuant to the direction of any such VSON File.

7.   DISCLAIMER OF WARANTY. THE COMPANY MAKES, AND YOU RECEIVE, NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SDK. THE SDK IS LICENSED TO YOU ON A "WHEREIS, AS IS" BASIS. ANY STATEMENTS OR REPRESENTATIONS ABOUT THE SDK AND ITS FUNCTIONALITY CONSTITUTE TECHNICAL INFORMATION AND NOT AN EXPRESS WARRANTY OR GUARANTEE. IN ADDITION, THE COMPANY SPECIFICALLY DISCLAIMS ANY OTHER WARRANTY INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. WITHOUTLIMITING THE FOREGOING, THE COMPANY DOES NOT WARRANT THAT THE OPERATION OF THE SDK WILL BE UNINTERRUPTED OR ERROR FREE.

8.   LIMITATION OF LIABILITY. IN NO EVENT SHALL THE COMPANY HAVE ANY LIABILITY OF ANY TYPE TO YOU ARISING FROM YOUR USE OF THE SDK, INCLUDING WITHOUT LIMITATION FOR ANY LIABILITY FOR INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES; LOSS OF PROFITS, REVENUE, OR DATA; BUSINESS INTERRUPTION, OR COST OF COVER. THE LIMITATIONS OF LIABILITY IN THIS SECTION 8 SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW TO ANY DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER DERIVED FROM CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE) OR OTHERWISE, EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER THE LIMITED REMEDIES AVAILABLE HEREUNDER FAIL OF THEIR ESSENTIAL PURPOSE.

9.   EXPORT REGULATIONS. The SDK is subject to United States export control laws and may be subject to export or import laws and regulations of other countries. You agree not to export the SDK in violation of United States or other applicable export control laws.

10.   U.S. GOVERNMENT RESTRICTED RIGHTS. If the SDK is being Licensed by or on behalf of the United States government or a United States government prime contractor or subcontractor, the SDK is provided with the same commercial license rights as are described elsewhere in this Agreement.

11.   GOVERNING LAW. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California, U.S.A. without giving effect to the conflict of laws principles thereof. Notwithstanding any choice of law provision or otherwise, the Uniform Computer Information Transactions Act and the United Nations Convention on the international Sale of Goods shall not apply to this Agreement.

12.   ARBITRATION; VENUE. You and the Company agree that all disputes, claims or controversies arising under or pursuant to this Agreement will be submitted to neutral, binding arbitration to be held in San Diego, California before a retired judicial officer pursuant to the Comprehensive Rules and the Arbitration Administrative Policies of the Judicial Arbitration and Mediation Services (JAMS). You agree to give up any rights You may have to litigate any such disputes, claims or controversies in a court or jury trial; provided, however, that nothing herein shall limit the rights of You or the Company to pursue injunctive or other equitable relief in an appropriate court or other legal forum. In the event of an action for injunctive or other equitable relief, or if the agreement to arbitrate as provided herein is for any reason deemed invalid, You and the Company agree that the sole and exclusive jurisdiction and venue for actions arising under this Agreement shall be the State and Federal courts in San Diego County, California. You hereby agree to service of process in accordance with the rules of such courts.

13.   ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of You and the Company relating to the subject matter hereof and supersedes any and all other previous or contemporaneous communications, agreements, representations, warranties or advertising with respect to the SDK.

14.   SEVERABILITY. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable in part, the remaining portion of such provision, together with all other provisions of this Agreement, shall remain valid and enforceable and continue in full force and effect to the fullest extent consistent with law.

15.   NO WAIVER. No term or provision hereof will be considered waived, and no breach excused, unless such waiver is in writing signed on behalf of the party against whom the waiver is asserted. No waiver (whether express or implied) will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach.

16.   LANGUAGE. The English language version of this Agreement is legally binding in case of any inconsistencies between the English version and any translations.

17.   BASIS OF BARGAIN. You acknowledge and agree that the Company has entered into this Agreement in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties.