



DATAIR PENSION REPORTER TRIAL USE SOFTWARE LICENSE & SUPPORT AGREEMENT

Whereas DATAIR EMPLOYEE BENEFIT SYSTEMS, INC. ("DATAIR"), an Illinois corporation, has created and offers for licensing the DATAIR Pension Reporter System, a proprietary employee benefit software system ("System");

Whereas the licensing organization ("LICENSEE"), has investigated and wishes to license the Systems on a trial basis under the terms of the DATAIR Free 2004 Forms Promotion and to receive support services as described herein;

NOW, THEREFORE, in consideration of the respective promises, mutual covenants and agreements of the parties contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DATAIR and LICENSEE agree as follows:

I. LICENSE: DATAIR hereby grants to LICENSEE a non-exclusive limited-time Site License for the DATAIR Pension Reporter System in accordance with the following terms:

II. TERM: The term of the License shall be from October 24, 2004 to October 31, 2005. The LICENSEE may continue to use the software provided during the term of the License after the term of the license expires, however the LICENSEE is not entitled to any warranties (if any apply), software updates, or other support services after October 31, 2005.

This license may be revoked without notice by DATAIR if, in its sole discretion, it determines that the LICENSEE does not meet the eligibility requirements for the Free 2004 Forms Trial Promotion, or has provided false information when registering for the program.

Provisions which operate to protect the rights of DATAIR shall continue in force after the expiration of the term of this License.

III. DEFINITIONS: The following terms shall have the meanings set forth below for all purposes of this Agreement:

- A. **"Site License":** DATAIR licenses the System on a Site License basis. A Site License allows the LICENSEE to install and operate the System on an unlimited number of workstations at a single physical business location ("the Licensed Site"), including installation on local area networks. A Site License does not include the right to make the System available to users not physically located at the licensed Site through any means including, but not limited to, wide area networks, internets, remote access services, or terminal emulation software. A Site License does not include the right to use the System to administer, propose, or report plans for any entity other than LICENSEE's clients.

Site Licenses also allow employees whose normal place of employment is the Licensed Site to operate the System away from the Licensed Site on an itinerant basis. Examples of permitted off-site usage under a Primary or Secondary Site License include taking a portable computer to a client's location to present a proposal or to enroll employees, or occasional use at an employee's home or other location while traveling away from the Licensed Site. Allowable off-site usage does not include usage in such a manner that it is employed in place of properly obtaining additional Site Licenses.

IV. LICENSE AND SUPPORT FEES: No license or support fees are required during the term of this Agreement.

V. DELIVERY AND COMPATIBILITY: The licensed System will be delivered to LICENSEE with installation instructions and user documentation which assume a reasonable familiarity with retirement plan procedures, terminology, administrative requirements, and general computer knowledge.

VI. SOLE SOURCE: LICENSEE agrees to obtain all DATAIR product materials from or through only DATAIR or DATAIR's Authorized Dealer and no other source. DATAIR product materials include, but are not limited to, licensed System, manuals, instructions, update release documentation, license agreements, and media upon which DATAIR's

proprietary software is recorded. Except for archival copies as provided for below, LICENSEE agrees to make no copies of any kind of any materials furnished by DATAIR or DATAIR's Authorized Dealer, unless authorized in writing to do so by an executive officer of DATAIR.

VII. ARCHIVAL (BACKUP) COPIES: LICENSEE may make archival copies of licensed DATAIR product materials for backup and emergency recovery purposes only.

VIII. NO TRANSFER OF PROPRIETARY RIGHTS: LICENSEE understands that DATAIR is the exclusive owner of all intellectual property rights in the licensed System(s) for which no rights or title are being transferred to LICENSEE. LICENSEE agrees that it shall not sell, resell, transfer, assign, plagiarize or otherwise disclose any part of DATAIR's Systems or its product materials to any other person, partnership, corporation or organization, and that to do so shall constitute an actionable breach of this Agreement.

IX. TRANSFER OF LICENSE: This Agreement shall inure to the benefit of, and be binding upon, the parties hereto, their legal successors and representatives and assigns, provided, however, that any assignment of the rights granted under this Agreement to the LICENSEE, other than as part of a general transfer of the entire business of the LICENSEE, is subject to the prior written approval of DATAIR. No such transfer shall be deemed effective until DATAIR has agreed to the transfer in writing.

X. WARRANTY AND MAINTENANCE: DATAIR warrants that the System is free from defects in material and workmanship at the time of delivery. It shall correct, without expense to LICENSEE, any defects verified by evidence, or examples or descriptions of the reported problems. DATAIR's sole and exclusive liability under this warranty is limited to providing timely replacement of the defective System within a reasonable cure period. Except as expressly stated in this Agreement, DATAIR disclaims all warranties, express or implied, regarding the System licensed under this Agreement, including any implied warranties of merchantability and fitness for a particular purpose. In no event shall DATAIR be liable for any indirect, exemplary, incidental, or consequential damages arising out of or otherwise relating to the use or purpose of the System.

XI. PATENT INFRINGEMENT WARRANTY: DATAIR warrants that its Systems do not infringe on any patent, copyright, trade secret or other intellectual property right of any party. Subject to the limitations set forth herein, DATAIR's liability under this warranty shall be to indemnify and hold LICENSEE harmless from and against any loss, cost or liability arising out of any breach or claimed breach of this warranty. If notified promptly in writing by LICENSEE of any legal action or threat thereof, DATAIR agrees to consider, at its sole discretion and decision, whether to defend LICENSEE against such action to the extent it is based on a claim that the software furnished by DATAIR infringes on a patent, copyright, trade secret or other property right of any party.

XII. LIABILITY: LICENSEE acknowledges that DATAIR has no control over and is not responsible for the manner in which the System is applied and/or otherwise altered or changed by LICENSEE. Therefore, except as provided for under the WARRANTY AND MAINTENANCE and PATENT INFRINGEMENT WARRANTY Sections, no liability, expressed or implied, is assumed by DATAIR and it shall be held harmless and indemnified by LICENSEE against any and all liabilities, expenses, losses, claims and suits from any source whatsoever arising directly or indirectly from the application and/or alteration or change by LICENSEE of the licensed System or related services or materials furnished by DATAIR.

XIII. SYSTEM SUPPORT SERVICES: During the term of the License, the provisions of this article apply;

A. SUPPORT SERVICES INCLUDED: DATAIR agrees to provide LICENSEE the following support during the term of the license:

1. Periodic software releases to incorporate regulatory updates, fixes, new enhancements and features, and to delete functions no longer applicable;
2. Updated user documentation and instructions to reflect software changes;
3. Written and telephonic assistance during DATAIR's normal business hours regarding installation of releases;
4. Written and telephonic consultation during DATAIR's normal business hours regarding use of the software;
5. Extended software warranty and maintenance wherein DATAIR agrees to apply diligent efforts to correct any verified software deficiencies, and to replace any defective software in a timely fashion without additional expense to the LICENSEE;
6. Analysis of evidence of potential deficiencies to existing software, and where possible, the provision of interim solutions for use by LICENSEE until such time as full correction is made;
7. Support of the current version of the licensed software, plus support of the immediately preceding version for at least one (1) month after new releases.

B. LICENSEE-MADE CHANGES: LICENSEE understands and agrees that if it makes any changes to DATAIR's software that DATAIR shall not be responsible for providing System Support or interface with regard to the LICENSEE-performed changes.

C. RIGHT TO MODIFY SERVICES : DATAIR reserves the right to modify, at any time, any or all support services which are a part of this Agreement by providing LICENSEE written notice ninety (90) days prior to the effective date of such change. LICENSEE shall then have thirty (30) days in which to terminate System Support Services under this Agreement for the affected System without prejudice by notifying DATAIR of its intent to terminate under this provision. If no such notification is received by DATAIR, the modified services shall become effective as announced.

XIV. BREACH OF AGREEMENT: If provisions of this Agreement are breached by LICENSEE or if LICENSEE makes an assignment for the benefit of creditors or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization, the license may be immediately terminated or suspended by DATAIR. Upon the termination of any license under this Agreement, LICENSEE shall immediately destroy or return all copies of the System to DATAIR. Provisions which operate to protect the rights of DATAIR shall continue in force.

XV. INJUNCTIVE RELIEF: It is understood and agreed that, notwithstanding any other provisions of this Agreement, DATAIR has the unequivocal right to obtain timely injunctive relief to protect its proprietary rights.

XVI. LEGAL JURISDICTION: This Agreement shall be construed pursuant to the Laws of the State of Illinois and any dispute thereunder shall be decided in the federal or state courts within the State of Illinois.

XVII. NOTICE: All notices or other communications required or permitted to be made or given hereunder shall be deemed so made or given when sent in writing by facsimile transmission and properly addressed to such other party at the address and facsimile number indicated below provided that a confirmation copy of the facsimile transmission is also sent by any one of the following methods: first class mail, postage prepaid; registered or certified mail, postage prepaid and return-receipt requested; or by a nationally-recognized courier service guaranteeing next-day delivery, charges prepaid; all properly addressed to such other party at the address indicated below.

XVIII. ENTIRE CONTRACT: This Agreement constitutes the sole and entire understanding and agreement between the parties regarding the licensing and support of the indicated System. No prior written or oral representations, understandings, or agreements, if any, shall be binding. This Agreement may be amended only by written mutual consent.

XIV. AUTHORIZATION & ACKNOWLEDGEMENT: By using the License Keys to unlock the software, you are acknowledging that you agree to, are fully authorized by the entity that he/she represents to enter into and legally bind that party to, the terms of this Agreement. If you do not agree to the terms of this Agreement, you must remove the software from all computers on which it is installed and return all distribution media to DATAIR Employee Benefit Systems, Inc.

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