

Software License Agreement

This **SOFTWARE LICENSE AGREEMENT** (this "Agreement") is entered into as of the ___ day of _____, 20__, by and between Blue Devil Data, LLC (the "Vendor") and _____ (the "Licensee"). Vendor and Licensee shall be collectively referred to herein as the "Parties".

WHEREAS, Vendor has developed and owns the entire right, title and interest in and to certain Software (defined below); and

WHEREAS, Licensee desires to acquire a license from Vendor to utilize the Software upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and undertaking set forth in this Agreement, each party intending to be legally bound, hereby agree as follows:

License:

1. Subject to the terms and conditions herein, Vendor grants to Licensee a non-exclusive, non-transferable, non-assignable license to use the Software (the "License").
2. "Software" includes the executable computer programs and any related printed, electronic and documentation and any other files that may accompany the product.
3. Vendors exclusively retains all right, title and interest in and to the Software and all copies and derivative works thereof and all related documentation and materials; all service marks, trademarks or any other designations; all copyrights, patent rights, trade secret rights and all other intellectual property rights of the Software; and all distribution rights of Software. This Agreement constitutes a license for use only and is not in any way a transfer of ownership rights to the Software.
5. The rights and obligations of this Agreement are personal rights granted to the Licensee only. The Licensee shall not transfer, sell, assign or sub-license any of the rights or obligations granted under this Agreement to any other person or legal entity. The Licensee may not make available the Software for use by one or more third parties.
6. The Licensee shall not either directly or through any other person, firm, corporation, subsidiary, affiliate or other entity, modify, copy, access, run, perform, display, reverse-engineer, disassemble, de-compile or distribute the Software in any manner through current or future available technologies.
7. Failure to comply with any of the terms under the License section shall be considered a material breach of this Agreement.

License Fee:

8. The original purchase price paid by the Licensee upon Acceptance (defined below) shall constitute the entire one-time License fee for the rights granted under this Agreement (the "License Fee").

Limitation of Liability:

9. The Software is provided by the Vendor and accepted by the Licensee "AS IS". Vendor shall have no liability to Licensee for any damage sustained by Licensee as a result of Licensee's use of the Software. The Vendor shall not be liable for any general, special, incidental or consequential damages including, but not limited to, loss of production, loss of profits, loss of revenue, loss of data, or any other business or economic disadvantage suffered by the Licensee arising out of the use or failure to use the Software.

10. Vendor provides only the warranty expressly set forth herein. The Vendor makes no warranty expressed or implied with respect to the Software, including but not limited to, those regarding the fitness of the Software for a particular purpose and merchantability or that the Software will be suitable or appropriate for the specific requirements of the Licensee.

11. The Vendor does not warrant that use of the Software will be uninterrupted or error-free or free from defects. The Licensee accepts that software in general is prone to bugs and flaws within an acceptable level as determined in the industry. Vendor shall have no obligation to update or correct defects or errors in the Software.

12. If the Vendor elects in its sole discretion, the Vendor may remedy any non-conforming Software by providing a refund of the purchase price or, at the Vendor's option, repair or replace any or all of the Software. Any refund provided under this section may be reduced where the Licensee has gained significant use and value from the Software. No refunds will be provided 60 days after Software delivery.

13. In no event shall any liability of Vendor hereunder exceed the original purchase price paid by Licensee for the Software.

Warrants and Representations:

14. The Vendor warrants and represents that it is the copyright holder of the Software. The Vendor warrants and represents that granting the License to use this Software is not in violation of any other agreement, copyright or applicable statute.

Acceptance:

15. All terms, conditions and obligations of this Agreement will be deemed to be accepted by the Licensee ("Acceptance") upon installation of the Software on Licensee's first computer.

Term:

18. The term of this Agreement will begin on Acceptance and is perpetual, unless termination pursuant to Section 19 below.

Termination:

19. This Agreement will be terminated and the License forfeited where: (i) the Licensee has failed to comply with any of the terms of this Agreement or is in breach of this Agreement; (ii) if Licensee ceases to do business, or otherwise terminates its business operations. Upon termination of this Agreement for any reason, the Licensee shall promptly destroy the Software or return the Software to the Vendor.

Indemnification:

20. Licensee agrees to indemnify, defend and hold Vendor harmless from and against any and all loss, damages, claims, suits, actions, judgments, liability, costs or expenses (including reasonable attorneys' fees) arising out of a claim by a third party against Vendor based upon Licensee's use of the Software; (ii) any failure or breach by Licensee of any representation, warranty, covenant, obligation or undertaking pursuant to this Agreement.

Force Majeure:

21. The Vendor will be free of liability to the Licensee where the Vendor is prevented from executing its obligations under this Agreement in whole or in part due to Force Majeure, such as earthquake, typhoon, flood, fire, pandemic, and war or any other unforeseen and uncontrollable event where the Vendor has taken any and all appropriate action to mitigate such an event.

Governing Law:

22. The Parties submit to the jurisdiction of the courts of the State of New York for the enforcement of this Agreement. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York, without regard to the principles of Conflicts of Law.

Entire Agreement:

23. This Agreement supersedes all proposals, oral or written, all negotiations, conversations, or discussions between or among Parties relating to the subject matter of this Agreement and all past dealing or industry custom.

Assignment:

24. Licensee shall not assign this Agreement or any interest or rights herein without the express written consent of Vendor, which may be withheld in Vendor's sole discretion.

Headings:

25. Headings and captions are for convenience only and are not to be used in any way for the

Modification:

26. Except as otherwise expressly provided herein, this Agreement may not be altered, amended, changed, modified or revoked, nor any provision hereof waived, except by a written instrument signed by the party against whom such modification or waiver is sought.

Severability:

27. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

Notices:

28. Any notice which either party hereto is required or permitted to give hereunder shall be addressed to the party to be charged therewith at the address set forth below and shall be given by certified or registered mail, overnight delivery or facsimile. Any such notice shall be deemed given on the date such notice is duly sent.

All notices to the Vendor under this Agreement are to be provided at the following address:

Blue Devil Data, LLC
2615 State Route 80 Lafayette, NY 13084

All notices to Licensee under this Agreement are to be provided at the following address:

Benefits of Agreement:

29. This Agreement shall be binding upon and shall inure to the benefit of the distributes, representatives, successors and assigns of each of the Parties

Counterparts:

30. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall comprise one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above:

VENDOR:

BLUE DEVIL DATA, LLC:

By: _____
Name:
Title:

LICENSEE:

[_____]

By: _____
Name:
Title: