

Inscape Data Corporation, 1611 South Main Street, Milpitas, CA 95035 USA

# **Inscape Data Corporation Limited Warranty and Disclaimer of Warranty**

*Hardware.* Inscape Data Corporation, or subsidiary selling the Product ("Inscape Data") warrants that commencing from the date of shipment to Customer (and in case of resale by a Inscape Data's reseller, commencing not more than ninety (90) days after original shipment by Inscape Data), and continuing for a period of the longer of (a) ninety (90) days or (b) the period set forth in the warranty card accompanying the Product (if any), the Hardware will be free from defects in material and workmanship under normal use. The date of shipment of a Product by Inscape Data is set forth on the packaging material in which the Product is shipped. This limited warranty extends only to the original user of the Product. Customer's sole and exclusive remedy and the entire liability of Inscape Data and its suppliers under this limited warranty will be, at Inscape Data's or its service center's option, shipment of a replacement within the warranty period and according to the replacement process described in the warranty card (if any), or if no warranty card, as described on the Inscape Data Product Warranty Policy or a refund of the purchase price if the Hardware is returned to the party supplying it to Customer, freight and insurance prepaid. Inscape Data replacement parts used in Hardware replacement may be new or equivalent to new. Inscape Data's obligations hereunder are conditioned upon the return of affected Hardware in accordance with Inscape Data's or its service center's then-current Return Material Authorization (RMA) procedures.

*Software.* The limited warranty in the United States Federal Communications Commission Notice sets forth Inscape Data's warranty obligations with respect to the Software.

Restrictions. The above Hardware warranty and limited warranty in the End User License Agreement ("Software warranty") do not apply if the Software, Hardware Product or any other equipment upon which the Software is authorized by Inscape Data or its suppliers or licensors to be used (a) has been altered, except by Inscape Data or its authorized representative, (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Inscape Data, (c) has been subjected to abnormal physical or electrical stress, abnormal environmental conditions, misuse, negligence, or accident; or (d) is licensed for beta, evaluation, testing or demonstration purposes. The Software warranty also does not apply to (e) any temporary Software modules; (f) any Software not posted on Inscape Data's Software Center (on InscapeData.com URL where Inscape Data makes the Software publicly available to customers); (g) any Software that Inscape Data expressly provides on an "AS IS" basis on Inscape Data's Software Center; or (h) any Software for which Inscape Data does not receive a license fee.

#### **DISCLAIMER OF WARRANTY**

EXCEPT AS SPECIFIED IN THIS WARRANTY SECTION, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, NON-INTERFERENCE, ACCURACY OF INFORMATIONAL CONTENT, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW AND ARE EXPRESSLY DISCLAIMED BY INSCAPE DATA, ITS SUPPLIERS AND LICENSORS. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, THE ABOVE LIMITATION MAY NOT APPLY. THESE WARRANTIES GIVE CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

### **INSCAPE DATA CORPORATION**

### 1-Year Limited Hardware Warranty Terms

The following are special terms applicable to your hardware warranty. Your formal Warranty Statement, including the warranty applicable to Inscape Data software, appears in the End User License Agreement that accompanies your Inscape Data product.

**Duration of Hardware Warranty:** One (1) Year

**Replacement, Repair or Refund Procedure for Hardware:** Inscape Data or its authorized service center will use commercially reasonable efforts to ship a replacement part after receipt of the RMA request and the RMA item. Actual delivery times may vary depending on Customer location. Inscape Data reserves the right to refund the purchase price as its exclusive warranty remedy.

**To Receive a Return Materials Authorization (RMA) Number:** Please go to Inscape Data's website and complete the RMA request, http://www.inscapedata.com/rma.htm.



Inscape Data Corporation, 1611 South Main Street, Milpitas, CA 95035 USA

IMPORTANT: PLEASE READ THIS END USER LICENSE AGREEMENT CAREFULLY. DOWNLOADING, INSTALLING OR USING INSCAPE DATA OR INSCAPE DATA-SUPPLIED SOFTWARE CONSTITUTES ACCEPTANCE OF THIS AGREEMENT.

INSCAPE DATA CORPORATION OR ITS SUBSIDIARY LICENSING THE SOFTWARE INSTEAD OF INSCAPE DATA CORPORATION ("INSCAPE DATA") IS WILLING TO LICENSE ITS SOFTWARE TO YOU ONLY UPON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS CONTAINED IN THIS END USER LICENSE AGREEMENT PLUS ANY ADDITIONAL LIMITATIONS ON THE LICENSE SET FORTH IN A SUPPLEMENTAL LICENSE AGREEMENT ACCOMPANYING THE PRODUCT (COLLECTIVELY THE "AGREEMENT"). TO THE EXTENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS END USER LICENSE AGREEMENT AND ANY SUPPLEMENTAL LICENSE AGREEMENT, THE SUPPLEMENTAL LICENSE AGREEMENT SHALL APPLY. BY DOWNLOADING, INSTALLING, OR USING THE SOFTWARE, YOU ARE BINDING YOURSELF AND THE BUSINESS ENTITY THAT YOU REPRESENT (COLLECTIVELY, "CUSTOMER") TO THE AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THE AGREEMENT, THEN INSCAPE DATA IS UNWILLING TO LICENSE THE SOFTWARE TO YOU AND (A) YOU MAY NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE, AND (B) YOU MAY RETURN THE SOFTWARE (INCLUDING ANY UNOPENED CD PACKAGE AND ANY WRITTEN MATERIALS) FOR A FULL REFUND, OR, IF THE SOFTWARE AND WRITTEN MATERIALS ARE SUPPLIED AS PART OF ANOTHER PRODUCT. YOU MAY RETURN THE ENTIRE PRODUCT FOR A FULL REFUND. YOUR RIGHT TO RETURN AND REFUND EXPIRES 30 DAYS AFTER PURCHASE FROM INSCAPE DATA OR AN AUTHORIZED INSCAPE DATA RESELLER, AND APPLIES ONLY IF YOU ARE THE ORIGINAL END USER PURCHASER.

THE FOLLOWING TERMS OF THE AGREEMENT GOVERN CUSTOMER'S ACCESS AND USE OF EACH INSCAPE DATA OR INSCAPE DATA-SUPPLIED SOFTWARE ("SOFTWARE"), EXCEPT TO THE EXTENT: (A) THERE IS A SEPARATE SIGNED CONTRACT BETWEEN CUSTOMER AND INSCAPE DATA GOVERNING CUSTOMER'S USE OF THE SOFTWARE, OR (B) THE SOFTWARE INCLUDES A SEPARATE "CLICK-ACCEPT" LICENSE AGREEMENT OR THIRD PARTY LICENSE AGREEMENT AS PART OF THE INSTALLATION AND/OR DOWNLOAD PROCESS GOVERNING CUSTOMER'S USE OF THE SOFTWARE. TO THE EXTENT OF A CONFLICT BETWEEN THE PROVISIONS OF THE FOREGOING DOCUMENTS, THE ORDER OF PRECEDENCE SHALL BE (1)THE SIGNED CONTRACT, (2) THE CLICK-ACCEPT AGREEMENT OR THIRD PARTY LICENSE AGREEMENT, AND (3) THE AGREEMENT.

License. Conditioned upon compliance with the terms and conditions of the Agreement, Inscape Data grants to Customer a nonexclusive and nontransferable license to use for Customer's internal business purposes the Software and the Documentation for which Customer has paid the required license fees. "Documentation" means written information (whether contained in user or technical manuals, training materials, specifications or otherwise) pertaining to the Software and made available by Inscape Data with the Software in any manner (including on CD-ROM, or on-line). In order to use the Software, Customer may be required to input a registration number or product authorization key and register Customer's copy of the Software online at Inscape Data's website to obtain the necessary license key or license file.

#### **End User License Agreement**

Customer's license to use the Software shall be limited to, and Customer shall not use the Software in excess of, a single hardware chassis or card or such other limitations as are set forth in the applicable Supplemental License Agreement or in the applicable purchase order which has been accepted by Inscape Data and for which Customer has paid to Inscape Data the required license fee (the "Purchase Order"). Unless otherwise expressly provided in the Documentation or any applicable Supplemental License Agreement, Customer shall use the Software solely as embedded in, for execution on, or (where the applicable Documentation permits installation on non-Inscape Data equipment) for communication with Inscape Data equipment owned or leased by Customer and used for Customer's internal business purposes. No other licenses are granted by implication, estoppel or otherwise.

For evaluation or beta copies for which Inscape Data does not charge a license fee, the above requirement to pay license fees does not apply.

General Limitations. This is a license, not a transfer of title, to the Software and Documentation, and Inscape Data retains ownership of all copies of the Software and Documentation. Customer acknowledges that the Software and Documentation contain trade secrets of Inscape Data or its suppliers or licensors, including but not limited to the specific internal design and structure of individual programs and associated interface information. Except as otherwise expressly provided under the Agreement, Customer shall have no right, and Customer specifically agrees not to:

- transfer, assign or sublicense its license rights to any other person or entity (other than in compliance
  with any Inscape Data relicensing/transfer policy then in force), or use the Software on unauthorized or
  secondhand Inscape Data equipment, and Customer acknowledges that any attempted transfer,
  assignment, sublicense or use shall be void;
- make error corrections to or otherwise modify or adapt the Software or create derivative works based upon the Software, or permit third parties to do the same;
- (iii) reverse engineer or decompile, decrypt, disassemble or otherwise reduce the Software to human-readable form, except to the extent otherwise expressly permitted under applicable law notwithstanding this restriction:
- (iv) publish any results of benchmark tests run on the Software;
- use or permit the Software to be used to perform services for third parties, whether on a service bureau or time sharing basis or otherwise, without the express written authorization of Inscape Data; or
- (vi) disclose, provide, or otherwise make available trade secrets contained within the Software and Documentation in any form to any third party without the prior written consent of Inscape Data.
   Customer shall implement reasonable security measures to protect such trade secrets.

To the extent required by applicable law, and at Customer's written request, Inscape Data shall provide Customer with the interface information needed to achieve interoperability between the Software and another independently created program, on payment of Inscape Data's applicable fee, if any. Customer shall observe strict obligations of confidentiality with respect to such information and shall use such information in compliance with any applicable terms and conditions upon which Inscape Data makes such information available.

Software, Upgrades and Additional Copies. For purposes of the Agreement, "Software" shall include (and the terms and conditions of the Agreement shall apply to) computer programs, including firmware, as provided to Customer by Inscape Data or an authorized Inscape Data reseller, and any upgrades, updates, bug fixes or modified versions thereto (collectively, "Upgrades") or backup copies of any of the foregoing. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT: (1) CUSTOMER HAS NO LICENSE OR RIGHT TO MAKE OR USE ANY ADDITIONAL COPIES OR UPGRADES UNLESS CUSTOMER, AT THE TIME OF MAKING OR ACQUIRING SUCH COPY OR UPGRADE, ALREADY HOLDS A VALID LICENSE TO THE ORIGINAL SOFTWARE AND HAS PAID THE APPLICABLE FEE FOR THE UPGRADE OR ADDITIONAL COPIES; (2) USE OF UPGRADES IS LIMITED TO INSCAPE DATA EQUIPMENT FOR WHICH CUSTOMER IS THE ORIGINAL END USER PURCHASER OR LESSEE OR OTHERWISE HOLDS A VALID LICENSE TO USE THE SOFTWARE WHICH IS BEING UPGRADED; AND (3) THE MAKING AND USE OF ADDITIONAL COPIES IS LIMITED TO NECESSARY BACKUP PURPOSES ONLY.

**Proprietary Notices.** Customer agrees to maintain and reproduce all copyright and other proprietary notices on all copies, in any form, of the Software in the same form and manner that such copyright and other proprietary notices are included on the Software. Except as expressly authorized in the Agreement, Customer shall not make any copies or duplicates of any Software without the prior written permission of Inscape Data.

Term and Termination. The Agreement and the license granted herein shall remain effective until terminated. Customer may terminate the Agreement and the license at any time by destroying all copies of Software and any Documentation. Customer's rights under the Agreement will terminate immediately without notice from Inscape Data if Customer fails to comply with any provision of the Agreement. Upon termination, Customer shall destroy all copies of Software and Documentation in its possession or control. All confidentiality obligations of Customer and all limitations of liability and disclaimers and restrictions of warranty shall survive termination of this Agreement. In addition, the provisions of the sections titled "U.S. Government End User Purchasers" and "General Terms Applicable to the Limited Warranty Statement and End User License Agreement" shall survive termination of the Agreement.

Customer Records. Customer grants to Inscape Data and its independent accountants the right to examine Customer's books, records and accounts during Customer's normal business hours to verify compliance with this Agreement. In the event such audit discloses non-compliance with this Agreement, Customer shall promptly pay to Inscape Data the appropriate license fees, plus the reasonable cost of conducting the audit.

Export, Re-Export, Transfer and Use Controls. The Software, Documentation and technology or direct products thereof (hereafter referred to as Software and Technology), supplied by Inscape Data under the Agreement are subject to export controls under the laws and regulations of the United States (U.S.) and any other applicable countries' laws and regulations. Customer shall comply with such laws and regulations governing export, re-export, transfer and use of Inscape Data Software and Technology and will obtain all required U.S. and local authorizations, permits, or licenses. Inscape Data and Customer each agree to provide the other information,

support documents, and assistance as may reasonably be required by the other in connection with securing authorizations or licenses.

#### **End User License Agreement**

U.S. Government End User Purchasers. The Software and Documentation qualify as "commercial items," as that term is defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212 and DoD FAR Supp. 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which the Agreement may be incorporated, Customer may provide to Government end user or, if the Agreement is direct, Government end user will acquire, the Software and Documentation with only those rights set forth in the Agreement. Use of either the Software or Documentation or both constitutes agreement by the Government that the Software and Documentation are "commercial computer software" and "commercial computer software documentation," and constitutes acceptance of the rights and restrictions herein.

#### **Limited Warranty**

Subject to the limitations and conditions set forth herein, Inscape Data warrants that commencing from the date of shipment to Customer (but in case of resale by an authorized Inscape Data reseller, commencing not more than ninety (90) days after original shipment by Inscape Data), and continuing for a period of the longer of (a) ninety (90) days or (b) the warranty period (if any) expressly set forth as applicable specifically to software in the warranty card accompanying the product of which the Software is a part (the "Product") (if any): (a) the media on which the Software is furnished will be free of defects in materials and workmanship under normal use; and (b) the Software substantially conforms to the Documentation. The date of shipment of a Product by Inscape Data is set forth on the packaging material in which the Product is shipped. Except for the foregoing, the Software is provided "AS IS". This limited warranty extends only to the Customer who is the original licensee. Customer's sole and exclusive remedy and the entire liability of Inscape Data and its suppliers under this limited warranty will be (i) replacement of defective media and/or (ii) at Inscape Data's option, repair, replacement, or refund of the purchase price of the Software, in both cases subject to the condition that any error or defect constituting a breach of this limited warranty is reported to Inscape Data or the party supplying the Software to Customer, if different than Inscape Data, within the warranty period. Inscape Data or the party supplying the Software to Customer may, at its option, require return of the Software and/or Documentation as a condition to the remedy. In no event does Inscape Data warrant that the Software is error free or that Customer will be able to operate the Software without problems or interruptions. In addition, due to the continual development of new techniques for intruding upon and attacking networks, Inscape Data does not warrant that the Software or any equipment, system or network on which the Software is used will be free of vulnerability to intrusion or attack.

Restrictions. This warranty does not apply if the Software, Product or any other equipment upon which the Software is authorized to be used (a) has been altered, except by Inscape Data or its authorized representative, (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Inscape Data, (c) has been subjected to abnormal physical or electrical stress, abnormal environmental conditions, misuse, negligence, or accident; or (d) is licensed for beta, evaluation, testing or demonstration purposes. The Software warranty also does not apply to (e) any temporary Software modules; or (f) any Software for which Inscape Data does not receive a license fee.

#### **DISCLAIMER OF WARRANTY**

EXCEPT AS SPECIFIED IN THIS WARRANTY SECTION, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, NON-INTERFERENCE, ACCURACY OF INFORMATIONAL CONTENT, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW AND ARE EXPRESSLY DISCLAIMED BY INSCAPE DATA, ITS SUPPLIERS AND LICENSORS. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, THE ABOVE LIMITATION MAY NOT APPLY. THIS WARRANTY GIVES CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. This disclaimer and exclusion shall apply even if the express warranty set forth above fails of its essential purpose.

## General Terms Applicable to the Limited Warranty Statement, End User License Agreement, and Supplemental License Agreement

Disclaimer of Liabilities - Limitation of Liability. IF YOU ACQUIRED THE SOFTWARE IN THE UNITED STATES, LATIN AMERICA, CANADA, JAPAN OR THE CARIBBEAN, NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT TO THE CONTRARY, ALL LIABILITY OF INSCAPE DATA, ITS

AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS AND LICENSORS COLLECTIVELY, TO CUSTOMER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY OR OTHERWISE, SHALL NOT EXCEED THE PRICE PAID BY CUSTOMER TO INSCAPE DATA FOR THE SOFTWARE THAT GAVE RISE TO THE CLAIM OR IF THE SOFTWARE IS PART OF ANOTHER PRODUCT, THE PRICE PAID FOR SUCH OTHER PRODUCT. THIS LIMITATION OF LIABILITY FOR SOFTWARE IS CUMULATIVE AND NOT PER INCIDENT (I.E. THE EXISTENCE OF TWO OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT). IF YOU ACQUIRED THE SOFTWARE IN EUROPE, THE MIDDLE EAST, AFRICA, ASIA OR OCEANIA, NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT TO THE CONTRARY, ALL LIABILITY OF INSCAPE DATA, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS AND LICENSORS COLLECTIVELY, TO CUSTOMER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY OR OTHERWISE, SHALL NOT EXCEED THE PRICE PAID BY CUSTOMER TO INSCAPE DATA FOR THE SOFTWARE THAT GAVE RISE TO THE CLAIM OR IF THE SOFTWARE IS PART OF ANOTHER PRODUCT, THE PRICE PAID FOR SUCH OTHER PRODUCT. THIS LIMITATION OF LIABILITY FOR SOFTWARE IS CUMULATIVE AND NOT PER INCIDENT (I.E. THE EXISTENCE OF TWO OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT). NOTHING IN THE AGREEMENT SHALL LIMIT (I) THE LIABILITY OF INSCAPE DATA, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS AND LICENSORS TO CUSTOMER FOR PERSONAL INJURY OR DEATH CAUSED BY THEIR NEGLIGENCE, (II) INSCAPE DATA'S LIABILITY FOR FRAUDULENT MISREPRESENTATION, OR (III) ANY LIABILITY OF INSCAPE DATA WHICH CANNOT BE EXCLUDED UNDER APPLICABLE

#### **End User License Agreement**

Disclaimer of Liabilities - Waiver of Consequential Damages and Other Losses. IF YOU ACQUIRED THE SOFTWARE IN THE UNITED STATES, LATIN AMERICA, THE CARIBBEAN OR CANADA, REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL INSCAPE DATA OR ITS SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT, OR LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE SOFTWARE OR OTHERWISE AND EVEN IF INSCAPE DATA OR ITS SUPPLIERS OR LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

IF YOU ACQUIRED THE SOFTWARE IN JAPAN, EXCEPT FOR LIABILITY ARISING OUT OF OR IN CONNECTION WITH DEATH OR PERSONAL INJURY, FRAUDULENT MISREPRESENTATION, AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL INSCAPE DATA, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS AND LICENSORS BE LIABLE FOR ANY LOST REVENUE, PROFIT, OR LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE SOFTWARE OR OTHERWISE AND EVEN IF INSCAPE DATA OR ITS SUPPLIERS OR LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IF YOU ACQUIRED THE SOFTWARE IN EUROPE, THE MIDDLE EAST, AFRICA, ASIA OR OCEANIA, IN NO EVENT WILL INSCAPE DATA, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS AND LICENSORS, BE LIABLE FOR ANY LOST REVENUE, LOST PROFIT, OR LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, HOWSOEVER ARISING, INCLUDING, WITHOUT LIMITATION, IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF, IN EACH CASE, INSCAPE DATA, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS AND LICENSORS, HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT FULLY APPLY TO YOU. THE FOREGOING WAIVER SHALL NOT APPLY TO ANY LIABILITY ARISING OUT OF OR IN CONNECTION WITH: (I) DEATH OR PERSONAL INJURY, (II) FRAUDULENT MISREPRESENTATION, OR (III) INSCAPE DATA'S LIABILITY IN CONNECTION WITH ANY TERMS THAT CANNOT BE EXCLUDED UNDER APPLICABLE LAW.

For all countries referred to above, Customer agrees that the limitations of liability and disclaimers set forth herein will apply regardless of whether Customer has accepted the Software or any other product or service delivered by Inscape Data. Customer acknowledges and agrees that Inscape Data has set its prices and entered into the Agreement in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its

essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties.

Controlling Law, Jurisdiction. If you acquired the Software in the United States, Latin America, or the Caribbean, the Agreement and Hardware and Software warranties ("Warranties") are controlled by and construed under the laws of the State of California, United States of America, notwithstanding any conflicts of law provisions; and the state and federal courts of California shall have exclusive jurisdiction over any claim arising under the Agreement or Warranties. If you acquired the Software in Canada, unless expressly prohibited by local law, the Agreement and Warranties are controlled by and construed under the laws of the Province of Ontario, Canada, notwithstanding any conflicts of law provisions; and the courts of the Province of Ontario shall have exclusive jurisdiction over any claim arising under the Agreement or Warranties. If you acquired the Software in Europe, the Middle East, Africa, Asia or Oceania (excluding Australia), unless expressly prohibited by local law, the Agreement and Warranties are controlled by and construed under the laws of England, notwithstanding any conflicts of law provisions; and the English courts shall have exclusive jurisdiction over any claim arising under the Agreement or Warranties. In addition, if the Agreement is controlled by the laws of England, no person who is not a party to the Agreement shall be entitled to enforce or take the benefit of any of its terms under the Contracts (Rights of Third Parties) Act 1999. If you acquired the Software in Japan, unless expressly prohibited by local law, the Agreement and Warranties are controlled by and construed under the laws of Japan, notwithstanding any conflicts of law provisions; and the Tokyo District Court of Japan shall have exclusive jurisdiction over any claim arising under the Agreement or Warranties. If you acquired the Software in Australia, unless expressly prohibited by local law, the Agreement and Warranties are controlled by and construed under the laws of the State of New South Wales, Australia, notwithstanding any conflicts of law provisions; and the State and federal courts of New South Wales shall have exclusive jurisdiction over any claim arising under the Agreement or Warranties. If you acquired the Software in any other country, unless expressly prohibited by local law, the Agreement and Warranties are controlled by and construed under the laws of the State of California, United States of America, notwithstanding any conflicts of law provisions; and the state and federal courts of California shall have exclusive jurisdiction over any claim arising under the Agreement or Warranties.

For all countries referred to above, the parties specifically disclaim the application of the UN Convention on Contracts for the International Sale of Goods. Notwithstanding the foregoing, either party may seek interim injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of such party's intellectual property or proprietary rights. If any portion hereof is found to be void or unenforceable, the remaining provisions of the Agreement and Warranties shall remain in full force and effect. Except as expressly provided herein, the Agreement constitutes the entire agreement between the parties with respect to the license of the Software and Documentation and supersedes any conflicting or additional terms contained in any Purchase Order or elsewhere, all of which terms are excluded. The Agreement has been written in the English language, and the parties agree that the English version will govern.

© 2007, 2008, 2009 Inscape Data Corporation, All rights reserved.