Partner Program Terms and Conditions

BY CLICKING TO ACCEPT THESE TERMS AND CONDITIONS OR BY PARTICIPATING IN THE PARTNER PROGRAM YOU CONFIRM THAT YOU ARE AUTHORIZED TO AGREE TO THEM ON BEHALF OF PARTICIPANT AND UNDERSTAND AND AGREE THAT PARTICIPANT IS LEGALLY BOUND BY THEM.

1. DEFINITIONS.

1.1   The following terms shall have the following meanings:

"Affiliate" means any person controlling, controlled by or under common control with a specified person and, for the purposes of these Terms and Conditions, "control" means the power of a person (directly or indirectly) to direct or cause the direction of the management and policies of any other person or the ownership (directly or indirectly) of not less than 50% of the equity or capital of, or the voting power in, any other person.

"Benefits" means the incentives available to Participants which meet the Eligibility Criteria for the applicable Partner Level.

"CDF" means the channel development fund being a reimbursement of a percentage of the total cost of marketing activities in respect of Software Products and Services approved by DataCore.

 "Certification" means certification confirming that a Participant has achieved one or more of the DataCore training qualifications.

 "Confidential Information" means all information of any nature relating to DataCore, its technology, business or activities which is disclosed by or on behalf of DataCore including names and contact details of individuals who represent sales targets or sales contacts and the details of the Benefits, other than information (a) which is or becomes publically available through no fault by Participant; (b) which Participant can demonstrate was in its possession before receipt from DataCore; or (c) which is or becomes available to Participant from other sources free of restriction as to its use or disclosure.

"DataCore" means DataCore Software Corporation, a Florida corporation having a place of business at 1901 West Cypress Creek Road, Suite 200, Fort Lauderdale, Florida 33309.

 "DataCore Provided Resources" means all resources of any nature whatsoever (whether tangible, intangible, human or otherwise) that are provided or made available to Participant, in person, physically, electronically, remotely, virtually (such as the DataCore Virtual Training Authorized Lab environment), by download, via the Partner Portal or otherwise, directly or indirectly for use in connection with the Partner Program, including all Proprietary Materials, DataCore's review or approval of testing, planning, implementation or other materials provided by Participant, advice, instruction, testing, training, equipment, software, goods, services, or information.

"Data Protection Law" means the GDPR and any state, provincial or national implementing laws, regulations and secondary legislation, as amended or updated from time to time or any successor legislation to the GDPR or state, provincial or national legislation and the Directive on Privacy and Electronic Communications ((EC) 2002/58) as subsequently amended and/or implemented into national law as well as any applicable guidance and codes of practice and all other applicable laws and regulations relating to privact, data protection and electronic marketing.

"Discount" means a reduction in price of the license fees payable by Participant for Software Products.

 "Distributor" means a third party authorized by DataCore to distribute Software Products and Services to Resellers in the territory in which the Participant is operating.

"Eligibility Criteria" means the criteria a Participant must meet to be accepted onto the Partner Program and to qualify for a particular Partner Level, as set out in the Partner Program Handbook (as amended from time to time).

"End User" means a licensee of any Software Product(s) who acquires such product(s) for use rather than distribution or sublicensing.

"Evaluation Software" means evaluation or beta versions of DataCore Software Products.

"GDPR" means the General Data Protection Regulation" ((EU) 2016/679).

"Internal Use Software" means Software Products made available for use by Partner Program participants for internal use only.

"Lead" means a target End User.

"NFR Software" means not for resale DataCore Software Products which are made available to Partner for the purposes of testing, self-education and/or in-house demonstration to potential End Users.

"Participant" means the Reseller that has been approved by DataCore to participate in the Partner Program on whose behalf the person accepting these Terms and Conditions acts.

"Partner Level" means a certified business partner, a silver partner or a gold partner (or such other levels as are introduced by DataCore for the Partner Program from time to time).

"Partner Portal" means DataCore's dedicated online portal for use by members of its Partner Program.

"Partner Program" means the tiered incentive program DataCore offers to Participants who meet certain Eligibility Criteria in order to qualify for Benefits.

"Partner Program Handbook" means the handbook provided to Participant by or on behalf DataCore setting out details of the Eligibility Criteria and Benefits for each Partner Level (as amended from time to time).

"Proprietary Materials" means all DataCore publications, software and software code, the Trademarks, documentation, course or other training materials, white papers, implementation and test plan materials, marketing materials, whether or not subject to copyright, provided by or on behalf of DataCore for Participant's use in connection with the Partner Program, and all derivative works thereof whether or not authored by DataCore.

"Rebate" means a reimbursement of a certain percentage of the licence fees paid by Participant in consideration for Participant reaching its relevant sales targets (on an annual or quarterly basis).

"Reseller" means a reseller authorised to distribute and resell Software Products and Services.

"Reseller Agreement" has the meaning given to it in Section 2.7.

"Services" means those DataCore Software Product support services, product training and professional services then made generally available by DataCore for resale to End Users.

"Software Product" means the object code version of the DataCore software products then made generally available by DataCore for sale or resale to End Users in the territory in which the Participant operates.

"Terms and Conditions" means these Partner Program Terms and Conditions, which, along with the Partner Program, may be amended or updated from time to time at DataCore's sole discretion.

"Trademarks" has the meaning given to it in Section 6.2.

1.2 Use of the terms include(s) or including shall be construed without limiting the generality of the words preceding those terms.

1.3 The terms "controller", "data subject", "personal data", and "processing" (and its cognate terms) shall have the meanings attributed to them in Article 4 of the GDPR.

1.4 The term "include" or "including" is illustrative and shall not be deemed to limit the meaning of the words proceeding that term.

2. ELIGIBILITY & BENEFITS

2.1 Participant's acceptance onto the Partner Program is at DataCore's complete discretion.

2.2 To participate in the Partner Program, Participant must meet the Eligibility Criteria of at least one Partner Level at all times.

2.3 Participant acknowledges that the Eligibility Criteria and Benefits may be subject to change at any time. DataCore will endeavour to give Participant reasonable notice of changes to the Eligibility Criteria and Benefits.

2.4 Participant acknowledges that Benefits may vary depending on the geographic location in which Participant operates. Specific Benefits will be made available to Participants by DataCore or its Distributors at DataCore's discretion.

2.5 Participant warrants that all information it submits to DataCore in connection with the Partner Program, including in its application form, is complete and accurate and that it shall notify DataCore promptly of any changes to information previously submitted.

2.6 Participating in the Partner Program does not authorize Participant to purchase Software Products and Services for resale directly from DataCore.

2.7 Without prejudice to any other Eligibility Criteria, each Participant must be party to a reseller agreement with a Distributor ("Reseller Agreement").

2.8 Purchases of Software Products and Services for resale to End Users by Participant must be made through a Distributor and such purchases shall be subject to the terms of the Reseller Agreement.

3. PARTNER PORTAL ACCESS

3.1 Being a member of the Partner Program entitles Participant to access the Partner Portal.

3.2 Access to the Partner Portal may be subject to additional terms of use (as notified to you from time to time).

3.3 DataCore makes no guarantee that access to the Partner Portal will be uninterrupted or error free.

3.4 DataCore reserves the right to terminate or discontinue access to the Partner Portal and/or the DataCore Provided Resources at any time and DataCore shall not be liable for any damages that may result from such lack of access.

4. DATACORE PROVIDED RESOURCES

4.1 DataCore grants to Participant a non-exclusive, revocable, non-transferable, non-sublicenseable license for the period these Terms and Conditions are in effect to use the DataCore Provided Resources only for (i) marketing Software Products and Services and generating and/or supporting End Users; and (ii) for its own internal purposes solely in connection with its participation in the Partnership Program.

5.   ADDITIONAL OBLIGATIONS OF PARTICIPANT

5.1   Restrictions. Participant acknowledges that the DataCore Provided Resources contain confidential or proprietary information of DataCore, and agrees not to disassemble, decompile or otherwise attempt to reverse engineer the DataCore Provided Resources in whole or in part, except to the extent expressly permitted under applicable law notwithstanding such prohibition. Participant shall have no rights with respect to the DataCore Provided Resources or to their use except as expressly set forth herein, in the Reseller Agreement, or in a separate license agreement under which any are specifically identified as licensed by DataCore to Participant (including the NFR Software, the Evaluation Software and/or the Internal Use Software which shall each be subject to separate end user licence agreements which must be accepted by Participant prior to download). Participant shall not reproduce, translate, modify or create derivative works of the DataCore Provided Resources, or distribute the DataCore Provided Resources, without DataCore's express prior written consent.

5.2   Marketing. Participant agrees that its marketing and advertising efforts will be of high quality, in good taste, and will preserve the professional image and reputation of DataCore and the Software Products. Participant agrees to include in all such advertising all applicable copyright and trademark notices of DataCore in accordance with any brand or similar guidelines issued by DataCore from time to time.

6.   USE OF TRADEMARKS AND LOGOS

6.1   Participant grants to DataCore a non-exclusive license to use and publish its trademark, trade name and/or logo in connection with the Partner Program, including on DataCore's website.

6.2   Trademark License. DataCore hereby grants to Participant a non-exclusive, non-transferable license to use "DataCore" (both the name and in the stylized form used by DataCore), the applicable Software Product trademarks, and the logos for any Certification held by Participant (the "Trademarks") in connection with Participant's advertising and promotion of the Software Products and Services. Participant shall not use any mark other than the Trademarks to identify the Software Products or Services, except as expressly authorized by DataCore in writing, which authorization shall, notwithstanding anything to the contrary, be revocable by DataCore in its sole and absolute discretion at any time upon written notice to Participant.

6.3   Quality. Participant agrees that the nature and quality of all products and services it supplies in connection with the Trademarks shall be consistent with generally accepted industry standards, but of no less quality than for its own or other products it resells. Participant agrees to cooperate with DataCore in facilitating DataCore's monitoring and control of the nature and quality of such products and services, and to supply DataCore with specimens of use of the Trademarks upon request.

6.4   Form of Use. All use of the Trademarks must strictly comply with applicable law. Participant shall comply with any requirements established by DataCore concerning the style, design, display and use of the Trademarks, including correct use of the ® or TM symbols, unless commercially impractical, with any advertising or other promotional materials that display the Trademarks.

7.   OWNERSHIP OF PROPRIETARY RIGHTS

7.1   Participant agrees that all use of the Trademarks by Participant in connection with the Software Products and Services or the Partner Program shall inure solely to the benefit of DataCore, and that nothing in these Terms and Conditions or the Reseller Agreement shall give Participant any right, title or interest in the Trademarks other than the right to use the Trademarks in accordance with these Terms and Conditions. Participant will take all reasonable measures to protect DataCore's proprietary rights in the DataCore Provided Resources, and will not remove or obscure any proprietary notices on or in the DataCore Provided Resources. Except as provided herein, Participant is not granted any rights to patents, copyrights, trade secrets, trade names, trademarks (whether registered or unregistered), database rights, or any other rights, franchises or licenses. Participant shall not (a) do anything that might harm the reputation or goodwill of the Trademarks; (b) take any action inconsistent with DataCore's ownership of the Trademarks; (c) challenge DataCore's rights in or use of the Trademarks; (d) use or attempt to register any of the Trademarks or any

mark or logo substantially similar thereto in any jurisdiction or country; or (e) register or use any domain names or business name containing or confusingly similar to the Trademarks. Without limiting the above, if at any time Participant acquires any rights in, or trademark registrations or applications for, any of the Trademarks by operation of law or otherwise in any country or jurisdiction, Participant will immediately, and at no expense to DataCore, assign such rights, registrations, or applications to DataCore, along with any and all associated goodwill. Participant agrees that its obligations under this Section shall survive termination of these Terms and Conditions.

8.   DISCOUNTS, CHANNEL DEVELOPMENT FUNDS, REBATES & LEADS

8.1   Notwithstanding that upon reaching the appropriate Partner Level, Participant may be entitled to apply for CDFs, the decision to grant a CDF is at the sole and absolute discretion of DataCore and shall be subject to approval by DataCore of Participant's proposal and marketing plan.

8.2   Participant shall keep accurate records of its marketing activities carried out in respect of any CDF and its lead generation activities, and shall provide such records to DataCore for inspection upon request.

8.3   Participant acknowledges and agrees that payment of Discounts, Rebates and CDFs shall be subject to Participant demonstrating to the satisfaction of DataCore (in its sole and absolute discretion) compliance with the relevant Eligibility Criteria including that marketing activities have been carried out in accordance with any approved marketing plan (including providing valid receipts for proof of marketing spend) and/or that applicable sales targets have been reached. Time limits (as notified by DataCore from time to time) for claiming Rebates and CDFs may apply.

8.4   If Participant becomes eligible for any Discounts, Rebates and CDFs as a result of its participation in the Partner Program, such Discounts, Rebates and CDFs may be applied and/or paid by Distributor and/or DataCore. Payment or application of a Discount, Rebate and/or CDF by a Distributor will, unless otherwise agreed in writing by DataCore, discharge DataCore's obligations in respect thereof.

8.5   In connection with Participant's participation in the Partner Program, DataCore may make available to Participant details of Leads for Participant to pursue.

8.6   Use of Lead information shall be subject to Participant's compliance with Data Protection Law.

8.7   DataCore reserves the right to withdraw Leads or reassign Leads to another participant in the Partner Program on notice to Participant where DataCore determines in its sole and absolute discretion that the Participant is not consistently and capably deploying commercially reasonable efforts to convert a Lead into an End User or the time period allocated to pursue the Lead expires or in DataCore's opinion Participant has taken too long to pursue such Lead.

8.8   Where Participant submits to DataCore details of proposed Leads which Participant has sourced in order to obtain a Discount, DataCore reserves the right to accept or reject a Lead registration, and determine the amount and Participant's eligibility for a Lead registration Discount in its sole and absolute discretion.

8.9   Participant acknowledges that Distributors do not have the authority to bind DataCore to any obligation, commitment or liability, including in respect of Leads, Discounts Rebates and CDFs.

9.   DATA PROTECTION

9.1   Participant shall comply at all times with Data Protection Law relating to its processing of personal data in connection with the Partner Program. Without limitation to the foregoing, Participant shall ensure that all required information is provided to data subjects whose personal data it processes, and that it puts in place all necessary technical and organizational measures to keep such personal data secure.

9.2   Each of the Participant and DataCore act as an independent controller of personal data processed by it in connection with the Partner Program.

9.3   In respect of any personal data transferred by or on behalf of Participant from within the EEA to DataCore to be processed outside the EEA by DataCore, the parties agree to comply with the standard contractual clauses (exclusive of any optional clauses) required by the European Commission in connection with such transfers in its decision 2004/915/EC and as set out in such decision ("Standard Contractual Clauses"), which are incorporated into these Terms and Conditions by reference. In such event Participant acts as the data exporter and DataCore acts as the data importer and the information in the Schedule below shall be deemed incorporated into Annex B of the Standard Contractual Clauses.

10.   WARRANTIES; INDEMNITY.

10.1   DataCore Provided Resources. ALL DATACORE PROVIDED RESOURCES ARE PROVIDED BY DATACORE, AND PARTICIPANT ACCEPTS THEM,"AS IS" AND "WITH ALL FAULTS." DATACORE AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AND AGAINST HIDDEN DEFECTS TO THE FULLEST EXTENT PERMITTED BY LAW. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM DATACORE OR ELSEWHERE WILL CREATE ANY WARRANTY OR CONDITION NOT EXPRESSLY STATED IN THESE TERMS AND CONDITIONS. DATACORE DOES NOT WARRANT THAT DATACORE PROVIDED RESOURCES WILL MEET PARTICIPANT'S REQUIREMENTS OR THAT USE OF THE DATACORE PROVIDED RESOURCES, OR PARTNER PORTAL WILL BE UNINTERRUPTED, ERROR FREE, OR FREE OF VARIATIONS FROM ANY DOCUMENTATION. Some jurisdictions do not allow exclusions of or limitations on the duration of implied warranties, so the above exclusion may not apply to Participant. To the extent that an implied warranty or condition is created and cannot be disclaimed as provided above pursuant to applicable law, such implied warranty or condition is limited to the greater of thirty (30) days from delivery or the minimum period required by law.

10.2   General Indemnity. Participant agrees to indemnify and hold DataCore harmless from all liability, damages and costs (including attorneys' fees) resulting from claims made against DataCore arising from or in connection with Participant's failure to comply with its obligations under a Reseller Agreement or these Terms and Conditions.

11.   CONFIDENTIALITY

11.1   Participant undertakes to DataCore that it will not at any time (whether during the term of these Terms and Conditions or thereafter) use, divulge or communicate to any person, except to its professional advisors or as may be required by law or any legal or regulatory authority, any Confidential Information concerning the business or affairs of DataCore, or of any of its Affiliates, which may have or may in the future come to its knowledge, and Participant shall use its reasonable endeavours to prevent the publication or disclosure of any such Confidential Information concerning such matters.

12.   TAX AND APPLICABLE LAW

12.1   Participant acknowledges and agrees that it is solely responsible for (a) determining whether it can lawfully participate in the Partner Programme in accordance with all applicable laws; and (b) the calculation and payment of any related tax in connection with Benefits received through its participation in the Partner Program.

12.2   All applicable taxes on Benefits are the sole responsibility of Participant.

12.3   Participant shall comply with all applicable laws in any jurisdiction where the Participant does business in connection with its participation in the Partner Program.

12.4   Participant agrees to indemnify DataCore and its Affiliates (Indemnified Parties) against any and all costs and expenses, fines, losses, liabilities and expenses (including the reasonable fees and expenses of solicitors and other professionals and specialists), suffered or incurred by the Indemnified Parties as a result of any allegation, claim, demand or legal proceeding by a third party arising as a result of or in connection with any taxes to be paid by Participant or

for which Participant becomes liable and any breach of this Section 12. This indemnity shall survive termination of these Terms and Conditions.

13.   TERMINATION & SUSPENSION.

13.1   Notwithstanding anything to the contrary, DataCore shall have the right at any time (and without cause) to terminate these Terms and Conditions, and to otherwise require the Participant to stop engaging in the Partner Program, upon ten (10) days prior written notice to Participant provided, however, advance notice shall not be required if DataCore determines, in its sole and absolute discretion, (i) that Participant has breached any of its obligations to DataCore under these Terms and Conditions or any other agreement; (ii) that Participant has made any attempt to impair the integrity or effective operation of the Partner Program; (iii) that Participant has become unable to pay its debts or is insolvent or is the subject of an order made or a resolution passed for its administration, winding-up or dissolution.

13.2   Participant may terminate these Terms and Conditions or its participation in the Partner Program at any time on written notice to DataCore.

13.3   Termination of these Terms and Conditions shall not impact the Reseller Agreement which shall continue in force, unless otherwise terminated in accordance with its terms.

13.4   Each of the parties has considered its expenditures in performing and preparing for performance of these Terms and Conditions and possible losses resulting from its termination. It is expressly understood that this right of termination is absolute and DataCore shall not be liable to Participant for damages or otherwise arising from termination in accordance with these Terms and Conditions. Immediately upon any such termination or expiration, Participant shall immediately cease holding itself out as a Participant and shall, return to DataCore all DataCore Provided Resources and other property of DataCore provided by or through DataCore without charge in connection with the Partner Program, and (except as expressly authorized by another agreement with DataCore that then remains in effect) discontinue all use of the DataCore Provided Resources. Regardless of the reason for or method of such termination or expiration, Participant shall not be entitled to any compensation, damages or payments for any loss of goodwill, prospective profits, or anticipated sales in connection with such termination or expiration, nor shall Participant be entitled to reimbursement in any amount in connection with such termination or expiration for any training, advertising, market development, investments or other costs that shall have been expended by Participant before the such termination or expiration. Participant hereby waives its rights under applicable laws for any such compensation, reimbursement, or damages.

13.5   All provisions which are intended by their nature, or which are expressly stated to survive termination of these Terms and Conditions shall survive termination, including Sections 1, 5.1, 7.1, 10, 11, 12,14 and 15.

14.   LIMITATION OF LIABILITY.

14.1   UNDER NO CIRCUMSTANCES WILL DATACORE OR ITS SUPPLIERS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, SAVINGS, BUSINESS, GOODWILL OR DATA, COST OF COVER, RELIANCE DAMAGES OR ANY OTHER SIMILAR DAMAGES OR LOSS, EVEN IF DATACORE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. EXCEPT AS LIMITED BY APPLICABLE LAW, DATACORE'S AND ITS SUPPLIERS' TOTAL LIABILITY UNDER THESE TERMS AND CONDITIONSOR OTHERWISE SHALL IN NO EVENT EXCEED $1,000 USD. THE LIABILITY LIMITATIONS SET FORTH IN THESE TERMS AND CONDITIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THESE TERMS AND CONDITIONS OR THE INVALIDITY OF ANY OTHER PROVISION IN THESE TERMS AND CONDITIONS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO PARTICPANT.

15. MISCELLANEOUS.

15.1 Notices. All notices, consents, waivers and other communications required or permitted by this Agreement ("Notices") shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile with confirmation of transmission by the transmitting equipment; or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the addresses or facsimile numbers set forth above or, for Notices to Participant (which Notices may be given by email instead of the other specified means and shall be deemed given when sent), to the address, email address and/or facsimile number provided by Participant in its application, request or registration for the Partner Program (or to such other address or facsimile number as a party hereto may designate to the other party by notice). If notice is sent to DataCore, it shall be sent to:

> DataCore Software Corporation
> 1901 West Cypress Creek Road, Suite 200
> Fort Lauderdale, Florida 33309 USA
> Attention: Contracts Administration.

15.2 Improper Inducements. Participant shall comply with all anti-bribery laws applicable in any jurisdiction where Participant does business. Participant agrees that it and its owners, directors, officers, employees, agents, partners and vendors have not and will not directly or indirectly pay, offer, promise to pay, or authorize the payment of, any money or anything of value to any person to improperly obtain, retain, or direct business or secure an improper advantage in connection with Software Products or Services and/or the Partner Program. Participant also agrees to implement adequate procedures to prevent a breach of this Section. Should Participant become aware of a breach or potential breach of this Section, Participant shall immediately notify DataCore and promptly take action against those involved. Participant certifies that none of its owners, directors, officers, employees, agents, or partners has been convicted of or pleaded guilty to bribery, fraud or related charges. In the event that DataCore has reason to believe that a breach of this Section has occurred or may occur, DataCore may at its discretion, and without liability to Participant, do any or all of the following; terminate these Terms and Conditions and any Certification immediately and/or withhold delivery of any goods or services or any payments otherwise due and payable under this Agreement until it receives confirmation to its satisfaction that no breach has occurred or will occur. Participant shall indemnify and hold DataCore and its Affiliates harmless against any and all claims, losses or damages arising as a result of or in connection with Participant's breach of this Section 15.2. Participant agrees to keep accurate books, accounts, and records related to its DataCore business and to allow DataCore, or its independent audit firm, reasonable access to these to verify compliance with this Section. This Section shall survive termination of these Terms and Conditions.

15.3 Force Majeure. Neither party shall be in default by reason of any failure to perform any obligation (excluding any obligation to pay money) due to unforeseen circumstances or to causes beyond such party's reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, failure to obtain export licenses or shortages of transportation, facilities, fuel, energy, labor or materials.

15.4 Assignment. Participant may not assign its rights or obligations under these Terms and Conditions without the prior written approval of DataCore, which may be withheld or conditioned in DataCore's sole discretion, and any unauthorized assignment shall be void. DataCore may at any time assign, subcontract or otherwise transfer, delegate or deal in any other manner with any of its rights or obligations under these Terms and Conditions.

15.5 Waiver. No delay or failure by either party to enforce any right under these Terms and Conditions shall constitute a waiver of that right or any other right. A waiver of any breach or default under these Terms and Conditions shall not constitute a waiver of any other right for subsequent breach or default.

15.6 Severability. If any provision of these Terms and Conditions is found illegal or unenforceable, it will be modified to the minimum extent required to make it legal and enforceable, and the legality and enforceability of the other provisions of these Terms and Conditions will not be affected.

15.7 Injunctive Relief. It is expressly agreed that Participant's violation of Sections 5.1 (Restrictions), 6(Use of Trademarks), or 7 (Ownership of Proprietary Rights) will cause irreparable harm to DataCore and that a remedy at law would be inadequate. Therefore, without limiting DataCore's remedies that may be available at law, DataCore shall be entitled to an injunction or other equitable remedies in the event of any threatened or actual violation of any such provision.

15.8 Relationship. Neither these Terms and Conditions nor the Participant's participation in the Partner Program shall be construed as creating a partnership, joint venture, franchise or agency relationship between DataCore and Participant. Participant agrees that it shall inform its customers that Participant is an independent business from DataCore, and shall not hold itself out as an agent of DataCore, or attempt to bind DataCore to any third-party agreement.

15.9 Government Contracts. All Software Products delivered to the U.S. Government are "commercial computer software" as defined in DFARS 252.227-7014(a)(1), and are provided subject to the manufacturer's standard commercial end user license, pursuant to FAR 12.212(a)). If applicable, such Software Products are provided with "restricted rights", with use, duplication, and disclosure by the U.S. Government restricted as provided in either DFARS 252.227-7013(c)(1)(ii) (OCT 1988) or FAR 52.227-14 (ALT III) (JUN 1987). Participant assumes responsibility to ensure that all deliverable Software Products are marked with the required restricted rights notice. Manufacturer is DataCore Software Corporation.

15.10 Export Controls. Participant acknowledges that the Software Products and certain DataCore Provided Resources are subject to export controls imposed by the U.S. Export Administration Act of 1979, as amended (the "Act"), and the regulations promulgated there under. Participant will not export or re-export (directly or indirectly) the Software Products or DataCore Provided Resources, or associated technical data without complying with the Act and the regulations thereunder and will not export or re-export (directly or indirectly) to embargoed destinations.

15.11 Governing Law; Disputes. The laws of the State of Florida shall govern these Terms and Conditions. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by a panel of three (3) arbitrators administered by the American Arbitration Association under Commercial Arbitration Rules. The majority decision of the arbitration shall be final and binding upon the parties. The arbitration hearing shall take place in Broward County, Florida. The prevailing party shall be entitled to recover cost and attorney's fees. In no event shall punitive damages be awarded. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Discovery shall be limited to written requests for information and documents, and any dispute regarding discovery shall be conclusively determined by the chair of the arbitration panel. Except to enforce the award, the parties shall treat the existence, content or result of arbitration as Confidential Information under this agreement. Either party may apply to any court of competent jurisdiction for injunctive relief without waiver or breach of this provision.

15.12 Conflict. In the event of conflict between these Terms and Conditions and any other terms incorporated by reference, the provisions in these Terms and Conditions shall prevail.

15.13 Choice of Language. The parties confirm that it is their wish that these Terms and Conditions, as well as all other documents relating hereto, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents, y compris tout avis, qui s¢y rattachent, soient rédigés en langue anglaise. The English language version will control in all respects, and all other versions are for convenience only and are not binding.

15.14 Entire Agreement. These Terms and Conditions and any documentation incorporated by reference set forth the entire agreement between the parties regarding the subject matter, and supersedes all prior and contemporaneous communications. These Terms and Conditions and the Partner Program may be modified by DataCore in its sole and absolute discretion without Participant's consent. DataCore will provide reasonable notice of such change. If Participant disagrees with any such change, its sole recourse shall be to cease participating in the Partner Program. Continued participation in the Partner Program shall be deemed to indicate the Participant's acceptance of the amended Terms and Conditions, which have been notified to it.

SCHEDULE

DESCRIPTION OF THE DATA TRANSFER

Data subjects *The personal data transferred concern the following categories of data subject*	Customer Contact Information and Business Sales Leads
Purposes of the transfer(s) *The transfer is made for the following purposes*	The transfer is made for the purpose of maintaining existing customer data, as well as, introducing prospective customers who may be interested in purchasing Software Products and Services.
Categories of data *The personal data concern the following categories of data*	Basic business and personal information such as: name, title, email, phone, company/business address, and transactional information.
Recipients *The recipients personal data transferred may be disclosed to*	DataCore personnel, distributors and resellers.
Sensitive data (if appropriate) *The personal data transferred concern the following categories of sensitive data*	N/A
Contact points for data protection enquiries	*Data importer* DataCore: Data Protection dataprotection@DataCore.com *Data exporter* Contact details set out in Participant's application for the Partner Program.