

STREAMBASE PERPETUAL LICENSE AGREEMENT

This Perpetual License Agreement (the **Agreement**), effective as of _____ (the **Effective Date**), is entered into between StreamBase Systems, Inc., a Delaware corporation, with offices at 181 Spring Street, Lexington, MA 02421, USA (**Licensor**) and _____, as more fully identified in the License Schedule attached hereto as **Exhibit 1 (Licensee)**. The parties agree as follows:

1. DEFINITIONS.

Documentation means the user guide and other documentation delivered by Licensor in paper, digital or electronic form to Licensee with the Licensed Software.

Licensed Software means the object code version(s) of the computer programs identified in the License Schedule, and delivered to Licensee by Licensor under this Agreement.

Number of Licensed Applications means the maximum number of Applications for which certain Licensed Software is licensed, as specified in the License Schedule. As used herein, **Application** means a collection of Licensed Software operators forming a single, independent workflow.

Number of Licensed CPUs means the maximum number of CPUs for which the Licensed Software is licensed, as specified in the License Schedule.

Number of Licensed Developers means the maximum number of concurrent software developers for which certain Licensed Software is licensed, as specified in the License Schedule

Perpetual Fee the one-time fee set out in the License Schedule payable by Licensee to Licensor for the license to use the Licensed Software.

2. LICENSED SOFTWARE.

2.1 License. Subject to the terms and conditions in this Agreement and the Documentation, Licensor grants to Licensee a nonexclusive, nontransferable, perpetual (subject to termination as set forth herein) right and license to use the Licensed Software without modification, in accordance with the Documentation, solely for the internal business purposes of the Licensee.

2.2 Limitations. As set forth in the applicable License Schedule, at any one time, the Licensed Software may not be (a) installed, stored or executed on more processors than the Number of Licensed CPUs, (b) used to execute more Applications than the Number of Licensed Applications or (c) executed by more than the Number of Licensed Developers, each as specified in the License Schedule. The Licensed Software may only be used in the platforms and in the environments specified in the License Schedule. Licensee may make a reasonable number of copies of the Licensed Software for inactive backup and archival purposes.

2.3 Delivery. Unless otherwise agreed in writing, Licensor will deliver one copy (by CD, FTP or

otherwise) of the Licensed Software and Documentation to Licensee promptly after execution of this Agreement.

2.4 Documentation. For the term of this Agreement and subject to all terms and conditions in this Agreement, Licensor grants to Licensee a nonexclusive, nontransferable right and license to use the Documentation, solely in connection with using the Licensed Software. Licensee may make exact copies of the Documentation as reasonably needed to support its authorized use of the Licensed Software.

3. SERVICES.

3.1 Professional Services. Licensor will provide Licensee with professional services, if any, in accordance with the terms of a separately executed professional services agreement.

3.2 Support and Maintenance. Licensor will provide support and maintenance services, if any, in accordance with the terms of a separately executed support and maintenance agreement.

4. PROPRIETARY RIGHTS.

4.1 Restrictions. Except as specifically permitted in this Agreement, Licensee shall not directly or indirectly (a) use any of Licensor's Confidential Information to create any software or documentation that is similar to any of the Licensed Software or Documentation, (b) disassemble, decompile, reverse engineer or use any other means to attempt to discover any source code or underlying structures, ideas or algorithms of the Licensed Software (except and only to the minimal extent that these restrictions are expressly prohibited by applicable statutory law), (c) encumber, sublicense, transfer, rent, lease, time-share or use the Licensed Software in any application service provider (ASP), hosted, service bureau arrangement or otherwise for the benefit of any third party, (d) copy, distribute, manufacture, adapt, create derivative works of, translate, localize, port or otherwise modify any Licensed Software or Documentation, (e) use the Licensed Software, or allow the transfer, transmission, export or re-export of all or any part of the Licensed Software (or any product thereof), in violation of any export control laws or regulations of the United States or any other relevant jurisdiction or (f) permit any third party to engage in any of the foregoing proscribed acts.

4.2 No Implied License. All Licensed Software is licensed and not sold. Any references herein to the sale or price of any Licensed Software or any copy thereof refers to the license or license fee therefor.

Except for the limited rights and licenses expressly granted hereunder, no other license is granted, no other use is permitted and Licensor shall retain all right, title and interest in and to the Licensed Software and Documentation (including all intellectual property and proprietary rights embodied therein). Licensee agrees not to take any action inconsistent with such title and ownership.

4.3 Markings. Licensee shall not obscure, alter or remove any printed or on-screen proprietary or legal notice contained on or in any copies of the Licensed Software or Documentation.

5. CONFIDENTIAL INFORMATION.

5.1 Definition. *Confidential Information* means all financial, business or technical information, trade secrets, know-how or software, including all analyses, digests and summaries, in any form, that is disclosed by or for a party in relation to this Agreement, and which is marked or otherwise identified as proprietary or confidential at the time of disclosure, or which by its nature would be understood by a reasonable person to be proprietary or confidential. Confidential Information does not include information that the receiving party can demonstrate (a) was already rightfully in its possession without restriction prior to receipt hereunder, (b) is hereafter rightfully furnished to it without restriction by a third party without breach of any separate nondisclosure obligation to the disclosing party, (c) is or becomes generally available to the public without breach of this Agreement or (d) is independently developed by the receiving party without reliance on such information. To avoid uncertainty, all Licensed Software, Documentation and pricing information is Licensor's Confidential Information.

5.2 Confidentiality. Except for the specific rights granted by this Agreement, neither party shall use or disclose any of the other's Confidential Information without its written consent. A party receiving Confidential Information shall use commercially reasonable care to protect it, including limiting access to its employees and contractors who (a) have a need to know for the purposes of this Agreement and (b) have been apprised of the confidentiality restrictions in this Agreement. Each party shall bear the responsibility for any breach of confidentiality by its employees and contractors. Promptly after any expiration or termination of this Agreement (or at the disclosing party's request at any time), the receiving party shall return to the other or, if so directed, destroy all originals and copies of any Confidential Information and all information, records and materials developed therefrom. Each party may only disclose the general nature, but not the specific terms, of this Agreement without the prior consent of the other party; *provided*, either party may provide a copy of this Agreement or otherwise disclose its terms in connection with any financing transaction or due diligence inquiry.

5.3 Compelled Disclosure. Prior to disclosing any of the other's Confidential Information as necessary pursuant to any court order, lawful requirement of a governmental agency or when disclosure is required by operation of law (including disclosures pursuant to any applicable securities laws and regulations), the receiving party shall use reasonable efforts to (a) promptly notify the disclosing party in writing of such requirement to disclose, and (b) cooperate fully with the disclosing party in protecting against or minimizing any such disclosure or obtaining a protective order.

6. PAYMENTS.

6.1 Perpetual Fees. Licensee agrees to pay Licensor the Perpetual Fees for the Licensed Software in the amounts and at the times specified herein.

6.2 Expenses. Each party shall be responsible for all costs and expenses incurred hereunder.

6.3 Payment Terms. Unless specified otherwise, all amounts due hereunder shall be paid as set forth in the License Schedule, within 30 days following Licensor's invoice date. All payments shall be in US dollars at Licensor's address (or, at its option, to an account specified by Licensor). Any amount not paid when due shall bear a late payment charge, until paid, at the rate of 1.5% per month or the maximum amount permitted by law, whichever is less. Licensee agrees to reimburse Licensor for all costs (including attorneys' fees) incurred in collecting late payments.

6.4 Taxes. All payments required by this Agreement are exclusive of federal, state, local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes and value added taxes), and Licensee agrees to bear and be responsible for the payment of all such charges, excluding taxes based upon Licensor's net income.

6.5 Audit. Upon reasonable advance written notice, Licensor shall have the right to have an independent auditor (reasonably acceptable to Licensee) verify Licensee's compliance with this Agreement. Licensee shall make its systems and all applicable books and records available for such inspection during normal business hours at Licensee's principal place of business. Any audit shall be at Licensor's expense, unless it discloses an underpayment by Licensee for the audited period in excess of 5%, in which case Licensee shall reimburse Licensor for such expenses.

7. WARRANTIES AND DISCLAIMERS.

7.1 Licensed Software. Licensor warrants to Licensee that, as delivered by Licensor, the Licensed Software shall operate in substantial conformance with the Documentation for a period of 90 days after the Effective Date. Any warranty claim under this Section 7.1 must be made in writing during such 90-day period. Licensor's sole obligation and Licensee's exclusive remedy in respect thereof is to use

reasonable efforts to repair or replace the nonconforming Licensed Software or, at Licensor's sole discretion, terminate this Agreement upon written notice and refund the Perpetual Fee, upon return of the Licensed Software.

7.2 Disclaimers. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE LICENSED SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. LICENSOR AND ITS SUPPLIERS DO NOT WARRANT THAT: THE LICENSED SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS; LICENSED SOFTWARE OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE; OR ANY ERRORS WHICH MAY BE CONTAINED IN THE LICENSED SOFTWARE CAN OR WILL BE FIXED. TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSOR AND ITS SUPPLIERS HEREBY DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE LICENSED SOFTWARE INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, QUIET ENJOYMENT, ACCURACY, INTEGRATION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

8. INDEMNIFICATION.

8.1 Infringement. Except as provided below, Licensor agrees to defend Licensee against any claim by a third party that the Licensed Software infringes a valid US patent (issued as of the Effective Date), or any copyright or trade secret, of such third party, and to indemnify Licensee for settlement amounts or damages, liabilities, costs and expenses (including reasonable attorneys' fees) finally awarded and arising out of such claim; *provided*, that (a) Licensee promptly provides Licensor written notice thereof and reasonable cooperation, information, and assistance in connection therewith, and (b) Licensor shall have sole control and authority to defend, settle or compromise such claim. If any Licensed Software becomes or, in Licensor's opinion, is likely to become the subject of any injunction preventing its use as contemplated herein, Licensor may, at its option (1) obtain for Licensee the right to continue using such Licensed Software or (2) replace or modify such Licensed Software so that it becomes non-infringing without substantially compromising its principal functions. If (1) and (2) are not reasonably available to Licensor, then it may (3) terminate this Agreement upon written notice to Licensee and, after return of the Licensed Software, refund to Licensee the depreciated value of such Licensed Software, (calculated as the Perpetual Fees paid therefor, amortized on a straight-line basis over a 3 year period from delivery).

8.2 Exclusions. Licensor shall have no liability or obligation to Licensee hereunder with respect to any claim based upon (a) any use of the Licensed Software not strictly in accordance with this

Agreement, (b) use of any Licensed Software in an application or environment or on a platform or with devices for which it was not designed or contemplated, (c) alterations, combinations or enhancements of the Licensed Software not created by Licensor, (d) Licensed Software that complies with Licensee's specific design requirements, (e) Licensee's continuing allegedly infringing activity after being notified thereof or its continuing use of any version of the Licensed Software after being provided modifications that would have avoided the alleged infringement or (f) any intellectual property right in which Licensee or any of its affiliates has an interest.

8.3 Entire Liability. The foregoing states the entire liability of Licensor, and Licensee's exclusive remedy, with respect to any actual or alleged violation of intellectual property rights by the Licensed Software or any part thereof or by its use or operation.

9. LIMITATION OF LIABILITY.

EXCEPT TO THE EXTENT THAT ANY EXCLUSION OR LIMITATION OF LIABILITY IS VOID, PROHIBITED OR UNENFORCEABLE BY APPLICABLE LAW, OR IN THE CASE OF (A) DEATH, BODILY INJURY OR FRAUD, (B) BREACH OF THE SCOPE OF ANY LICENSE OR OBLIGATION OF CONFIDENTIALITY OR (C) AMOUNTS PAYABLE TO ANY THIRD PARTY PURSUANT TO SECTION 8, IN NO EVENT SHALL EITHER PARTY OR SUPPLIERS BE LIABLE CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY (1) MATTER BEYOND ITS REASONABLE CONTROL, (2) LOSS OF DATA, LOSS OR INTERRUPTION OF USE OF THE LICENSED SOFTWARE, OR COST OF PROCURING SUBSTITUTE TECHNOLOGY, GOODS OR SERVICES, (3) INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, REVENUES, PROFITS OR GOODWILL, (4) IN THE CASE OF LICENSOR, AGGREGATE DAMAGES IN EXCESS OF THE AMOUNT PAID TO IT HEREUNDER FOR THE LICENSED SOFTWARE THAT GAVE RISE TO THE CLAIM, OR (E) IN THE CASE OF LICENSEE, AGGREGATE DAMAGES IN EXCESS OF THE TOTAL AMOUNT PAYABLE HEREUNDER, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN.

10. TERM AND TERMINATION.

10.1 Term. This Agreement shall commence on the Effective Date and continue perpetually, unless terminated as set forth herein.

10.2 Termination. This Agreement may be terminated (a) by Licensee at any time upon at least 30 days prior written notice to Licensor, *provided*, that together with such notice, Licensee pays Licensor, if any, all amounts then payable or past due, *provided further*, that Licensor shall not refund to Licensee any

Perpetual Fees paid hereunder; (b) by either party if the other party materially breaches a provision of this Agreement and fails to cure such breach within 30 days (10 days in the case of any non-payment) after receiving written notice of such breach from the non-breaching party; or (c) by either party immediately upon written notice, if the other party makes any assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of any or all of the other party's property, or the other party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding or such a proceeding is instituted against the other party and is not dismissed within 90 days, or the other party becomes insolvent or, without a successor, dissolves, liquidates or otherwise fails to operate in the ordinary course.

10.3 Effects of Termination. Upon expiration or termination of this Agreement for any reason, all rights, obligations and licenses of the parties hereunder shall cease, except that (a) all obligations that accrued prior to the effective date of termination (including without limitation, payment obligations) and any remedies for breach of this Agreement shall survive any termination and (b) the provisions of Sections 4 (Proprietary Rights), 5 (Confidential Information), 6 (Payments), 7 (Warranty and Disclaimers), 8 (Indemnification), 9 (Limitation of Liability), 11 (General Provisions) and this Section 10.3 shall survive.

11. GENERAL PROVISIONS.

11.1 Entire Agreement. This Agreement (including the attached exhibits) constitutes the entire agreement between the parties with regard to, and supersedes all prior negotiations, understandings or agreements (oral or written) between the parties relating to, the subject matter of this Agreement (and all past dealing or industry custom). Any inconsistent or additional terms on any related purchase order, confirmation or similar form, even if signed by the parties after the date hereof, shall have no force or effect under this Agreement. This Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile copy shall have the same force and effect as execution of an original, and a facsimile signature shall be deemed an original and valid signature. No changes, modifications or waivers may be made to this Agreement unless in writing and signed by both parties. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. Except as specifically provided otherwise, each right and remedy in this Agreement is in addition to any other right or remedy, at law or in equity, and the exercise of one right or remedy will not be deemed a waiver of any other right or remedy. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or

eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

11.2 Publicity. Licensee hereby consents to Licensor's inclusion of Licensee's name in customer listings that may be published as part of Licensor's marketing efforts. Licensee further agrees that it will, from time to time upon Licensor's request, provide Licensor with reasonable cooperation and assistance in connection with its marketing efforts (including but not limited to, issuing press releases, speaking with prospective customers as reference and writing customer testimonials concerning the arrangements under this Agreement).

11.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The sole jurisdiction and venue for actions related to this Agreement will be the state or federal courts located in Massachusetts having jurisdiction over Licensor's principal offices, and both parties consent to the jurisdiction of such courts with respect to any such action. In any action or proceeding to enforce or interpret this Agreement, the prevailing party will be entitled to recover the costs and expenses (including reasonable attorneys' fees) that it incurred in connection with such action or proceeding and enforcing any judgment or order obtained.

11.4 Relief. Each party agrees that, in the event of any breach or threatened breach of Section 4 or 5, the non-breaching party will suffer irreparable damage for which it will have no adequate remedy at law. Accordingly, the non-breaching party shall be entitled to injunctive and other equitable remedies to prevent or restrain, temporarily or permanently, such breach or threatened breach, without the necessity of posting any bond or surety. Such remedies shall be in addition to any other remedy that the non-breaching party may have at law or in equity.

11.5 Notices. All notices under this Agreement will be in writing, in English, delivered to the designated Licensee contact address in Exhibit 1 or the Licensor address specified above, as applicable, and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after being sent, if sent for next day delivery by recognized overnight delivery service; or upon receipt, if sent by certified or registered mail, return receipt requested.

11.6 Assignment. This Agreement and the rights and obligations hereunder may not be assigned or otherwise transferred by either party without the prior written consent of the other, except that either party (without consent) may assign its rights and obligations

hereunder to any of its affiliates or to any successor to all or substantially all of its business that concerns this Agreement (whether by sale of stock or assets, merger, consolidation or otherwise). Any attempted transfer in violation hereof will be void and of no effect. This Agreement will be binding upon, and inure to the benefit of, the successors, representatives, and permitted assigns of the parties.

11.7 Independent Contractors. The parties shall be independent contractors in their performance under this Agreement, and nothing contained herein will constitute either party as the employer, employee, agent or representative of the other party, or both parties as joint venturers or partners for any purpose.

11.8 License to Government. If the user or licensee

of this commercial computer software is an agency, department or other entity of the United States Government, the use, duplication, reproduction, modification, release, disclosure or transfer of this software or any related documentation of any kind, including technical data and manuals, is restricted by the terms and conditions of this Perpetual License Agreement as referenced in FAR 12.212 for civilian agencies and DFARS 227.7202 for military agencies. The Licensed Software is commercial computer software and all related documentation delivered with or relating to this software is commercial computer software documentation, developed at private expense. All other use is prohibited. No further rights are granted or can be inferred except as stated in this Perpetual License Agreement.

IN WITNESS WHEREOF, intending to be legally bound, the parties have caused their duly authorized officers to execute this Agreement as a sealed instrument, as of the Effective Date.

STREAMBASE SYSTEMS, INC.

LICENSEE

By: _____
Name:
Title:

By: _____
Name:
Title:

Licensee Contact Address for Serving of Notices	
Licensee	_____, a _____ corporation
Address	

Authorized Contacts		
	Primary	Back-up
Name		
Title		
Telephone #		
Facsimile #		
Email		

The Authorized Contacts identified above (or as subsequently changed upon reasonable prior written notice) are responsible for facilitating communication between Licensor and Licensee regarding all technical and business matters, and possess sufficient authority to approve all changes (including ordering additional Licensed Software), under this Agreement.

Licensed Software/Services		
Licensed Software/Services Description	Limitations	Fees
Customer Application One	___ CPUs	
Customer Application Two	___ CPUs	
Customer Application Three	___ CPUs	
Licensed Developers	___ Developers	
Adapters	___ Instances	
HA Option	___ Instances	
Disk Based Query Option	___ Instances	
Support		
	Total	
See Section 6 for payment terms.		

Permitted Platforms and Environments	
Licensed Software	Permitted Platform/Environment
Runtime/HA	
Adapters	
Developer Seats	

Subject to Licensor's written acceptance and the terms and conditions of this Agreement (including without limitation, payment of additional Fees at then current prices), Licensee may order additional Licensed Software or increase the Number of Licensed CPUs, Number of Licensed Developers or Number of Licensed Applications by executing supplemental License Schedules.