

# **EULA and Maintenance Agreement**

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Prepared by: DataBank IMX <u>www.databankimx.com</u>



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- **1.10. "Object"** form shall mean any form resulting from mechanical transformation or translation of a Source form, including but not limited to compiled object code, generated documentation, and conversions to other media types.
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- **1.18. "Updates"** means technical support, new version, new release, and/or supplements to the Product and/or related information.
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### 4. MAINTENANCE, UPDATES AND DISCONTINUATION.

- 4.1. Maintenance Agreement: A Maintenance Agreement entitles the purchaser to Technical Support and Updates of the Product and access to Product fixes for a period of one (1) calendar year (365 days) from the date of purchase. Thereafter, You may renew your Maintenance Agreement annually.
  - **4.1.1.** Maintenance agreements will automatically terminate: (i) upon termination of the Software License Agreement; and (ii) in the event that You fail to pay the then current Maintenance Fee when due.
  - **4.1.2.** The current major release and latest versions are the supported versions of the Product(s)
  - **4.1.3.** You may thereafter renew Maintenance Services on an annual basis by paying the applicable Maintenance Fee, unless DataBank notifies You before the expiration of the initial Term or any renewal term of its intent not to renew Maintenance Services
- **4.2. Updates:** DataBank may, in its sole discretion, provide technical support and/or Updates to You hereunder.
- **4.3. Technical Support:** Technical Support is provided, only for the defined functionality of the Product(s), with the following conditions:



- **4.3.1.** DataBank shall use reasonable efforts to solve problems/defects identified by You; however, DataBank does not warrant that it will solve any particular problem in a given timescale, or at all.
- **4.3.2.** Support for the Product(s) are subject to fair use policies as described on the Product support descriptions.
- **4.3.3.** Technical support is provided through the DataBank National Support team.
- **4.3.4.** DataBank does not guarantee that any fix will be provided in any given time period. Any estimates provided are estimates only and are not binding or enforceable.
- **4.3.5.** Notifications of Updates and fixes we be available Online or delivered directly to You.
- **4.3.6.** DataBank will provide support status updates when You request them.
- **4.3.7.** DataBank will provide support for the Product throughout the license agreement period whether the Product has been discontinued or not. However, DataBank reserves the right to cancel support at any time and for any reason.
- **4.4. Paid Enhancements.** DataBank may make available to You Paid Enhancements to the Product(s) to add/modify any functionality that is not currently defined in the Product(s). Paid Enhancements will require a separate agreement between You and DataBank specifying the details and price of the enhancement. DataBank has sole discretion on deciding if a Paid Enhancement shall be accepted or denied.

### 4.5. Reinstatement of Software and Maintenance Agreement:

- **4.5.1.** In the event that Maintenance Agreement lapses, upon the recommencement of Software Maintenance, a reinstatement and lapsed-support fee will be assessed. The reinstatement and lapsed-support fee is equal to one hundred twenty five (125%) percent of the support fee that would have been incurred for the period from the date the Software Maintenance lapsed to the reinstatement date. Applicable renewal adjustments are applied to the reinstatement and lapsed-support fee and go-forward support fee.
- **4.5.2.** In the event that Product License Agreement lapses, upon the recommencement of Software License Agreement a fee will be assessed. The reinstatement and lapsed fee is equal to one hundred twenty five (125%) percent of the current product price.
- **4.6. Discontinuation of Product:** DataBank reserves the right to discontinue the Product at any time, whether it is offered individually or as part of a Product suite.
  - **4.6.1.** If DataBank discontinues the Product, they will announce Product discontinuation to the contact that purchased the Product. Notice will be given at least two (2) years prior to the discontinuation of the Product. If the Product is discontinued because it is made part of another DataBank Product, then a license for the subsequent merged Product will be made available to You at no additional fee.



- **4.6.2.** Close of Business: If for any reason, including insolvency or dissolution, DataBank is unable to remain in business under the DataBank name or another name they will provide the following remedy to each license owner:
  - a) DataBank will make reasonable effort to notify You at least thirty (30) days prior to close of business.
  - b) You will be provided with the option of purchasing source code for the Product for which You own current licenses at a cost of no more than the cost of a single Enterprise license at that time. Some proprietary portions of the source code may be provided in compiled form only, for Your exclusive use within Your organization.
- 5. DELIVERY. The Product and any associated materials are provided in electronic format only. CUSTOMERS ARE ADVISED TO KEEP A BACKUP COPY OF ANY PRODUCT FOR FUTURE USE.
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  - **7.3.** Other Permitted Disclosures. Each Party may disclose Confidential Information (i) as authorized by the other Party in writing or (ii) to the extent required by applicable law, court, or government agency, provided that the Party required to disclose Confidential Information promptly notifies the other Party and cooperates with any efforts by the other Party, at the other Party's expense, to the limit such disclosure by means of seeking a protective order or requesting confidential treatment. Other than those expressly allowed under this Section 7 of the License, no other disclosures of Confidential Information are permitted.



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