

StormWise Program License Agreement

IMPORTANT: BY INSTALLING THE STORMWISE SOFTWARE, YOU AGREE TO THE TERMS OF THE STORMWISE PROGRAM LICENSE AGREEMENT SET FORTH BELOW. IF YOU DO NOT AGREE TO THESE TERMS, YOU ARE NOT ENTITLED TO ACCESS OR USE THE PROGRAM (AS DEFINED BELOW).

In this agreement ("the Agreement"), Streamline Technologies, Inc. ("STREAMLINE"), a Florida corporation, provides this program, copy protection hardware lock (if applicable), software license manager and documentation (collectively referred to as "the Program") and licenses its use on a subscription basis to you ("LICENSEE" or "you") for the time period (the "Term") defined by the separate purchase agreement between STREAMLINE and LICENSEE.

The Program requires an internet connection and may be copy protected with a hardware lock device and/or other copy protection scheme, and you agree not to circumvent or attempt to circumvent the copy protection scheme, reverse engineer, disassemble or decompile the Program or otherwise attempt to discern the source code of the Program. LICENSEE assumes responsibility for the selection of the Program to achieve your intended results, for evaluation of any computer hardware on which you intend to use the Program to ensure it meets STREAMLINE's minimum requirements, and for the installation, use and results obtained from the Program.

ARTICLE 1 - INTELLECTUAL PROPERTY RIGHTS AND RESERVATION OF OWNERSHIP:

The Program is licensed, not sold to you. STREAMLINE and its licensors own the Program and all copies, which are protected by United States and applicable international laws, treaties, and conventions regarding intellectual property and proprietary rights including trade secrets. LICENSEE agrees to use all reasonable means to protect the Program from unauthorized use, reproduction, distribution, or publication. STREAMLINE and its third-party licensors reserve all rights not specifically granted in this License Agreement including the right to change or improve the Program and add or remove functionality from it. STREAMLINE shall own all right, title and interest in any improvements or enhancements to the Program, without regard to whether such improvements or enhancements were suggested by or otherwise created by LICENSEE. To the extent LICENSEE or any of its employees, contractors or agents would have any rights in such improvements or enhancements, each hereby assigns to STREAMLINE all right, title and interest in such improvements and agrees to execute all documents reasonably necessary for STREAMLINE to confirm its rights in same.

ARTICLE 2 - LICENSE: STREAMLINE grants LICENSEE a limited, nonexclusive, nontransferable, worldwide license solely for LICENSEE's employees to use the Program for LICENSEE's internal use for the applicable Term defined by separate purchase agreement. The purchase agreement establishes the number of allowable simultaneous sessions and the maximum number of installation seats. A session commences when the Program is launched or opened and ends when the Program is closed. An installation seat is defined as the installation of the Program for each unique computer-user combination. An active internet connection is required for each session. STREAMLINE reserves the right to collect limited information about each installation seat to uniquely identify it, and to enforce

the terms of this Agreement. STREAMLINE also reserves the right to collect information about the way in which the Program is being used for any purpose, so long as all such information identifying LICENSEE or any specific individual has been removed.

LICENSEE may:

- (a) install the Program on as many LICENSEE owned or leased computers up to the limit of installation seats as set forth in the separate purchase agreement for the Program; and
- (b) copy the Program into any machine readable form for backup purposes in support of LICENSEE's use of the Program.

LICENSEE MAY NOT USE, COPY, MODIFY OR TRANSFER THE PROGRAM OR ANY COPY, MODIFICATION OR MERGED PORTION, IN WHOLE OR IN PART, EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS LICENSE.

IF LICENSEE TRANSFERS POSSESSION OF ANY COPY, MODIFICATION OR MERGED PORTION OF THE PROGRAM TO ANOTHER, YOUR LICENSE IS AUTOMATICALLY TERMINATED.

ARTICLE 3 - SUBSCRIPTION TERM: The license is effective for a limited period of time as defined by separate purchase agreement and while LICENSEE's account with STREAMLINE is current and in good standing. LICENSEE may terminate this Agreement at any time by destroying the Program together with all copies, modifications and merged portions in any form and returning the hardware lock (if applicable) to STREAMLINE. However, license fees paid or which LICENSEE has agreed to pay for the subscription term are non-refundable. The license will also terminate upon conditions set forth elsewhere in the Agreement or if you fail to comply with any term or condition of this Agreement. LICENSEE agrees upon such termination to destroy the Program together with all copies, modifications and merged portions in any form and to return the hardware lock (if applicable) to STREAMLINE and to make no further use of the Program in any way.

ARTICLE 4 – WARRANTIES

(a) Warranties. STREAMLINE represents and warrants: (i) that it has the right to grant the licenses provided herein for the Program; (ii) that there are no intentional errors or defects in the Program; and (iii) that the Program will perform substantially in accordance with any documentation provided by STREAMLINE.

(b) DISCLAIMER OF WARRANTIES. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PROGRAM IS PROVIDED "AS IS" AND STREAMLINE DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR THE WARRANTIES EXPRESSLY PROVIDED HEREIN, THE ENTIRE RISK AS TO THE QUALITY AND

PERFORMANCE OF THE PROGRAM IS WITH LICENSEE. SHOULD THE PROGRAM PROVE DEFECTIVE, LICENSEE (AND NOT STREAMLINE) ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

ARTICLE 5 - LIMITATIONS OF LIABILITY AND REMEDIES

(a) LIMITATION OF LIABILITY. STREAMLINE'S ENTIRE LIABILITY AND LICENSEE'S EXCLUSIVE REMEDY FOR BREACH OF THIS AGREEMENT OR OF ANY WARRANTY SHALL BE REPAIR OR REPLACEMENT OF THE PROGRAM, AS MAY BE APPLICABLE.

(c) EXCLUSION OF DAMAGES. IN NO EVENT WILL STREAMLINE BE LIABLE TO LICENSEE, ITS CUSTOMERS OR ANY THIRD PARTY FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR TECHNOLOGY, LOSS OF PROFITS, OR FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, DIRECT OR INDIRECT DAMAGES ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE. IN THE EVENT REPAIR OR REPLACEMENT OF THE PROGRAM IS DEEMED INAPPLICABLE OR INEFFECTIVE, STREAMLINE'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, SHALL NOT EXCEED THE AGGREGATE AMOUNTS PAID BY CUSTOMERS FOR ACCESS TO THE PROGRAM DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING RECEIPT OF NOTIFICATION OF THE CLAIM. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

ARTICLE 6 – CONFIDENTIALITY

(a) Acknowledgement. LICENSEE acknowledges and agrees that certain materials that STREAMLINE may share with the LICENSEE, including but not limited to the Program, are confidential information or trade secrets of STREAMLINE, embodying substantial creative efforts and confidential information, ideas, and expressions. Accordingly, LICENSEE agrees to treat (and take precautions to ensure that its employees treat) such materials as are marked in writing as confidential, or, if provided orally, confirmed in writing as confidential within a reasonable time, as confidential in accordance with the confidentiality requirements and conditions set forth below.

(b) Maintaining Confidential Information. LICENSEE agrees to keep confidential all confidential information disclosed to it by STREAMLINE in accordance in the same manner it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of confidential information) and not to share such information with any individual or entity outside of LICENSEE and its employees; provided, however, that LICENSEE shall have no such obligation with respect to use of disclosure to others not parties to this Agreement of such confidential information as can be established to: (i) have been known publicly; (ii) have been known generally in the industry before communication by the disclosing party to the recipient; (iii) have become know publicly, without fault on the part of the recipient, subsequent to disclosure by the disclosing party; (iv) have been known otherwise by the recipient before communication by the

disclosing party; or (v) have been received by the recipient without any obligation of confidentiality from a source (other than the disclosing party) lawfully having possession of such information or (vi) is required to be disclosed in accordance with applicable law or pursuant to a court order, provided that the party receiving the request to disclose such information shall promptly inform the other party thereof and of the information the party who has received the request intends to disclose pursuant to such demand and such party shall give the other party an opportunity to contest such request.

(c) Injunctive Relief. LICENSEE acknowledges that the unauthorized use, transfer or disclosure of confidential material or copies thereof will (i) substantially diminish the value to STREAMLINE of the trade secrets and other proprietary interests that are the subject of this Agreement; (ii) render STREAMLINE'S remedy at law for such unauthorized use, disclosure or transfer inadequate; and (iii) cause irreparable injury in a short period of time. If LICENSEE breaches any of its obligations with respect to the use or confidentiality of such material, STREAMLINE is entitled to equitable relief to protect its interests therein, including, but not limited to, preliminary and permanent injunctive relief.

(d) Duration. The obligations of confidentiality provided herein shall survive expiration or termination of this Agreement.

ARTICLE 7 - GENERAL:

(a) Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the State of Florida without regard to any jurisdictions' conflicts of laws principles.

(b) No Assignment. No party shall transfer, assign or delegate this Agreement or any rights or obligations hereunder, in whole or in part, whether voluntarily, by operation of law or otherwise, without the prior written consent of all the other party, such consent not to be unreasonably withheld. Provided however, STREAMLINE may transfer its rights and obligations under this Agreement in conjunction with a sale of substantially all its assets.

(c) Severability. If any provision of this Agreement is found by any court, tribunal or administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from this Agreement and will be ineffective without, as far as is possible, modifying any other Section or part of this Agreement.

(d) Waiver. No failure of a party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights.

(e) No Modification. No term of this Agreement shall be modified, waived or changed except by an instrument in writing expressly consented to by all parties. A party's silence or failure to object to proposed amendments provided by a party shall not constitute consent for amending this Agreement, and the terms of this Agreement shall control over all such proposals.

(f) No Third-party Beneficiaries. No provision of this Agreement is intended to or shall be construed to provide or create any third-party beneficiary right or any other right of any kind in any person or entity other than the parties.

LICENSEE ACKNOWLEDGES THAT LICENSEE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. LICENSEE FURTHER AGREES THAT THIS AGREEMENT, TOGETHER WITH THE PURCHASE AGREEMENT, IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US WHICH SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATION BETWEEN US RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.

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