

XUXA Source Licence



License Agreements

All Isode Software including source software where applicable is subject to a license agreement. Be sure to read and agree to this license **BEFORE** you use the software.

BY COPYING THE SOURCE SOFTWARE OR PAYING THE SOURCE ACCESS FEE, YOU ARE CONSENTING TO BE BOUND BY AND ARE BECOMING A PARTY TO THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT COPY THE SOFTWARE. (IF APPLICABLE, YOU MAY RETURN THE SOFTWARE TO ISODE FOR A FULL REFUND).

YOU MAY NOT USE THIS SOFTWARE OR SELL SOFTWARE PRODUCTS DEVELOPED BY YOU USING AND/OR INCORPORATING THIS SOFTWARE WITHOUT FIRST SIGNING AN APPROPRIATE AGREEMENT WITH ISODE OR AS OTHERWISE ADVISED TO YOU BY ISODE.

IF THE COPY OF THE SOFTWARE YOU RECEIVED WAS ACCOMPANIED BY A PRINTED OR OTHER FORM OF "HARD COPY" LICENSE AGREEMENT WHOSE TERMS VARY FROM THIS AGREEMENT, THEN THE HARD-COPY LICENSE AGREEMENT GOVERNS YOUR USE OF THE SOFTWARE.

As used in this Agreement, "Isode" shall refer to Isode Limited, a limited liability UK Company having its registered office at 5 Castle Business Village, 36 Station Road, Hampton, Middlesex TW12 2BX England and "Licensee" shall refer to you.

1. Scope

1.1 Isode is the developer and owner of software known as the XUXA code ("XUXA") which it wishes to make available to certain Isode licensees in source form for a number of limited non commercial purposes and Licensee wishes to have access to XUXA in source code format ("XUXA Source").

1.2 This License is in addition to the appropriate Isode Product License already in place and for the purpose of this license Isode Product shall mean any binary program issued or released by Isode to Licensee prior to or during the term of this agreement.

1.3 The license set out in Clause 2 below is designed to allow the Licensee to examine the XUXA Source in order to understand working of the Isode APIs in the Isode Products and to use such understanding to build the Licensee's own product(s).

2. Licence

2.1 Subject to the terms of this License Isode grants the Licensee a non-exclusive non-transferable licence to use the XUXA Source internally to the Licensee and by the Licensee

only for:

- 2.1.1 experimentation and research; and
- 2.1.2 evaluation and testing Isode Products; and
- 2.1.3 learning how the Isode APIs in the Isode Products work; and
- 2.1.4 testing interoperability between Isode Products and third party products

2.2 This License does not grant the Licensee any other rights to use the XUXA Source or Isode Products and the Licensee acknowledges and accepts that any and all use by the Licensee of the Isode Products including, without limitation, the Isode APIs requires a commercial license from Isode for each run time copy of the Product.

2.3 This License does not grant the Licensee any rights to sell use operationally or otherwise exploit the XUXA Source and the Licensee acknowledges and accepts that any such use requires a further written license from Isode.

2.4 The Licence shall continue until it is terminated under Clause 8.

3. License Restrictions

The Licensee shall not:

- 3.1 Use or copy the XUXA Source other than specified above; or
- 3.2 Modify, translate, decompile, disassemble (except solely to the extent an applicable statute expressly and specifically prohibits such restrictions), or create derivative works based on the XUXA Source; or
- 3.3 Publish or provide any results of benchmark tests run on the XUXA Source to a third party without Isode's prior written consent; or
- 3.4 Rent, lease, grant a security interest in, or otherwise transfer rights to the XUXA Source;
- 3.5 Grant nor purport to grant any rights in respect of the XUXA Source; or
- 3.6 Take or authorise any action which will jeopardize the rights of Isode in the XUXA Source in any jurisdiction; or
- 3.7 Remove any proprietary notices or labels on the XUXA Source.

4. Licensee Modifications

4.1 The Licensee shall be entitled to modify the XUXA Source for the purpose of supporting its authorised use pursuant to Clause 2 of this license only.

4.2 If Licensee sends to Isode the source code of any changes it has made to the XUXA Source it shall (in the absence of any contrary statement made in writing to Isode before or at the time of receipt of code by Isode) be deemed:

- (a) To have granted Isode a non-exclusive licence to incorporate the changes into the XUXA Source and to distribute and licence it as part thereof without payment and without limitation as to time, and
- (b) To warrant that it is entitled to grant such licence.

5. Payment of Source Access Fee

5.1 In consideration of the license granted in Clause 2 above the Licensee shall pay to Isode a source access fee of £100.00 (one hundred pounds sterling) for the XUXA Source.

5.2 Payment of the license fee by the Licensee and acceptance by Isode shall evidence both parties acceptance of the rights and obligations set out in this agreement.

6. Intellectual Property Rights

6.1 Isode shall own all right, title, and interest in and to the XUXA Source and Isode Products, including any rights in patentable inventions and copyrightable materials and the Licensee agrees not to apply for patents or copyrights on the XUXA Source and Isode Products.

6.2 The Licensee agrees not to infringe the rights of Isode or any third party by whose licence parts of the XUXA Source are used.

7. Warranty and Indemnities

7.1 Isode warrants that it has the right to grant the licence granted in Clause 2.1.

7.2 **Limitation of liability.**

ISODE GIVES NO WARRANTIES EITHER EXPRESS OR IMPLIED WITH RESPECT TO THE ISODE SOFTWARE ITS QUALITY PERFORMANCE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE. THE ISODE SOFTWARE IS LICENSED "AS IS" AND WITH ALL FAULTS. IN NO EVENT SHALL ISODE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING LOSS OF PROFITS, SUSTAINED OR INCURRED BY THE OEM, INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING FROM ANY DEFECT IN THE ISODE SOFTWARE EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.3 Licensee shall indemnify and hold Isode harmless from and against any loss, damage, liability claim or expense which results from an action or omission of such Licensee which is in breach of this agreement.

8. Termination

8.1 This license and all the rights granted hereunder will terminate automatically upon the happening of one or more of the following events:

- (a) If the Licensee fails to comply with any of the restrictions described in this License agreement; or
- (b) If the Licensee by the deliberate or negligent action or omission of its director employees agents, or sub-contractors permits or enables the XUXA Source to be copied by any person or company; or
- (c) If the Licensee shall become insolvent or cease to trade; or
- (d) If Isode gives the Licensee 90 days notice in writing.

8.2 Upon termination of this agreement the Licensee shall forthwith delete all copies of the XUXA Source.

8.3 The Licensee's obligation to pay the source code access fee shall survive termination of this Agreement and in no event is any payment refundable.

9. General

9.1 This agreement shall be governed by the laws of England. The parties submit to the non-exclusive jurisdiction of the English courts.

9.2 Neither party will be entitled to assign its rights or delegate its obligations under this agreement to any third party without the prior written consent of the other party, except in connection with a merger, reorganization or sale of substantially all of the assigning party's assets or all of its business to which this agreement relates.

9.3 The parties agree that no agency status, partnership or joint venture exists or is created or implied by this agreement.

9.4 This agreement contains the whole of the agreement between parties with regard to the Licensee's use of XUXA Source.

End of Agreement