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**SPOT License Agreement**

(Updated October 29, 2014)

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**SBS SERVERS.** If You have access to SBS servers, You promise to only upload to SBS servers data generated from the proper use of the Software and promise not to use SBS's servers or services in any manner in violation of any state, local or United States law, rule or regulation and promise not to undermine or cause harm to SBS's servers, computers or other clients. Such prohibited use includes, but is not limited to, disseminating, posting or storage of any material in violation of any Federal, state or local law, rule or regulation. You shall use the SBS's servers only in connection with the Software operation and shall not intentionally or willfully harm SBS's servers or attain or attempt to attain data from SBS's servers other than Your own Software generated data. You should perform an anti-virus check prior to uploading any files to SBS's servers and failure to do so could result in your loss of Your License. You are responsible for ensuring that all passwords, log-in credentials, and all similar access codes provided to You by SBS are kept secret and confidential and not disclosed except to essential personnel. Any unauthorized use or attempted use of an internet account or computer of SBS or its other clients is prohibited. Such acts include "internet scamming" (tricking other people into releasing their passwords), password robbery, security hole scanning, etc. SBS reserves the right to terminate Your License in the event of Your intentional abuse or misuse of the Software or SBS's servers.

You agree that SBS may access, preserve and disclose Your account information and all data stored on SBS serves as a result of your License if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary to comply with legal process. You agree that SBS has no responsibility or liability for the deletion or failure to store data transmitted to SBS as a result of the Web Hosting or Subscription that is beyond SBS's reasonable control.

**NO REIMBURSEMENT.** SBS will **not** reimburse You for lost profits, revenue, or clients, or pay for any type of damages You incur as a result of loss(es), resulting from the Web Hosting Software or data being unavailable for any length of time.

**FEES.** You agree to pay SBS's internally designated standard rates for Web Hosting, Subscription and Customer Care, as applicable to You. In addition, You shall pay SBS for requested data production, manipulation and/or migration and other services, each at SBS's internally designated standard rate. These rates vary dependent upon the complexity of Your data request. All of SBS's internally designated standard rates may change from time to time. Fees for Web Hosting, Subscription and Customer Care are payable in advance on the first business day of each month by ACH (automatic checking account debit) or such other method of payment preapproved by SBS and all other fees are payable on the first day of the month immediately following the month in which they are incurred. SBS reserves the right to terminate your access to the Software if payment of any of Your fees and/or other amounts owed to SBS is not timely received. If You have acquired a business that utilized Web Hosting or Subscription, then in addition to the payment of Your own data migration fees, You shall pay any and all unpaid fees owed to SBS by such prior business owner. You have this obligation regardless as to the precise manner You acquired the business (asset purchase or stock type purchase). In the event of a breach of the License or this Agreement by You, SBS shall also have the right to recover all outstanding fees and all damages and losses suffered by SBS or its authorized representatives, agents, employees or distributors.

**DATA.** SBS reserves the right to use data collected by Your use of the Software for purposes of software analytics/trending/general data mining for SBS's own purposes and/or for sale to third parties; provided, however, in no case will Your data be sold or shared with an outside party such that a unique customer, store, operator or collection of relation operators could be identified. SBS also reserves the right to withhold Your access to such data until all outstanding amounts owed to SBS are paid in full. In the event of a transfer or alleged transfer of the ownership of a business that generates such data, SBS has the right to require such written consents as it deems necessary before permitting access to such data. All collected and stored data may be archived, removed or destroyed by SBS any time after the time period indicated on the following table. You will pay a monthly storage fee for any such storage beyond such dates. Contact SBS's sales office at 801-208-2212 in advance to arrange for continued storage.

Data Type	Period (shortest period applies)
1. Production transaction data	Archived after two years from SBS's invoice sales date
2. Archived production transaction data	Stored in an archived state for only one year after archived invoice date and then destroyed
3. Historical Event Log data	Stored for four months from the date of the transaction date and then destroyed
4. Customer credit card information	Removed from customer records upon the earlier of: a. 4 months after expiration date and no customer activity and b. 12 months after last customer transaction date
5. E-mail correspondence	Destroyed three (3) years after receipt or creation
6. HSL/Itemtrac data	Destroyed after three (3) years of non-use

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**TAXES.** You will pay all sales and use tax generated as a result of all payments to SBS, whether for a License, Customer Care, equipment or any other fee, whether or not such taxes are initially collected by SBS. To the extent SBS fails to collect the full amount of such taxes from You, which collection is only made if it is clearly designated as such in any invoicing by SBS, You will indemnify and hold harmless SBS from all such non-collected taxes, as well as all interest and penalty incurred or threatened to be incurred as a result of failure to fully collect and pay such taxes.

**DISPUTES.** All disputes and disagreements arising out of the License or this Agreement shall be submitted to and settled by arbitration. An arbitrator selected by SBS from the American Arbitration Association list of arbitrators shall be used. The arbitration shall proceed in accordance with the rules and procedures of the American Arbitration Association and shall be held in Salt Lake City, Utah. The decision of the arbitrator shall be final and conclusive on the parties. The decision and award of the arbitrator may be entered in any court of competent jurisdiction, and enforced by due proceedings in such court.

**INDEMNIFICATION.** You agree and promise to defend, indemnify, save and hold SBS harmless from any and all demands, liabilities, losses, costs and claims, including but not limited to, reasonable attorney's fees, asserted against SBS, its agents or employees, that may arise, result, or be threatened as a result of: (1) payment of Your fee via ACH and (2) Your actions or the actions of Your employees, agents or assigns.

**WAIVER.** No waiver of any provision of the License or this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

**MODIFICATION.** No changes, modifications, addendum, supplement or amendment to any provision of this Agreement shall be valid unless executed in writing by SBS or posted by SBS on its Web site. It is contemplated that there will be such a written agreement for most Purchased Licenses. In which case, the provisions herein contained will still control except to the extent they are in conflict with the terms of such written agreement. **SBS reserves the right to amend Your License at any time by posting such amendment on its Web site.**

**MISCELLANEOUS.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, permitted assigns and legal representatives. The License is made pursuant to and shall be governed by and construed in accordance with the laws of the State of Utah. In the event that any provision of this Agreement conflicts with the law under which the License is to be construed or is held invalid by any court with jurisdiction, such provision shall be deemed to be restated or redacted to reflect as nearly as possible the original intention of the parties in accordance with applicable law, and the remainder of the Agreement shall remain in full force and effect.

**ENTIRE AGREEMENT.** Except as provided for above, this Agreement sets forth the entire agreement concerning the Software and License and supersedes any prior communications, proposals, representations, understandings, license, or agreements, whether oral or written, between SBS and You with respect to the subject matter of this Agreement.

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**(End of SPOT License Agreement)**