LICENSE AGREEMENT

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This Licence Agreement is effective [DATE],

**BETWEEN: [PROGRAMME NAME]** (the "Programmer"), a Programmer organised and existing under the laws of the [PROVINCE/STATE] of [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [YOUR COMPANY NAME]** (the "Developer"), a Programmer organised and existing under the laws of the [PROVINCE/STATE] of [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

LICENSE AGREEMENT by and between [PROGRAMMER NAME], having offices at [FULL ADDRESS], [PROVINCE/STATE] of [COUNTRY], and ("Customer"), having offices at [SPECIFY], is made and entered into as of the [DATE] day of, [DATE].

For each programme the applicable Supplement shall specify: (i) the Hardware (including the central processing unit (s) (CPU), (ii) the Operating System Software, (iii) the total fees, (iv) the number of permitted Developers and/or users with unique logins (if any), and (v) the Site.

1. **LICENSE**
	1. For each Program, and related documentation, listed on a supplement, [PROGRAMMER NAME] grants to Customer a perpetual, non-exclusive, nontransferable license, to Use, and allow its Affiliates (for so long as they are Affiliates) to use, the programme solely for its and its Affiliates internal administrative purposes on the Hardware and Operating System Software at the Site, subject to restrictions set forth on the applicable supplement. In this Agreement (a) "Documentation" means user guides, operating manuals, and specifications, whether in print or machine readable media, in effect as of the date of shipment, (b) "Use" means to load, execute, employ, utilise, store or display the Program, (c) "Affiliates" means any Programmer controlling, controlled by or under common control with, Customer, and (d) "Server" means one or more interconnected computer hardware systems configured to run the Program(s). Copying or Use of the programme or Documentation other than as expressly authorised by this Agreement is not permitted. Customer may delegate authority to execute supplements to any affiliate. Customer shall ensure that its Affiliates comply with the terms of this Agreement, and will be liable for any breach by any Affiliate.

* 1. The programme may be transferred temporarily to a backup computer if the Hardware is inoperative. The programme may also be transferred to computer hardware or used with an operating system, other than the specified Hardware or Operating System Software, subject to [PROGRAMMER NAME]'s transfer policies and fees then in effect. Customer may make a reasonable number of copies of the programme exclusively for testing, disaster recovery, inactive back-up or archival purposes.
	2. As soon as practicable after signing the applicable supplement, [PROGRAMMER NAME] shall deliver the programme and Documentation to the Site. With respect to host application Programs, only [NUMBER] set of Documentation and programme copy shall be delivered to Customer and with respect to non-host applications, [NUMBER] set of Documentation and one copy of each programme *per Se*rver shall be delivered to Customer. Customer may make and use additional copies of programmes and electronic documentation for the number of Developers/users specified on the applicable supplement, if any installation, implementation, training and technical services and additional copies of programmes and Documentation may be obtained at [PROGRAMMER NAME]'s then current prices.
1. **SUPPORT AND MAINTENANCE**
	1. So long as Customer has paid the applicable support fees, from the execution date of the applicable Supplement [PROGRAMMER NAME] shall support the programme in accordance with this Section 2 and the applicable supplement. Upon receipt from Customer of notice of a programme problem, [PROGRAMMER NAME] shall use reasonable efforts to correct or circumvent the problem. Any corrections to the programme will be made to the most current generally available release of the Program. After the introduction of a new generally available release of a Program, [PROGRAMMER NAME] will continue to support the previously released version of such Program.
	2. So long as a customer has paid the applicable maintenance fees, error correction releases and/or performance enhancement releases of the programme not separately marketed by [PROGRAMMER NAME] will be provided to Customer. The licence granted to Customer under Section [NUMBER] shall extend to each correction and enhancement release received from [PROGRAMMER NAME]. Customer may reinstate lapsed maintenance for any programme by paying the then current maintenance fees and any other maintenance fees in arrears.
	3. Support will be included in the initial licence Fee and may be extended for one year periods on the anniversary of the first supplement at [PROGRAMMER NAME]'s then-current rates for so long as [PROGRAMMER NAME] offers support or maintenance. Maintenance will be included in the initial licence Fee for host applications and may be purchased by Customer for all other applications by execution of a supplement, renewable at the anniversary of any such supplement.
	4. [PROGRAMMER NAME] shall have no obligation to support or maintain the programme for Use on any computer system other than the Hardware and Operating System Software or in the event Customer modifies the programme except as permitted by this Agreement. Only those versions of different cooperating programmes specified by [PROGRAMMER NAME] will execute correctly together on a single CPU or in a network.

[PROGRAMMER NAME] has no obligation to modify any version of the programme to run with new versions or releases of the Operating System Software or Hardware. If Customer purchases maintenance from [PROGRAMMER NAME] for any programmes for Use on specific hardware or in a specific network, Customer must purchase maintenance from [PROGRAMMER NAME] for all functionally related programmes licenced by [PROGRAMMER NAME] for use on such hardware or network.

* 1. [PROGRAMMER NAME] shall deliver one copy of any [PROGRAMMER NAME] source code not delivered to Customer for the programme to [PROGRAMMER NAME]'s then current escrow agent. So long as Customer is current on support or maintenance and is in compliance with the provisions of its agreements with [PROGRAMMER NAME], in the event [PROGRAMMER NAME] ceases to maintain the Program(s), Customer shall have a right to obtain access to such escrowed source code from the escrow agent.
1. **CONFIDENTIALITY; PROPRIETARY RIGHTS**
	1. Each party shall hold Confidential Information of the other in confidence. "Confidential Information" includes without limitation the programme and all Documentation, and all methods or concepts utilised therein, plus all information identified by the disclosing party as proprietary or confidential. All Confidential Information shall remain the sole property of the disclosing party. Upon execution of a satisfactory non-disclosure agreement, third parties may have access to Confidential Information. Information will not be considered to be Confidential Information if
2. available to the public other than by a breach of this Agreement;
3. rightfully received from a third party not in breach of any obligation of confidentiality;
4. independently developed by a party without access to Confidential Information of the other; (iv) known to the recipient at the time of disclosure;
5. provided the other party is given notice and opportunity to intervene, produced in compliance with applicable [COUNTRY] Law or a court order; or
6. it does not constitute a trade secret, then after [NUMBER] years from the date of disclosure.
	1. All programmes and Documentation, and any modifications or copies thereof, are proprietary and protected by copyright and/or trade secret law and no ownership rights are transferred by this Agreement. All proprietary notices incorporated in, marked on, or affixed to a programme or other Confidential Information by [PROGRAMMER NAME] or its suppliers shall be duplicated by Customer on all copies of all or any part of the programme and shall not be altered, removed or obliterated.
	2. Customer shall not modify, reverse reengineer, reverse assemble or reverse compile any programme or part thereof, except that Customer, may modify the data file portions of the programme to the extent and in the manner described in the Documentation for the Program.
7. **WARRANTY**
	1. [PROGRAMMER NAME] warrants that it has the right to licence the programme to Customer and that each programme licenced to Customer will operate substantially in conformance with the Documentation for such programme for a period of one year from the date of shipment of such programme to Customer. [PROGRAMMER NAME] warrants the media on which the programme is delivered to be free of defects in material and workmanship for a period of [NUMBER] calendar days following the date of shipment.
	2. Customer's sole and exclusive remedies for breach of either of the foregoing warranties shall be either replacement of the defective materials or a refund of the licence fee paid for Program(s) licenced on a supplement. Such remedies are available only if [PROGRAMMER NAME] is notified within the Warranty Period and is provided with a reasonable opportunity to cure such breach.
	3. NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE WITH RESPECT TO THE PROGRAM, DOCUMENTATION OR SERVICES TO BE SUPPLIED BY DBS, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
8. **INFRINGEMENT INDEMNITY**

[PROGRAMMER NAME] shall indemnify, defend, or at its option settle, any claim or suit against Customer on the basis of infringement of any patent, trademark, copyright or trade secret by the programme or Use thereof and pay any final judgement  entered against Customer on such issue in any such proceeding; provided, [PROGRAMMER NAME] has sole control of such defence and/or settlement and Customer promptly notifies [PROGRAMMER NAME] and gives [PROGRAMMER NAME] all related information known to Customer. If any part of the programme is, or may become, the subject of any such proceeding, [PROGRAMMER NAME] may, and in the event of any adjudication that any part of a programme does so infringe or if the licencing or Use of the programme or

any part thereof is enjoined, [PROGRAMMER NAME] shall, at its expense and option, do one of the following things: procure for Customer the right to Use the programme or the affected part thereof; replace the programme or affected part thereof with other suitable programs; modify the programme or affected part thereof to make it non-infringing; or if none of the foregoing remedies are commercially feasible, refund the aggregate payments paid by Customer for the programme or the affected part thereof, less reasonable amortisation for Use. [PROGRAMMER NAME] shall have no obligations under this Section 5 with respect to any claim to the extent it is based upon (i) the Use of any version of the programme other than a current, unaltered release of the Program, if such infringement would have been avoided by the Use of a current, unaltered release; (ii) the combination, operation, or Use of the programme with software or hardware other than as specified by [PROGRAMMER NAME], if such infringement would have been avoided in the absence of such combination, operation or Use; or (iii) the Use of the programme on or in connection with a computer system other than the Hardware and the Operating System Software

1. **LIMITATION OF LIABILITY**

Except (i) as provided in Section 5, (ii) in the event of death or personal injury, and (iii) in the event of damage to tangible personal property, the total liability, if any, of [PROGRAMMER NAME], including but not limited to liability arising out of, resulting from or in any way related to, contract, tort, breach of warranty, infringement or otherwise, shall not in any event exceed the licence fees paid by Customer with respect to the affected Program. Neither [PROGRAMMER NAME] nor its licensors shall be liable for loss of profits, or indirect, special, incidental, or consequential damages.

1. **GENERAL**
	1. Neither this Agreement nor any licence hereunder may be assigned (whether by operation of [COUNTRY] Law or otherwise) by Customer without [PROGRAMMER NAME]'s prior written consent.
	2. [PROGRAMMER NAME] may, from time to time, but not more often than quarterly, request the customer to provide a certification to the effect that actual Use of the programme is in complete compliance with the terms of this Agreement and any supplement. Besides, [PROGRAMMER NAME] may, upon reasonable notice, perform an audit to determine compliance with the terms of this Agreement. If the number of copies or users is found to be greater than that contracted for or the computer system on which the programme is in use differs from the Hardware and Operating System Software specified on any supplement, [PROGRAMMER NAME] shall have the right to charge Customer the applicable current list prices therefor. If the resulting adjustments to the licence fees owing by customer are greater than [PERCENTAGE %] of the licence fees previously paid by customer to [PROGRAMMER NAME], [PROGRAMMER NAME] may also charge customer the reasonable expenses associated with such audit.
	3. All fees shall be paid within [NUMBER] days after the invoice date. Customer shall pay all applicable shipping charges and sales, use, personal property or similar taxes, exclusive of [PROGRAMMER NAME]'s income and corporate franchise taxes. Customer shall reimburse [PROGRAMMER NAME] for all reasonable travel and living expenses incurred by [PROGRAMMER NAME] *in re*ndering all services. After notice, past due amounts owing from Customer shall bear interest at the rate of [PERCENTAGE %] per month. Customer shall reimburse [PROGRAMMER NAME] for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts owed by Customer.
	4. On termination of any licence granted pursuant to this Agreement, Customer shall cease using the programme and Documentation and Customer shall certify in writing to [PROGRAMMER NAME] that all copies (in any form or media) of the programme and Documentation, whether or not modified or incorporated into other materials, have been destroyed or returned to [PROGRAMMER NAME]. Termination of this Agreement shall not relieve Customer's obligation to pay all fees accruing prior to such termination and shall not limit either party from pursuing any other remedies available to it. Each party's obligations under Section 3 hereof shall survive termination of any licence or this Agreement.
	5. Each party's obligations under Section 3 hereof are of a unique character and each agrees that any breach may result in irreparable and continuing damage to the other party for which there will be no adequate remedy in damages. In the event of such a breach, the damaged party will be entitled to injunctive relief and/or a decree for specific performance and such further relief as may be proper.
	6. This Agreement is subject to any governmental, orders or other restrictions on the export of programmes and related information and Documentation that may be imposed by governmental authorities. Customer agrees that it will comply in all respects with any governmental Law, orders or other restrictions on the export of programmes (and any related information and Documentation) which may be imposed from time to time by the government of [COUNTRY] and any country to which any programme is shipped by Customer.
	7. If either party materially breaches any of its obligations hereunder and fails to remedy such breach (if such breach can be remedied) within [NUMBER] days of written notice of such breach, the other party may terminate any licence or this Agreement. All notices relating to termination or default under this Agreement shall be in writing and delivered by overnight delivery service or certified mail return receipt requested, to the address of such party specified above (addressed in the case of [PROGRAMMER NAME] to the attention of its Contracts Department) or specified by such party in accordance with this Section.
	8. This Agreement, together with the appendices and addenda hereto, and supplements issued hereunder, constitutes the entire agreement of the [PROGRAMMER NAME] and supersedes all previous and contemporaneous communications, representations, understandings or agreements related to the subject matter hereof. This Agreement may be modified only in a writing signed by both parties. Customer may issue a purchase order in lieu of a supplement, if confirmed by a [PROGRAMMER NAME] invoice or other [PROGRAMMER NAME] confirming document. Purchase orders shall be binding upon [PROGRAMMER NAME] only with respect to items required to be set forth on a supplement. Pre-printed terms and conditions on or attached to any such purchase order shall be of no force or effect.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

# PROGRAMMER DEVELOPER

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title