

Wakanda Studio Community License Agreement

WARNING!

You should read carefully all the terms and conditions of the Agreement, as defined below, between WAKANDA SAS, whose registered offices are at Parc Les Erables 66, route de Sartrouville 78230 LE PECQ – France (hereinafter referred to as "WAKANDA") and yourself (hereinafter referred to as "LICENSEE"), collectively referred to as the "Parties" or individually referred to as a "Party".

By downloading the Software, LICENSEE agrees to the terms of this Agreement without any reservation. If LICENSEE is entering into this Agreement on behalf of a company or other legal entity, it represents that it has the authority to bind such entity to this Agreement, in which case the word "LICENSEE" shall refer to such entity. If LICENSEE does not have such authority, or if LICENSEE does not agree with these terms and conditions, LICENSEE must not accept the Agreement and may not proceed with the downloading, copying, installation or any other use of the Software or any portion thereof.

1. DEFINITIONS

The following words have a specific significance:

"Agreement" means this license agreement, any amendment thereof.

"Documentation" means all the electronic documentation files and/or the documentation contained in or on the related Media and/or the Software user's manual - if any - in the language defined on the Media.

"End User" means the end user of a Wakanda Application, given that under no circumstances, shall an End User be a Developer.

"End User License" means the end user license agreement relating to a Wakanda Application between LICENSEE and an End User, subject to the applicable open source license.

“Environment” means the computer hardware, operating system(s) ("platform(s)") and the software required for use in conjunction with the Software, as indicated on the Media and any evolution thereof which may be required for the use of Updates.

“Media” means all methods through which LICENSEE obtained the Software, which includes any type of media, and notably the Wakanda's web sites and/or Wakanda's Ftp site.

“Software” means Wakanda Studio Community Edition computer program, in machine-readable executable code form and copies made of it, including related Documentation, any replacement or change and/or any Update provided under the Agreement; the Software being provided in the language defined on the Media.

“Wakanda Application(s)” means the application(s) developed with the Software, which use(s) open source Wakanda Server Community Edition and/or open source Wakanda Framework Community Edition.

“Wakanda Studio Community License” means the license granted under the Agreement.

2. PURPOSE

The purpose of this Agreement is to define the terms and conditions whereby WAKANDA grants LICENSEE, on a non-exclusive and royalty free basis, the right to use the Software. LICENSEE’s rights to use the Software are specified in this Agreement and WAKANDA retains all rights not expressly granted to LICENSEE in this Agreement. No other express or implied rights are granted to LICENSEE relating to the Software.

WAKANDA and/or its suppliers continue to be the sole owner(s) of the copy of the Software and all other copies that LICENSEE is authorized to make in accordance with this Agreement.

In no event, this Agreement may be interpreted as an agreement for sale.

3. DEVELOPMENT LICENSE

3.1 Rights granted

WAKANDA grants LICENSEE - on a royalty free basis - a revocable, limited, personal, non-exclusive and non-transferable right to use the Software subject to the following terms and conditions:

LICENSEE may:

- install and use the Software in the Environment, for the sole purpose of developing, designing or administrating any Wakanda Application in the Environment, in strict compliance with the instructions in the Documentation and the Agreement, provided that the Wakanda Applications use open source Wakanda Server Community Edition and/or open source Wakanda Framework Community Edition;

- transfer the Software from one computer to another;

- make copies of the Software in executable form, solely for use by Developers in accordance with the terms of this section 3.1, provided that LICENSEE reproduces all the copyright, trademark and other proprietary notices which appear on or in the Software; such copies being subject to the terms and conditions of the Agreement.

LICENSEE may not:

- sublicense, sell, lease, rent, share the use of the Software or otherwise transfer it, or permit any third party to use the Software for time sharing, outsourcing services, application service provider services, platform as a service or application hosting provider services and/or any cloud business. Generally, LICENSEE shall not grant any kind of rights regarding the Software or any portion thereof in any form to any third party without the prior written consent of WAKANDA;

- modify, translate, reverse-engineer, decompile, disassemble, partially or completely, the Software, except as otherwise mentioned by the legal measures in force. Nevertheless, LICENSEE shall ask WAKANDA for the information which is necessary to achieve the interoperability of the Software with another program and this, before any decompilation;

- remove or alter any Software identification, proprietary notice, trademarks, warnings or disclaimer statements affixed to, incorporated in or otherwise applied in connection with the Software;

- disclose the results of any benchmark or other test of the Software, without WAKANDA's prior written consent;

- use the Software in violation of any Country, Treaty, Federal or State law, regulation or rules, including laws with respect to misuse or improper use of information.

3.2 Electronic Documentation rights

LICENSEE may (i) print the Electronic Documentation for use with the Software, (ii) transfer the HTML or PDF files to a server for use on LICENSEE's Intranet, and/or (ii) transfer the Electronic Documentation on a hard drive for LICENSEE's use with the Software.

LICENSEE may not (i) distribute the Documentation, (ii) transfer the Documentation in any manner that causes it to be accessed on the Internet, and/or make derivative works of the Documentation.

In any case, it is LICENSEE's responsibility to make sure that any user of the Software complies with the terms of this Agreement.

4. DEPLOYMENT LICENSE

LICENSEE may deploy - on a royalty free basis - an unlimited number of Wakanda Applications on an unlimited number of servers with an unlimited number of End Users, provided that such Wakanda Applications are deployed with Wakanda Server Community Edition and Wakanda Framework Community Edition, as part of their respective open source licenses.

LICENSEE acknowledges and agrees that the Software is excluded from the scope of the deployment license and that the rights granted for the Software are strictly limited to those defined in section 3.1.

Under no circumstances, shall LICENSEE:

- remove or alter any Software identification, proprietary notice, trademarks, warnings or disclaimer statements affixed to, incorporated in or otherwise applied in connection with the Software;
- use the Software for a Wakanda Application that is intended for ~~software or application development purposes, in particular for Platform as a Service business and/or Cloud business and generally~~ for any competitive offer to the Software and generally,
- use the Software otherwise as strictly allowed under the Agreement.

The deployment of Wakanda Applications is under LICENSEE's sole responsibility, it being understood that in no circumstances, shall WAKANDA be liable for the deployment of Wakanda Applications and related licenses and/or services.

5. THIRD PARTIES' RIGHTS

The Software may include one or more libraries, files or other items intended to help LICENSEE to use the Software. WAKANDA grants LICENSEE the right to use these libraries, files and other items provided LICENSEE complies with the terms of this Agreement and any terms specific to the libraries or files. LICENSEE should refer to the Documentation and the “Copyright Information” included in the Software and at the following url <http://wakanda.org/credits> for additional information and terms.

LICENSEE is informed that the Software may give access to a library that allows LICENSEE to code certain information in Wakanda Applications developed with the Software. LICENSEE agrees that some laws do not allow or limit the use of the algorithms contained in this library and agrees to comply with all applicable laws and regulations related to such use.

6. SUPPORT AND UPDATES

LICENSEE acknowledges and agrees that the Wakanda Studio Community License does not include any support services and/or the provision of any Update.

~~LICENSEE may use the Wakanda Community Forum for support discussions, questions, answers, etc. relating to the Software.~~

~~The terms and conditions of use of the Wakanda Community Forum Support are defined in the Wakanda Forum, at the following url <http://forum.wakanda.org/rules>~~

WAKANDA shall provide information relating to Updates on Wakanda website (<http://wakanda.org>), when available.

LICENSEE acknowledges that such Updates may entail an update of the components of the Environment, and that LICENSEE shall bear all related costs.

LICENSEE recognizes and agrees that the Wakanda Studio Community License does not include installation services, such services being subject to a separate agreement.

LICENSEE agrees that the Updates shall be governed by the applicable license agreement at the time they are made available.

7. WARRANTIES AND DISCLAIMERS

Generally, each Party warrants that it has validly entered into the Agreement and is empowered to do so.

LICENSEE ACKNOWLEDGES AND AGREES THAT THE SOFTWARE IS PROVIDED “AS IS” WITHOUT ANY WARRANTY OF ANY KIND, AND WAKANDA DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE OR NON INFRINGEMENT, TO THE EXTENT PERMITTED BY LAW. WITHOUT LIMITATION OF THE FOREGOING, WAKANDA DOES NOT WARRANT THAT THE SOFTWARE IS FREE FROM BUGS AND/OR ERRORS AND/OR THAT THE FUNCTIONS INCLUDED IN THE SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS OR THAT THE OPERATION WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ALL ERRORS WILL BE CORRECTED.

THE ENTIRE RISK AS TO CHOICE AND USE OF THE SOFTWARE AS WELL AS THE RESULTS OBTAINED WITH THE SOFTWARE IS WITH LICENSEE.

Further, it is LICENSEE's responsibility to take the necessary steps for the protection of its data.

For the avoidance of doubt, LICENSEE agrees that the Software is obtained through download at its own discretion and risk and that LICENSEE is responsible for any damage to its computer system or loss of data that results from the downloading of the Software.

8. LIMITATION OF LIABILITY

NEITHER WAKANDA NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE DESIGN, THE PRODUCTION, OR THE DISTRIBUTION OF THE SOFTWARE WILL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES CAUSED TO LICENSEE, ANY USER OR THIRD PARTY, EVEN IN CASE OF NEGLIGENCE, INCLUDING BUT NOT LIMITED TO, THE INTERRUPTION OF THE GOOD ORDER WORK OF THE SOFTWARE, THE LOSS OF PROFITS, LOSS OF DATA, LOSS OF BRAND IMAGE, INCREASE OF OVERHEADS OR ANY OTHER FINANCIAL LOSS ARISING FROM THE USE OF THE SOFTWARE OR INABILITY TO USE IT EVEN IF WAKANDA HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES, SHALL WAKANDA'S LIABILITY FOR ANY DIRECT DAMAGES AND GENERALLY UNDER THE AGREEMENT, SHALL EXCEED THE AMOUNT PAID BY LICENSEE UNDER THE CONCERNED LICENSE.

WAKANDA shall not be responsible to LICENSEE and/or End User and/or any third party, for the deployment and the use of any Wakanda Application. LICENSEE shall indemnify WAKANDA from any claim by an End User and any third party related to such Wakanda Application.

It is expressly agreed that any claim for damages against WAKANDA arising in connection with the Agreement will be time-barred twelve (12) months after the event that generated that claim.

9. PROPRIETARY RIGHTS

9.1 Subject to the limited rights expressly granted under the Agreement, WAKANDA (and/or its licensors) reserves all rights and interests in and to the Software, in particular all related Intellectual Property Rights. No rights are granted to LICENSEE under the Agreement other than those expressly granted by the Agreement.

This Agreement does not include any license or rights on WAKANDA and/or its suppliers' trademarks or other proprietary rights notices. LICENSEE shall not assert any right, license, or interest in WAKANDA and/or its suppliers' trademarks or any words or designs that are confusingly similar to such marks.

LICENSEE shall not change the legal notices relating to copyright and other intellectual and industrial property privileges on or in the Software. Any reproduction whether in whole or in part of the Software is only allowed on the absolute condition that it contains all the legal specifications of the Software property.

9.2 LICENSEE shall promptly notify WAKANDA of any unauthorized use or any infringement of the Software, of which LICENSEE has knowledge. Should WAKANDA decide to institute legal action based on LICENSEE's notification, LICENSEE shall provide WAKANDA with any assistance that may be reasonably required by WAKANDA.

10. CONFIDENTIALITY AND NON-DISCLOSURE

The structure and organization of the Software are valuable trade secrets and confidential information of WAKANDA and/or its suppliers. LICENSEE shall not disclose such trade secrets.

The obligation of non-disclosure shall remain in force five (5) years after the termination of this Agreement, given for all confidential information relating to WAKANDA's intellectual property rights, this obligation shall remain valid during the term of their legal protection.

LICENSEE expressly agrees that WAKANDA has the right to publicly announce the WAKANDA/LICENSEE relationship and to use its trademark and logo as a business reference.

11. LICENSE TERM AND TERMINATION

11.1 License Term

Unless early terminated in accordance with section 11.2, the Wakanda Studio Community License starts upon acceptance of the Agreement and at the latest upon download of the Software. Unless early terminated in accordance with section 11.2, it is granted for the term of legal protection of the intellectual property rights relating to the Software.

11.2 Termination

Each Party may terminate the Agreement immediately by sending a written notice to the other Party - by registered letter with acknowledgment of receipt - when such Party is in material breach of any term, condition, or provision of this Agreement and breach is not cured within thirty (30) days after such notice.

However, WAKANDA may also terminate immediately the Agreement by sending a written notice to LICENSEE - by registered letter with acknowledgment of receipt - in the event that LICENSEE breaches sections 3 or 4 of the Agreement.

The termination of the Agreement does not prevent WAKANDA from claiming for any further damages.

Upon termination of the Agreement for any reason, LICENSEE shall stop using the Software, destroy or return the Software and the Documentation and any copy made whether in whole or in part, and return the product number to WAKANDA.

In addition, such termination shall relieve WAKANDA from any of its obligations related to the Agreement.

LICENSEE shall certify by means of a written document duly signed by a legal representative that the provisions of the present section 11.2 have been fulfilled within a time limit of five (5) days from the date of termination.

Notwithstanding the above provisions, sections 7, 8, 9, 10 and 12 shall survive any termination for any reason whatsoever for the term necessary to give them full force.

12. AUDIT

LICENSEE permits WAKANDA to perform either itself or by any representative any audit or control in order to verify that LICENSEE complies with all provisions of this Agreement, it being agreed that LICENSEE shall provide any information requested by WAKANDA regarding the Agreement execution, without any delay and by writing.

If the audit reveals a non-compliance with the terms and conditions of the Agreement and/or a discrepancy with the information given by LICENSEE, LICENSEE shall pay all WAKANDA's reasonable costs relating to the audit and this, without prejudice to other rights and WAKANDA's recourse.

This provision shall remain in force two (2) years after the termination of the Agreement for any reason whatsoever.

13. MISCELLANEOUS PROVISIONS

It is LICENSEE's responsibility to comply with any applicable French, European or International export control laws and regulations. LICENSEE shall not directly or indirectly transfer the Software to any country to which such transfer would be prohibited by any applicable export control laws or would be subject to an export license or any administrative authorization, without having firstly obtained such license or authorization. Further, LICENSEE warrants that LICENSEE is not a national or a resident of a country to which exporting the Software is not allowed by virtue of any Export laws or regulations.

Unless otherwise provided in the Agreement, the files, ~~data~~, messages and digitized records stored in the Parties' ~~data~~ processing systems shall be admitted as proof of the facts and communications between the Parties, provided that the transmitting Party may be identified and that such materials are established and stored under conditions which permit to warrant their integrity. Notwithstanding the above provisions, all notices pertaining to the Agreement shall be in writing and either personally delivered or sent via postage prepaid certified mail which can be tracked, addressed to the other Party. All notices shall be effective upon delivery to the notice address.

In compliance with the French law n°78-17 of January 6, 1978, as amended by the law n°2004-801 of August 6, 2004, LICENSEE is entitled to a right of access, modification and suppression of all personal data which concerns LICENSEE. To do so, LICENSEE may contact WAKANDA at contact@wakanda.io.

More generally, the Parties shall comply with any applicable law and regulation, in particular related to any personal data protection.

No change or modification to this Agreement will be valid unless a written amendment signed by LICENSEE and an authorized officer of WAKANDA.

If any provision of this Agreement is held to be unenforceable upon a definite legal or reglementary provision or a statutory or judicial determination, the remainder of this Agreement shall continue in full force and effect.

The waiver by WAKANDA of one breach or default hereunder does not constitute the waiver of any subsequent breach or default.

This Agreement constitutes the entire agreement between WAKANDA and LICENSEE relating to the Software and supersedes any prior communications, advertising or representations concerning the Software.

A printed version of this Agreement under electronic form and any warning notice delivered under electronic form by WAKANDA, shall be accepted in the course of any legal proceedings regarding the execution of this Agreement.

The relationship between WAKANDA and LICENSEE is that of LICENSOR/LICENSEE. In all matters relating to the present Agreement, LICENSEE will act as an independent party.

LICENSEE shall not assign, contribute, or transfer - whether in whole or in part, free of charge or against payment, for any reason and under any form whatsoever - any of its rights and obligations under the Agreement, without the prior written consent of WAKANDA. WAKANDA may assign, contribute or transfer its rights and obligations under the Agreement to any third party. In case of assignment or transfer of the Agreement pursuant to the conditions defined in this section, the assignee or the successor will be automatically bound by the Agreement.

This Agreement will be governed by French law and any dispute, controversy or claim arising out of or related to this Agreement shall be settled by adjudication before the Commercial Court of Paris, France, including in case of summary proceeding, plurality of defendants or action on a warranty.

The English language version of this Agreement shall be the version which defines the relationship between the parties. English will be the official language used in all communication between them.

LICENSEE ACKNOWLEDGES TO HAVE READ, UNDERSTOOD AND AGREED TO BE BOUND BY THE TERMS AND CONDITIONS OF THE AGREEMENT PRINTED ABOVE.

Should LICENSEE have any questions concerning this Agreement or wish to request any information from WAKANDA at contact@wakanda.io , please contact WAKANDA or the local 4D subsidiary serving your country.

* U.S. GOVERNMENT RESTRICTED RIGHTS:

Wakanda Studio Community Edition and documentation are commercial in nature. The Software and Documentation are "Commercial Items", as that term is defined in 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are defined in 48 C.F.R. §252.227-7014(a)(5) and 48 C.F.R. §252.227-7014(a)(1), and used in 48 C.F.R. §12.212 and 48 C.F.R. 227.7202, as applicable. Consistent with 48 C.F.R. §12.212, 48 C.F.R. §252.227-7015, 48 C.F.R. §227.7202 through 227.7202-4, 48 C.F.R. §52.227-14, and other relevant sections of the Code of Federal Regulations, as applicable, WAKANDA's computer software and computer software documentation are licensed to United States Government end users with only those rights as granted to all other end users, according to the terms and conditions contained in this Agreement.

Publisher is WAKANDA located at Parc Les Erables – Bat.4 / 66 route de Sartouville 78 230 France.

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