

MICROSKYSHINE® License Agreement



YOU SHOULD READ THIS ENTIRE AGREEMENT, ESPECIALLY PARAGRAPHS 9, 10, AND 11, BEFORE USING THE SOFTWARE.

THE ACT OF COPYING THE SOFTWARE FROM THE ORIGINAL CD ONTO ANOTHER DISK OR DATA STORAGE DEVICE, OR THE ACT OF USING THE SOFTWARE, CONSTITUTES ACCEPTANCE OF THE TERMS OF THIS LICENSE AGREEMENT.

Grove Engineering, Inc. d/b/a Grove Software Limited Use License Agreement:

1. GRANT OF LICENSE. In consideration of Licensee's payment of the applicable license fee, Grove Engineering, Inc. d/b/a Grove Software (Grove Software) as Licensor, grants to Licensee a personal, non-transferable and non-exclusive license to use a copy of the MicroSkyshine® Program, associated programs, subroutines, library files, and documentation (Software) on a single computer (i.e., with a single CPU) at a single location. As used in this Agreement, the term "Software" refers to both the MicroSkyshine® Program, associated programs, subroutines, library files, and the related documentation. Grove Software reserves all rights not expressly granted to Licensee in this Agreement, and Licensee, by accepting this Agreement, agrees to comply with these terms and conditions.

2. OWNERSHIP OF SOFTWARE. The Licensee owns the magnetic or other physical media on which the Software is originally or subsequently recorded or fixed pursuant to this License, but Grove Software retains title and ownership of the Software recorded on the original disk copies and all subsequent copies of the Software, regardless of the form or media in or on which the original and other copies may exist. This License is not a sale of the original Software or any copy thereof.

3. COPY RESTRICTIONS. This Software is copyrighted. Unauthorized copying of the Software, including Software that has been modified, merged, or included with other software or written materials is expressly prohibited. Licensee will be held responsible (for damages and any other appropriate legal relief) for any copyright infringement that is caused or encouraged by any failure to abide by the terms of this License. Subject to these restrictions, Licensee may make one (1) copy of the Software solely for backup purposes which copy shall contain the same copyright notice and proprietary markings, including media markings, as appear on the original Software.

4. USE RESTRICTIONS.

(a) The Licensee may physically transfer the Software from one computer to another provided that the Software is used on only one computer at a time and that each computer on which the Software is installed is owned or leased by Licensee and used exclusively by Licensee.

(b) Licensee may electronically transfer the Software from one computer to another over a network if and only if Licensee has paid a license fee for each computer or work station to which the Software is transferred, regardless of whether the Software is actually used at such computer or work station.

(c) Licensee may not distribute any copy of the Software to anyone else. Licensee may not modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Software. Licensee may not modify, adapt, translate, or create derivative works based on the written materials without the prior written consent of Grove Software.

5. TRANSFER RESTRICTIONS. This Software is licensed only to Licensee and may not be transferred to anyone without informing and receiving prior written consent of Grove Software. Any authorized transferee of the Software shall be bound by the terms and conditions of this Agreement. In no event may Licensee transfer, assign, rent, lease, sell, or otherwise dispose of the Software on a temporary or permanent basis except as expressly provided herein.

6. TERMINATION. This License is effective until terminated. This License will terminate automatically without notice from Grove Software if Licensee fails to comply with any term of this Agreement. Upon termination of this License, Licensee shall destroy the written materials and all copies of the Software, including modified copies, if any. Licensee shall also be liable to Grove Software for all damages, whether direct or consequential, and including but not limited to attorney's fees and disbursements, which result from Licensee's failure to comply with any term of this License.

7. UPDATE POLICY. Grove Software may create, from time to time, updated versions of the Software. At its option, Grove Software may make such updates available to Licensee upon such terms and conditions as it determines are appropriate.

8. GOVERNING LAW. This Agreement is governed by the laws of the State of Virginia in the United States of America.

9. DISCLAIMER. THIS SOFTWARE AND ACCOMPANYING DOCUMENTS ARE SOLD AS IS AND WITHOUT ANY WARRANTY AS TO PERFORMANCE OR MERCHANTABILITY. THE STATEMENTS OF SALESPERSONS DO NOT CONSTITUTE WARRANTIES AND SHALL NOT BE RELIED ON BY LICENSEE IN DECIDING WHETHER TO LICENSE THE SOFTWARE. BECAUSE OF THE DIVERSITY OF CONDITIONS AND HARDWARE UNDER WHICH THE SOFTWARE MAY BE USED, NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE IS OFFERED, AND LICENSOR DOES NOT WARRANT THAT THE FUNCTIONS OF THE SOFTWARE WILL MEET THE LICENSEE'S REQUIREMENTS OR THAT OPERATION OF THE SOFTWARE WILL BE ERROR-FREE OR UNINTERRUPTED. THE LICENSEE ASSUMES THE ENTIRE RISK OF USING, OR ATTEMPTING TO USE, THE SOFTWARE. THE LICENSEE IS ADVISED TO TEST THE PROGRAM THOROUGHLY BEFORE RELYING ON IT.

10. EXCLUSIVE REMEDIES. THE LICENSEE'S SOLE AND EXCLUSIVE REMEDY AGAINST GROVE SOFTWARE OR ITS AGENTS FOR LOSS OR DAMAGE CAUSED BY ANY DEFECT OR FAILURE IN THE SOFTWARE REGARDLESS OF WHETHER THE FORM OF ACTION IS TORT, CONTRACT, STRICT LIABILITY OR OTHERWISE, SHALL BE THE REPLACEMENT OF THE SOFTWARE OR, AT THE SOLE DISCRETION OF GROVE SOFTWARE, THE REFUND OF THE PURCHASE PRICE, PROVIDED THAT THE SOFTWARE SOUGHT TO BE REPLACED IS RETURNED WITH A REASONABLE PROOF OF PURCHASE.

11. LIMITATION OF LIABILITIES. REGARDLESS OF ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER GROVE SOFTWARE NOR ITS AGENTS SHALL BE LIABLE FOR (1) ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS) CAUSED EITHER BY ANY USE OF THE SOFTWARE OR BY THE INABILITY TO USE IT; NEITHER SHALL GROVE SOFTWARE OR ITS AGENTS BE LIABLE FOR ANY SUCH DAMAGES CAUSED BY THE ACTS OF ANY SERVICE, PRODUCTS OR ACTIONS OF ANY OTHER PERSON. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS GROVE SOFTWARE FROM (1) ANY AND ALL LIABILITY FOR INJURY TO PERSONS OR PROPERTY OCCASIONED WHOLLY OR IN PART FROM THE USE OR ATTEMPTED USE OF THE SOFTWARE BY LICENSEE OR BY SOMEONE WHO EITHER TOOK OR RECEIVED THE SOFTWARE FROM LICENSEE, (2) ALL LIABILITY WITH RESPECT TO INDIRECT,

INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, AND (3) ALL EXPENSES, INCLUDING LEGAL AND EXPERT WITNESS FEES, INCURRED BY GROVE SOFTWARE IN THE DEFENSE OF ANY CLAIMS OR SUIT ARISING FROM THE USE OR ATTEMPTED USE OF THE SOFTWARE BY LICENSEE OR BY SOMEONE WHO EITHER TOOK OR RECEIVED THE SOFTWARE FROM LICENSEE.

12. AUDIT. Grove Software may, at any time, either request a signed certification by you verifying that the Software is being used in accordance with the terms of this Agreement and/or audit your use of the Software to ensure compliance with the terms and conditions of this Agreement. Your use of third party software, if any, supplied by Grove Software for use with the Software is subject to the terms of this provision. The results of such audit(s) may be reported to the respective third party supplier.