



Software License Agreement 7700 Series Application Software

7700-A2-GE11-20

November 1997

Please record information below:

Sales Order Number _____
Date Received _____
Serial Number _____
<i>For factory use only</i>

<i>For factory use only</i>

RETAIN THIS DOCUMENT. IT CONTAINS IMPORTANT INFORMATION FOR SERVICE.

THIS AGREEMENT CONTAINS THE PARADYNE CORPORATION LIMITED USE SOFTWARE LICENSE TERMS FOR THE 7700 SERIES APPLICATION SOFTWARE (HEREINAFTER THE "SOFTWARE").

YOU SHOULD READ THE TERMS AND CONDITIONS OF THIS AGREEMENT BEFORE YOU USE THE SOFTWARE. ONCE YOU HAVE READ THIS LICENSE AGREEMENT AND AGREE TO ITS TERMS, YOU MAY USE THE SOFTWARE. BY USING THE SOFTWARE, YOU SHOW YOUR ACCEPTANCE OF THE TERMS OF THIS LICENSE AGREEMENT.

IN THE EVENT THAT YOU DO NOT AGREE WITH ANY OF THE TERMS OF THIS LICENSE AGREEMENT, PROMPTLY RETURN THE UNUSED SOFTWARE, **WITH THE PACKAGING SEALS UNBROKEN**, AND YOUR SALES RECEIPT OR INVOICE TO THE LOCATION WHERE YOU OBTAINED THE SOFTWARE OR THE LOCATION FROM WHICH THE SOFTWARE WAS SHIPPED TO YOU, WHICHEVER IS APPLICABLE, AND YOU WILL RECEIVE A REFUND OR CREDIT FOR THE SOFTWARE LICENSE FEE.

The terms and conditions of this Agreement will apply to the Software supplied herewith and derivatives obtained therefrom, including any copy. If you have executed a separate written agreement covering the Software supplied herewith, such written agreement will govern.

1. TITLE AND LICENSE GRANT

- a. The Software is copyrighted and/or contains proprietary information protected by law. All Software, and all copies thereof, are and will remain the sole property of Paradyne or its suppliers. Paradyne hereby grants you a personal, non-transferable and non-exclusive right to use the Software on a single network management system. Any other use of the Software shall automatically terminate this license.
- b. Use of the Software anywhere except in the United States may, in addition to the terms and conditions of this License Agreement, be subject to the terms and conditions of a separate written agreement signed by the user.
- c. You agree to use your best efforts to see that any user of the Software complies with the terms and conditions of this License Agreement, and refrains from taking any steps, such as reverse assembly or reverse compilation, to derive a source code equivalent of the Software.
- d. Copyright © 1997 Paradyne
 Portions Copyright © : Hewlett-Packard Company, 1992, 1993, 1994, 1995, 1996 Santa Clara, CA
 Portions Copyright ©: Faircom 1984, 1986 Columbia, Missouri
 Copyright © FTP Software, Inc. 1994, 1995, 1996
 FarPoint Technologies, Inc., Morrisville, NC
 Microsoft Corporation, Redmond, WA
 Sheridan Software Systems, Inc., Melville, NY
 Bennet-Tec Information Systems, Jericho, NY
 Apex Software Corporation, Pittsburgh, PA
 DART Communications, Cazenovia, N.Y.
- e. All products and services mentioned herein are the trademarks, service marks, registered trademarks or registered service marks of their respective owners.
- f. The SOFTWARE and documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraph (c) (1) (ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.277-7013 or subparagraphs (c) (1) and (2) of the Commercial Computer Software-Restricted

Rights at 48 CFR 52.227-19, as applicable. Manufacturers are:

Paradyne
Hewlett-Packard Company, Santa Clara, CA
FarPoint Technologies, Inc., Morrisville, NC
Microsoft Corporation, Redmond, WA
Sheridon Software Systems, Inc., Melville, NY
Bennet-Tec Information Systems, Jericho, NY
Apex Software Corporation, Pittsburgh, PA
DART Communications, Cazenovia, N.Y.

2. SOFTWARE USE

- a. You are permitted to make a single archive copy, provided the Software shall not be otherwise reproduced, copied, or disclosed to others in whole or in part. Any such copy shall contain the same copyright notice and proprietary marking, including diskette markings, appearing on the original Software.
- b. The Software
 - (1) together with any archive copy thereof, shall be either returned to Paradyne or destroyed when no longer used in accordance with this License Agreement, or when the right to use the software is terminated; and
 - (2) shall not be removed from a country in which use is licensed.

3. TERM

This license is effective until terminated. You may terminate it at any time by destroying the Software and documentation and any copies thereof. It will also terminate automatically if you fail to comply with any of the terms and conditions of this Agreement.

4. LIMITED WARRANTY

- a. Paradyne warrants that the Software storage media (e.g., disk, tape, etc.) will be in good working order and will replace, without charge, any Software media which is not in good working order, if returned to the location where you obtained it or the location from which it was shipped to you, as applicable, within 90 days after delivery to you. At its option, Paradyne may refund the license fee for the Software rather than replacing it.
- b. Paradyne does **not** warrant that Software operation will be error-free or uninterrupted in your operating environment.
- c. Paradyne has used reasonable efforts to minimize defects or errors in the Software. HOWEVER, YOU ASSUME THE RISK OF ANY AND ALL DAMAGE OR LOSS FROM USE, OR INABILITY TO USE THE SOFTWARE.
- d. Unless a separate agreement for software support is entered into between you and Paradyne, Paradyne bears no responsibility for supplying assistance for fixing errors or for communicating known errors to you pertaining to the Software supplied hereunder.
- e. YOU UNDERSTAND THAT, EXCEPT FOR THE LIMITED WARRANTY RECITED ABOVE, PARADYNE, ITS PARENT COMPANY, AFFILIATES, CONTRACTORS, SUPPLIERS AND AGENTS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
Some states or other jurisdictions do not allow the exclusion of implied warranties or limitations on how long an implied warranty lasts, so the above limitations may not apply to you. This warranty gives you specific legal rights and you may also have other rights which vary from one state or jurisdiction to another.

5. EXCLUSIVE REMEDIES AND LIMITATIONS OF LIABILITIES

- a. YOU AGREE THAT YOUR SOLE REMEDY AGAINST PARADYNE, ITS PARENT COMPANY, AFFILIATES, CONTRACTORS, SUPPLIERS, AND AGENTS FOR LOSS OR DAMAGE CAUSED BY ANY DEFECT OR FAILURE IN THE SOFTWARE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL BE THE REPLACEMENT OF THE SOFTWARE, PROVIDED SUCH SOFTWARE IS RETURNED TO PARADYNE WITH A COPY OF YOUR SALES RECEIPT OR INVOICE. THIS SHALL BE EXCLUSIVE OF ALL OTHER REMEDIES AGAINST PARADYNE, ITS PARENT COMPANY, AFFILIATES, CONTRACTORS, SUPPLIERS OR AGENTS, EXCEPT FOR YOUR RIGHT TO CLAIM DAMAGES FOR BODILY INJURY TO ANY PERSON.
- b. Regardless of any other provisions of this Agreement, neither Paradyne nor its parent company, affiliates, contractors, suppliers or agents shall be liable for any indirect, incidental, or consequential damages (including lost profits) sustained or incurred in connection with the use, operation, or inability to use the Software or for damages due to causes beyond the reasonable control of Paradyne, its parent company, affiliates, contractors, suppliers and agents or attributable to any service, products or action of any other person or company.
- c. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

6. CHARGES AND USE

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND IT, AND THAT BY USING THE SOFTWARE YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS HEREIN. YOU FURTHER AGREE THAT, EXCEPT FOR ANY SEPARATE WRITTEN AGREEMENTS BETWEEN PARADYNE AND YOU, THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE RIGHTS AND LIABILITIES OF THE PARTIES. THIS AGREEMENT SUPERSEDES ALL PRIOR ORAL AGREEMENTS, PROPOSALS OR UNDERSTANDINGS, AND ANY OTHER COMMUNICATIONS BETWEEN US RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.