



DATALOCKER END USER LICENSE AGREEMENT

Version: April 2020

These Terms of Use (“Terms of Use”) set forth the legally binding terms of the agreement between DataLocker Inc. (“DataLocker”) and the End-User (“End-User”), using the DataLocker Individual or Enterprise Products (as applicable) and/or DataLocker Enterprise Services (known herein as “DataLocker Products or Services”, “DataLocker Products and Services”, “DataLocker Products” or “Services”, as appropriate) and any accompanying computer software (“Software”) downloaded or delivered to the End-User or Customer (as defined below), acting either for themselves or as the legal representative (“Agent”) of an entity (“Customer”) purchasing DataLocker Products or Services or licensing Software. By accepting the DataLocker End User License Agreement (the “DataLocker EULA”), the Agent and Customer are legally bound to these Terms of Use.

FOR ENTERPRISE USERS ONLY: DataLocker Services may include, if purchased by Customer, DataLocker’s enterprise administrative electronic service that includes centralized management for deployment and security policy configuration of DataLocker Products, enables certain applications and functionality as selected by Customer and is hosted on DataLocker servers (the “Hosted Service”) and technical support services provided by DataLocker (the “Support Services”).

By using DataLocker Products, Software or Services, the End-User will be deemed to have agreed to and be bound by all the provisions of these Terms of Use. If you do not accept these terms and conditions do not copy, install or use DataLocker Products, Software or Services. As used herein, DataLocker Products, Software and Services will refer only to those DataLocker Products, Software and Services purchased for or by the End-User and the End-User rights herein shall only extend to those DataLocker Products, Software and Services for which full payment has been made.

In the event that you are the Agent of the Customer on whose behalf you will use or set up the DataLocker Products, Software or Services, you hereby represent and warrant that you are the duly authorized agent of such Customer and that such Customer (i) has received a copy of these Terms of Use; (ii) has duly and properly approved the purchase and use of the DataLocker Products, Software and Services on such Customer’s behalf and has authorized you to enter into these binding Terms of Use by and on behalf of such Customer; and (iii) has agreed to pay all costs, fees and expenses which result from purchasing and using the DataLocker Products, Services and/or Software on behalf of such Customer. Without limiting anything contained herein, you and Customer acknowledge, accept and agree to indemnify, defend and hold DataLocker and its officers, directors, shareholders, employees, consultants, agents, partners, service providers, affiliates and licensors (collectively, “Indemnitees”) harmless from any liabilities, claims, damages, costs and expenses (including reasonable attorneys’ fees)



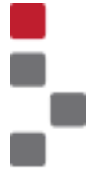
which arise from a breach of this representation by you or as a result of any action or omission by you. For purposes of these Terms of Use, the word “you” or “your” shall mean End-User, Agent, Customer, Customer as acting through its duly authorized Agent and any other person or entity which has agreed to these Terms of Use.

When you click on the “I Agree” button, you agree that you are intending to create an electronic signature affirming your full understanding and agreement to be legally bound by all of these Terms of Use in the DataLocker EULA, and you are warranting that you have the power and authority to enter into these Terms of Use and are over the age of 18 years at the time you click on the “I Agree” button. Failure to agree to these Terms of Use will not diminish the rights you have under the Limited Device Warranty. These Terms of Use contain a procedure for dispute resolution – see Section 6.2. DataLocker advises that you print and retain a copy of these Terms of Use before you click on the “I Agree” button. The most current version of the DataLocker EULA will always be available for your review at datalocker.com/eula.

1. PRODUCT USAGE REQUIREMENTS

1.1 Use of DataLocker Product, Software and/or Services. You agree not to use the DataLocker Products, Software or Services to conduct any malicious activity or solicit the performance of any activity which is prohibited by law or any contractual provision by which you are bound. You agree to comply with all applicable laws, rules and regulations in connection with your use of the DataLocker Products, Software and/or Services. You shall not, nor shall you permit any party to: (i) disassemble, decompile, reverse engineer or otherwise attempt to derive source code or other trade secrets from the DataLocker Products or Services or any Software incorporated therein; (ii) rent, lend, lease or distribute any DataLocker Product, Service or Software, or any portion thereof; or (iii) copy, alter, modify or adapt any DataLocker Product, Service or Software, or any portion thereof, except as expressly provided in Section 1.2 below.

1.2 Grant of License. Subject to the terms and conditions set forth herein, DataLocker hereby grants you a nonexclusive, nontransferable, revocable, time-limited right and license to use internally for data storage and security purposes: (i) the Software that is resident on a Product only on such Product and in accordance with the documentation accompanying such Product and, for Enterprise Users only, (ii) the Software that comprises a portion of the Hosted Service and is accessed over the Internet only for the management of DataLocker Products through the Hosted Service and in accordance with the documentation accompanying the Hosted Service. To the extent that the Customer is an entity purchasing DataLocker Products, Software and Services for use by End-Users employed by such Customer, these Terms of Use grant to such Customer a non-exclusive, non-transferable right and license to reproduce for and deliver to each End-User who received a DataLocker Product, one copy of the Software to enable each such End-User to operate the DataLocker Product for its intended use. The foregoing licenses may not be transferred nor assigned. Except as expressly set forth herein with respect to customers which are entities, no End-User nor any Customer may reproduce, distribute or modify, translate, adapt, arrange, or create derivative works based on the Software. Any rights not granted herein are specifically retained by DataLocker.



For EMS On-Prem Users Only: DataLocker hereby grants You a limited, paid-up, perpetual (subject only to revocation as provided in this EULA), personal, non-exclusive, non-transferable, without the right to sublicense, worldwide license to use, install and operate the Software for data storage and security purposes, solely for the purpose of granting the right to access and use the Software to a certain number of licenses purchased. The foregoing licenses may not be transferred nor assigned. Except as expressly set forth herein with respect to Customers which are entities, no End-User nor any Customer may reproduce, distribute or modify, translate, adapt, arrange, or create derivative works based on the Software. Any rights not granted herein are specifically retained by DataLocker

For EMS On-Prem Users Only: Maintenance, Anti-Malware and Support Fees are not included in the Perpetual License Fees. You agree to pay the annual Maintenance, Anti-Malware (if applicable) and Support Fees and Other Fees separately and upfront, including, any period that has lapsed between the Initial Maintenance Period of a Subscription License, which is mandatory to You under such License. Any lapse in maintenance shall mean that your rights to the Perpetual License shall expire.

1.3 Equipment. You acknowledge that in addition to your purchase of the DataLocker, Software Products or Services, you are responsible for and must provide all computer hardware, Internet connection, telephone and other equipment, and operating system software necessary to access and use the DataLocker Products, Software and/or Services.

1.4 Protection of Security Data. Personal information, usernames, passwords and prompts (collectively “Security Data”) exchanged through the DataLocker Products, Services or Software are protected by advanced encryption techniques. However, these security measures still require your responsible behavior in protecting your Security Data. YOU SHALL ASSUME THE ENTIRE RESPONSIBILITY AT ALL TIMES FOR THE SUPERVISION, MANAGEMENT, CONTROL AND CONFIDENTIALITY OF YOUR SECURITY DATA AND ASSUME THE ENTIRE RISK FOR THE FRAUDULENT OR UNAUTHORIZED USE OF YOUR SECURITY DATA. YOU UNDERSTAND THAT FAILURE TO PROTECT YOUR SECURITY DATA MAY ALLOW AN UNAUTHORIZED PERSON OR ENTITY TO ACCESS YOUR DATALOCKER PRODUCT, SOFTWARE AND/OR SERVICE.

1.5 Notification of Others Upon Security Breach. If you believe an unauthorized disclosure of your Security Data has occurred, it is your responsibility to immediately notify each person and entity that is affected by such unauthorized disclosure.

1.6 Privacy. DataLocker is committed to protecting your privacy. Any personal information gathered from you in connection with the DataLocker Products, Software and Services will be governed by the provisions of the DataLocker Privacy Policy, which can be found at datalocker.com/privacy.

SECTIONS 1.7 AND 1.8 ARE APPLICABLE TO INDIVIDUAL USERS ONLY:

1.7 DataLocker Product Fees. You shall pay all applicable license, maintenance or support fees of the Products or Service as set out in the, from time to time, applicable price list. Any failure to pay the applicable fees is a breach of this Agreement and DataLocker will be entitled to immediately terminate the License and this Agreement.



1.8 Activation Procedure. During the activation process, you will be given an opportunity to create passwords and password prompts that will give you access to the DataLocker Product, Software, Materials and related services. The passwords and prompts can be changed at a later time by following the instructions on the DataLocker website. In order to activate the DataLocker Product, you may need to provide a valid email address (your “Personal Information”), which can be used to identify you, contact you regarding your account, and for additional authentication. Upon providing DataLocker with the information required in the online activation process, confirmation of receipt of the activation will be sent to you via email. Only upon submission of such confirmation of your activation will your DataLocker Product be activated with DataLocker.

SECTION 1.9 IS APPLICABLE TO ENTERPRISE USERS ONLY:

1.9 Number of Users/Audit Rights. To the extent your use of the DataLocker Services or Software is on a per device basis, you will ensure that you do not exceed the number of devices you are permitted to have enabled to use the DataLocker Services or Software. Upon request, you will send to DataLocker an audit report, certified as accurate by an appropriate officer, reporting on the number of devices managed under the DataLocker Service or Software. DataLocker may also enable features in DataLocker Service or Software which allow DataLocker to generate a report on the number of devices managed under the DataLocker Service or Software. DataLocker, at its cost and expense, shall have the right, no more frequently than twice per calendar year, and upon ten (10) days prior written notice, to examine, or to have audit firm retained by DataLocker examine, your relevant systems, books and records during normal business hours and at a time reasonably agreed upon to verify the number of devices managed. Should any report or audit determine that the number of devices managed is more than the number permitted, you shall remit the amount necessary to pay for the additional devices, plus a fee of twenty-five percent (25%) of such amount. In addition, should the number of devices managed exceed the number permitted by ten percent (10%) or more, you shall also pay the costs of any audit.

2. TERM AND TERMINATION

2.1 Termination of Terms of Use. You may terminate these Terms of Use at any time by uninstalling and destroying all copies of the Software and ceasing to use the DataLocker Products and Services. DataLocker may terminate these Terms of Use immediately: (i) if you have breached these Terms of Use, (ii) if you have failed to make payments for the DataLocker Products, Software or Services or (iii) if DataLocker in its sole discretion believes it is required to do so by law. At DataLocker’s sole discretion, DataLocker may terminate or suspend any feature or service contained in the DataLocker Product, Software or Service. If DataLocker terminates or suspends any feature or service, for reasons other than those listed in the prior sentence or in Section 2.2 (Section 2.2 is applicable to enterprise users only), DataLocker will either reimburse a pro-rata share of the fees paid, as determined by DataLocker in its sole discretion, for such feature or service, or substitute such feature or service with a substantially similar feature or service.



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SECTIONS 2.2 AND 2.3 ARE APPLICABLE TO ENTERPRISE USERS ONLY



2.2 Automatic Renewal; Termination of Services. Services provided in connection with the DataLocker Product shall automatically renew for successive one-year terms at DataLocker's then current pricing unless you provide written notice to DataLocker at least thirty days prior to the end of the current term of Service and close your account for the DataLocker Service. Your notice should be sent via email to orders@datalocker.com, or in writing to DataLocker's address at: 7300 College Blvd., Suite 600, Overland Park, KS 66210.

At DataLocker's sole option, DataLocker may suspend or terminate the DataLocker Service immediately: (i) if DataLocker suspects that someone other than you knows, is using or attempting to use your Security Data (although DataLocker has no obligation to investigate whether any such unauthorized use is occurring), (ii) if you have breached these Terms of Use, (iii) if you have failed to make payments for the DataLocker Services, (iv) if DataLocker in its sole discretion believes it is required to do so by law, or (v) if DataLocker has provided an End of Life Notice of a Product, Service or Software.

2.3 Reinstatement of Lapsed Services. If there is a lapse in Services for any period of time, any subsequent purchase of Services, which will be permitted at DataLocker's sole discretion, will be deemed purchased retroactive to the date on which any prior Services concluded and you will be charged with an additional twenty percent (20%) reinstatement fee for the lapsed support period.

2.4 Survival. Except for the provision of DataLocker Services hereunder, all applicable provisions of these Terms of Use shall survive termination, including, without limitation, provisions related to intellectual property, warranty disclaimers, limitations of liability, indemnification, and the miscellaneous provisions.

2.5 For EMS On-Prem Users Only: For clarity, a perpetual license is only valid if an annual maintenance contract is current between the two parties. DataLocker also reserves the right to terminate any perpetual license by giving at least a 24 month notice to You, which may occur via email, message on the admin login screen, or via our website.

3. NO WARRANTY, DISCLAIMER OF WARRANTY

3.1 DataLocker Products are not warranted to operate without failure. DataLocker Products should only be incorporated in systems designed with appropriate redundancy, fault tolerance or back-up features. Accordingly, DataLocker does not recommend the use of DataLocker Products in life support systems or other applications where failure could cause injury or loss of life. Therefore if you decide to use DataLocker Products in connection with such applications you assume all risk of such use and agree to indemnify and hold harmless the DataLocker Indemnitees against any liabilities, claims, damages, costs and expenses (including reasonable attorneys' fees) which arise from such use. The product warranty is voided if Self Destruct, Silver Bullet, Remote Kill or Brute Force password protection or any other device disabling security protocols are initiated either intentionally or by accident.

Further details can be found at datalocker.com/warranty or contact us at returns@DataLocker.com.



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For sales in Australia – Limited Warranty. If the DataLocker Product is purchased for use in Australia and if the Australian Consumer Law applies, then DataLocker offers a Limited Warranty against defects for the Warranty Period stated above. The DataLocker Product will be replaced or refunded at our option. DataLocker will not be liable for any loss of data or other special, incidental, consequential damages or any costs associated with determining the source of system problems. Further details can be found at datalocker.com/warranty or contact us at returns@DataLocker.com.

Your benefits under this warranty are in addition to your other rights and remedies under law in relation to this product. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

3.2 LIMITATION OF DATALOCKER'S WARRANTY. EXCEPT AS EXPLICITLY SET FORTH ABOVE, THE DATALOCKER PRODUCTS, SOFTWARE AND/OR SERVICES ARE PROVIDED "AS-IS" AND DATALOCKER MAKES AND YOU RECEIVE NO WARRANTY (EXPRESS, IMPLIED OR STATUTORY) WITH RESPECT TO THE DATALOCKER PRODUCTS, SOFTWARE OR SERVICES. DATALOCKER EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. YOU UNDERSTAND AND ACKNOWLEDGE THAT, EXCEPT AS EXPLICITLY SET FORTH ABOVE, DATALOCKER DOES NOT WARRANT THAT THE DATALOCKER PRODUCTS, SOFTWARE OR SERVICES WILL MEET YOUR REQUIREMENTS, OR THAT OPERATION OF THE DATALOCKER PRODUCTS, SOFTWARE OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY DATALOCKER, ITS EMPLOYEES, DISTRIBUTORS, DEALERS OR AGENTS SHALL CREATE ANY WARRANTY OF ANY KIND. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. IN THAT EVENT, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO ONE (1) YEAR FROM THE DATE OF PURCHASE OF THE APPLICABLE DATALOCKER PRODUCT OR SERVICE, AS THE CASE MAY BE. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS.

3.3 LIMITATION ON INTERNATIONAL USE. DATALOCKER DOES NOT MAKE ANY REPRESENTATION OR WARRANTY THAT ANY CONTENT OR USE OF THE DATALOCKER PRODUCTS, SOFTWARE OR SERVICE IS APPROPRIATE OR AVAILABLE FOR USE IN LOCATIONS OUTSIDE OF THE UNITED STATES OR WHERE IT IS ILLEGAL OR PROHIBITED BY LAW OR BY DATALOCKER.

4. LIMITATION OF LIABILITY

4.1 LIMITATION OF DATALOCKER'S LIABILITY. IN NO EVENT WILL DATALOCKER OR ANY OF ITS INDEMNITEES BE LIABLE FOR ANY CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION, LOSS OF DATA, FILES, PROFIT OR GOODWILL OR THE COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICE), INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, WHETHER IN AN ACTION UNDER CONTRACT, NEGLIGENCE OR ANY OTHER THEORY, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF USE, THE DATALOCKER PRODUCTS, SOFTWARE OR SERVICES, THE INABILITY TO USE THE DATALOCKER PRODUCTS, SOFTWARE OR SERVICES OR THOSE RESULTING FROM ANY MERCHANDISE OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, DATALOCKER SHALL NOT BE RESPONSIBLE UNDER ANY THEORY OF LIABILITY OR DAMAGES FOR ANY LOSS OF DATA AS A RESULT



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OF USE OF THE DATALOCKER PRODUCTS, SOFTWARE OR SERVICES OR ANY COMPONENTS THEREIN. EXCEPT AS EXPLICITLY SET FORTH ABOVE, THE AGGREGATE LIABILITY OF DATALOCKER, AND DATALOCKER'S THIRD PARTY SERVICE PROVIDERS UNDER THESE TERMS OF USE SHALL NOT EXCEED TEN DOLLARS.

4.2 NO LIABILITY FOR THIRD PARTY ACTIONS. EXCEPT WHERE APPLICABLE LAW REQUIRES A DIFFERENT RESULT, DATALOCKER WILL NOT BE LIABLE FOR ANY LOSS OR LIABILITY RESULTING IN WHOLE OR IN PART FROM ANY ACT OR FAILURE TO ACT OF YOUR EQUIPMENT OR SOFTWARE, OR THAT OF A BROWSER PROVIDER, BY AN INTERNET ACCESS PROVIDER, BY AN ONLINE SERVICE PROVIDER OR BY AN AGENT OR SUBCONTRACTOR OF ANY OF THEM, NOR WILL DATALOCKER OR DATALOCKER'S SERVICE PROVIDERS OR OTHER AGENTS BE RESPONSIBLE FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, ECONOMIC OR OTHER DAMAGES ARISING IN ANY WAY OUT OF YOUR ACCESS TO OR USE OF, OR FAILURE TO OBTAIN ACCESS TO, THE DATALOCKER PRODUCTS, SOFTWARE OR SERVICES.

4.3 PERFORMANCE FAILURE. IN NO EVENT WILL DATALOCKER BE LIABLE FOR ANY FAILURE OF PERFORMANCE DUE TO CIRCUMSTANCES BEYOND DATALOCKER'S CONTROL (SUCH AS POWER OUTAGE, COMPUTER VIRUS, MALWARE, SPYWARE, KEY LOGGER APPLICATION, SYSTEM FAILURE, FIRE, FLOOD, EARTHQUAKE, TERRORISM, ACT OF WAR, OR EXTREME WEATHER).

4.4 APPLICATION OF LIMITATIONS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF AN ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. YOU ACKNOWLEDGE THAT BUT FOR THE FOREGOING DISCLAIMERS, THE FEES CHARGED FOR THE DATALOCKER PRODUCTS AND SERVICES WOULD BE HIGHER.

4.5 DATALOCKER SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES IF CUSTOMER USES THE PRODUCTS PAST THE END OF LIFE (EOL) DATE, OR THE HARDWARE WARRANTY DATE FOR HARDWARE, INCLUDING BUT NOT LIMITED TO DEGRADATION OR INTERRUPTION OF THE PRODUCTS. THERE SHALL BE NO REFUNDS FOR PRODUCTS OR SERVICES PAST THE EOL DATE.

5. INDEMNIFICATION

5.1 Indemnification. Except to the extent that DataLocker is liable to you under these Terms of Use, you agree to indemnify and hold DataLocker and its Indemnitees harmless from any and all third party claims, liability, damages and/or costs (including but not limited to reasonable attorneys' fees) arising from (a) a third party claim, action, or allegation of infringement, misuse, or misappropriation based on information, data, files, or other materials submitted by you to us; (b) any breach of these Terms of Use or any fraud or manipulation; (c) any third party claim, action, or allegation brought against DataLocker arising out of or relating to a dispute with you over the Terms of Use or purchase or sale of any goods; (d) your violation of any law or rights of a third party; (e) your use, or use of your account by any third party who has your permission to use your Security Data; or (f) any claim arising out of a loss of personal or proprietary data of you or others. DataLocker reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with DataLocker in asserting any available defenses. You will not settle any action or claims on behalf of DataLocker without the prior written consent of DataLocker. This indemnification is



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provided without regard to whether DataLocker's claim for indemnification is due to the use of the DataLocker Products, Software or Services by you or your authorized representative.

6. GENERAL PROVISIONS

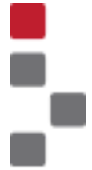
6.1 Confidentiality. You agree not to reveal to any third party confidential information, which You obtain from DataLocker under this Agreement or which is incorporated in DataLocker Products, except (i) with the prior written consent from DataLocker; or (ii) to a court or government body having jurisdiction or as required by law, subject to making reasonable efforts to obtain an appropriate protective order to the extent possible and permissible under law.

6.2 Modifications. Except as otherwise required by law, rule, or regulation, DataLocker may change the terms of the DataLocker EULA from time to time and at any time. When changes are made, DataLocker will update the DataLocker EULA on our website. The website will be updated on the effective date, unless an immediate change is necessary to maintain the security of the system or unless a law, rule or regulation requires that it be updated at an earlier time. If such a change is made, and it can't be disclosed without jeopardizing the security of the system, these Terms of Use will be updated within thirty (30) days after the change. As always, you may choose to accept or decline changes by continuing or discontinuing use of the DataLocker Products, Software and/or Services. It is your responsibility to review these Terms of Use including the Privacy Policy from time to time in order to be aware of any such changes.

6.3 Dispute Resolution and Governing Law. The parties agree that any dispute or controversy arising out of, in relation to, or in connection with these Terms of Use, or the validity, enforceability, construction, performance or breach thereof, shall be settled by binding arbitration in Overland Park, KS, USA by one (1) arbitrator mutually agreeable to the parties, or, if the parties cannot agree, as otherwise provided by the rules of the American Arbitration Association. Nothing in this clause shall preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The decision and/or award rendered by the arbitrator shall be written, final and non-appealable and may be entered in any court of competent jurisdiction. The parties agree that, any provision of applicable law notwithstanding, they will not request, and the arbitrator shall have no authority to award, punitive or exemplary damages against any party. The costs of any arbitration, including administrative fees and fees of the arbitrator, shall be shared equally by the parties. Each party shall bear the cost of its own attorneys' fees and expert fees. These Terms of Use will be construed and interpreted in accordance with the laws of the State of Kansas, without reference to its conflict-of-laws rules. The sole jurisdiction and venue for actions related to the subject matter hereof brought before the courts shall be the Kansas state and U.S. federal courts located in Overland Park, Kansas, USA.

6.4 Assignment. DataLocker may assign its interest or assign or delegate any of its rights and responsibilities under these Terms of Use to independent contractors or any other party. You may not assign or transfer any of your rights or obligations under these Terms of Use.

6.5 NOTICES. UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW, IN THE EVENT THAT DATALOCKER IS REQUIRED TO PROVIDE A NOTICE OR OTHER COMMUNICATION TO YOU IN WRITING, THAT NOTICE OR



OTHER COMMUNICATION MAY BE SENT TO YOU ELECTRONICALLY TO YOUR INTERNET ADDRESS AS REFLECTED IN DATALOCKER'S THEN CURRENT RECORDS.

6.6 Proprietary Rights. Other than your personal information and other data stored by you on the DataLocker Products, the DataLocker Products, Software, Services and all intellectual property rights contained therein and thereto are the property of DataLocker and/or third-party licensors of DataLocker. You may not rent, lend or lease any DataLocker Product, Software or Service, or any portion thereof. You may not copy, alter, modify or adapt any DataLocker Product, Software or Service or accompanying materials or reverse engineer, decompile, disassemble, modify or create derivative works from any DataLocker Product, Software or Service. The collection, arrangement, and assembly of all content on the DataLocker Products and Software is the exclusive property of DataLocker and/or its licensors and is protected by copyright or other intellectual property rights. The trademarks, logos, and DataLocker Products, Software and Services marks displayed on the DataLocker Products and Software and in connection with the DataLocker Services (collectively the "Trademarks") are the registered and unregistered trademarks of DataLocker. Under no circumstances may you use copy, alter, modify, or change these Trademarks or any other proprietary markings on the DataLocker Products or Software. Nothing contained on the DataLocker Products or Software or in connection with the DataLocker Services should be construed as granting by implication or otherwise any license or right to use any intellectual property right of DataLocker without the express written permission of DataLocker.

6.7 Entire Agreement. These Terms of Use and any DataLocker order form pursuant to which you ordered the applicable DataLocker Products, Software or Services, represent the sole and exclusive agreement between you and DataLocker regarding the applicable DataLocker Products, Software and/or Services and merges and supersedes all previous and contemporaneous written or oral agreements and understandings regarding the subject matter hereof. If any provision of these Terms of Use is held to be invalid or otherwise unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be invalidated or otherwise affected.

6.8 Miscellaneous. Headings are for reference only and in no way define, limit, construe, or describe the scope or extent of such section. DataLocker's failure to act with respect to a breach by you or others does not waive its right to act with respect to subsequent or similar breaches.

6.9 Force Majeure. DataLocker will not be liable for and will not be responsible to you for any delay or failure to perform under these Terms of Use if such delay or failure results from fire, explosion, labor dispute, earthquake, casualty or accident, lack of or failure of transportation facilities and/or services, lack of or failure of telecommunications facilities and/or services including internet services, epidemic, flood, drought, war, revolution, civil commotion, blockade or embargo, act of God, any inability to obtain any requisite license, permit or authorization, or any other cause whatsoever, whether similar or dissimilar to those enumerated, beyond the reasonable control of DataLocker.

6.10 No Duty to Monitor. DataLocker does not have any duty to monitor the payments or other transactions that are made in connection with the DataLocker Products, Software or Services.

6.11 Government Licensee. The Government acknowledges DataLocker's representation that the DataLocker Products and Software contain "Restricted Computer Software" as that term is defined in



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Clause 52.227 19 of the Federal Acquisition Regulations (FAR) and contain “Commercial Computer Software” as that term is defined in Subpart 227.471 of the Department of Defense Federal Acquisition Regulation Supplement (DFARS). The Government agrees that (i) if the Software is supplied to the Department of Defense (DoD), the Software is classified as “Commercial Computer Software” and the Government is acquiring only “restricted rights” in the Software and its documentation as that term is defined in Clause 252.227 7013(c)(1) of the DFARS, and (ii) if the Software is supplied to any unit or agency of the United States Government other than DoD, the Government’s rights in the Software and its documentation will be as defined in Clause 52.227 19(c)(2) of the FAR.

Use, duplication or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227 7013. 6.11 Export Law Compliance. Regardless of any disclosure made to DataLocker of the ultimate destination of the DataLocker Products, Software or Service, you warrant that you will not export, directly or indirectly, any DataLocker Product, Software or Service without first obtaining the approval of DataLocker and the appropriate export license from the Department of Commerce or other agency of the United States Government.