

## NONEXCLUSIVE LICENSE AGREEMENT

This Agreement, entered into on May 30<sup>th</sup>, 2017 by and between: INTERNATIONAL CODE COUNCIL, INC., with offices at 500 New Jersey Avenue NW, 6<sup>th</sup> Floor, Washington, DC 20001 (“ICC”); CITY OF RAMSEY, located at 7550 Sunwood Drive, NW, Ramsey, MN 55303 (“Licensee”).

### WITNESSETH:

**WHEREAS**, ICC is the publisher and copyright owner or licensee of the titles listed in Appendix A (herein referred to as the “Licensed Materials”), which copyright ownership or right to use, adapt, modify, distribute, publicly display and create derivative works is acknowledged by Licensee; and

**WHEREAS**, the Licensee desires to include the Licensed Materials in Licensee’s Logis and ProjectDox Software, including all updates, upgrades and future versions of such software (hereinafter, referred to collectively as “Licensee’s Developed Software”); and

**WHEREAS**, ICC desires to provide Licensee the Licensed Materials on the terms and conditions contained herein;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, it is agreed by and between ICC and Licensee as follows:

1. **Licensee’s Developed Software.**

(a) **Delivery of Licensed Materials.**

Licensee has in its possession one copy of the Licensed Materials in a PDF format.

(b) **Licensee to Prepare Licensee’s Developed Software.**

Licensee’s Developed Software shall incorporate the Licensed Materials. In the event Licensee’s Developed Software does not incorporate the Licensed Materials, this Agreement shall terminate pursuant to Paragraph 5(b) below. Licensee’s Developed Software shall be developed with functionality that can limit (i) the number of concurrent users that can access the Licensee’s Developed Software at any one time to ensure that only the licensed number of concurrent users for which Licensee has paid ICC royalties pursuant to Paragraph 4 below have access to the Licensee’s Developed Software at any one time and (ii) the amount of Licensed Materials that can be printed by a user at any one time to a minimal amount of such Licensed Materials. For the avoidance of doubt, in no event shall the Licensee’s Developed Software permit a licensed user to print any more than ten percent (10%) of any one title of the Licensed Materials at one time or permit the reproduction of Licensed Materials in their entirety.

(c) **Protection of Licensed Materials in Licensee’s Delivery System.**

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**(d) Program to include copyright and trademark notices.**

Licensee's Developed Software shall include prominent notice to the user that some of the information contained therein is developed from the copyrighted Licensed Materials and is reproduced under written license with ICC using the language listed in Appendix B to this Agreement. Licensee shall obtain ICC's prior written approval of the content and location within Licensee's Developed Software of such notice. A disclaimer that ICC is not responsible for the performance and the technical accuracy of the software and the software technical support shall be included. Such disclaimer may be included in the same location as the copyright notice.

**(e) Licensee to obtain ICC approval of Licensee's Developed Software and related materials.**

Licensee may not allow others to use Licensee's Developed Software until Licensee has received the written approval of ICC as to its faithful reproduction of the content of the Licensed Materials. Such faithful reproduction of the content of the Licensed Materials shall be shown by Licensee to ICC by means of a blackline of the section of source code in Licensee's Developed Software containing the Licensed Materials, marked against the file of each code title provided by ICC to Licensee for incorporation into the Licensee's Developed Software. Any modification, amendment, change or alteration of the Licensed Materials as provided by ICC without ICC's prior written approval shall be considered a material breach of this Agreement and shall absolve ICC of its indemnity obligations under Paragraph 6 below.

**(f) ICC may change the content of Licensed Materials.**

ICC may, with or without notice to Licensee, make such changes to the content of Licensed Materials as it deems desirable.

**(g) Licensee to update Licensee's Developed Software.**

Licensee may, from time to time, update Licensee's Developed Software with respect to its operating functions. If Licensee's update(s) modify the Licensed Materials contained in Licensee's Developed Software, such updates are subject to ICC prior written approval as provided in Paragraph 1(e) herein.

**2. Licensee to market and license Licensee's Developed Software.**

**(a) Licensee to license all users.**

Licensee may not permit others to use Licensee's Developed Software that incorporates Licensed Materials unless they are a Licensee employee.

**3. Grant of License.**

**(a) Copyrighted property licensed.**

ICC hereby grants to Licensee a nonexclusive license to incorporate into Licensee's Developed Software the Licensed Materials specifically for use by the Licensee. Licensee may employ a vendor, contractor, or other service provider ("Vendor") to incorporate the Licensed Materials into Licensee's Developed Software, provided that: (i) Vendor's access to the Licensed Materials, and Licensee's Developed Software that incorporates Licensed Materials, is contractually permitted only to the extent necessary to incorporate the Licensed Materials into Licensee's Developed Software; (ii) Vendor is contractually prohibited from disclosing any portion of the Licensed Materials, or Licensee's Developed Software that

incorporates the Licensed Materials, to any third party; and (iii) Licensee and Vendor are jointly and severally liable to ICC for Vendor's misuse or infringement of the Licensed Materials, or Licensee's Developed Software that incorporates the Licensed Materials. Licensee may not use the Licensed Materials as provided in electronic form by ICC pursuant to this Agreement for any purpose other than to incorporate them in their entirety into the Licensee's Developed Software. For the avoidance of doubt, Licensee shall not be permitted to incorporate excerpts of the Licensed Materials, or otherwise reproduce, use, adapt, modify, distribute, publicly display or create any derivative works of the Licensed Materials other than as set forth in this Paragraph 3(a).

**(b) Trademark and service marks NOT licensed.**

ICC does not grant to Licensee the use of its trademarks and service marks except as part of copyright notices as described in Paragraph 1(c).

**(c) Licenses extend to materials associated with Licensee's Developed Software.**

The license granted in Paragraph 3(a) extends to the use of the Licensed Materials by Licensee in instructions, users' manuals, and other written materials intended by Licensee to be supplied in conjunction with Licensee's Developed Software, provided that such use is limited to identifying ICC as the source of a portion of the Licensee's Developed Software. ICC reserves the right to review and approve such material pursuant to Paragraph 1(d) above.

**(d) Licenses do not permit general marketing of Licensed Materials.**

The licenses granted by this Agreement do not permit Licensee to advertise, market, promote or sell the Licensed Materials, provided, however, that Licensee shall be permitted to advertise, market or promote the fact that the Licensed Materials are a feature of Licensee's Developed Software. For the avoidance of doubt, Licensee shall not be permitted to use any ICC logo on or in connection with Licensee's Developed Software, the packaging for such software or the advertising, marketing or promotion of such software, and any use of ICC trademarks or service marks must be approved by ICC pursuant to Paragraph 1(d) above.

**4. Payments by Licensee to ICC.**

**File and Licensing Fee**

The fees listed below shall apply and be paid prior to ICC providing data files. The fees shall be payable to ICC and mailed to: 3060 Saturn St. Suite 100, Brea, CA 92821 Attn: Mark Gerry.

- a. A one-time prepaid, non-refundable licensing fee of \$583.00 for a total of 10 users. This shall cover the initial term of this agreement pursuant to 5(a)(1).
- b. Additional users can be added for a fee.

**5. Term; termination.**

**(a) Term.**

(1) The term of this Agreement is three (3) years beginning on the Effective Date.

(2) This Agreement may be renewed for a term of three (3) years from the date of its original expiration by either party. The party desiring the renewal shall notify the other party in writing

no later than ninety (90) days prior to the expiration of the original term that it has exercised the option provided for in this paragraph. Additional fees may apply.

(b) **Termination.**

(i) In the event that a party commits a material breach of any term of this Agreement, the other party may terminate this Agreement in accordance with the following:

The party against whom the breach is committed shall notify the defaulting party in writing of the breach. The defaulting party shall then have thirty (30) days after receipt of such notice to remedy the default. If, in the opinion of the party against whom the breach is committed, the default has not been remedied, or the defaulting party has not taken steps to remedy the default within a reasonable time, the party against whom the breach is committed shall notify the defaulting party that the Agreement is terminated. Within thirty (30) days of receipt of the defaulting party's notice to terminate the Agreement, the distribution of the Licensee's Developed Software containing the Licensed Materials shall cease, and any remaining royalties, if any, due to ICC at the date of termination shall be paid within sixty (60) days of the date of termination.

(ii) Upon termination of this Agreement, (A) Licensee shall return the Licensed Materials (including all copies thereof, user manuals and other written materials intended by Licensee to be supplied in conjunction with Licensee's Developed Software (collectively, "Related Materials")), or at the request of ICC, destroy the Licensed Materials and Related Materials and confirm to ICC that such Licensed Materials and Related Materials have been destroyed, and (B) all rights and licenses granted to Licensee hereunder shall automatically terminate and revert back to ICC. This Paragraph 5 and Paragraphs 6 - 10 shall survive any expiration or termination of this Agreement.

6. **Confidentiality.**

(a) **Definition.** "Confidential Information" means non-public information of a party to this Agreement. Confidential Information of Licensee includes, but is not limited to, Licensee's Developed Software and all materials related thereto, all information disclosed pursuant to paragraph 1(d) hereof; all information disclosed in connection with paragraph 4(c) hereof; all non-public business and financial information, marketing plans, sales strategies, and other internal information. Confidential Information does not include information that: (i) is or becomes known to the public without fault or breach of the recipient; (ii) the discloser regularly discloses to third parties without restriction on disclosure; (iii) the recipient obtains from a third party without restriction on disclosure and without breach of a non-disclosure obligation; or (iv) information required to be disclosed by law.

(b) **Non-Disclosure; Restricted Use.** Except as otherwise permitted under this Agreement, the recipient of Confidential Information belonging to the other party will not knowingly disclose to any third party, or make any use of the discloser's Confidential Information. The recipient will use at least the same standard of care to maintain the confidentiality of the discloser's Confidential Information that it uses to maintain the confidentiality of its own Confidential Information of equal importance. Except in connection with Licensee's Developed Software and materials related thereto, the non-disclosure and non-use obligations of this Agreement will remain in full force with respect to each item of Confidential Information for a period of ten (10) years after recipient's receipt of that item. ICC's obligations to maintain both Licensee's Developed Software and any materials related thereto as confidential will survive in perpetuity.

7. **Proprietary Rights.** Licensee acknowledges and agrees that:

(a) The Licensed Materials remain the sole property of ICC subject to the non-exclusive rights and license granted to Licensee hereunder. In the event Licensee creates any modifications to or translations or derivative works based upon the Licensed Property, such works are and shall be deemed a breach of this Agreement. Notwithstanding the foregoing, such modifications, translations or derivative works shall be the exclusive property of ICC, and Licensee hereby agrees to assign and hereby assigns all of its rights, title and interests in the same and all related intellectual property rights (including all patent, copyright and trade secret rights and rights of attribution or other "moral rights") therein to ICC.

(b) Licensee shall promptly transmit to ICC an electronic copy of all such modifications, translations or derivative works prepared by Licensee. Licensee further agrees to cooperate with ICC (at Licensor's expense) as reasonably requested by ICC to perfect and enforce any of the intellectual property rights hereby assigned by Licensee to ICC, including executing confirmatory assignments, giving testimony or similar actions as reasonably requested by ICC; and

(c) The Licensed Materials are provided to Licensee on a confidential basis and incorporates trade secrets.

8. **Miscellaneous provisions.**

(a) **No Warranty.**

LICENSEE ACKNOWLEDGES AND AGREES THAT THERE ARE NO WARRANTIES, GUARANTEES, CONDITIONS, COVENANTS, OR REPRESENTATIONS BY ICC AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS OR OTHER ATTRIBUTES, WHETHER EXPRESS OR IMPLIED (IN LAW OR IN FACT), ORAL OR WRITTEN, OF THE DATA FILES, LICENSED MATERIALS OR ANY OTHER INFORMATION SUPPLIED OR TO BE SUPPLIED BY ICC, OR OBTAINED BY LICENSEE, UNDER THIS AGREEMENT. ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. THE STATE CODES WHICH MAKE UP A PORTION OF THE LICENSED MATERIALS ARE LICENSED TO LICENSEE ON AN "AS-IS, WITH ALL FAULTS" BASIS.

(b) **Parties to notify each other of infringements.**

Each party shall promptly notify the other party of any infringements, imitations, or unauthorized possession, knowledge or use of the Licensed Materials by a party or any third party of which either party becomes aware.

(c) **Notices.**

All notices required or permitted by this Agreement shall be in writing and shall be sent by registered or certified mail, return receipt requested, with postage fully prepaid.

Notices to ICC shall be addressed as follows:

Mark A. Johnson  
International Code Council  
Western Regional Office  
3060 Saturn St. Suite 100  
Brea, CA 92821

Notices to Licensee shall be addressed as follows:

Building Official  
City of Ramsey Building Permits & Inspections  
7550 Sunwood Drive, NW  
Ramsey, MN 55303

(d) **Governing Law.**

This Agreement shall be construed in accordance with the laws of the District of Columbia.

(e) **Assignment.**

This Agreement may not be assigned by either party without the prior written consent of the other party.

(f) **Compliance with Law.**

Licensee agrees to comply with all relevant laws and regulations relating to the Licensed Materials or Licensee's use thereof, including any applicable privacy or export control laws or otherwise, and Licensee agrees to indemnify and hold ICC harmless from any losses, obligations, costs and expenses (including attorneys and experts' fees and costs) arising or resulting from Licensee's failure to so comply.

(g) **Sales or Use Taxes.**

In the event that any sales or use tax (if any) is owed in connection with this Agreement or the transactions or matters contemplated herein, Licensee shall bear and pay such tax and shall hold ICC harmless therefrom.

(h) **Attorneys' Fees.**

In the event of any litigation between the parties arising from or relating to this Agreement, the prevailing party therein shall be entitled to recover its attorneys and experts' fees and costs in addition to any other relief to which it may be entitled.

(i) **Force Majeure.**

Neither party shall be liable for any failure or delay in its performance under this License due to causes beyond its reasonable control, including, without limitation, to acts of God, acts of civil or military authorities, fires, epidemics, floods, earthquakes, riots or wars.

(j) **Severability.**

Should any portion of this Agreement be held to be invalid for any reasons whatsoever, the remainder of the Agreement shall be in full force and effect. The invalidity of any copyrights in the Licensed Materials

by a court of competent jurisdiction shall constitute a material breach of this agreement by ICC and subject the Agreement to termination by the Licensee pursuant to Paragraph 5(b)(i).

(k) **Entire Agreement.**

This instrument constitutes the entire Agreement between the parties and incorporates all prior understandings, whether written or oral, between them with respect to the matters contained in this Agreement. This Agreement may not be modified except by a writing signed by authorized representatives of both parties.

(l) **Equitable Relief.**

Licensee acknowledges and agrees that (i) the unauthorized use or disclosure of the Licensed Materials would cause irreparable harm and significant injury to ICC which would be difficult to ascertain and which would not be compensable by damages alone, and (ii) ICC shall have the right to seek injunctive relief, specific performance or other equitable relief without prejudice to any other rights and remedies that it may have for such a breach of this Agreement.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by its duly authorized representatives as of the day and the year first above written.

By: Mark A Johnson Date: 5-30-2017  
Mark A Johnson  
Executive Vice President & Director of Business Development  
International Code Council, Inc.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mayor, City of Ramsey

By: \_\_\_\_\_ Date: \_\_\_\_\_  
City Administratory, City of Ramsey

**APPENDIX A: Copyrighted Material Owned by or Licensed to ICC**

ICC is the publisher and copyright owner or licensee of the following titles:

*2015 Minnesota Building Code*

## **APPENDIX B: Copyright Notice**

1. Software containing all or any part of State codes shall reproduce the copyright notice contained on the copyright page within such State code.
2. Additionally the following statement, to the extent not otherwise already included pursuant to paragraph 1 above, shall be included in Software containing all or any part of the Licensed Material:

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