

# SOFTWARE LICENSE AGREEMENT

PLEASE READ THE FOLLOWING AGREEMENT. LICENSOR IS LICENSING THE ENCLOSED COMPUTER SOFTWARE TO YOU ONLY UPON THE CONDITIONS THAT YOU ACCEPT ALL OF THE TERMS OF THIS AGREEMENT PRIOR TO INSTALLING THE SOFTWARE ON YOUR COMPUTER. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, YOU MUST RETURN THE SOFTWARE AND ALL OTHER ENCLOSED MATERIALS TO LICENSOR AT YOUR EXPENSE WITHIN THIRTY DAYS OF RECEIPT FOR A REFUND.

**1. License.** SunGard Wealth Management ("Licensor") grants to you, the customer ("Customer") a personal, non-transferable, non-exclusive, limited-scope license to use solely for your internal business purposes Licensor's proprietary Investment Plus™ software ("Software") and related documentation ("Documentation") as the Software and the Documentation may be revised and updated in accordance with this Agreement. Customer may only use the Software and the Documentation (collectively, the "Products") during the Term, on up to two (2) machine(s). Upon prior written notice to Licensor, Customer may transfer the Software to another machine, provided that the Software is deleted from the original machine or location.

The Software is updated on a quarterly basis within seven weeks after the start of each calendar quarter. The Software is to be installed and updates are to be installed from Licensor's internet site. The Licensor will send updates on CD-ROM via first class mail by request of the Customer. Licensor will have no liability for any delays in shipment of updates. The Software contains a time-out device with requires installation of an update within sixty (60) days after the start of each calendar quarter.

Customer shall pay Licensor an annual license fee of \$3,500 for use of the Software. The license fee will be billed in equal quarterly installments of \$875 at the beginning of each calendar quarter. Payment is due within thirty (30) days. Applicable state and county sales taxes will be assessed for all states except AK, DE, MT, NH, and OR. Licensor reserves the right to revise the annual license fee at any time with thirty (30) days advance written notice. All payments made by Customer in connection with the Software are nonrefundable.

**2. Usage Restrictions.** Customer shall not copy, modify or distribute the Products. Customer shall not create or recreate the source code for the Software, or re-engineer, reverse engineer, decompile, disassemble or attempt in any way to disable, deactivate or render ineffective the password protection in the Software. Customer shall not remove, erase or tamper with any copyright, trademark, or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in the Products, nor shall Customer fail to preserve any proprietary notice in the Products. Customer shall not permit third parties (including, without limitation, its affiliates or subsidiaries) to use the Software, nor shall Customer permit any type of service bureau, time-sharing, remote processing, network processing, or similar service to any third party, whether on a fee basis or otherwise.

**3. Disclaimer of Warranties, Limitation of Liability.** (i) THE SOFTWARE IS LICENSED ON AN "AS-IS" BASIS WITHOUT WARRANTY OF ANY KIND. THE FOREGOING REPRESENTS THE ENTIRE LIABILITY OF LICENSOR WITH RESPECT TO THE PRODUCTS, AND IS IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS AND THEIR FUNCTIONALITY, OPERABILITY OR USE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH LICENSOR DISCLAIMS. (ii) Licensor shall have no liability under any provision of this Agreement with respect to any performance problem, claim of infringement or other matter to the extent attributable to any unauthorized or improper use or modification of the Software, any unauthorized combination of the Software with other software, any use of any version of the Software other than the latest release of the Software that is then generally available to Licensor's customer base, or any breach of this Agreement by Customer. (iii) LICENSOR'S TOTAL LIABILITY

UNDER THIS AGREEMENT SHALL UNDER NO CIRCUMSTANCES EXCEED THE INITIAL LICENSE FEES ACTUALLY PAID BY CUSTOMER TO LICENSOR FOR THE PRODUCTS. UNDER NO CIRCUMSTANCES SHALL LICENSOR OR ITS SUPPLIERS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY LOST REVENUES, LOST PROFITS, LOSS OF BUSINESS, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES OF ANY NATURE, INCLUDING SUCH DAMAGES ARISING FROM ANY BREACH OF THIS AGREEMENT OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT FORESEEABLE, EVEN IF LICENSOR OR ITS SUPPLIERS HAVE BEEN ADVISED OR WERE AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. Customer assumes the sole responsibility for the selection and use of the Products. Customer shall hold Licensor harmless from any claims, costs, or expenses arising from or related to Customer's selection or use of the Products and shall defend, indemnify and hold Licensor harmless against any expense or cost incurred as a result of any such claims.

**4. Confidentiality; Proprietary Rights.** Customer acknowledges that the Products are provided to Customer under this Agreement on a strictly confidential and limited use basis. Customer acknowledges that the Products contain valuable trade secrets of Licensor, including, without limitation, the object code and the source code for the Software, the visual expressions, screen formats, report formats and other design features of the Software and that all methods, algorithms, formulae and concepts used in developing and/or incorporated into the Products and all derivative works based upon any of the foregoing, and all copies of the foregoing are proprietary property of Licensor. Customer shall maintain the Products in strict confidence and shall ensure that only its employees who have agreed to maintain the Products in strict confidence shall have access to the Products. Title to the Products including, but not limited to, any and all related patent, copyright, trademark, trade secret, or other intellectual property rights, shall remain exclusively with Licensor. Customer's obligations under this Section are of a unique character and Customer agrees that any breach will result in irreparable and continuing damage to Licensor for which there will be no adequate remedy in damages. In the event of such a breach, Licensor will be entitled to injunctive relief and/or a decree for specific performance and such further relief as may be proper. Upon reasonable prior notice, Customer agrees to permit Licensor, at Licensor's expense, to audit Customer's usage of the Software to ensure that it is in accordance with the terms and conditions of this Agreement.

**5. Term; Termination.** The term of this Agreement shall commence upon Customer's installation of the Software and shall terminate in accordance with this Section. Either party may terminate this Agreement upon the other party's failure to cure a material breach of this Agreement within thirty (30) days after receiving written notice of such material breach. Either party may terminate this Agreement for any reason upon thirty (30) days prior written notice. Licensor may immediately terminate this Agreement if Customer fails to pay to SunGard, within ten (10) days after SunGard makes written demand therefor, any past-due amount payable hereunder. Upon termination of this Agreement for any reason, Customer must return to Licensor all copies of the Products or destroy all copies of the Products and certify to Licensor that such Products have been destroyed. The provisions of Sections 3, 4 and 7 of this Agreement shall survive any termination of this Agreement.

**6. Client Services.** Customer may access Licensor's telephone assistance line during Licensor's regular business hours (Monday to Friday, 7:00 a.m. to 4:00 p.m. Mountain time, except United States Stock Market holidays).

**7. General.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to the conflicts of laws principles thereof and, except for equitable relief which may be sought in any court of competent jurisdiction by Licensor, the parties consent to the exclusive jurisdiction of the state and federal courts located in Pennsylvania. The relationship between the parties created by this Agreement is that of independent contractors and not partners, joint ventures or agents. All remedies available to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. This Agreement may not be assigned by Customer without the prior written consent of Licensor, which consent shall be

at Licensor's sole discretion. No modification to this Agreement shall be effective unless in writing and signed by an authorized representative of Licensor. If any provision of this Agreement is held to be invalid or unenforceable under any circumstances, its application in any other circumstances and the remaining provisions of this Agreement shall not be effected. This Agreement contains the entire understanding of the parties with regard to this matter and supersedes any prior written or oral communications between the parties with respect to the subject matter of this Agreement.

If you have any questions regarding this Agreement please write to SunGard Wealth Management, P.O. Box 47140, Jacksonville, FL 32247-7140 or FAX (904)399-0519. If you need assistance with use of Investment Plus, please contact Client Services at (801)955-0705 or access our web-site at <http://www.investmentplus.net>.

**ACCEPTED AND AGREED:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company ("Customer"): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Effective Date: \_\_\_\_\_