

## MINITAB ACADEMIC SITE LICENCE AGREEMENT

The Parties to this Agreement are:

**OWNER:** Minitab, Inc. ("Minitab", "We", "Our", "Us")  
Quality Plaza  
1829 Pine Hall Road  
State College, Pennsylvania 16801  
United States of America

**LICENSEE:** University of Strathclyde ("You", "Your")  
100 Cathedral Street  
Glasgow G4 0LN  
UK

In consideration of the mutual covenants set forth herein, and intending to be legally bound thereby, the parties agree to the following:

### **I. DEFINITIONS AND LICENCE TO USE**

1.1 Definitions. For the purposes of this Agreement, and unless otherwise agreed in writing by the parties, the following terms are defined as follows:

LICENSEE shall be an accredited and degree-granting institution, and is more specifically identified as: The University of Strathclyde, 100 Cathedral Street, Glasgow G4 0LN, including only the following campuses of that institution:

John Anderson campus  
Jordan Hill Campus

"Software" shall mean the current and subsequent releases of Minitab Statistical Software for Windows and applicable on-line user documentation.

1.2 Grant of Licence. For the purposes of this Agreement, "Licensee" shall be defined as the entity listed above. We grant You a non-exclusive, non-transferable licence to make and distribute copies of the Software, and to use the Software on computers owned, leased, or otherwise operated by You, and on the personal computers of Your Faculty and Registered Students (the "Authorised Users") under the terms and conditions stated herein. Your Authorised Users may use the Software on their personal computers solely for performing their academic work. No title or ownership rights to the Software or its licenced products are transferred to You or Your Authorised Users by this Agreement.

1.3 Authorised Users are defined as faculty and students of the above-defined academic institutions who meet the following criteria. Students must be currently enrolled and actively pursuing a degree at a qualified academic institution. Faculty and students must provide current proof of academic affiliation. Licensee shall not allow, and shall institute appropriate measures to ensure against, use of the software by faculty and students not meeting the definition of "Authorised User".

You may not disassemble, de-compile, or reverse engineer the Software or otherwise attempt to recreate the Software or any functionality or capability of the Software, except to the extent applicable laws specifically prohibit such restriction.

## **II. TERM OF AGREEMENT**

2.1 The term of this Agreement, shall be from 1 November 2010, until 31 October 2011, unless otherwise agreed upon, or unless earlier terminated by either Party as provided under the Agreement. The term of this Agreement will renew automatically for succeeding one-year terms unless either party provides the other with written notice of non-renewal at least thirty (30) days prior to the final day of the initial or any renewal term. All terms and conditions of this Agreement will apply during the renewal term(s), unless otherwise agreed in a writing signed by both parties.

## **III. DELIVERY**

3.1 Delivery. We will deliver the Software and its related documentation to You promptly following execution of this Agreement. You will receive one (1) network version for use on individual hard-drives and/or campus computer networks and You will receive one (1) version to be used for distribution to Authorised Users for home personal use. The version to be used by Authorised Users will be set to expire, regardless of when the Software is loaded or use begins, on the last day of the current renewal period. You will be responsible for copying and distributing the Software to Your labs, campus machines and Authorised Users along with related documentation. We will thereafter provide upgrades to the Software and documentation that become available during the term(s) of this Agreement promptly following their release. The Software delivered to You will be in executable code form and in its current release.

## **IV. ANNUAL-USE SOFTWARE LICENCE FEES**

4.1 The Annual-Use Software Licence Fee for use of the Software for the initial term and during each renewal term of the Agreement is based upon Your current enrolment set forth below and at the start of each renewal term of the Agreement.

4.1.1 Enrolment Data. You hereby warrant and represent that Your current enrolment data for the academic year 2010 is 45,000 Total Enrolment.

4.1.2 Annual-Use Software Licence Fee - Initial. Based on Your current enrolment data as set forth in section 4.1.1, the Annual-Use Software Licence Fee due Us for Your use of the Software during the initial term of the Agreement is Pound £ 4,995, plus all applicable taxes, duties, tariffs, if any.

4.1.3 Annual-Use Software Licence Fee - Renewal.

4.1.3.1 The licence fee due Us for Your use of the Software during a renewal term shall be based upon Your then-current enrolment data as provided by You. If You fail to provide Us with Your then-current enrolment data, the renewal term licence fee will be the greater of, (a) the licence fee set forth in section 4.1.2, or (b) the applicable licence fee based upon Your then-current enrolment data as published by You, or ascertained by Us using other recognized authorities providing such information.

4.1.3.2 Release of Activation Code. Upon Our receipt of Your payment of the applicable licence fee, or authorization of payment in a form acceptable to Us, We will release to You the activation code for the Software for Your renewal term.

4.2 Payment Terms. All payments are due within thirty (30) days of the invoice date and shall be made to Us or, if directed by Us, to a designated subsidiary of Minitab, Inc. All licence fees and other charges, such as charges for shipping and handling, paid by You are exclusive of any and all applicable custom duties, custom clearances, bank remittances, installation expenses, commissions, training charges, tariffs or taxes, of any and all nature, imposed or levied by a government or governmental agency (including any third-party payment agencies), if any; however, it is agreed that You are not responsible for the payment of taxes on Minitab's income. Information contained in invoices shall be incorporated into and made part of this Agreement.

4.3 Withholding Tax. Upon Your request, and if required by the laws of Your country, We will provide You with two (2) original copies of the applicable documents necessary to avoid double taxation with respect to taxes on income. If required under the laws of Your country, You may withhold the applicable percentage for withholding

tax from the software licence fee, provided that You shall send Us the application for certification on tax payment issued by Your country's Tax Office, at a later date, in order for Us to fully receive tax credit against the U.S. Tax Authorities.

## **V. MAINTENANCE AND NEW RELEASES**

5.1 Maintenance and New Releases. Your payment of the applicable Annual Use-Software Licence Fee(s) will entitle You to receive routine maintenance on the Software from Us and Our subsidiaries and updates to all major new (or "whole number") releases of the Software during the licence term(s) if and when they become available, upon the same terms and conditions stated herein, subject to reasonable additional terms which may be necessary to address any new and/or added functionality in the operation of the Software. Routine maintenance shall include maintenance (or "point") releases to correct errors in the Software which We determine to be commercially reasonable, in addition to reasonable amounts of technical support, via the telephone, mail, or fax, to Authorized Users of the Software during normal business hours from Our offices. In addition, at Our option, We may also provide routine maintenance on the Software to You through Our subsidiaries and/or independent service providers designated by Us.

## **VI. SECURITY AND COPYING THE SOFTWARE**

6.1 No Distribution to Third Parties. Except as stated otherwise in this Agreement, You are not permitted to lend, sell, lease, or otherwise provide or make available the Software in any part or form to any third party without Our written consent.

6.2 Copies. You shall make, directly or through a reputable CD-ROM duplicator, and distribute within the limitations set forth herein, sufficient copies of the Software to meet Your rights and obligations under this Agreement. You may also make copies of the Software for archival and backup purposes. Each copy of the Software You make shall retain the Minitab copyright notice in electronic form and each physical CD-ROM containing the Software shall have a label affixed externally on the media with the following notice: " © (applicable year), Minitab, Inc. All rights reserved." showing the copyright year appropriate to each release/version of the Software that You copy. If We notify You in writing of any copyright changes, You shall make changes in such notices at the earliest practical opportunity.

6.3 Records. You will maintain accurate records of distribution of copies of the Software during the term of this Agreement, indicating the name of each Authorised User to whom a copy of the Software has been distributed. We shall have the right to review all records of distributions at any time during the term of this Agreement.

6.4 You shall use Your best efforts to ensure that copies of the Software provided to You shall be secure from unauthorised use.

6.5 You shall use Your best efforts to monitor and control the distribution of the Software such that it is only reproduced and distributed to Authorised Users.

## **VII. TERMINATION AND TERMINATION DUTIES**

7.1 Termination. Either party may terminate this Agreement upon violation by the other party of any of the material provisions of this Agreement which go uncured for thirty (30) or more days following the postmark date of written notice to the violating party. In addition, You may terminate this Agreement, for any reason, by providing Us written notice to such effect.

7.2 Fees upon Termination. Upon termination of this Agreement, there will be no refund, in whole or in part, of any payments already made by You to Us and You will remain liable to pay promptly any unpaid fees due Us.

7.3 Duties and Licence Rights Following Termination. Upon termination of this Agreement by reason of Your default, including Your failure to pay any licence fee as required, Your licence rights in the Software will terminate and, You will cease to use the Software licenced under this Agreement and You, at Our option, will either return to Us or destroy all copies of the Software obtained from Us or duplicated by You under this Agreement and provide Us with written certification of such destruction; in addition You will delete all copies of the Software residing on

Your network file servers, and on Your computers and those of Your Authorised Users and provide Us with written certification of such destruction or deletion.

### **VIII. WARRANTIES AND LIMITED LIABILITY**

8.1 **Warranty of Title.** We warrant that We have the right to grant You this Licence to use the Software. We agree, at Our own cost, to defend, or, at Our option, settle any claim, suit or proceeding brought against You by virtue of a breach of this warranty, including any claim, suit or proceeding arising from or alleging infringement of any copyright, patent or intellectual property right of any third party. We will indemnify and hold You harmless against any loss, cost or liability arising out of any such breach; provided You give Us prompt notification in writing of any claim, suit or proceeding, and that You cooperate in the defense thereof as reasonably requested by Us. This indemnification does not extend to any claim of infringement resulting from Your unauthorised modification of Our Software or from use or incorporation of Our Software in any manner for which it is not designed or permitted in accordance with this Agreement.

8.2 **Limited Warranty.** We warrant that the functions contained in the Software will operate without substantial program errors which materially affect the functionality of the Software, but We do not warrant that the functions contained in the Software will meet Your requirements or will operate without interruption or error, or that all defects will be corrected. Our entire liability, and Your exclusive remedy for the breach of the foregoing limited warranty, shall be, at Our option, either replacement of the Software with a product You accept as a reasonable alternative, or the refund of the licence fees paid by You for the use of the Software during the then-current licence term. This warranty does not extend to any claim of program errors or loss of functionality resulting from Your unauthorised modification of Our Software or from use or incorporation of Our Software in any manner for which it is not designed or permitted in accordance with this Agreement.

8.3 **Warranty Disclaimers.** THE LIMITED WARRANTIES CONTAINED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE CONCERNING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR ARISING AS A RESULT OF CUSTOM OR USAGE IN THE TRADE OR BY COURSE OF DEALING. THE SOFTWARE IS PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND TO YOU OR ANY THIRD PARTY, EXCEPT AS SET FORTH HEREIN IN SECTIONS 8.1 AND 8.2.

8.4 **Limitation on Liability.** EXCEPT FOR DIRECT DAMAGES PROVIDED FOR IN SECTION 8.2, YOU AGREE THAT MINITAB SHALL NOT BE LIABLE TO YOU OR YOUR FACULTY, STAFF, REGISTERED STUDENTS, AND OTHER AUTHORISED USERS OR UNAUTHORISED USERS TO WHOM YOU ALLOW USE OF THE SOFTWARE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, FOR ANY LOSS OR DAMAGES, CONSEQUENTIAL, SPECIAL, INCIDENTAL, SPECULATIVE OR OTHERWISE, ARISING FROM USE OF THE SOFTWARE LICENCED UNDER THIS LICENCE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, TIME, MONEY OR GOODWILL, EVEN IF MINITAB WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### **IX. MISCELLANEOUS PROVISIONS**

9.1 **Assignment.** This Agreement may not be assigned by You without Our written permission, which permission shall not be unreasonably withheld by Us.

9.2 **Waivers.** No failure by either party to enforce a provision of this Agreement, and no waiver by either party of its rights under any provision thereof, will be deemed a waiver of subsequent breaches.

9.3 **Applicable Law.** This Agreement shall be governed in all respects by the laws of the United Kingdom.

9.4 **Disputes and Choice of Forum.** For any dispute that arises under this Agreement, except for Your failure to pay any licence fee as required, which is not settled promptly in the ordinary course of business, the parties shall seek to first resolve the dispute in face-to-face negotiations. If the parties are unable to resolve the dispute through these negotiations the dispute shall be settled by binding arbitration under the Arbitration Rules of the International Chamber of Commerce. Any arbitration conducted pursuant to this provision shall be conducted in England and shall be conducted in the English language. In the event of any action, including arbitration, brought under this

Agreement, the other party shall promptly pay to the prevailing party in such action, all costs and expenses incurred, including reasonable attorneys fees.

9.5 Export Restrictions. You may not knowingly accept this Licence Agreement or use this Software if doing so would be in violation of any current U.S. embargo as listed with the United States Office of Foreign Assets Control. You may not knowingly transmit or ship, directly or indirectly, this Software to any Country, entity, individual, or foreign national prohibited by U.S. export law, or in violation of any then-current U.S. embargo as listed with the United States Office of Foreign Assets Control. This Software may not be exported without the appropriate export licence.

9.6 Contacts for Billing and Distribution. You will arrange for centralized billing and distribution such that We may send all invoices for Software Licence Fees to a single "bill to" contact and all sets of the Software supplied hereunder may be sent to a single "Software Distribution Coordinator." The names and addresses of "bill to" and "Software Distribution Coordinator" contacts may change over time and You agree to provide Us with notification of such changes as they occur.

9.7 Site Contacts. You will provide Us with the name, address, phone number, fax number and an e-mail address of one contact person within each country mutually agreed upon, and/or college campus, where the Software is being used. The names and contact information for such contacts may change over time and You agree to provide Us with notification of such changes as they occur.

9.8 Permissions. We are confident that your experience with Minitab and Minitab's products and services will be positive, satisfactory, and mutually beneficial. Upon reasonable notice:

- (a) You agree to provide prospective customers of Our Software with information about your level of satisfaction with Minitab's software and services.
- (b) You agree to provide a short statement of Your level of satisfaction with Our Software and services, which We may use freely in Our marketing communications, including advertisements, promotional brochures, press releases, and the like.
- (c) You agree to allow us to use testimonials or application stories to be provided by you, by your employees upon notice to you, or as written by us based upon the statements of you and your employees with approval of the content by you.

9.9 Electronic Signatures. If this Agreement is transmitted by electronic means (including but not limited to email or fax transmission), and contains a scanned signature or a designated e-signature, it shall have the legal significance of a duly executed original delivered to the other party.

9.10 Agreement Comprises Entire Understanding. This Agreement supersedes all prior agreements, proposals, representations and communications between Us, and this Agreement comprises the entire understanding between Us with respect to the subject matter hereof. Any variation in the terms and conditions of this Agreement in any document not signed by You and Us shall be of no force or effect. To the extent the terms and conditions of this Agreement conflict with the terms of any purchase order submitted by You, the terms of this Agreement will supersede such inconsistent terms.

**IN WITNESS WHEREOF**, You and We, by Our duly authorised representatives, have executed two copies of this Agreement on the dates set forth below.

**LICENSEE:**  
**University of Strathclyde**

**OWNER:**  
**Minitab, Inc.**

By \_\_\_\_\_  
(Signature of Authorised Representative)

By: \_\_\_\_\_  
(Signature of Authorised Representative)

\_\_\_\_\_  
(Typed Name and Title of Signer)

\_\_\_\_\_  
(Typed Name and Title of Signer)

\_\_\_\_\_  
(Date Signed)

\_\_\_\_\_  
(Date Signed)