

firmCHANNEL END-USER LICENSE AGREEMENT

This firmCHANNEL End-User License Agreement (“Agreement”) is between eliquidMedia International Inc. whose principal place of business is 939 Goyeau Street, Windsor, Ontario Canada (“Eliquid”), and _____ firmCHANNEL is an Eliquid digital signage software program. Licensee desires to obtain from Eliquid, and Eliquid desires to grant to Licensee a certain non exclusive license to use firmCHANNEL software and related documentation described in this Agreement. Accordingly, in consideration of the mutual promises contained herein and of other good and valuable consideration, Eliquid and the Licensee agree as follows:

- 1 **Definitions.** When used in this Agreement, the capitalized terms below shall have the meanings given in this Section.
 - 1.1 **“Agreement”** means this firmCHANNEL End-User License Agreement, including all Exhibits and Schedules hereto, as any of these may be validly amended in writing from time to time.
 - 1.2 **“firmCHANNEL”** means all firmCHANNEL digital signage software licensed by Eliquid to Licensee hereunder as described in Exhibit “A.” (“Product Description”) attached hereto and incorporated by reference herein.
 - 1.3 **“Parties”** mean Eliquid and Licensee. **“Party”** means either of the Parties as the context indicates.
 - 1.4 **“Product”** means a proprietary digital signage solution developed and manufactured by Eliquid and known as firmCHANNEL and comprised of a server appliance, a limited license to use the Software pursuant to the terms and conditions set out below and an LCD display. These terms may be used in the singular or the plural.
 - 1.5 **“Service Program”** means the “firmCHANNEL Support and Maintenance Service Agreement” related to the Software as Eliquid generally available to its customers for purchase under separate agreement.
 - 1.6 **“Software”** means the object code version of the Source Code.
 - 1.7 **“Source Code”** means the source code and all related documentation for certain computer-based application known as firmCHANNEL.
 - 1.8 **“Term”** has the meaning given to it in Section 6.
- 2 **Ownership of Software.** Title to, ownership of, and all rights in and to the Source Code, updates thereto and all copies of the Software shall at all times remain with Eliquid. Licensee shall not acquire any right or interest in all or any part of the Source Code, updates thereto or all copies of the Software except to use and copy same strictly in accordance with the terms and conditions of this Agreement. None of the Software (including, without limitation, the Source Code) is being sold by Eliquid, either in whole or in part.
- 3 **Non Exclusive firmCHANNEL License.** Subject to Section 5, Eliquid grants to Licensee a non-exclusive, non assignable, non-transferable and non-perpetual license during the Term to: (a) copy, install, and execute one copy of the object code version of the Software in the Product server appliance; and (b) use related documentation; for the sole purpose of Licensee conducting its internal business operations and not for any other purpose (including redistribution). Licensee shall not be entitled to any upgrades, enhancements, modifications, new versions or the like in respect of the Software, unless Licensee subscribes and pays for Eliquid’s Service Program.

- 4 **Restrictions.** Licensee shall not: (a) assign, license, sublicense and/or redistribute the Software to any party in whole or in part; (b) transfer the Software to any party in whole or in part; (c) rent, time share, or operate a service bureau with respect to the Software; (d) charge a fee to any party for access to and/or use of the Software; and/or (e) install, use, and/or make available the Software for any online application service provider business, internet service provider business, or other online software rental business. Licensee shall not grant any license or sublicense to any party or parties to access and/or use the Software. Licensee shall not use the Software for the on-line control of aircraft, air traffic, aircraft navigation, or aircraft communications, or in the design, construction, operation or maintenance of any nuclear facility, or for medical or surgical applications, or any other application in which failure could create a situation where personal injury or death could in any manner whatsoever occur. Licensee shall not modify any of the Software, nor adapt, translate, reverse engineer, decompile, disassemble, and/or otherwise attempt to discover the Source Code, nor take any other steps to discover the confidential information and/or trade secrets contained in the Software. Licensee is prohibited from creating any software products that interface with, or are interactive with, the Software.
- 5 **Timely Payment To Eliquid or its Distributor.** The licenses granted in this Agreement are conditional upon Licensee making timely and complete payment to Eliquid or Eliquid's Distributor, as the case may be, of all license fees and other amounts due to Eliquid or Eliquid's Distributor, as the case may be, for the Product.
- 6 **Term and Termination.**
- 6.1 **Term.** The term of this Agreement ("Term") shall begin on the date of delivery of the Software to Licensee and shall continue in full force until terminated pursuant to this Section 6.
- 6.2 **Termination For Default.** Eliquid may terminate this Agreement for default if Licensee: (a) becomes insolvent; (b) files any proceeding in bankruptcy or acquires the status of a bankrupt; (c) has a receiver or receiver manager appointed with respect to it or any of its assets; (d) seeks the benefit of any statute providing protection from creditors. Eliquid may also terminate this Agreement for default if Licensee breaches any provision of this Agreement provided: (i) Eliquid provides Licensee with written notice of breach and a ten (10) day period within which to cure such breach ("Cure Period"); and (ii) Licensee fails to cure each such breach by the expiry of the Cure Period. Any termination of this Agreement shall be without prejudice to each right and/or remedy which Eliquid may possess against Licensee under this Agreement, at law, in equity, and/or otherwise.
- 6.3 **Effect Of Termination.** Upon any termination of this Agreement: (a) all licenses granted by Eliquid herein shall immediately terminate; and (b) Licensee shall immediately cease all use of the Software and return all of the Software (including all copies thereof made by, or for, Licensee) to Eliquid. The terms of this Agreement shall survive any expiry or termination of this Agreement and shall continue in full force.
- 7 **Limited Warranties.**
- 7.1 **Limited Software Warranty.** Eliquid warrants to Licensee that the Software delivered to Licensee under this Agreement: (a) will be free of viruses at the time of first delivery of same to Licensee under this Agreement
- 7.2 **Warranty Exclusions.** The Eliquid warranty in Section 7.2 shall not apply to any breach and/or Error caused by: (a) any change to the Software made by any party other than Eliquid; (b) accident, neglect, or misuse by any party other than Eliquid; (c) Licensee's failure to provide a suitable installation and/or operating environment for the Software; (d) use of the Software on a software and/or hardware platform not approved by Eliquid in writing; (e) software, hardware, firmware, data, and/or technology not licensed or approved by Eliquid in writing; (f) any telecommunications medium used by Licensee; (g) Licensee's own computer system; and/or (h) failure of Licensee and/or user to comply with the related documentation.
- 7.3 **Limits On Warranty.** ELIQUID DOES NOT WARRANT THAT THE MEDIA AND/OR SOFTWARE LICENSED UNDER THIS AGREEMENT WILL BE ERROR FREE, THAT EACH ERROR IN SAME WILL BE CORRECTED BY ELIQUID, THAT THE SOFTWARE WILL OPERATE ON ANY AND ALL HARDWARE AND/OR SOFTWARE PLATFORMS, OR THAT THE SOFTWARE WILL IDENTIFY ALL KNOWN VIRUSES.
- 7.4 **"As is" Basis.** EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED BY ELIQUID IN SECTIONS 7.1 AND 7.2 ABOVE, ALL MEDIA AND SOFTWARE PROVIDED TO LICENSEE UNDER THIS AGREEMENT SHALL BE PROVIDED BY ELIQUID ON AN "AS IS BASIS".
- 7.6 **General Warranty Provisions.** EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED BY ELIQUID IN SECTIONS 7.1 AND 7.2 ABOVE, ELIQUID DISCLAIMS ANY AND ALL EXPRESS

AND/OR IMPLIED WARRANTIES AND CONDITIONS OF EVERY KIND PERTAINING IN ANY WAY TO THE MEDIA AND/OR SOFTWARE LICENSED BY ELIQUID UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, EACH WARRANTY AND/OR CONDITION OF QUALITY, MERCHANTABILITY, DESCRIPTION, OPERATION, ADEQUACY, SUITABILITY, FITNESS FOR PARTICULAR PURPOSE, TITLE, INTERFERENCE WITH USE OR ENJOYMENT, AND/OR NON INFRINGEMENT, WHETHER EXPRESS OR IMPLIED BY STATUTE, COMMON LAW, USAGE OF TRADE, COURSE OF DEALING, CUSTOM, OR OTHERWISE. ELIQUID DOES NOT MAKE ANY REPRESENTATION, NOR PROVIDE ANY WARRANTY AND/OR CONDITION, REGARDING THE ADEQUACY OF THE MEDIA AND/OR SOFTWARE FOR ANY PARTICULAR PURPOSE, OR THE ADEQUACY OF THE MEDIA AND/OR SOFTWARE TO PRODUCE ANY PARTICULAR RESULT.

7.7 ***Jurisdictional Restrictions on Warranties.*** SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, OR THE EXCLUSION OR LIMITATION OF INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES. IF ANY JURISDICTION HAVING APPLICABILITY TO THIS AGREEMENT DOES NOT PERMIT ANY SUCH EXCLUSION AND/OR LIMITATION: (A) EACH WARRANTY WHICH CANNOT BE EXCLUDED SHALL BE LIMITED IN TIME TO THE SIXTY (60) DAY PERIOD; AND (B) ELIQUID'S TOTAL LIABILITY TO LICENSEE FOR BREACH OF ANY AND/OR ALL SUCH WARRANTIES SHALL BE LIMITED TO THE AMOUNT STATED IN SECTION 9.3 OF THIS AGREEMENT.

8 Infringement Indemnity

- 8.1 ***Indemnity Against Claims.*** Subject to the terms of this Section 8, Eliquid shall defend and indemnify Licensee from any claims, suits, actions or proceedings brought against Licensee in a court of competent jurisdiction which allege that an infringement of any third party patent, copyright, and/or trade secret rights existing under the laws of Canada (individually and collectively referred to as a "Claim") and any judgment finally awarded in respect of such Claim, for which all avenues of appeal have been exhausted, or any final settlement of such Claim, to the extent that such Claim arises solely as a result of Licensee's use of the Software within Canada / United States in accordance with the provisions of this Agreement, and applicable documentation and provided: (a) the alleged and/or actual infringement has not been caused by the use of a superseded version of the Software if the infringement would have been avoided by the use of a then current unaltered release of the Software, or by the modification of the Software by any party other than Eliquid, or by the combination and/or use of the Software with software, hardware, firmware, data, and/or technology not licensed to Licensee by Eliquid or approved by Eliquid in writing; and (b) Licensee promptly notifies Eliquid in writing within ten (10) days of Licensee first becoming aware of each such Claim; and (c) Licensee does not make any admission against Eliquid's interests and Licensee does not agree to any settlement of any such Claim without the prior written consent of Eliquid; and (d) Licensee, at the request of Eliquid, provides all reasonable assistance to Eliquid in connection with the defense, litigation, and/or settlement by Eliquid of each such Claim; and (e) Eliquid has sole control over the selection and retainer of legal counsel, as well as over the litigation and/or the settlement of each Claim.
- 8.2 ***Licensee's Continued Use.*** If the Software or its intended use becomes, or in Eliquid's opinion be likely to become, the subject of a Claim covered by the indemnity in Section 8.1 above, Eliquid shall obtain for Licensee a nonexclusive license to continue using the infringing portion of the Software pursuant hereto or shall replace or modify the infringing portion of the Software without reasonable degradation in functionality in order to make it non-infringing.
- 8.3 ***Eliquid Liability.*** Eliquid's total liability to Licensee for any and all infringement claims related to the Software shall be strictly limited to the obligations set out in this Section 8 and shall be subject to all of the limitation of liability provisions set out in Section 9 of this Agreement.

9 Limitation on Liability.

- 9.1 ***Limit on Damages.*** NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT, ANY AND ALL BREACHES BY ELIQUID OF THIS AGREEMENT (INCLUDING FUNDAMENTAL BREACH), THE TERMINATION BY ELIQUID OF THIS AGREEMENT, AND/OR ANY OBLIGATION THAT ELIQUID MAY HAVE IN CONTRACT, TORT, EQUITY, AT LAW, AND/OR OTHERWISE, IN NO EVENT SHALL ELIQUID BE LIABLE TO LICENSEE, TO ANY USER OF THE SOFTWARE, AND/OR TO ANY OTHER PARTY OR PARTIES FOR (A) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, AGGRAVATED, EXEMPLARY, AND/OR PUNITIVE DAMAGES, NOR (B) ANY LOST SALES, LOST REVENUE, LOST PROFITS, LOST DATA, OR REPROCUREMENT AMOUNT HOWSOEVER ARISING, EVEN IF ELIQUID HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND/OR

LOSSES ARISING AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY CONTAINED HEREIN.

- 9.2 **Damages.** EXCEPT FOR DIRECT DAMAGE CLAIMS ASSERTED BY LICENSEE AGAINST ELIQUID FOR BREACH OF ANY OF ELIQUID'S OBLIGATIONS UNDER SECTION 7 AND/OR 8 ABOVE, ELIQUID SHALL NOT BE LIABLE TO LICENSEE, TO ANY USER OF THE SOFTWARE, AND/OR TO ANY OTHER PARTY OR PARTIES, FOR ANY DIRECT DAMAGES, COMPENSATORY DAMAGES, AND/OR OTHER DAMAGES OF ANY KIND, NOR FOR ANY LOSSES, EXPENSES, LIABILITIES, AND/OR OTHER AMOUNTS, ARISING OUT OF AND/OR RELATED IN ANY WAY TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THOSE ARISING OUT OF (A) THE DELIVERY, INSTALLATION, USE, AND/OR PERFORMANCE OF THE MEDIA AND/OR SOFTWARE, (B) ANY ERROR, DEFECT, INADEQUACY, OMISSION, NON PERFORMANCE, AND/OR MALFUNCTION IN ANY AND/OR ALL OF THE MEDIA AND/OR SOFTWARE, AND/OR (C) ANY AND ALL BREACHES BY ELIQUID (INCLUDING FUNDAMENTAL BREACH) OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS BASED IN CONTRACT, TORT, EQUITY, AT LAW, AND/OR ON ANY OTHER THEORY OF LIABILITY HOWSOEVER ARISING, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY CONTAINED HEREIN.
- 9.3 **Monetary Limit On Damages.** NOTWITHSTANDING SECTION 8.2 ABOVE AND/OR ANY OTHER PROVISION OF THIS AGREEMENT, ELIQUID'S TOTAL, CUMULATIVE, AND AGGREGATE LIABILITY TO LICENSEE: (A) ARISING UNDER THE PROVISIONS OF THIS AGREEMENT; (B) FOR ANY AND ALL BREACHES BY ELIQUID OF THIS AGREEMENT (INCLUDING FUNDAMENTAL BREACH) AND/OR THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY CONTAINED HEREIN; (C) FOR ANY TERMINATION BY ELIQUID OF THIS AGREEMENT, AND/OR (D) FOR ANY OTHER ACT, OMISSION, OR EVENT RELATED IN ANY WAY TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF LICENSE FEES RECEIVED BY ELIQUID FROM LICENSEE UNDER THIS AGREEMENT, WHETHER ELIQUID'S LIABILITY IS BASED IN CONTRACT, TORT, EQUITY, AT LAW, AND/OR UPON ANY OTHER THEORY OF LIABILITY HOWSOEVER ARISING. LICENSEE AGREES THAT ELIQUID WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THIS SECTION 8 BEING INCLUDED HEREIN.
- 10 General Provisions.**
- 10.1 **Confidentiality.** Licensee shall: (a) receive and maintain the Software in confidence; (b) use the same degree of care with respect to the Software as Licensee employs to protect Licensee's own confidential and/or trade secret information from unauthorized use, duplication and/or disclosure, being, in any event, a high degree of care; and (c) use, duplicate, and disclose the Software solely in accordance with the provisions of this Agreement.
- 10.2 **Force Majeure.** Eliquid shall not be liable for any failure or delay the delivery of the Software resulting from any cause beyond the reasonable control of Eliquid, including without limitation acts of God, fire, flood, war, insurrection, riot, plant breakdown, accidents, embargo, explosion, lack of material supply, lack of common carrier facilities, products or parts shortages, or government order or decree.
- 10.3 **Modifications.** No modification of this Agreement shall be valid unless such modification is in writing and signed by the parties to this Agreement. This provision may not be waived by conduct.
- 10.4 **Invalid Provision.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision was omitted.
- 10.5 **Assignment.** Licensee may not assign or delegate this Agreement or any of its rights or obligations.
- 10.6 **Successors.** This Agreement shall bind and inure to the benefit of any permitted heirs, representatives, executors, administrators, successors and assigns.
- 10.7 **Entire Agreement.** This Agreement, together with its Exhibits and any Schedules, constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof, merges and supersedes all prior agreements and understandings relating to the subject matter hereof, and is intended as a fully integrated Agreement.
- 10.8 **Remedies upon breach.** The rights, remedies and benefits provided by this Agreement shall be cumulative and not exclusive of any other rights, remedies and benefits allowed by law, in equity, bankruptcy or otherwise. No failure on the part of either Party to exercise, and no delay in exercising, any right shall operate as a waiver thereof, nor shall any single or partial exercise by any Party of any right preclude any other or future exercise thereof or the exercise of any other rights. The waiver of a breach of, or default under, any terms of this Agreement shall not be construed as a waiver of any subsequent breach or default.

- 10.9 **Export Laws.** Licensee shall comply with all applicable USA and/or Canadian laws and/or regulations pertaining to the Software, including all export laws, regulations, and/or directives, and comply with all laws and regulations in Licensee's jurisdiction and any other location related to the import, export, transfer, shipping, and/or use of the Software.
- 10.10 **Governing Law, Jurisdiction and Venue.** This Agreement shall be subject to and governed by the laws of the Province of Ontario Canada, without giving effect to its choice of law provisions. Any lawsuit arising out of the performance or breach of this Agreement shall be brought in a court of competent jurisdiction within Province of Ontario Canada. Each Party acknowledges that it is subject to personal jurisdiction within the Province of Ontario Canada and that venue is proper there. Each Party waives any and all objections it may otherwise have to personal jurisdiction, venue, or the convenience of the forum within the Province of Ontario Canada.
- 10.11 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.
- 10.12 **English Language.** This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.
- 10.13 **Fax Signatures Legally Binding.** Signatures to the Agreement which are transmitted by fax (facsimile) shall be deemed legally binding on the parties for all purposes.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement consisting of six (6) pages, including Exhibit "A," is duly executed by the parties on this ____ day of _____ 200 ____ at Windsor, Ontario Canada.

LICENSEE

ELIQUIDMEDIA INTERNATIONAL INC.

Sign Here: _____

By: _____

Print Name Here: _____

Authorized Signatory

Address: _____

Phone Number _____

Fax Number _____

Email: _____

EXHIBIT "A"
Product Description

firmCHANNEL is a digital signage system which displays rich real-time generated multimedia content on various forms of digital displays. FirmCHANNEL allows end users to create powerful playlists of professionally designed content through the end user's Internet Browser.

FirmCHANNEL combines the power of video, photography, flash multimedia, and a simple to use, yet powerful user interface. FirmCHANNEL supports most major video and image formats, live television, and much more.

FirmCHANNEL is written in PHP, Javascript, XML, and protected with Zend Technologies Ltd. Zend Guard.