



## DataCore Insight Services™ Terms of Service

READ THESE TERMS THOROUGHLY. BY ACCEPTING THESE TERMS, YOU ARE ENTERING INTO A LEGALLY BINDING CONTRACT WITH DATACORE SOFTWARE CORPORATION.

### 1. Acceptance of Terms

By using DataCore Insight Services™ (the "Service") provided by DataCore Software Corporation ("DataCore") you accept the Terms of Service ("TOS") and agree to be bound by it. DataCore may update the TOS from time to time without notice. The TOS may not be amended or changed by a purchase order or other instrument submitted by you, whether formally rejected by DataCore or not. You can review the most current version of the TOS at any time at: <https://www.datacore.com/legal/tos/>.

If you are entering into the TOS on behalf of a company or other legal entity (the "Company"), you represent that you have the authority to bind the Company to the TOS, in which case the terms "you" or "your" shall refer to the Company. If you do not have such authority, or if you do not agree with the TOS, you may not use the Service. A third party, such as a channel partner or other agent, may not enter into the TOS for you. You acknowledge and agree that the Service requires a fully paid SANSymphony™ subscription (term license), authorized by DataCore.

You understand and agree that the Service may include certain communications from DataCore, such as service announcements and administrative messages, and that these communications are considered part of Service and that you will not be able to opt out of receiving them. You understand and agree that the service may include advertising messages from DataCore, and that you will be able to opt out of receiving them. Changes and features that augment or enhance the current Service shall be subject to the TOS. You understand and agree that the Service is provided "as is" and that DataCore assumes no responsibility for the timeliness, deletion, mis-delivery of or failure to store any user content or settings. You are responsible for obtaining access to the Service, which access may involve third-party fees (such as Internet Service Provider charges). Your access to the Service may require the purchase of other DataCore products or services or your continuous entitlement under those purchases (for example, support maintenance contract for on-premises licensed DataCore product). In addition, you must provide and are responsible for all equipment necessary to access the Service.

If you are an evaluation (free trial period) user of SANSymphony™, your access to the Service is granted at DataCore's sole discretion and is for customer pre-purchase evaluation only. The evaluation period and Service access shall be determined solely by DataCore and may be terminated or restricted at any time, with or without notice, and without any DataCore liability whatsoever.

### 2. Your Account

In consideration of your use of the Service, you represent and warrant that (i) you are of legal age to form a binding contract and are not a person barred from receiving services under the laws of the United States or any other applicable jurisdiction, (ii) your use of the Service does not violate any applicable law or regulation, and (iii) you are human. Accounts registered by "bots" or other automated methods are not permitted. You also agree to: (a) provide true, accurate, current and

complete information about yourself (and your Company, if applicable) as prompted by the Service's registration form ("Registration Data"); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or DataCore has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, DataCore has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

Registration Data and certain other information about you, or other individuals, provided by you to DataCore as part of you accessing the Service or DataCore administering your use of the Service is subject to our Privacy Policy which is incorporated by reference herein in its entirety. For more information, see our privacy policy at <http://www.datacore.com/privacy/>. To the extent that personal data within the meaning of the European Union's General Data Protection Regulation (EU 2016/679 ("GDPR")) is collected by DataCore, the following link <https://info.datacore.com/resources/legal/dpa.pdf>, shall apply and hereby incorporated into the TOS by this reference.

You will be required to establish a password and account designation during the Service registration process. You are responsible for maintaining the confidentiality of the password and account and are fully responsible for all activities that occur under your password or account. You agree to (a) immediately notify DataCore of any unauthorized use of your password or account or any other breach of security; and (b) ensure that you exit from your account at the end of each session. DataCore cannot and will not be liable for any loss or damage arising from your failure to comply with the TOS, including, without limitation, this Section 2.

### **3. Fee**

The Service is only available as a feature of your paid SANSymphony™ subscription, purchased through authorized DataCore distributors (with the exception of authorized evaluation users). No separate fee is required for the Service. Use of the Service is at your option. In no event will you receive a credit or refund to your SANSymphony™ subscription fee for not using the Service or for turning the Service off from the user interface. In the event that you use the Service, then at any time turn it off or otherwise discontinue using it, DataCore will not accept liability from any resulting loss of Content or data from your account.

For SANSymphony™ evaluation users, you may not receive a notice from DataCore that your free trial has ended or that your access to the Service, and associated Content or data, has ceased.

### **4. Content**

You understand that all information, content, data, text, or other materials, including, without limitation, messages and support information (collectively, "Content"), whether publicly posted or privately transmitted, are the sole responsibility of the person from whom such Content originated. Content shall not include your System Data (as such term is defined in Section 5). You, and not DataCore, are entirely responsible for all Content that you upload, post, email, transmit or otherwise make available via the Service. DataCore does not control the Content posted via the Service and, as such, does not guarantee the accuracy, integrity or quality of such Content. You understand that by using the Service, you may be exposed to Content that is offensive, indecent, objectionable or illegal in your jurisdiction. Under no circumstances will DataCore be liable in any way for any Content, including, but not limited to, any errors or omissions in any Content, or any loss or damage of any kind incurred as a result of the use of any Content posted, emailed, transmitted or otherwise made available via the Service.

You agree to not use the Service to transmit, upload, store, maintain, distribute or otherwise use Content through the Service that violates any third party rights, is false or fraudulent, defamatory, obscene or otherwise violates the rights of any third party, including, without limitation, taking any of the following actions:

- upload, post, email, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable, under any applicable laws;
- harm minors in any way;
- impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- disguise the origin of any Content transmitted through the Service;
- upload, post, email, transmit or otherwise make available any Content that you do not have a right to make available under any applicable law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- upload, post, email, transmit or otherwise make available any Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
- upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail", "spam", or any other form of solicitation;
- upload, post, email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- act in a manner that negatively affects other users' ability to use the Service;
- interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service;
- intentionally or unintentionally violate any applicable local, state, national or international law;
- provide material support or resources (or to conceal or disguise the nature, location, source, or ownership of material support or resources) to any organization(s) designated by the United States government as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act.

You acknowledge that DataCore may or may not pre-screen Content, but that DataCore and its designees shall have the right (but not the obligation) in its sole discretion to pre-screen, refuse, or move any Content that is provided to or available by the Service. You agree that you must evaluate and bear all risks associated with providing Content, including any reliance on the accuracy, completeness, or usefulness of such Content.

You acknowledge, consent and agree that DataCore may access, preserve and disclose your account information, Content and System Data if required to do so by any applicable law or in a good faith belief that such access preservation or disclosure is reasonably necessary to: (a) comply with any applicable legal process; (b) enforce the TOS; (c) respond to claims that any Content violates the rights of third parties; (d) respond to your requests for customer service; or (e) protect the rights, property or personal safety of DataCore, its users and the public.

You understand that the technical processing and transmission of the Service, including your Content and Service Data, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

You may not attempt to override or circumvent any of the usage rules embedded into the Service. Any unauthorized reproduction, publication, further distribution or public exhibition of the materials provided on the Service, in whole or in part, is strictly prohibited.

## **5. Ownership and License of Content and System Data**

DataCore does not claim ownership of Content that you submit or make available for inclusion on or through the Service. However, notwithstanding any other provision of the TOS, with respect to Content submitted through or via the Service, or which is made available for inclusion on publicly accessible areas of the Service, you grant DataCore a non-exclusive, worldwide, royalty-free, perpetual, irrevocable, transferable and fully sublicensable license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and publicly display such Content (in whole or in part) and to incorporate such Content into other works in any format or medium now known or later developed.

The term "System Data" shall mean all data and information about your systems and usage thereof (including, without limitation, the systems of your own clients, subcontractors and users, as applicable, and their respective usage thereof), which is either provided in connection with, uploaded to, or created, consolidated, analyzed or managed by, the Service. For the purpose of providing the Service, you authorize DataCore to collect such System Data. System Data is owned by you and shall not be deemed to be Content; provided however, DataCore reserves the right to collect, analyze, combine and utilize Non-Identifiable Data (as such term is defined below) from the Service for internal and commercial purposes including without limitation, research, benchmarking, sharing, developing enhancements to the Service and/or creating, selling, and licensing other DataCore products or services. The term "Non-Identifiable Data" shall mean System Data that has been compiled, extracted, modified, anonymized or aggregated in such a manner that neither the individual source of the data nor any individuals can reasonably be identified. You grant DataCore a worldwide, royalty-free, fully-paid, perpetual, irrevocable, transferable and fully sublicensable right to use such Non-Identifiable Data in any manner, including, without limitation, for commercial purposes.

## **6. Special Admonitions for International Use**

Recognizing the global nature of the Internet, you agree to comply with any and all applicable local, state, national or international laws and regulations regarding online conduct, acceptable Content and your use of the Service. Specifically, you also agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country or jurisdiction in which you reside. To the extent that personal data within the meaning of the European Union's General Data Protection Regulation (EU) 2016/679 ("GDPR") is collected by DataCore, the following link <https://info.datacore.com/resources/legal/dpa.pdf>, shall apply and hereby incorporated into the TOS by this reference.

## **7. Mutual Indemnification**

DataCore agrees to indemnify and hold you and your Company (if any), subsidiaries, affiliates, officers, directors, managers, stockholders, members, agents, attorneys, employees, partners, licensors and other representatives harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of, or in connection with, (i)

DataCore's violation of U.S.-registered patents, copyrights and trademarks (except to the extent caused by your Content, System Data or use of the Service in violation of the TOS), (ii) DataCore's gross negligence or intentional misconduct, and (iii) DataCore's violation of applicable U.S. law.

You agree to indemnify and hold DataCore and its parent (if any), subsidiaries, affiliates, officers, directors, stockholders, agents, attorneys, employees, partners, licensors and other representatives harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of, or in connection with, (i) Content you submit, post, transmit or otherwise make available through the Service, (ii) your use or access of the Service in a manner which is not expressly authorized by the TOS, (iii) your own connection to the Service, (iv) your violation of the TOS and all documents referenced herein, including, without limitation, the Privacy Policy, (v) your violation of any rights of another, and (vi) any taxes arising in connection with your purchase or use of the Service in any jurisdiction, domestic or otherwise, including, without limitation, sales and use tax.

The indemnifying party (the "Indemnifying Party") shall only be required to indemnify the other party (the "Indemnified Party") if: (i) the Indemnified Party promptly notifies the Indemnifying Party of a claim; (ii) the Indemnified Party provides the Indemnifying Party with full control of the defense and settlement of every such claim; (iii) the Indemnified Party reasonably cooperates with the Indemnifying Party in such defense and settlement, and (iv) the Indemnified Party does not settle any such claim or suit without the Indemnifying Party's prior written consent. The Indemnified Party may participate in the defense and settlement of any claim with counsel of its choice at its own expense provided that the Indemnifying Party shall continue to have sole control of such defense or settlement.

## **8. No Resale of Service**

You agree not to reproduce, duplicate, copy, sell, trade, lease, share, resell or exploit for any commercial purposes, any portion of the Service, use of the Service, or access to the Service unless you otherwise have a paid subscription (term license) to SANsymphony™, which specifically grants you such right(s).

## **9. General Practices Regarding Use and Storage**

You acknowledge that DataCore may establish general practices and limits concerning use of the Service, including, without limitation, the maximum size of the Content, the number of days that Content will be retained by the Service, the maximum storage space allotted by DataCore on your behalf, and the maximum number of times (and the maximum duration for which) you may access the Service in a given period of time. You agree that DataCore has no responsibility or liability for the deletion or failure to store any Content and other communications maintained or transmitted by the Service. You acknowledge that DataCore reserves the right to log off accounts that are inactive for an extended period of time. You further acknowledge that DataCore reserves the right to modify these general practices and limits from time to time without notice to you.

## **10. Modifications to Service**

DataCore reserves the right, at any time and from time to time, to modify, update, maintain or temporarily suspend the Service (or any part thereof) with or without notice to you. DataCore shall not be liable to you or to any third party for any such modification or temporary suspension of the Service.

## **11. Marketing**

Unless you otherwise provide a written request to DataCore, you agree to be identified as a customer of DataCore and you agree that DataCore may refer to you by name, trade name and trademark, if applicable, and may briefly describe your business in DataCore's marketing materials and web site.

## **12. Termination and Cancellation**

You agree that DataCore may, upon written notice (including notice by email or other electronic means), terminate your DataCore account and access to the Service for cause. Such termination may be made immediately upon notice to you with cause, as determined in DataCore's reasonable discretion. For illustrative purposes only, cause shall be deemed to include, but not be limited to: (a) breaches or violations of the TOS or other incorporated agreements or guidelines; (b) requests by law enforcement or other government agencies; (c) a request by you (self-initiated account deletions); (d) unexpected technical or security issues or problems; (e) extended periods of inactivity; (g) engagement by you in fraudulent or illegal activities; and/or (g) nonpayment of any fees owed by you to DataCore. DataCore shall not be liable to you or any third party in any other manner with respect to any termination of your account, or access to the Service. Upon termination you agree to immediately cease use of the Service. Applicable Sections of the TOS shall survive any termination of the TOS.

Following the expiration or termination of your SANsymphony™ subscription (or free evaluation period), DataCore may destroy your Content and/or data in accordance with its internal backup and archival policy. In no event shall DataCore be liable to you for loss of your Content or data.

## **13. Dealings with Third Parties**

Your correspondence or business dealings with, or participation in promotions of, any third parties found on or through the Service (if any), including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such third party. You agree that DataCore shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings.

## **14. Links**

The Service may provide, or third parties may provide, links to other internet sites or resources. Because DataCore has no control over such sites and resources, you acknowledge and agree that DataCore is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products or other materials on or available from such sites or resources. You further acknowledge and agree that DataCore shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

## **15. DataCore's Proprietary Rights**

You acknowledge that DataCore solely and exclusively owns all copyrights, trademarks, patents, trade secrets and/or other intellectual property rights ("IP Rights") in and to (i) the Service including any updates, upgrades, revisions thereto, (ii) any accompanying documentation provided by DataCore, and (iii) any software, reports or tools used in connection with the Service. You are not granted any rights to the foregoing except as expressly set forth herein. All rights to the Service (and any DataCore software) not expressly granted in the TOS are reserved to DataCore.

You acknowledge and agree that the Service contains proprietary and confidential information, including, but not limited to, code, technology, know-how, ideas, algorithms, testing procedures, structure, interfaces, specifications, documentation, bugs, problem reports, analysis and performance information, and other technical, business, product, and data (“Confidential Information”) that is protected by applicable intellectual property and other laws. You shall not disclose Confidential Information to any third party or use Confidential Information for any purpose other than using the Service as authorized herein. You also acknowledge and agree that a breach of this provision will cause irreparable harm to DataCore for which it will have no adequate remedy at law, and therefore it shall be entitled to obtain injunctive relief to restrain violations of this provision, in addition to any other remedies it may have at law or equity.

For each paid SANSymphony™ subscription, DataCore grants you the right to use the Service in accordance with the terms and conditions of the TOS. You shall not (and shall not allow any third party, including employees and contractors), to: (a) decompile, disassemble, or otherwise reverse engineer the Service or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Service by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions); (b) distribute, sell, sublicense, rent, lease or use the Service (or any portion thereof) for time sharing, hosting, service provider or like purposes; (c) remove any product identification, proprietary, copyright or other notices contained in the Service; (d) modify, adapt, create a derivative work of, merge or translate any part of the Service, or incorporate the Service into or with other service or software, except to the extent expressly authorized in writing by DataCore (e) publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to the Service; (f) utilize any equipment, device, software, or other means designed to circumvent or remove any form of license key or copy protection used by DataCore in connection with the Service, or use the Service together with any authorization code, license key, serial number, or other copy protection device not supplied by DataCore; (g) use the Service as a component of, as a base for, or to develop a product which is competitive with any products and services offered by DataCore; (h) use the Service to develop a product that converts any DataCore file format to an alternative report file format used by any general-purpose report writing, data analysis or report delivery product that is not the property of DataCore; or (i) engage in any unauthorized access to the Service whatsoever.

Without DataCore’s written consent, you may not: (i) use the Service for purposes of benchmarking, competitive or disparaging purposes, or (ii) publish or disclose to any third-party comments, reviews or insights.

## **16. Disclaimer of Warranties**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. DATACORE AND ITS PARENT (IF ANY), SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, AGENTS, ATTORNEYS, PARTNERS, LICENSORS AND OTHER REPRESENTATIVES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

DATACORE AND ITS PARENT (IF ANY), SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, AGENTS, ATTORNEYS, PARTNERS, LICENSORS AND OTHER

REPRESENTATIVES MAKE NO WARRANTY THAT: (i) THE SERVICE WILL MEET YOUR REQUIREMENTS; (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE; (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, ANALYSIS, REPORTS OR OTHER MATERIAL PURCHASED, PROVIDED BY OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS; AND (v) ANY ERRORS IN THE SERVICE WILL BE CORRECTED.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM DATACORE OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS.

### **17. Limitation of Liability**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT DATACORE AND ITS PARENT (IF ANY), SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, AGENTS, ATTORNEYS, PARTNERS, LICENSORS AND OTHER REPRESENTATIVES SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF DATACORE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), INCLUDING, WITHOUT LIMITATION, ARISING FROM THE USE OR THE INABILITY TO USE THE SERVICE (INCLUDING, WITHOUT LIMITATION, ISSUES CAUSED BY DATACORE'S THIRD-PARTY HOSTING PROVIDER), THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE, THE UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA, THE STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE, SYSTEM DOWNTIME, GOODWILL, PROFITS OR OTHER BUSINESS LOSS, LOSS OR CORRUPTION OF DATA BEYOND DATACORE'S REASONABLE CONTROL (INCLUDING, WITHOUT LIMITATION, ANY ISSUES CAUSED BY DATACORE'S THIRD-PARTY HOSTING PROVIDER, IF ANY), REGARDLESS OF LEGAL THEORY, EVEN IF DATACORE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES AGREE THAT THE LIMITATIONS OF THIS SECTION ARE ESSENTIAL AND THAT DATACORE WOULD NOT PERMIT YOU TO USE THE SERVICE OR SOFTWARE ABSENT THE TERMS OF THIS SECTION. THIS SECTION SHALL SURVIVE AND APPLY EVEN IF ANY REMEDY SPECIFIED IN THE TOS (OR OTHER DOCUMENT REFERENCED HEREIN) SHALL BE FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, DATACORE'S MAXIMUM AGGREGATE LIABILITY TO YOU FOR ANY CAUSES WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION, WILL AT ALL TIMES BE LIMITED TO ONE HUNDRED USD (\$100).

### **18. Exclusions and Limitations**

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF SECTIONS 16 AND 17 MAY NOT APPLY TO YOU.



## **19. DataCore Trademarks**

DataCore Insight Services™, SANsymphony™, their trademarks and service marks, and all other DataCore logos and product and service names, are trademarks of DataCore. Any use of DataCore trademarks is strictly prohibited without the written consent of DataCore.

## **20. Export Law Assurances**

You may not, and may not allow or enable any third-party, to use or otherwise export or re-export the Service except as authorized by United States law and the laws of the jurisdiction in which DataCore was obtained. In particular, but without limitation, the Service may not be provided or enabled (a) into (or to a national or resident of) any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List or Unverified List or Blocked Persons List or Debarred List on Nonproliferation Sanctions List. By using the Service, you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list.

Without limiting the foregoing, you acknowledge that you are not a person or entity prohibited from receiving U.S. exports or a person or entity which engages in the development, production, or stockpiling of missiles or nuclear, chemical, or biological weapons. You further acknowledge that (i) You are not located in, and (ii) are not a national of Cuba, Iran, Iraq, Kosovo (Serbian controlled), Libya, Montenegro, North Korea, Serbia, Sudan, Syria, any Taliban-controlled areas of Afghanistan, or any other U.S.- embargoed country or area. Restricted countries currently include, but may not be limited to: Cuba, Iran, Iraq, Libya, Kosovo (Serbian controlled), Montenegro, Serbia, North Korea, Sudan and Syria and any Taliban-controlled areas of Afghanistan, or any other U.S.-embargoed country or area.

You agree not to allow or enable use of the Service and/or associated technical data to any national of the above-listed countries, or to any other person or entity prohibited from receiving U.S. exports or to any entity which engages in the development, production, or stockpiling of missiles or nuclear, chemical, or biological weapons.

## **21. Service Compliance**

DataCore reserves the right to run reasonable periodic Service compliance reports to ensure that your use of the Service is within your SANsymphony™ subscription parameters. If such compliance reports indicate that you have accessed or permitted access to the Service in a manner that is not permitted under the TOS, then you shall be liable for the reasonable costs of such non-compliance fees, damages and penalties, which DataCore may be entitled to under the TOS and applicable law.

## **22. Third-party Code**

The Service may contain or be provided with components subject to the terms and conditions of "open source" software licenses ("Open Source Software"). To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of the TOS with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification or reverse engineering.

## **23. Support and Maintenance**

Your paid SANsymphony™ subscription includes support and maintenance of the Service. DataCore shall provide support and maintenance in accordance to DataCore's standard policies as

shown at the following link: <https://www.datacoreassets.com/resources/support/DataCore-Software-Support-Services-Terms-and-Conditions.pdf> and hereby incorporated in the TOS by this reference. DataCore, at its sole discretion, may update the support and maintenance policies from time to time, with or without notice to you.

#### **24. Force Majeure**

If by reason of labor disputes, strikes, lockouts, riots, war, acts of terrorism, inability to obtain labor or materials, earthquake, fire or other action of the elements, accidents, governmental restrictions, appropriation or other causes beyond the reasonable control of DataCore, DataCore is unable to perform in whole or in part its obligations as set forth in this TOS, then DataCore shall be relieved of those obligations (other than the payment of money) to the extent it is so unable to perform and such inability to perform shall not make DataCore liable to you. DataCore shall not be liable for any loss, injury, delay or damages (other than failure to receive monies when due) suffered or incurred by you due to the above causes.

#### **25. General**

This TOS governs your use of the Service, superseding any prior agreements between you and DataCore with respect to the Service. It may be modified from time to time at DataCore's sole discretion. No DataCore dealer, distributor or sales representative is authorized to make any modifications, extensions or additions to the TOS. You are also subject to additional terms and conditions that apply to your SANsymphony™ subscription, and, as applicable, terms and conditions that pertain to the purchase of other DataCore products, services, affiliate services, third-party content or third-party software.

The failure of DataCore to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties intentions as reflected in the provision, and the other provisions of the TOS shall remain in full force and effect.

You agree that your DataCore account is non-transferable and non-assignable without written permission from DataCore.

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the TOS must be filed within one (1) year after such claim or cause of action arose or be forever barred.

The section titles in the TOS are for convenience only and have no legal or contractual effect.