SCRIBE SOFTWARE CORPORATION LICENSE AGREEMENT

Scribe Insight

INSTALLING THIS SOFTWARE ONTO A COMPUTER INDICATES YOUR ACCEPTANCE OF THE FOLLOWING TERMS. PLEASE READ THEM CAREFULLY.

This End-User License Agreement ("EULA") is a legal agreement between you (either an individual or a single entity) and SCRIBE SOFTWARE CORPORATION ("Scribe"), a Delaware corporation with its mailing address at 1750 Elm Street STE 200, Manchester, NH 03104 USA for the Scribe software product identified above, which includes computer software and may include associated media, printed materials, "online" or electronic documentation, and Internet-based services ("Software").

I. COPYRIGHT INFORMATION:

- a) U.S. copyright laws and international copyright treaties protect this software program, and any documentation. By using this software, you acknowledge that you have read, understood, and agree to be bound by all the provisions of this license. If any of the terms or conditions of this license are not acceptable to you, do not use the software.
- b) The Software is licensed, not sold, to you by SCRIBE for use only under the terms of this License, and SCRIBE reserves any rights not expressly granted to you. You own the media on which the Software is recorded or fixed, but SCRIBE and its licensors retain ownership of the Software itself.

II. LICENSE, COPY AND USE RESTRICTIONS:

- a) You have the non-exclusive right to install, use, access, and display a copy of the Insight Server component of the Software on a single computer. You may install, use, access, and display the Workbench and Console, components of the Software on an unlimited number of computers, provided they are used solely in conjunction with the Insight Server component installed on a single computer or virtual image. You may not electronically transfer the program from one computer to another over a network. You may not distribute copies of the program or documentation to others. You may not modify or translate the program or related documentation without the prior written consent of SCRIBE.
- b) You may make one (1) copy of the program solely for back-up purposes. You may not use, copy, modify, or transfer the program or documentation, or any copy except as expressly provided in this agreement.
- c) You may use the computer programs included in the Software (the "Programs") in object code form only, and shall not reverse compile, disassemble or otherwise convert the Programs into uncompleted or unassembled code.
- d) You may not sell, convey, <u>perform data migration or data integration work as a billable service</u>, or otherwise transfer the Software to any third party unless appropriated as such by SCRIBE under resale license agreement with you. You may not assign this license to a third party, except (i.) in the case of a merger or a transfer of all or substantially all of the your assets, provided the assignee agrees in writing to be bound by all the terms and conditions of this Agreement, or (ii.) as collateral security for indebtedness or obligations of you to a third party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors, and permitted assigns.
- e) In the event that SCRIBE supplies updates, corrections, modifications, new versions or new releases of the Software (collectively known as "Updates"), such Updates shall be part of the Software and the provisions of this License shall apply to such Updates and to the Software as modified thereby.

- f) You may license the Software on a term or perpetual basis. If you license the Software on a term basis, your license to the Software will terminate at the end of the specified time period. If you license the Software on a perpetual basis, your license will continue in perpetuity unless you terminate it by destroying the program and documentation and all copies thereof. Regardless of whether you license the Software on a perpetual or term basis, this license will terminate if you fail to comply with any term or condition of this Agreement. You agree upon such termination to destroy all copies of the program and documentation.
- g) Software identified as "Not for Resale" or "NFR" may not be resold, transferred, used in a production environment or used for any purpose other than demonstration, test, and evaluation. h) Software identified as "Evaluation" or "Eval" is licensed to you solely for evaluation purposes for a period of 30 days. Upon the expiration of this 30 day period, your license to use the Software will immediately cease and you agree to promptly uninstall all Software provided to you. In the event you agree to purchase a license to the Software, you are permitted to save any DTS files created during the evaluation period. The Software may also include other restrictions limiting its capability to evaluation purposes only.
- i) Software identified as "Test or Non-Production may not be used in a production environment or used for any purpose other than testing or development.
- j) To use Software identified as an "Upgrade", you must first be licensed for the product identified by Scribe as eligible for the upgrade. After upgrading, you may no longer use the product that formed the basis for your upgrade eligibility.

III. LIMITED WARRANTY:

For a period of thirty (30) days from the initial delivery of the Software:

- a) SCRIBE warrants that the media that the software is recorded on and the Documentation provided with it will be free from defects in materials and workmanship under normal use.
- b) Documentation that was defective in materials or workmanship at the time of delivery will be replaced in entirety without additional charge on an exchange basis. You must return the complete software package to SCRIBE during the warranty period to receive the replacement product.
- c) If the software itself does not perform in substantial accordance with the specifications set forth in the Documentation provided by SCRIBE or if there is an error in the Documentation, SCRIBE will either replace or correct the defective software or Documentation without additional charge. This will be done by providing you with corrective code, a corrected copy of the software, or corrected Documentation on an exchange basis. If using reasonable efforts, Scribe cannot provide a correction or replacement, Scribe will refund the entire license fee to you.

IV. EXCLUSION OF OTHER WARRANTIES:

- a) SCRIBE does not warrant that the functions contained in the program will meet your requirements or that the operation of the program will be uninterrupted or error free. The warranty does not cover any media or Documentation which has been subjected to damage or abuse by you. The software warranty does not cover any copy of the software which has been altered or changed in any way by you or others. SCRIBE is not responsible for problems caused by changes in the operating characteristics of the computer hardware or operating system which are made after the delivery of the software or for problems in the transmission quality of telecommunications systems.
- b) EXCEPT FOR THE INDEMNIFICATION PROVISIONS IN SECTION V (b), NEITHER SCRIBE NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION, OR DELIVERY OF THIS PROGRAM SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES OR ARISING OUT OF THE USE, THE RESULTS OF USE, OR INABILITY TO USE SUCH PRODUCT EVEN IF SCRIBE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CLAIM. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

V. INTELLECTUAL PROPERTY RIGHTS

(a) Scribe warrants that it owns all right, title, and interest in and to the Software and owns all of the intellectual property rights related thereto (except for those portions of the Software which are licensed by Scribe from third parties, which Scribe warrants have been properly licensed and that such licenses are in effect), and that it has the right to grant the rights and licenses granted herein, including the right to grant licenses to any third party software contained in the Software. (b) Infringement Warranty and Indemnification: Scribe shall defend you against any claim that all or any part of the Software (the "Covered Materials") infringes any United States patent rights, any copyright rights in any country that is a party to the Berne Convention for the Protection of Literary and Artistic Works, or any trade secret of any third party (a "Scribe Infringement Claim"). You agree to give prompt notice to Scribe in writing of any Scribe Infringement Claim and to permit Scribe to control and defend or settle such Scribe Infringement Claim at Scribe's expense and with Scribe's choice of counsel. You shall cooperate with Scribe, at Scribe's expense, in defending or settling such Scribe Infringement Claim, and you may join in the defense with counsel of your choice at your own expense. Scribe shall pay any settlement made by it of such Scribe Infringement Claim and shall pay and indemnify you against any damages awarded against you as the result of a judgment rendered in such Scribe Infringement Claim defended by Scribe. Notwithstanding the foregoing, you may elect to have sole control of the defense of any such Scribe Infringement Claim, if you notify Scribe thereof within sixty (60) days of the date on which service of process is made on you with respect to such Scribe Infringement Claim. In such case, Scribe shall have no obligation to defend or indemnify you with respect to such Scribe Infringement Claim. Scribe may join in the defense with counsel of its choice at its own expense. You shall not settle any such Scribe Infringement Claim without Scribe's prior written consent. If the use of any Covered Materials by you is enjoined pursuant to a Scribe Infringement Claim, then Scribe shall (or, if Scribe believes that use of any Covered Materials is likely to be enjoined as a result of a claim for which you are entitled to indemnification under this Section, then Scribe may), at its expense, do one or more of the following, at its option: (i) procure for you the right or license to use such Covered Materials as delivered; (ii) modify the such Covered Materials so as to render them non-infringing without loss of material functionality; (iii) replace such Covered Materials or parts thereof with other functionally equivalent software; or (iv) if Scribe determines that one of the foregoing alternatives is not available to it at a reasonable cost and on reasonable terms and conditions, terminate your license and rights with respect to such Covered Materials under this Agreement and give a pro-rata refund (based on a four year useful life) to you of the license fees paid by you under this Agreement with respect to such Covered Materials. This pro-rata refund is determined by reducing the original license fees paid by you by 1/48th of the license fee times the number of months since you licensed the Software. Scribe shall have no liability for any infringement based on (i) the modification of any Covered Materials by any party other than Scribe (or a third party under Scribe's direction or control) if such infringement would have been avoided by the unmodified Covered Materials; or (ii) the combination or use of any Covered Materials with other technology, items, or processes not furnished by Scribe if such infringement would have been avoided by the use of the Covered Materials alone; provided, that clause (ii) above shall not be construed to limit Scribe's liability if the Covered Materials in question have no substantial non-infringing uses. THIS SECTION STATES SCRIBE'S ENTIRE OBLIGATION WITH RESPECT TO ANY SCRIBE INFRINGEMENT CLAIM.

VI. INTEGRATION

a) This license, including the full text of the Limited Warranty and the Limitation of Liability, constitutes the entire agreement and understanding between the parties and supersedes any prior license or understanding whether oral or written, relating to the subject of this license. This license may only be modified by a written agreement signed by SCRIBE.

VII. GENERAL

- a) This license agreement shall be governed by the laws of the State of New Hampshire and shall insure to the benefit of SCRIBE, its successors, administrators, heirs and assigns. If for any reason a court of competent jurisdiction finds any provision of this License, or portion thereof, to be unenforceable, that provision of the License shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this License shall continue in full force and effect.
- b) You acknowledge that you have read this agreement, understand it, and agree to be bound by its terms and conditions and you further agree that this agreement is the complete and exclusive statement of agreement between the parties unless specifically and officially agreed to in writing specifying the extent of the business relationship governing the terms and conditions of the parties doing business together.
- c) Title to the software, related documentation, and any copies are retained by SCRIBE. As mentioned above, you may not sublicense, rent, lend, lease, donate, sell, loan, pledge, transfer, or distribute on a temporary or permanent basis this software to another user company unless officially stated to in writing by SCRIBE specifically for resale purposes. You may not provide commercial hosting services or render any data migration or data integration services to third parties with the software.