

Datasplice Software License and Support Agreement

The following terms and conditions of this document set forth a legal agreement between the LICENSEE and DATASPLICE relating to the computer software known as DataSplice, and related DataSplice software add-ons, for which you have paid a license fee.

1. GRANT OF LICENSE. In consideration of payment of the LICENSE fees (LICENSE fee is the price for the DataSplice software and DataSplice add-on software), DATASPLICE, as Licensor, grants LICENSEE and its AFFILIATES, a nonexclusive right to USE the copy of the DATASPLICE executable code provided with these license terms (hereinafter the "SOFTWARE") for its intended purpose on a COMPUTER NETWORK, as defined below. USE means the right to execute the SOFTWARE in the manner and for the purpose for which it was intended by the manufacturer, which includes the reproduction of the SOFTWARE that occurs as an essential step in the execution of the SOFTWARE. Additionally, one copy of the SOFTWARE may be made for archival purposes. LICENSEE agrees to reproduce all copyright notices on the archival copy and reproductions of the SOFTWARE that have been authorized under this Agreement. LICENSEE agrees not to remove any copyright notices from the SOFTWARE or any reproduction or copy. This SOFTWARE is licensed for the maximum number of authorized users and or servers indicated on separate executed DATASPLICE and LICENSEE contract agreements. DATASPLICE reserves all rights not expressly granted to LICENSEE. After the initial 12 month period, License Fees are subject to increase at a rate not to exceed 3% annually or the CPI index (annually adjusted) rate whichever is lower. Following the initial period, this rate change increase provision will persist annually with no term limit.

2. OWNERSHIP OF SOFTWARE. DATASPLICE retains legal title to, as well as all rights, and ownership of the SOFTWARE except for the license rights granted herein. This license is not a sale of the legal title to the SOFTWARE.

3. COPYRIGHT PROTECTION. In addition to the restrictions of these license terms, the SOFTWARE and accompanying documentation are protected by copyright law and other laws that protect works of authorship. You may not prepare derivative works of, or otherwise modify, this SOFTWARE.

4. USE RESTRICTIONS. As the LICENSEE, you may install the SOFTWARE on computers that are owned and/or operated by LICENSEE. The SOFTWARE may NOT be installed on computers in countries that are listed as an Embargoed Country, as defined by the U.S. Department of Commerce. Computers on the COMPUTER NETWORK may access the SOFTWARE using the accessing capabilities built into the SOFTWARE, subject to the concurrent use provisions above. All other copying and access to the SOFTWARE is forbidden without the prior written consent of

DATASPLICE. You may not distribute copies of the SOFTWARE or accompanying written materials to anyone that is not an authorized user and employee or an authorized contractor of LICENSEE. LICENSEE may not modify, adapt, translate, reverse engineer, decompile, disassemble or create derivative works of the SOFTWARE. LICENSEE may not modify, adapt, translate or create derivative works of the written materials without the prior written consent of DATASPLICE.

5. DEFINITION OF COMPUTER NETWORK. "COMPUTER NETWORK" means a collection of computers connected together on a local area network or a wide area network, through a router or gateway, or computers that are connected together in any fashion as long as such computers are exclusively owned and operated by LICENSEE.

6. TRANSFER RESTRICTIONS. This SOFTWARE is licensed only to the LICENSEE and may not be transferred in any manner including electrically to anyone who is not an authorized user and employee of LICENSEE without the prior written consent of DATASPLICE. Authorized users of the SOFTWARE will be bound by the terms and conditions of this Agreement. In no event may you transfer, assign, release, sell or otherwise provide the SOFTWARE to others on a temporary or permanent basis.

7. PATENTS. Patents have been applied for to protect the SOFTWARE.

8. TERMINATION FOR CAUSE. In the event that LICENSEE fails to comply with any provision of this License, and such failure is not substantially cured within thirty (30) days after written notice is given to LICENSEE, this License will be terminated as of a date specified in such notice of termination. Upon termination LICENSEE must certify to DATASPLICE in writing that LICENSEE has destroyed the written materials and all copies of the SOFTWARE.

9. EXPORT. [You may not export or re-export the SOFTWARE. DATASPLICE retains ownership of the software and Licensee has no rights to resell the SOFTWARE, and may not export or re-export the SOFTWARE.

10. ANNUAL SOFTWARE SUBSCRIPTION / MAINTENANCE SUPPORT. Software maintenance support programs provide software program updates, maintenance releases, patches, and technical telephone assistance. Software maintenance is a calculated percentage (MAINTENANCE FEE) of each license (LICENSE FEE) per year. This (MAINTENANCE FEE) is a calculated percentage indicated on separately executed DATASPLICE and LICENSEE contract agreements. Maintenance Fees are due and payable annually in advance of a Support Period. Support Period is twelve (12) months from the date of purchase. All Maintenance Support ordered for a Support Period shall be non-cancelable and non-refundable. LICENSEE may terminate the Maintenance support with thirty

(30) days written notice from the renewal date. After the initial 12 month period, Maintenance Fees are subject to increase at a rate not to exceed 3% annually or the CPI index (annually adjusted) rate whichever is lower. Following the initial period, this rate change increase provision will persist annually with no term limit.

10.1 RENEWAL OF SOFTWARE SUBSCRIPTION / MAINTENANCE SUPPORT AND CO-TERMINOUS EXPIRATION DATES. Renewal Maintenance Fees are due and payable annually in advance of a Support Period, and must be continuous from the date of purchase, without lapse in coverage. LICENSEE may request that the Support Period be extended in monthly increments on a pro-rated basis in order to co terminate expiration dates with other Software Subscription / Maintenance Support programs purchased; that is, all Support Periods could be re-calculated to expire on the same date.

11. ANNUAL HANDHELD DEVICE/PC PROVISIONING SUBSCRIPTION /MAINTENANCE SUPPORT. Device Provisioning Subscription Maintenance enables handheld devices to have central management of the distribution of all compatible handheld software applications. Device Provisioning Subscription Maintenance is calculated per each handheld device (MAINTENANCE FEE) per year. This (MAINTENANCE FEE) is the fee indicated on separately executed DATASPLICE and LICENSEE contract/purchase agreements. Maintenance Fees are due and payable annually in advance of a Support Period. Support Period is twelve to thirty-six (12-36) months from the date of purchase. All Maintenance Support ordered for a Support Period shall be non-cancelable and non-refundable. LICENSEE may terminate the Maintenance support with thirty (30) days written notice from the renewal date. After the initial 12 month period, Maintenance Fees are subject to increase at a rate not to exceed 3% annually or the CPI index (annually adjusted) rate whichever is lower. Following the initial period, this rate change increase provision will persist annually with no term limit.

12. MISCELLANEOUS.

12.1 This Agreement constitutes the entire agreement between the parties and may not be modified except by a written agreement between the parties.

12.2 DISCLAIMER OF WARRANTY THE SOFTWARE AND ACCOMPANYING WRITTEN MATERIALS (INCLUDING INSTRUCTIONS FOR USE) ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND. FURTHER, DATASPLICE DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE SOFTWARE OR WRITTEN MATERIALS IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, CURRENTNESS, OR OTHERWISE. THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOFTWARE IS ASSUMED BY LICENSEE. IF THE SOFTWARE OR

WRITTEN MATERIALS ARE DEFECTIVE, LICENSEE, AND NOT DATASPLICE OR ITS DEALERS, DISTRIBUTORS, AGENTS, OR EMPLOYEES, ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION.

12.3 LIMITED WARRANTY. DATASPLICE warrants to the original LICENSEE that (a) the media on which the SOFTWARE is recorded is free from defects in materials and workmanship under normal use and service for a period of ninety (90) days from the date of delivery as evidenced by a copy of the receipt, and (b) the hardware accompanying the SOFTWARE, if any, is free from defects in material and workmanship under normal use and service for a period of one (1) year from the date of delivery as evidenced by a copy of the receipt. Further, DATASPLICE hereby limits the duration of any implied warranty(ies) and the media or such hardware to the respective periods stated above. Some states do not allow limitations on duration of an implied warranty, so the above limitation may not apply to you. DATASPLICE's entire liability and your exclusive remedy as to the media or hardware shall be, at DATASPLICE's option, either replacement of the media or hardware that does not meet DATASPLICE's Limited Warranty, or return the purchase price, as long as the media and/or hardware is returned to DATASPLICE with a copy of the receipt. If failure of the media or hardware has resulted from accident, abuse, or misapplication, DATASPLICE shall have no responsibility to replace the media or hardware or refund the purchase price. Any replacement media or hardware will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.

12.4 OPERATION OF DATASPLICE AND REPRESENTATION OF NO REVERSE ENGINEERING. DATASPLICE operates by applying a common input to the DATASPLICE computer program code and third-party computer program code. The output of these programs is compared and modifications are made to the DATASPLICE computer program code until a common response is obtained. DATASPLICE represents that this manner of operation of the DATASPLICE product does not constitute an illegal reverse engineering of the third-party computer program code to obtain trade secrets of the third-party. If DATASPLICE is used in a manner contrary to its intended purpose as described above, such use is not covered by the representations made in this paragraph.

12.5 THE ABOVE ARE THE ONLY WARRANTIES AND REPRESENTATIONS OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, THAT ARE MADE BY DATASPLICE ON THIS PRODUCT. ALL OTHER IMPLIED WARRANTIES ARE EXPRESSLY WAIVED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY DATASPLICE, ITS DEALERS, DISTRIBUTORS, AGENTS, OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY, AND LICENSEE MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE. THIS WARRANTY GIVES LICENSEE SPECIFIC LEGAL RIGHTS. LICENSEE MAY HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE.

12.6 NEITHER DATASPLICE NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THIS PRODUCT SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR ADVICE AND THE LIKE) ARISING OUT OF THE USE OF OR INABILITY TO USE SUCH PRODUCT EVEN IF DATASPLICE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

12.7 APPLICABLE LAW.

12.7.1 United States. If you acquired the software in the United States, Colorado state law governs the interpretation of this agreement and applies to claims for breach of it, regardless of conflict of laws principles. The laws of the state where you live govern all other claims, including claims under state consumer protection laws, unfair competition laws, and in tort. 12.7.2 Outside the United States. If you acquired the software in any other country, the laws of that country apply.

12.8 LEGAL EFFECT. This agreement describes certain legal rights. You may have other rights under the laws of your country. You may also have rights with respect to the party from whom you acquired the software. This agreement does not change your rights under the laws of your country if the laws of your country do not permit it to do so.

If you have any questions concerning this Agreement, or if you desire to contact DATASPLICE for any reason, please contact in writing:

DATASPLICE Customer Sales and Service, 414 E. Oak Street, Fort Collins, Colorado, 80524.