

NOTETAB PRO/STD END USER LICENSE AGREEMENT
(Version: June 2012)

This End User License Agreement (this "Agreement"), governs the terms and conditions of the Licensee's access and use of NoteTab Pro and/or NoteTab Std software ("NoteTab"), and is made between the Licensee ("you") and Fookes Software Ltd, La Petite Fin 27, 1637 Charmey, Switzerland ("Fookes Software"). However, if you are using a Trial Version as or on behalf of an entity, and/or have registered for any other license as or on behalf of an entity, such as a corporation, partnership, limited liability company or other entity, the term "you" used below refers to the entity which will be bound by this Agreement. You represent and warrant that you have power and authority to enter into this Agreement on behalf of the entity. This Agreement does not address any third-party or free or open source software separately licensed to you.

By clicking the "I accept the Agreement" option during installation and/or by accepting the Agreement on the online order form and/or by using NoteTab, you confirm your acceptance of, and agree to be bound by, this Agreement. If you do not agree to this Agreement or if you do not understand it, do not purchase, install, or use NoteTab.

In case you have another written agreement directly with Fookes Software, such written agreement prevails in the event of any conflict with the terms and conditions of this Agreement.

1. Definitions

"Software" means the version of NoteTab in executable form and documentation.

"Evaluation Period" means a limited evaluation period of usually no more than one month, beginning on the day that you first execute the Software.

"Trial Version" means a version of the Software, so identified, to be used only to review, demonstrate and evaluate the Software for a limited time period. The Trial Version may have limited features and will cease operating after an Evaluation Period due to an internal mechanism within the Trial Version.

"Use" means loading, installing, executing, displaying, performing and/or transmitting the Software for your internal business purposes, and not for distribution or resale.

2. Software License Grants

2.1. Trial Version Use

Subject to the terms and conditions of this Agreement, Fookes Software hereby grants you a non-sublicensable, nonexclusive, nontransferable license to Use the Trial Version without charge and for evaluation purposes only in a non-production test environment. Any other use of the Trial Version is expressly prohibited. You may make as many copies of the Software as is reasonably necessary for evaluating the Software. Files created by the Trial Version are for evaluation purposes only and, unless you purchase a license, must be destroyed once evaluation is complete.

2.2. Commercial Version Use

This license is subject to your compliance with the terms and conditions of this Agreement, including payment.

Fookes Software hereby grants you a license to Use the Software on one computer owned by or leased to you, except as follows.

If the Software is stored on a computer other than a network server then the primary user may also Use the Software on a home and/or laptop computer, provided the Software is used on only one machine at a time. Otherwise, a separate license is required for each single computer on which the Software will be used.

You may transfer all your rights to use the Software to another individual or legal entity provided that: (a) you also transfer (i) this Agreement, (ii) the Software, including all copies, upgrades, updates and prior versions to such individual or entity; (b) you retain no upgrades, updates or copies, including back-ups and copies stored on a computer; and (c) the receiving party accepts the terms and conditions of this Agreement and any other terms and conditions under which you purchased a valid license to the Software.

2.3 License Restrictions

The Software is licensed, not sold. This Agreement only gives you the rights according to the chosen license type (section 2); Fookes Software reserves all other rights. Especially you may not: (a) modify, adapt, translate, rent, lease or sublicense (including offering the Software to third parties on an application service provider, web service or time sharing basis) the Software except to the extent explicitly permitted in any of the licenses above; (b) disable or block any licensing, rights management or control features of the Software except as an intended part of the Software's programming features; (c) assign, loan, resell, transfer, distribute or otherwise make accessible the Software, except as set forth in sections 2.2 and 5; (d) modify, decompile, disassemble or reverse engineer the Software; (e) remove or modify any legal notices in the Software; (f) or make more copies of the Software other than for back-up purposes, except as set forth in sections 2.1, 2.2, and 5. You may make a reasonable number of back-up copies of the Software, provided your back-up copies are not installed or used for other than archival purposes, and are kept in a safe location that is not accessible to users without a valid license.

Once you have purchased a license, you may access the Software through a network, provided that you have obtained individual licenses covering all users who will Use the Software from that network. For instance, if five different users will access the Software on the network, you will need enough licenses to cover five users, whether they use the Software at different times or concurrently.

It is your responsibility to make a back-up copy of the Software installation file and your registration details off your computer and place these in a safe location that is not accessible to other users.

3. Customer Support / Software Maintenance

Fookes Software provides customer support that is generally free of charge and exclusively by email, to the extent that Fookes Software at its sole discretion shall determine to be reasonable. Fookes Software has no obligation to provide customer support for discontinued products and old Software versions that were released six months prior to the release of the latest update or upgrade.

By emailing, uploading, posting, or otherwise transmitting or submitting any content, information or ideas to Fookes Software, you automatically grant (or warrant that the owner of such rights has expressly granted) to Fookes Software a perpetual, irrevocable, royalty-free, worldwide, non-exclusive, sublicensable right and license to use, reproduce, modify, publish, distribute, display, perform, and transmit such content, information and ideas, in public or non-public form, without compensation to you, unless otherwise expressly agreed in writing by Fookes Software. However, Fookes Software holds the contents of any personal files and screen shots sent to us for software testing and improvement strictly confidential, except as may be required by applicable law.

You bear all responsibility for ensuring that email replies from Fookes Software can reach you. Fookes Software cannot be held responsible if its emails to you are blocked by your Internet service provider (ISP), or your email server, or your email program's spam/junk-mail filters. If necessary, you will provide an alternative email address that can receive emails from Fookes Software.

You acknowledge and agree that Fookes Software will not produce any solutions, bug fixes, and/or maintenance updates, for previous versions of Software upon availability of an update or upgrade.

4. Ownership

The Software is proprietary to Fookes Software. The Software is licensed, not sold, to you notwithstanding any reference herein to "purchases." You acknowledge and agree that: (a) the Software is protected under U.S. copyright and other national and international copyright laws; (b) Fookes Software and its licensors retain all copyrights and other intellectual property rights in the Software; (c) there are no implied licenses under this License, and any rights not expressly granted to you hereunder are reserved by Fookes Software; (d) you acquire no ownership or other interest (other than your license rights) in or to the Software; and (e) Fookes Software owns all copies of the Software, however made. You agree that you will not, at any time, contest anywhere in the world Fookes Software's ownership of or rights in the Software. You have no rights hereunder to use any trademark or service mark belonging to Fookes Software.

5. Distribution of Trial Version

Provided that you are distributing the then-current Trial Version (without any feature-unlocking file and/or instructions) you are hereby licensed to make as many copies of the Trial Version as you wish; give exact copies of the original Trial Version to anyone; and distribute the Trial Version in its unmodified form via electronic means (Internet, BBS's, software distribution libraries, CD-ROMs, DVDs, etc.). You may charge a small distribution fee for the Trial Version, but you must not represent in any way that you are selling the software itself. All copies must reproduce copyright notices.

You may not make the Trial Version available on any site, CD-ROM, DVD, or with any package, or with any other medium or service, which makes available or contains viruses, virus source code, virus construction programs, virus creation material, software cracks, spyware, malware or other malicious code or material.

Permission to distribute the Trial Version is not transferable, assignable, saleable, or franchisable, and any attempt to do so is void. Each entity wishing to distribute the Trial Version must independently satisfy the terms of the foregoing distribution license.

6. Updates and Upgrades

To Use an update or an upgrade of the Software ("Update"), you must possess a valid license to the previous version of the Software you want to update or upgrade. You agree that once you start using an Update, you lose your right to Use a previous version of the updated/upgraded Software. You also agree that you will not transfer a previous version of the Software to another person or entity, and that you may Use the Update only in accordance with the terms of this Agreement.

7. Compliance

You shall conduct your business in compliance with all laws and regulations in any way applicable to the Software or to the performance of your obligations under this Agreement. Without limiting the generality of the foregoing, you shall not take any action that would violate, or cause Fookes Software to be in violation of, any applicable law of the United States or any other jurisdiction including but not limited to the U.S. Foreign Corrupt Practices Act and all import and export laws, regulations and restrictions of the United States or any foreign agency or authority.

8. U.S. Government Rights

This is a notice to U.S. Government End Users:

The Software and the documentation which accompanies the Software are "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Fookes Software Ltd, La Petite Fin 27, 1637 Charmey, Switzerland.

9. WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY

THE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS. FOOKES SOFTWARE DISCLAIMS AS FAR AS LEGALLY PERMISSIBLE ALL WARRANTIES RELATING TO THE SOFTWARE, WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPATIBILITY OR NON-INFRINGEMENT . FOOKES SOFTWARE DOES NOT WARRANT THAT THE SOFTWARE WILL MEET YOUR REQUIREMENTS OR BE UNINTERRUPTED, SECURE OR ERROR-FREE. NEITHER FOOKES SOFTWARE NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION, OR DELIVERY OF THE SOFTWARE ("SUPPLIERS") SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING BUT NOT LIMITED TO LOST REVENUES, PROFITS AND/OR SAVINGS) ARISING OUT OF THE USE OR INABILITY TO USE SUCH SOFTWARE, EVEN IF FOOKES SOFTWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CLAIMS. THE PERSON USING THE SOFTWARE BEARS ALL RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE.

THE ENTIRE LIABILITY OF FOOKES SOFTWARE AND ITS SUPPLIERS, AND YOUR EXCLUSIVE REMEDY, WITH RESPECT TO THE USE OF THE SOFTWARE OR ANY BREACH OF THIS AGREEMENT ARE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU, IF ANY, FOR USE OF THE SOFTWARE. YOU HEREBY RELEASE FOOKES SOFTWARE AND SUCH OTHER PERSONS FROM ANY AND ALL OBLIGATIONS, LIABILITIES AND CLAIMS IN EXCESS OF THIS LIMITATION. YOU AGREE THAT ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO USE OF THE SOFTWARE OR THIS AGREEMENT MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED.

YOU ARE SOLELY RESPONSIBLE FOR SELECTION, INSTALLATION AND LAUNCH OF THE SOFTWARE AND FOR BACKING UP YOUR DATA AND FILES, AND HEREBY RELEASE US AND OUR SUPPLIERS FROM ANY LIABILITY OR DAMAGES DUE TO THE LOSS OF ANY SUCH DATA OR FILES.

FOOKES SOFTWARE IS NOT LIABLE FOR ANY INAPPROPRIATE OR ILLEGAL USE OF THE SOFTWARE.

10. Governing Law / Jurisdiction

This Agreement is governed by Swiss Law, subject to the express exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG, 1980). The parties consent to the exclusive jurisdiction of the competent Swiss courts of Gruyère, Switzerland, for the resolution of any litigation arising out or related to this Agreement.

11. Termination

Fookes Software may terminate this Agreement at any time upon default by you of the license provisions of this Agreement, or any other material default by you of this Agreement not cured within thirty (30) days after written notice thereof. Except for Sections 2 and 5, all provisions of this Agreement shall survive termination of this Agreement.

12. Severability Clause

If any provision of this Agreement is or becomes ineffective or if there is an omission from this Agreement, this does not affect the legal validity of the remaining provisions. The ineffective provision will be replaced by an effective provision that is as close as possible in economic terms to the provision wanted by the parties. The same procedure applies in the case of an omission.

13. General

You shall not assign, delegate or sublicense any of your rights or obligations under this Agreement, by operation of law or otherwise, without prior written consent of Fookes Software, and any attempt without such consent shall be void. Subject to the preceding sentence, this Agreement binds and benefits the permitted successors and assigns of the parties. Fookes Software may change the terms, conditions and pricing relating to the future licensing of its Software and other intellectual property rights, including this Agreement, from time to time. No waiver will be implied from conduct or failure to enforce rights nor is it effective unless in a writing signed on behalf of the party against whom the waiver is asserted.

There are no third-party beneficiaries to this Agreement. Fookes Software is not bound by additional and/or conflicting provisions in any purchase order or other correspondence unless expressly agreed in writing. This Agreement is the complete and exclusive statement of agreement between the parties as to its subject matter and supersedes all proposals or prior agreements, verbal or written, advertising, representations or communications concerning the Software.

Last updated: 14 June 2012