

## Mailit SOFTWARE license agreement

### 1. IMPORTANT NOTICE:

YOU SHOULD READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY BEFORE YOU DOWNLOAD, INSTALL OR USE DACONS LLP'S PROPRIETARY MAILIT SOFTWARE. BY INSTALLING OR USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO THE FOLLOWING TERMS AND CONDITIONS, DO NOT INSTALL OR USE THE SOFTWARE.

### 2. DEFINITIONS

"Dacons" – Dacons LLP. Legal address Suite 5 Copse Court, Evenwood Close, London SW15 2DE, England.

"You" and "Your" - the party purchasing a license or evaluating the software under the terms of this agreement.

"Software" means compiled objects, libraries, modules, license key and any and all updates thereto, together with all associated documentation and examples provided by Dacons or its authorized resellers.

"License Key" – a unique code provided by Dacons which identifies You, as well as the license type, and which unlocks or enables certain features of the Licensed Software.

"Application" or "Your Application" - a software application that You develop which incorporates all or parts of the Licensed Software.

"Trial Period" - a specified period of time during which You may temporarily use the Licensed Software for evaluation purposes only.

### 3A. GENERAL LICENSE GRANT

In consideration of Your payment of applicable license fees and/or Your acceptance of the terms of this Agreement, Dacons hereby grants to You certain nonexclusive and nontransferable rights limited by the terms of this Agreement. The Licensed Software is licensed (not sold) to You, for use strictly under the terms of this Agreement.

The Software is licensed (not sold) to you, in machine-readable form only for use only under the terms of this Agreement, and Dacons reserves all rights not expressly granted to you in this Agreement. For each License Key provided to you by Dacons, you are granted a nonexclusive license to provide the Software to the number of your developers indicated by the License Key, for the sole purpose of developing and maintaining your Applications using the Software. If a License Key contains an expiration date or does not indicate the number of developers licensed, it is considered temporary, and multiple developers may use it for the sole purpose of evaluating the Software.

In addition, you are granted a nonexclusive, royalty-free license to integrate the Libraries into Applications and to distribute such Libraries in connection with such Applications, provided that (a) such Applications do

not in any way compete with the Software or expose the functionality of the Software through a programmable interface, and (b) a license has been purchased for each developer who has or will take part in the development and/or maintenance of such Applications. (c) you are not developing, or selling any types of plug-ins or extensions for the database software FileMaker as that would be in competition to Dacons' plug-ins for FileMaker.

You may embed the License Key in Applications that you distribute, provided that the following conditions are met: (a) each such Application must be marked with a prominent copyright notice bearing your name as it appears in the License Key; (b) the License Key may not be embedded in any such Application or distributed in any other manner that makes the License Key visible to the end user; and (c) each such Application must include the following comment in its source code within close proximity to each copy of an embedded License Key:

"This application utilizes a licensed copy of Mailit. Mailit is Copyright (c) 1998-2008 Dacons LLP. All rights reserved. Unlicensed use of the Mailit outside of the context of this application is a violation of international copyright laws and other applicable laws."

If you upgrade the Software to a higher-numbered version thereof or to a comparable Dacons software product, this license is terminated and your rights shall be limited to the license associated with that product or version.

### 3B. TRAIL LICENSE

To facilitate an evaluation of the Licensed Software by You, Dacons may provide a temporary Trail Key that is encoded with an embedded expiration date. The License granted in conjunction with such a Trail Key is considered temporary, and multiple developers may use it for the sole purpose of evaluating the Licensed Software during a specific Evaluation Trial Period. Licensed Evaluation Trial Software contains mechanisms that inhibit its ability to function at a later date. Those are not allowed to be manipulated. It is Your responsibility to ensure that the Applications You create do not contain Licensed Evaluation Trial Software.

### 3C. DEVELOPER LICENSE

The following terms and conditions contained in this section (3C) apply to You ONLY if at the time of original purchase or most recent upgrade, the License granted to You by Dacons was defined as "Single Developer License" or "Site Developer License."

You are hereby granted a nonexclusive, royalty-free license to integrate the Licensed Software into Your Applications and to distribute such Licensed Software in connection with Your Applications, provided that (a) Your Applications do not in any way compete with the Licensed Software or expose the functionality of the Licensed Software through a programmable interface; (b) each of Your Applications developed using Licensed Software is substantially larger, more complex, and contains a significantly wider range of functions as compared to the Licensed Software; (c) each of Your Applications developed using Licensed Software is designed for end users rather than for developers who would be able to build other software that would compete with the Licensed Software, (d) you are not developing, or selling any types of plug-ins or extensions for the database software FileMaker as that would be in competition to Dacons' plug-ins for FileMaker and (e) You do not permit further distribution of the Licensed Software by Your end users.

You may embed the License Keys in the Applications You distribute, provided that the following conditions are met: (a) each such Application must be marked with a prominent copyright notice bearing Your name as declared by You during purchase of the License; (b) the License Key may not be embedded in any such Application or distributed in any other manner that makes the License Key visible to the end user, and (c) each such Application must include the following comment in its source code within close proximity to each copy of an embedded License Key: "This application utilizes a licensed copy of Mailit. Mailit is Copyright (c) 1998-2008 Dacons LLP. All rights reserved. Unlicensed use of the Mailit outside of the context of this application is a violation of international copyright laws and other applicable laws."

For each License Key provided to You by Dacons, You are granted a nonexclusive License to provide the Licensed Software and/or the License Key(s) to the number of Your employee-developers as indicated by Dacons and further explained below. Should the number of developers with access to the Licensed Software and/or the License Key(s) ever exceed the number indicated at the time of original purchase or most recent upgrade, You agree to inform Dacons of such change and to upgrade Your License accordingly by paying an upgrade fee to Dacons in a timely manner.

"Single Developer License" means that only one named developer employed by You may be given access to the Licensed Software and/or the License Key(s) for the sole purpose of developing and maintaining Your Applications. For as long as this specific individual developer is employed or engaged by You in any capacity whatsoever, no other developer may be given access to the Licensed Software and/or the License Key(s). Should said individual developer leave Your employ and cease any professional association with You, a new individual developer may then take his or her place and be given access to the Licensed Software and/or the License Key(s).

"Site Developer License" means an unlimited number of developers at one physical street address may be given access to the Licensed Software and/or the License Key(s) for the sole purpose of developing and maintaining Your Applications.

#### 4. RESTRICTIONS ON USE AND TRANSFER

You may not sublicense, rent, lease, assign or otherwise transfer the Licensed Software or any of Your rights thereto, either in whole or in part, to anyone else, except that You may, after obtaining written permission from Dacons, permanently transfer the Licensed Software in its entirety, provided You retain no copies of the Licensed Software and the transferee agrees to the terms and conditions of this Agreement. Use of the Licensed Software with a License Key obtained from a source other than Dacons or its authorized resellers is expressly and strictly forbidden. Dacons reserves the right to take any and all actions that Dacons, in its sole discretion, deems necessary to protect against, monitor and control the use of the Licensed Software with illegal License Keys. You agree to ensure that anyone who uses any portion of the Licensed Software provided to You complies with the terms and conditions of this Agreement.

#### 5. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that the Licensed Software contains copyrighted material, trade secrets, trademarks and other proprietary material of Dacons ("Confidential Information"), and is protected under international copyright law and other applicable laws. You may not engage in any unauthorized use or disclosure of any Confidential Information. You agree that the source code of the Licensed Software is confidential and proprietary to Dacons. Accordingly, You may not copy the Licensed Software, or decompile, disassemble, reverse engineer or create a derivative work based upon the Licensed Software, or authorize anyone else to do so. You must reproduce and maintain all copyright notices that are contained in the Licensed Software on any copy thereof that You make or use.

#### 6. TERM AND TERMINATION

Except as otherwise provided in this Agreement, the term of the license granted herein is perpetual and becomes effective when You install or use the Licensed Software. You may terminate this license at any time by destroying any and all copies of the Licensed Software. This Agreement and the associated license for the Licensed Software will terminate automatically and without provision of notice by Dacons if You fail to comply with any of the terms or conditions of this Agreement or if You cease permanent use of the Licensed Software, for whatever reason. Upon termination of this Agreement for any reason, You agree that You will destroy all copies of the Licensed Software. In addition to this sentence and the previous sentence, Sections 4, 5 and 7-12 shall survive any termination of this Agreement.

## 7. LIMITED WARRANTY

Dacons warrants that the Licensed Software will perform substantially in accordance with its accompanying documentation, when operated in the execution environment specified in such documentation, for the warranty period ending thirty (30) days following the date on which You first install or first use the Licensed Software. This limited warranty is void if failure of the Licensed Software to conform to such warranty is caused in whole or in part by (a) any defect in any hardware or other equipment used with the Licensed Software; (b) any failure of any hardware or any other equipment used with the Licensed Software to function in accordance with applicable manufacturer's specifications for such items; (c) any alteration, modification or enhancement of the Licensed Software by You or anyone other than Dacons; (d) any failure by You or anyone else to follow Dacons instructions with respect to proper use of the Licensed Software; or (e) improper use, abuse, accident, neglect or negligence on the part of You or anyone other than Dacons. Dacons will not be obligated to honor the limited warranty or provide any remedy thereunder unless the Licensed Software is returned to Dacons along with the original dated receipt. Any replacement Licensed Software will be warranted for thirty (30) days following the date on which Dacons provides it to You. You understand that no Licensed Software updates or upgrades are included with this limited warranty and that Dacons may update or revise the Licensed Software at any time and, in so doing, incurs no obligation to furnish such updates or revisions to You.

EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, THE LICENSED SOFTWARE IS PROVIDED TO YOU "AS IS", AND DACONS MAKES NO EXPRESS OR IMPLIED WARRANTIES WHATSOEVER WITH RESPECT TO ITS FUNCTIONALITY, CONDITION, PERFORMANCE, OPERABILITY OR USE. WITHOUT LIMITING THE FOREGOING, DACONS DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FREEDOM FROM INFRINGEMENT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM ONE JURISDICTION TO ANOTHER.

## 8. LIMITATIONS OF LIABILITY

YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE FOREGOING LIMITED WARRANTY SHALL BE, AT DACONS OPTION, EITHER (A) REPAIR OR REPLACEMENT OF THE LICENSED SOFTWARE SO THAT IT CONFORMS TO THE FOREGOING LIMITED WARRANTY, OR (B) REFUND OF THE FEE THAT YOU PAID TO LICENSE THE LICENSED SOFTWARE. IN NO EVENT SHALL DACONS BE LIABLE FOR ANY DAMAGES OF ANY TYPE, WHETHER DIRECT OR INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES, LOST PROFITS, LOSSES RESULTING FROM BUSINESS INTERRUPTION OR LOSS OF DATA, REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY UNDER WHICH SUCH LIABILITY MAY BE ASSERTED, EVEN IF DACONS HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES. DACONS SHALL HAVE NO LIABILITY WITH RESPECT TO ANY DATA THAT IS READ, ACCESSED, STORED OR PROCESSED WITH THE LICENSED SOFTWARE, OR FOR THE COSTS OF RECOVERING ANY SUCH DATA. IN NO EVENT SHALL DACONS' MAXIMUM AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE TOTAL FEES PAID OR PAYABLE BY YOU TO LICENSE THE LICENSED SOFTWARE. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

## 9. INDEMNIFICATION

You agree to defend, indemnify, and hold Dacons and all of its employees, agents, representatives, directors, officers, partners, shareholders, attorneys, predecessors, successors, and assigns harmless from and against any and all claims, proceedings, damages, injuries, liabilities, losses, costs, and expenses (including reasonable attorneys' fees and litigation expenses), relating to or arising from Your use of the Licensed Software, or any breach of this Agreement, except to the extent such claim relates to or arises from a violation by Dacons of any third party copyright, trademark, trade secret or other intellectual property right.

## 10. U.S. GOVERNMENT RESTRICTED RIGHTS

If You are licensing the Licensed Software on behalf of the U.S. Government or any of its agencies ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Licensed Software by the Government is subject to restricted rights in accordance with Federal Acquisition Regulation ("FAR") 12.212 for civilian agencies and Defense Federal Acquisition Regulation Supplement ("DFARS") 227.7202 for military agencies. The Licensed Software is commercial. Use of the Licensed Software by the Government is further restricted in accordance with the terms and conditions of this Agreement.

## 11. MISCELLANEOUS

If any provision of this Agreement is held to be invalid or unenforceable under any circumstances, its application in any other circumstances and the remaining provisions of this Agreement shall not be affected. No waiver of any right under this Agreement shall be effective unless given in writing by an authorized representative of Dacons. No waiver by Dacons of any right shall be deemed to be a waiver of any other right of Dacons arising under this Agreement. This Agreement is solely between You and Dacons and shall not be construed to create any third party beneficiary rights in any other individual, partnership, corporation or other entity. This Agreement shall be governed by and interpreted in accordance with the laws of the United Kingdom, without regard to its provisions governing conflicts of law. Any and all disputes between You and Dacons pertaining to this Agreement shall be submitted to one arbitrator in binding arbitration within ten miles of London.. The arbitrator shall be experienced in computer consulting, the development of custom software, the sale of packaged software, or related services. Evidence and argument may be presented in person or by telephone, fax, postal mail, electronic mail, and other methods of communication approved by the arbitrator. The prevailing party in such proceeding shall be entitled to recover its actually incurred costs, including reasonable attorney's fees, arbitration and court costs. All hearings shall be held and a written arbitration award issued within one-hundred eighty (180) days of the date on which the arbitrator is appointed. Judgment on the award shall be final and binding and may be entered in any court of competent jurisdiction.

## 12 ENTIRE AGREEMENT.

YOU AGREE THAT THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN YOU AND DACONS, AND THAT IT SUPERSEDES ANY PROPOSALS OR PRIOR AGREEMENTS, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS RELATING TO THE LICENSED SOFTWARE AND THE SUBJECT MATTER HEREOF. DACONS SHALL NOT BE BOUND BY ANY PROVISION OF ANY PURCHASE ORDER, RECEIPT, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE OR OTHERWISE, OR BY ANY AGREEMENT BETWEEN YOU AND ANY OTHER PARTY, UNLESS DACONS SPECIFICALLY AGREES TO SUCH PROVISION IN WRITING IN A FORM OF A LEGAL CONTRACT, DATED AND SIGNED BY YOU AND BY DACONS OFFICER OR AUTHORIZED EMPLOYEE. NO VENDOR, DISTRIBUTOR, PROVIDER, RESELLER, OEM, SALES REPRESENTATIVE, OR OTHER PERSON IS AUTHORIZED TO MODIFY THIS AGREEMENT OR TO MAKE ANY WARRANTY, REPRESENTATION OR PROMISE REGARDING THE LICENSED SOFTWARE WHICH IS DIFFERENT FROM THOSE SET FORTH IN THIS AGREEMENT.