



Housing Authority of New Haven

Karen DuBois-Walton, Ph.D.
President

AGENDA

REGULAR MEETING OF THE BOARD OF COMMISSIONERS
HOUSING AUTHORITY OF THE CITY OF NEW HAVEN
360 ORANGE STREET NEW HAVEN CT 06511
TUESDAY, FEBRUARY 20th, 2024 at 4:00 P.M.
<https://v.ringcentral.com/join/215683616>
Dial: 1-650-4191505
Access Code / Meeting ID: 215 683 616

1. Roll Call
2. Bills and Communications
3. Public Comments (3 Minutes per Individual /15 Minutes per Group)
4. President's Report

ACTION ITEMS

FINANCE COMMITTEE:

1. **Resolution 02-01/24-R;** Resolution Authorizing the Write-Off of Accounts Receivable of Former ECC/HANH Tenants of the Federal Public Housing Program Financial Statement Reporting Purposes

P&D COMMITTEE:

2. **Resolution 02-02/24-R;** Resolution Authorizing Ratification of Change Order #16 to A. Prete Construction Company, Inc. for Crawford Manor Health & Safety Contract in the Amount Not to Exceed \$29,913.67 Bringing the Adjusted Contract Value from \$4,007,684.22 to \$4,037,597.89

SERVICES COMMITTEE:

3. **Resolution 02-03/24-R;** Resolution Ratifying, Authorizing, And To The Extent Necessary, Reauthorizing Certain Acts In Connection With The Housing Authority Of The City Of New Haven To Enter Into A Housing Assistance Payment (HAP) Contract With Beacon Communities Services LLC For Forty (40) Project Based Units For Initial Term Of Twenty (20) Years With An Option To Renew For An Additional 20 Years At The Authority's Sole Discretion
4. **Resolution 02-04/24-R;** Resolution To Ratify The Housing Assistance Payments (HAP) Contract With Casa Otonal DBA Casa Familia I, LP For Twelve Project Based Vouchers For An Additional (15) Years For An Annual Hap Contract Amount Of \$220,632.00 Commencing February 12, 2024 And Ending February 11, 2039
5. **Resolution 02-05/24-R;** Authorizing The Execution Of An Agreement With Immix Technology, Inc For The Purchase Of The Software Known As Bob. Ai For One Year With The Option To Renew For (Two) 2 Additional One Year Options In An Amount Not To Exceed \$259,725.33

6. **Resolution 02-06/24-R;** Resolution Authorizing Change Order Number Five (5) To The Contract With F.W. Webb Company (Contract# 15PSX0193) Through The State Of Connecticut, The Department Of Administrative Services For Plumbing & Heating Parts And Equipment Set To Expire On December 31, 2024 For An Additional Amount Of \$85,000.00. Bringing The Total Not To Exceed Contract Amount From \$245,711.00 To \$330,711.00

7. **Resolution 02-07/24-R;** Resolution Authorizing Contract Change Order Number Three (3) To The Contract With Yale Termite & Pest Control Elimination Corporation To Provide Pest Control Services Agency Wide, For An Additional Amount \$65,000.00. Bringing The Total Not Exceed Contract Amount From \$130,500.00 To \$195,500.00

ADJOURNMENT

MEMORANDUM

TO: All Board of Commissioners

FROM: John Rafferty, CFO

RE: Bills and Communications

DATE: February 20, 2024

Attached please find the following Two (2) lists:

Aged Accounts Payable Report totaling **\$ 43,700.08** (listed on page 3), this excludes paid invoices on report). This list consists of invoices that have been received and entered in the system but may not be ready for payment. A register of the paid invoices may be provided at the February 20, 2024, Board of Commissioners meeting.

Bank Book Check Register totaling **\$ 3,439,301.89** (listed on page 13). This list consists of invoices that have been paid from January 1 – January 30, 2023.

A. Prete Construction Company (\$55,550) for Crawford Manor Health and Safety # 15; Paul B. Bailey Architect (\$ 133,836) for ST. Luke Survey & design; Anthem Blue Cross/Blue Shield (\$ 469,227) for two months of Medical and one-month Dental/Vision benefits; Can I Live, Inc (\$7,875) for resident owed business; Housing Insurance Services, Inc. (\$ 278,365) for McConaughy RAD; 212 Exchange Street LLC (\$ 30,350) snow removal various sites; Patterson & Associate Consulting, LLC (\$ 26,680) for consulting services; HD Supply Facilities Maintenance, Ltd (\$ 41,902) for supplies agency-wide; Reitman Personnel Services, Inc. (\$ 61,171) for agency-wide temporary Services; Home Depot (\$81,846) for agency-wide materials; United Illuminating (\$ 196,713) for various sites; Southern Connecticut Gas (\$ 122,205) for agency-wide gas service; Regional Water Authority (\$85,371) For agency-wide services.

The total of both registers is **\$ 3,483,001.97**
Attachments

City of New Haven	<u>JAN 2024 BULK</u>	01/31/2024	03/01/2024	01/31/2024		111.98
Federal Express Corp.	<u>8-390-27865</u>	01/29/2024	02/28/2024	01/31/2024		192.38
Home Depot	<u>16963</u>	01/17/2023	02/16/2023	01/31/2024		288.47
Home Depot	<u>16963</u>	01/17/2023	02/16/2023	01/31/2024	\$	288.47
Home Depot	<u>9017162</u>	01/18/2023	02/17/2023	01/31/2024	\$	105.58
Home Depot	<u>9017181</u>	01/18/2023	02/17/2023	01/31/2024	\$	554.35
Home Depot	<u>9023537</u>	01/18/2023	02/17/2023	01/31/2024	\$	43.95
Home Depot	<u>9023537</u>	01/18/2023	02/17/2023	01/31/2024	\$	31.72
Home Depot	<u>9023537</u>	01/18/2023	02/17/2023	01/31/2024	\$	27.08
Home Depot	<u>9023537</u>	01/18/2023	02/17/2023	01/31/2024	\$	10.18
Home Depot	<u>9023537</u>	01/18/2023	02/17/2023	01/31/2024	\$	27.66
Home Depot	<u>9023537</u>	01/18/2023	02/17/2023	01/31/2024	\$	6.69
Home Depot	<u>9023537</u>	01/18/2023	02/17/2023	01/31/2024	\$	15.15
Home Depot	<u>9023493</u>	01/18/2023	02/17/2023	01/31/2024	\$	167.65
Home Depot	<u>8113318</u>	01/19/2023	02/18/2023	01/31/2024	\$	156.77
Home Depot	<u>8113318</u>	01/19/2023	02/18/2023	01/31/2024	\$	113.15
Home Depot	<u>8113318</u>	01/19/2023	02/18/2023	01/31/2024	\$	96.58
Home Depot	<u>8113318</u>	01/19/2023	02/18/2023	01/31/2024	\$	36.33
Home Depot	<u>8113318</u>	01/19/2023	02/18/2023	01/31/2024	\$	98.66
Home Depot	<u>8113318</u>	01/19/2023	02/18/2023	01/31/2024	\$	23.87
Home Depot	<u>8113318</u>	01/19/2023	02/18/2023	01/31/2024	\$	53.99
Home Depot	<u>8142271</u>	01/19/2023	02/18/2023	01/31/2024	\$	964.61
Home Depot	<u>8142271</u>	01/19/2023	02/18/2023	01/31/2024	\$	696.19
Home Depot	<u>8142271</u>	01/19/2023	02/18/2023	01/31/2024	\$	594.24
Home Depot	<u>8142271</u>	01/19/2023	02/18/2023	01/31/2024	\$	223.51
Home Depot	<u>8142271</u>	01/19/2023	02/18/2023	01/31/2024	\$	607.07
Home Depot	<u>8142271</u>	01/19/2023	02/18/2023	01/31/2024	\$	146.87
Home Depot	<u>8142271</u>	01/19/2023	02/18/2023	01/31/2024	\$	332.21
Home Depot	<u>6142273</u>	01/19/2023	02/18/2023	01/31/2024	\$	3,325.67
Home Depot	<u>8142272</u>	01/19/2023	02/18/2023	01/31/2024	\$	892.98
Home Depot	<u>8142272</u>	01/19/2023	02/18/2023	01/31/2024	\$	644.49
Home Depot	<u>8142272</u>	01/19/2023	02/18/2023	01/31/2024	\$	550.11
Home Depot	<u>8142272</u>	01/19/2023	02/18/2023	01/31/2024	\$	206.91
Home Depot	<u>8142272</u>	01/19/2023	02/18/2023	01/31/2024	\$	561.99
Home Depot	<u>8142272</u>	01/19/2023	02/18/2023	01/31/2024	\$	135.96
Home Depot	<u>8142272</u>	01/19/2023	02/18/2023	01/31/2024	\$	307.56
Home Depot	<u>5017861</u>	01/22/2023	02/21/2023	01/31/2024	\$	114.90
Home Depot	<u>5017862</u>	01/22/2023	02/21/2023	01/31/2024	\$	29.37
Home Depot	<u>3018184</u>	01/24/2023	02/23/2023	01/31/2024	\$	102.44
Home Depot	<u>3018163</u>	01/24/2023	02/23/2023	01/31/2024	\$	47.17
Home Depot	<u>3142279</u>	01/24/2023	02/23/2023	01/31/2024	\$	85.54
Home Depot	<u>3018248</u>	01/24/2023	02/23/2023	01/31/2024	\$	10.76
Home Depot	<u>3018183</u>	01/24/2023	02/23/2023	01/31/2024	\$	180.60
Home Depot	<u>3018197</u>	01/24/2023	02/23/2023	01/31/2024	\$	62.99
Home Depot	<u>3018257</u>	01/24/2023	02/23/2023	01/31/2024	\$	206.32
Home Depot	<u>2018340</u>	01/25/2023	02/24/2023	01/31/2024	\$	74.13
Home Depot	<u>2018338</u>	01/25/2023	02/24/2023	01/31/2024	\$	22.48
Home Depot	<u>2132298</u>	01/25/2023	02/24/2023	01/31/2024	\$	110.34

Home Depot	<u>2018387</u>	01/25/2023	02/24/2023	01/31/2024	\$	225.84
Home Depot	<u>1018544</u>	01/26/2023	02/25/2023	01/31/2024	\$	28.40
Home Depot	<u>1023867</u>	01/26/2023	02/25/2023	01/31/2024	\$	230.82
Home Depot	<u>7010175</u>	01/30/2023	03/01/2023	01/31/2024	\$	87.46
Home Depot	<u>7010112</u>	01/30/2023	03/01/2023	01/31/2024	\$	1,471.61
Home Depot	<u>7142310</u>	01/30/2023	03/01/2023	01/31/2024	\$	52.59
Home Depot	<u>7023996</u>	01/30/2023	03/01/2023	01/31/2024	\$	240.92
Home Depot	<u>7010176</u>	01/30/2023	03/01/2023	01/31/2024	\$	70.88
Home Depot	<u>142257</u>	01/17/2024	02/16/2024	01/31/2024		202.93
Home Depot	<u>16982</u>	01/17/2024	02/16/2024	01/31/2024		626.22
Home Depot	<u>9017220</u>	01/18/2024	02/17/2024	01/31/2024		94.18
Home Depot	<u>9142264</u>	01/18/2024	02/17/2024	01/31/2024		238.27
Home Depot	<u>9017209</u>	01/18/2024	02/17/2024	01/31/2024		36.21
Home Depot	<u>9017228</u>	01/18/2024	02/17/2024	01/31/2024		11.65
Home Depot	<u>6132270</u>	01/19/2024	02/18/2024	01/31/2024		164.56
Home Depot	<u>8017338</u>	01/19/2024	02/18/2024	01/31/2024		568.72
Home Depot	<u>6017418</u>	01/19/2024	02/18/2024	01/31/2024		155.60
Home Depot	<u>8017431</u>	01/19/2024	02/18/2024	01/31/2024		95.40
Home Depot	<u>7017505</u>	01/20/2024	02/19/2024	01/31/2024		41.92
Home Depot	<u>4132291</u>	01/23/2024	02/22/2024	01/31/2024		14.47
Home Depot	<u>4018000</u>	01/23/2024	02/22/2024	01/31/2024		196.07
Home Depot	<u>4018050</u>	01/23/2024	02/22/2024	01/31/2024		6.83
Home Depot	<u>4193830</u>	01/23/2024	02/22/2024	01/31/2024		(89.48)
Home Depot	<u>4018026</u>	01/23/2024	02/22/2024	01/31/2024		93.94
Home Depot	<u>4018055</u>	01/23/2024	02/22/2024	01/31/2024		94.83
Home Depot	<u>4142278</u>	01/23/2024	02/22/2024	01/31/2024		67.25
Home Depot	<u>4023706</u>	01/23/2024	02/22/2024	01/31/2024		320.00
Home Depot	<u>4018016</u>	01/23/2024	02/22/2024	01/31/2024		47.90
Home Depot	<u>4132294</u>	01/23/2024	02/22/2024	01/31/2024		319.78
Home Depot	<u>142296</u>	01/27/2024	02/26/2024	01/31/2024		69.61
Home Depot	<u>142296</u>	01/27/2024	02/26/2024	01/31/2024		50.24
Home Depot	<u>142296</u>	01/27/2024	02/26/2024	01/31/2024		42.88
Home Depot	<u>142296</u>	01/27/2024	02/26/2024	01/31/2024		16.13
Home Depot	<u>142296</u>	01/27/2024	02/26/2024	01/31/2024		43.81
Home Depot	<u>142296</u>	01/27/2024	02/26/2024	01/31/2024		10.60
Home Depot	<u>142296</u>	01/27/2024	02/26/2024	01/31/2024		23.96
Home Depot	<u>140662</u>	01/27/2024	02/26/2024	01/31/2024		997.93
Home Depot	<u>142300</u>	01/27/2024	02/26/2024	01/31/2024		328.68
KJR Consulting	<u>2454</u>	12/11/2023	01/10/2024	01/31/2024		160.00
MINITPRINT Inc d/b/a	<u>17482</u>	01/30/2024	02/29/2024	01/31/2024		288.43
Docuprintnow						
Nonprofit HR Solutions LLC	<u>0006799</u>	01/08/2024	02/07/2024	01/31/2024		9,900.00
Comcast Cable	<u>8773 40 413</u>	11/08/2023	12/08/2023			428.47
Total Payments Due						\$ 43,700.08



Housing Authority of New Haven

Type	Check No.	DD No.	Date	Amount	Status	Void Date	Items	Recorded Payee
Check	187327	0	01/02/2024	\$ (19.00)	Posted		1	Sor Perez
Check	187286	0	01/02/2024	\$ -	Posted	01/18/2024	1	Evelyn Santiago
DD	187273	30962	01/02/2024	\$ (123.00)	Posted		1	Ana Falero
DD	187321	30967	01/02/2024	\$ (22.00)	Posted		1	Rosaura Luciano
DD	187293	30965	01/02/2024	\$ (195.00)	Posted		1	Isabel Fuentes
Check	187309	0	01/02/2024	\$ (16.00)	Posted		1	Mayra Quiles
Check	187322	0	01/02/2024	\$ (146.00)	Posted		1	Sarah M Kendrick
Check	187285	0	01/02/2024	\$ (126.00)	Posted		1	Djiba Kane
Check	187330	0	01/02/2024	\$ (245.00)	Posted		1	Tamika Bratton
Check	187313	0	01/02/2024	\$ (102.00)	Posted		1	Natalie Rodriguez
Check	187319	0	01/02/2024	\$ (193.00)	Posted		1	Rayquan T Durham
Check	187295	0	01/02/2024	\$ (49.00)	Posted		1	Jada Nyla Burnett
Check	187333	0	01/02/2024	\$ (234.00)	Posted		1	Tanya Carmon
Check	187294	0	01/02/2024	\$ (120.00)	Posted		1	Jacqueline Banks
Check	187326	0	01/02/2024	\$ (163.00)	Posted		1	Shirley A Massey
Check	187291	0	01/02/2024	\$ (99.00)	Posted		1	Iniera Allen
Check	187308	0	01/02/2024	\$ (4.00)	Posted		1	Maryann Jones
Check	187306	0	01/02/2024	\$ (82.00)	Posted		1	Martha Moore
Check	187303	0	01/02/2024	\$ (59.00)	Posted		1	Leslie Mckiver
DD	187323	30968	01/02/2024	\$ (52.00)	Posted		1	Sean Michael Flowers
Check	187335	0	01/02/2024	\$ (99.00)	Posted		1	Terese Edwina Stevenson
Check	187305	0	01/02/2024	\$ (165.00)	Posted		1	Maria R Langston
DD	187292	30964	01/02/2024	\$ (162.00)	Posted		1	Iris Nereida Santana
Check	187345	0	01/02/2024	\$ (112.00)	Posted		1	Vanessa Myers
Check	187342	0	01/02/2024	\$ (59.00)	Posted		1	Tyquanna Whitaker
Check	187302	0	01/02/2024	\$ (195.00)	Posted		1	Latoya D Garrett
Check	187334	0	01/02/2024	\$ (162.00)	Posted		1	Teneshia Monique Harrington
Check	187278	0	01/02/2024	\$ (195.00)	Posted		1	Cassandra Moore
Check	187348	0	01/02/2024	\$ (98.00)	Posted		1	Yvonne A Barros
Check	187315	0	01/02/2024	\$ (48.00)	Posted		1	Patty Burruss
Check	187329	0	01/02/2024	\$ (154.00)	Posted		1	Stephanie Sumler
Check	187282	0	01/02/2024	\$ (64.00)	Posted		1	Connie J Tyson
DD	187307	30966	01/02/2024	\$ (138.00)	Posted		1	Mary A Lopez
Check	187337	0	01/02/2024	\$ (165.00)	Posted		1	Tiffaine Brodie
Check	187287	0	01/02/2024	\$ (195.00)	Posted		1	Faith H Thompson
Check	187332	0	01/02/2024	\$ (25.00)	Posted		1	Tanya A. Solomon
Check	187343	0	01/02/2024	\$ (52.00)	Posted		1	Tyrell J Pearson
Check	187320	0	01/02/2024	\$ (18.00)	Posted		1	Robyn Louise Green
Check	187324	0	01/02/2024	\$ (156.00)	Posted		1	Shalanda Rena Wiggins
Check	187346	0	01/02/2024	\$ (109.00)	Posted		1	Victoria C Allen
Check	187277	0	01/02/2024	\$ (137.00)	Posted		1	Brenda Sparks
Check	187340	0	01/02/2024	\$ (128.00)	Posted		1	Trenna Soares
Check	187316	0	01/02/2024	\$ (16.00)	Posted		1	Paula A Barnes
Check	187283	0	01/02/2024	\$ (137.00)	Posted		1	Corelle Wallace
DD	187336	30969	01/02/2024	\$ (76.00)	Posted		1	Thelma Goodwin
Check	187289	0	01/02/2024	\$ (130.00)	Posted		1	Helen Suggs
Check	187288	0	01/02/2024	\$ (195.00)	Posted		1	Gianakos Jenkins
Check	187298	0	01/02/2024	\$ (269.00)	Posted		1	Joshua C Martinez
Check	187280	0	01/02/2024	\$ (137.00)	Posted		1	Chevonne Boone
Check	187279	0	01/02/2024	\$ (80.00)	Posted		1	Catalina Soto
Check	187338	0	01/02/2024	\$ (56.00)	Posted		1	Tina McDonald
Check	187276	0	01/02/2024	\$ (107.00)	Posted		1	Brandi R Burgess
Check	187328	0	01/02/2024	\$ (106.00)	Posted		1	Stephanie Green
Check	187312	0	01/02/2024	\$ (128.00)	Posted		1	Nancy Marilyn Estrada
Check	187318	0	01/02/2024	\$ (87.00)	Posted		1	Preziosa Flores
Check	187347	0	01/02/2024	\$ (147.00)	Posted		1	Yelitza Maria Santiago
Check	187341	0	01/02/2024	\$ (128.00)	Posted		1	Trevon Highsmith
Check	187281	0	01/02/2024	\$ (106.00)	Posted		1	Ciera S Lewis
Check	187300	0	01/02/2024	\$ (47.00)	Posted		1	Kiara Carmichael
Check	187275	0	01/02/2024	\$ (102.00)	Posted		1	Beatriz Toro
Check	187296	0	01/02/2024	\$ (128.00)	Posted		1	Jannie Ellison
DD	187272	30961	01/02/2024	\$ (52.00)	Posted		1	Afrika Lynette Canady
DD	187284	30963	01/02/2024	\$ (52.00)	Posted		1	Dione Bennett
Check	187290	0	01/02/2024	\$ (156.00)	Posted		1	Hope Brodie

Check	187325	0	01/02/2024	\$	(52.00)	Posted		1	Shaquonda Rashaya Hunte
Check	187314	0	01/02/2024	\$	(99.00)	Posted		1	Natasha Laureano
Check	187271	0	01/02/2024	\$	(78.00)	Posted		1	Adrienne Simpson
Check	187301	0	01/02/2024	\$	(171.00)	Posted		1	Lakeisha Massey
Check	187299	0	01/02/2024	\$	(132.00)	Posted		1	Joslyn Lockwood
Check	187317	0	01/02/2024	\$	(159.00)	Posted		1	Perry Flowers
Check	187344	0	01/02/2024	\$	(59.00)	Posted		1	Tyshonna Hobby
Check	187311	0	01/02/2024	\$	(59.00)	Posted		1	Mi-kerria Shaw
Check	187297	0	01/02/2024	\$	(52.00)	Posted		1	Jhamal Gallimore
Check	187274	0	01/02/2024	\$	(52.00)	Posted		1	Ayshnee Butler
Check	187339	0	01/02/2024	\$	(69.00)	Posted		1	Tonya Perkins
Check	187310	0	01/02/2024	\$	(156.00)	Posted		1	Mecca Malia Anderson
Check	187304	0	01/02/2024	\$	(43.00)	Posted		1	Lindsay Derubis
Check	187331	0	01/02/2024	\$	(19.00)	Posted		1	Tania Montanez
Check	187349	0	01/02/2024	\$	(77.92)	Posted		1	Federal Express Corp.
Check	187355	0	01/02/2024	\$	(3,098.26)	Posted		1	Verizon Wireless
Check	187354	0	01/02/2024	\$	(1,392.52)	Posted		1	Verizon Wireless
Check	187353	0	01/02/2024	\$	(4,241.78)	Posted		1	Verizon Wireless
DD	0	30970	01/02/2024	\$	(6,284.78)	Posted		1	Ringcentral, Inc
Check	187350	0	01/02/2024	\$	(50.00)	Posted		1	Joyce R Talton-Traynham
Check	187352	0	01/02/2024	\$	(35.00)	Posted		1	Keishla Rodriguez-Gonzalez
Check	187351	0	01/02/2024	\$	(100.00)	Posted		1	Katara Peters
Check	187356	0	01/02/2024	\$	(95.00)	Posted		3	Stephanie Santiago
Check	187357	0	01/02/2024	\$	(81.77)	Posted		1	Federal Express Corp.
Check	187359	0	01/02/2024	\$	(475.00)	Posted		1	Nan Mckay & Associates
Check	187358	0	01/02/2024	\$	(892.50)	Posted		1	Nan Mckay & Associates
Check	187360	0	01/02/2024	\$	(27,238.91)	Posted		1	City of New Haven
Check	187395	0	01/03/2024	\$	(117.23)	Posted		1	Frontier Communications of Company
Check	187394	0	01/03/2024	\$	(229.27)	Posted		1	Frontier Communications of Company
Check	187393	0	01/03/2024	\$	(199.02)	Posted		1	Frontier Communications of Company
Check	187392	0	01/03/2024	\$	(76.37)	Posted		1	Frontier Communications of Company
Check	187391	0	01/03/2024	\$	(76.37)	Posted		1	Frontier Communications of Company
Check	187390	0	01/03/2024	\$	(117.23)	Posted		1	Frontier Communications of Company
Check	187389	0	01/03/2024	\$	(76.37)	Posted		1	Frontier Communications of Company
Check	187388	0	01/03/2024	\$	(76.37)	Posted		1	Frontier Communications of Company
Check	187387	0	01/03/2024	\$	(151.47)	Posted		1	Frontier Communications of Company
Check	187404	0	01/03/2024	\$	(7,549.45)	Posted		1	United Illuminating
DD	0	30973	01/03/2024	\$	(3,352.20)	Posted		1	Cohen Key Shop
DD	0	30977	01/03/2024	\$	(13,578.59)	Posted		1	Reitman Personnel Services, Inc.
Check	187362	0	01/03/2024	\$	(229,036.27)	Posted		1	Anthem Blue Cross/Blue Shield
Check	187364	0	01/03/2024	\$	(314.31)	Posted		1	Comcast Cable
Check	187365	0	01/03/2024	\$	(299.85)	Posted		1	Comcast Cable
Check	187366	0	01/03/2024	\$	(299.85)	Posted		1	Comcast Cable
Check	187367	0	01/03/2024	\$	(159.85)	Posted		1	Comcast Cable
Check	187368	0	01/03/2024	\$	(259.14)	Posted		1	Comcast Cable
Check	187369	0	01/03/2024	\$	(161.85)	Posted		1	Comcast Cable
Check	187370	0	01/03/2024	\$	(202.85)	Posted		1	Comcast Cable
Check	187371	0	01/03/2024	\$	(199.85)	Posted		1	Comcast Cable
DD	0	30971	01/03/2024	\$	(16.00)	Posted		1	AFSCME PEOPLE Committee
Check	187379	0	01/03/2024	\$	(114.47)	Posted		1	Corporate Mailing Services LLC
Check	187372	0	01/03/2024	\$	(671.04)	Posted		1	Constellation Energy Services, Inc
Check	187373	0	01/03/2024	\$	(570.15)	Posted		1	Constellation Energy Services, Inc
Check	187374	0	01/03/2024	\$	(163.19)	Posted		1	Constellation Energy Services, Inc
Check	187375	0	01/03/2024	\$	(489.25)	Posted		1	Constellation Energy Services, Inc
Check	187376	0	01/03/2024	\$	(139.70)	Posted		1	Constellation Energy Services, Inc
Check	187377	0	01/03/2024	\$	(1,000.90)	Posted		1	Constellation Energy Services, Inc
Check	187378	0	01/03/2024	\$	(298.10)	Posted		1	Constellation Energy Services, Inc
Check	187402	0	01/03/2024	\$	(211.99)	Posted		1	Robin Miller-Godwin
DD	0	30974	01/03/2024	\$	(960.50)	Posted		1	Home Services & More, LLC
Check	187397	0	01/03/2024	\$	(412.44)	Posted		1	Legal Shield
Check	187405	0	01/03/2024	\$	(180.24)	Posted		1	United Site Servcies Northeast, Inc
DD	0	30976	01/03/2024	\$	(3,427.00)	Posted		1	New Haven Village Suites
Check	187363	0	01/03/2024	\$	(163.98)	Posted		1	Aramark Refreshment Services
Check	187398	0	01/03/2024	\$	(21,045.00)	Posted		1	Marcum LLP
Check	187403	0	01/03/2024	\$	(92.42)	Posted		1	Sunwealth Project Pool 14 LLC
DD	0	30975	01/03/2024	\$	(8,333.33)	Posted		1	Kelly Group Consultants LLC
Check	187396	0	01/03/2024	\$	(1,123.20)	Posted		1	Johnson Controls US Holdings LLC
Check	187400	0	01/03/2024	\$	(7,068.26)	Posted		1	New Reach, Inc.
Check	187401	0	01/03/2024	\$	(1,370.00)	Posted		1	RE Fund II NH, LLC
DD	0	30972	01/03/2024	\$	(7,875.00)	Posted		1	Can I Live, Inc
Check	187386	0	01/03/2024	\$	(17,385.82)	Posted		1	Engie North America Inc
Check	187385	0	01/03/2024	\$	(15,271.18)	Posted		1	Engie North America Inc
Check	187384	0	01/03/2024	\$	(2,618.04)	Posted		1	Engie North America Inc

Check	187383	0	01/03/2024	\$	(807.62)	Posted		1	Engie North America Inc
Check	187382	0	01/03/2024	\$	(1,414.66)	Posted		1	Engie North America Inc
Check	187381	0	01/03/2024	\$	(17.45)	Posted		1	Engie North America Inc
Check	187380	0	01/03/2024	\$	(3,888.82)	Posted		1	Engie North America Inc
Check	187399	0	01/03/2024	\$	(1,750.00)	Posted		1	Netz Keren DE, LLC
Check	187361	0	01/03/2024	\$	(1,850.00)	Posted		1	238 Columbus Ave Associates LLC
DD	0	30978	01/03/2024	\$	(5,396.31)	Posted		1	Cdw Government Inc
Check	187406	0	01/03/2024	\$	(64.36)	Posted		1	State Of Connecticut
DD	0	30980	01/03/2024	\$	(382.06)	Posted		1	New Horizon Communications Corp
DD	0	30981	01/03/2024	\$	(134.74)	Posted		1	Ringcentral, Inc
DD	0	30979	01/03/2024	\$	(715.00)	Posted		1	M.A.C Computer Consulting, Inc
DD	0	30982	01/03/2024	\$	(20,928.50)	Posted		1	The Computer Company Inc
Check	187411	0	01/03/2024	\$	(243.46)	Posted		1	United Illuminating
Check	187410	0	01/03/2024	\$	(361.38)	Posted		1	United Illuminating
Check	187409	0	01/03/2024	\$	(1,454.22)	Posted		1	Regional Water Authority
Check	187408	0	01/03/2024	\$	(19.52)	Posted		1	Engie North America Inc
Check	187407	0	01/03/2024	\$	(132.05)	Posted		1	Engie North America Inc
Check	187412	0	01/03/2024	\$	(2,236.29)	Posted		1	Chamberlain Court Condominium Association, Inc.
Check	187414	0	01/03/2024	\$	(351.13)	Posted		1	Jasmine Ruiz
Check	187413	0	01/03/2024	\$	(158.00)	Posted		1	Housing Agency Procurement Assistance
DD	0	30988	01/03/2024	\$	(730.44)	Posted		1	Schatara McKiver
DD	0	30984	01/03/2024	\$	(730.44)	Posted		1	Jasmine Yvonne Johnson
Check	187415	0	01/03/2024	\$	(730.44)	Posted		1	Jazmin Boria
DD	0	30983	01/03/2024	\$	(730.44)	Posted		1	Ashley Shemone Keen
DD	0	30989	01/03/2024	\$	(730.44)	Posted		1	Shayla Foreman
DD	0	30987	01/03/2024	\$	(551.13)	Posted		1	Sarah Esther Garcia
DD	0	30986	01/03/2024	\$	(551.13)	Posted		1	Keara Locke
DD	0	30985	01/03/2024	\$	(730.44)	Posted		1	Jerry L. Blue
Check	187416	0	01/03/2024	\$	(9,300.00)	Posted		1	Home Depot
Check	187423	0	01/04/2024	\$	(809.55)	Posted		1	W.B. Mason Company Inc
Check	187419	0	01/04/2024	\$	(1,435.00)	Posted		1	Jessica Lynn Rodriguez
Check	187420	0	01/04/2024	\$	(5,401.20)	Posted		1	Laz Parking
DD	0	30993	01/04/2024	\$	(33,120.00)	Posted		1	Enviromed Services, Inc.
DD	0	30996	01/04/2024	\$	(171,754.48)	Posted		1	Housing Insurance Services, Inc.
DD	0	30997	01/04/2024	\$	(25.00)	Posted		1	Infoshred, LLC
DD	0	30990	01/04/2024	\$	(1,833.83)	Posted		1	Cdw Government Inc
DD	0	30992	01/04/2024	\$	(4,300.00)	Posted		1	Emphasys Computer Solutions
Check	187422	0	01/04/2024	\$	(27,702.28)	Posted		1	Stanley Convergent Security Solutions, Inc.
Check	187418	0	01/04/2024	\$	(73.98)	Posted		1	ARAMARK Uniform & Career Apparel
DD	0	30991	01/04/2024	\$	(105.00)	Posted		1	Eagle Leasing Company
DD	0	30998	01/04/2024	\$	(1,381.25)	Posted		1	KJR Consulting
Check	187421	0	01/04/2024	\$	(394.19)	Posted		1	Online Information Services, Inc
Check	187417	0	01/04/2024	\$	(40.39)	Posted		1	Aramark Refreshment Services
DD	0	30994	01/04/2024	\$	(2,001.58)	Posted		1	Freeman Companies, LLC
DD	0	30999	01/04/2024	\$	(5,237.84)	Posted		1	Lothrop Associates, LLP
DD	0	30995	01/04/2024	\$	(531.33)	Posted		1	Holly A Bryk
Check	187426	0	01/04/2024	\$	-	Posted	02/08/2024	1	Ernestine Barnes
Check	187425	0	01/04/2024	\$	(941.99)	Posted		1	Brittany Noel Warren
Check	187430	0	01/04/2024	\$	(251.00)	Posted		1	Stephanie Marie Cox
Check	187428	0	01/04/2024	\$	(1,453.00)	Posted		1	MZNH Holdings LLC
Check	187424	0	01/04/2024	\$	(422.00)	Posted		1	Angel McPhaul
Check	187429	0	01/04/2024	\$	(440.00)	Posted		1	Rhodella Woods
Check	187431	0	01/04/2024	\$	(209.00)	Posted		1	Traci Frasier
Check	187427	0	01/04/2024	\$	(470.00)	Posted		1	Janida Hernandez
Check	187432	0	01/05/2024	\$	(17,782.17)	Posted		1	United Illuminating
Check	187437	0	01/05/2024	\$	(4,133.22)	Posted		1	Southern Connecticut Gas
Check	187436	0	01/05/2024	\$	(3,945.62)	Posted		1	Southern Connecticut Gas
Check	187435	0	01/05/2024	\$	(754.39)	Posted		1	Southern Connecticut Gas
Check	187434	0	01/05/2024	\$	(3,992.94)	Posted		1	Southern Connecticut Gas
Check	187433	0	01/05/2024	\$	(2,476.02)	Posted		1	Southern Connecticut Gas
DD	0	31002	01/05/2024	\$	-	Posted	01/05/2024	1	Housing Insurance Services, Inc.
DD	0	31006	01/05/2024	\$	-	Posted	01/05/2024	1	Trinity New Haven Housing Two Limited Partnership
DD	0	31004	01/05/2024	\$	-	Posted	01/05/2024	1	Trinity New Haven Housing LP
DD	0	31007	01/05/2024	\$	-	Posted	01/05/2024	1	Trinity Rowe Limited Partnership
DD	0	31001	01/05/2024	\$	-	Posted	01/05/2024	1	Brookside 1 Associates LLC
DD	0	31000	01/05/2024	\$	-	Posted	01/05/2024	1	Brookside 2 Associates LLC
DD	0	31005	01/05/2024	\$	-	Posted	01/05/2024	1	Trinity New Haven Housing Three LP
DD	0	31003	01/05/2024	\$	-	Posted	01/05/2024	1	Rockview 1 Associates LLC
Check	187438	0	01/05/2024	\$	-	Posted		1	Southern Connecticut Gas
Check	187439	0	01/05/2024	\$	-	Posted		1	Southern Connecticut Gas
Check	187440	0	01/05/2024	\$	-	Posted		1	Southern Connecticut Gas
Check	187441	0	01/05/2024	\$	-	Posted		1	Southern Connecticut Gas
Check	187442	0	01/05/2024	\$	-	Posted		1	Southern Connecticut Gas

DD	0	31010	01/05/2024	\$	-	Posted		1	Housing Insurance Services, Inc.
DD	0	31014	01/05/2024	\$	-	Posted		1	Trinity New Haven Housing Two Limited Partnership
DD	0	31012	01/05/2024	\$	-	Posted		1	Trinity New Haven Housing LP
DD	0	31015	01/05/2024	\$	-	Posted		1	Trinity Rowe Limited Partnership
DD	0	31009	01/05/2024	\$	-	Posted		1	Brookside 1 Associates LLC
DD	0	31008	01/05/2024	\$	-	Posted		1	Brookside 2 Associates LLC
DD	0	31013	01/05/2024	\$	-	Posted		1	Trinity New Haven Housing Three LP
DD	0	31011	01/05/2024	\$	-	Posted		1	Rockview 1 Associates LLC
DD	0	31016	01/05/2024	\$	(94,729.36)	Posted		1	Housing Insurance Services, Inc.
DD	0	31022	01/05/2024	\$	(29,740.59)	Posted		1	Trinity New Haven Housing Two Limited Partnership
DD	0	31020	01/05/2024	\$	(17,564.74)	Posted		1	Trinity New Haven Housing LP
DD	0	31023	01/05/2024	\$	(16,329.48)	Posted		1	Trinity Rowe Limited Partnership
DD	0	31018	01/05/2024	\$	(26,503.26)	Posted		1	Brookside 1 Associates LLC
DD	0	31017	01/05/2024	\$	(23,249.21)	Posted		1	Brookside 2 Associates LLC
DD	0	31021	01/05/2024	\$	(9,550.84)	Posted		1	Trinity New Haven Housing Three LP
DD	0	31019	01/05/2024	\$	(14,981.81)	Posted		1	Rockview 1 Associates LLC
Check	187444	0	01/08/2024	\$	-	Posted	01/08/2024	1	City of New Haven
Check	187450	0	01/08/2024	\$	-	Posted		1	City of New Haven
Check	187443	0	01/08/2024	\$	(7,204.19)	Posted		1	City of New Haven
Check	187445	0	01/08/2024	\$	(104.37)	Posted		1	Federal Express Corp.
Check	187446	0	01/08/2024	\$	(270.96)	Posted		1	Hearst Media Services Connecticut, LLC
Check	187449	0	01/08/2024	\$	(516.84)	Posted		1	Online Information Services, Inc
Check	187448	0	01/08/2024	\$	(2,062.00)	Posted		1	NHCD DE 2 LLc
Check	187447	0	01/08/2024	\$	(1,200.00)	Posted		1	Miguel Rivera
Check	187452	0	01/08/2024	\$	-	Posted		1	City of New Haven
Check	187451	0	01/08/2024	\$	(27,238.91)	Posted		1	City of New Haven
Check	187478	0	01/08/2024	\$	(226.00)	Posted		1	Postmaster
Check	187509	0	01/08/2024	\$	(2,685.30)	Posted		1	Water Pollution Control
Check	187508	0	01/08/2024	\$	(3,093.30)	Posted		1	Water Pollution Control
Check	187507	0	01/08/2024	\$	(2,165.10)	Posted		1	Water Pollution Control
Check	187506	0	01/08/2024	\$	(813.60)	Posted		1	Water Pollution Control
Check	187505	0	01/08/2024	\$	(867.30)	Posted		1	Water Pollution Control
Check	187504	0	01/08/2024	\$	(3,157.20)	Posted		1	Water Pollution Control
Check	187469	0	01/08/2024	\$	(76.37)	Posted		1	Frontier Communications of Company
Check	187470	0	01/08/2024	\$	(158.11)	Posted		1	Frontier Communications of Company
Check	187471	0	01/08/2024	\$	(330.50)	Posted		1	Frontier Communications of Company
Check	187472	0	01/08/2024	\$	(117.23)	Posted		1	Frontier Communications of Company
Check	187473	0	01/08/2024	\$	(76.37)	Posted		1	Frontier Communications of Company
Check	187474	0	01/08/2024	\$	(76.37)	Posted		1	Frontier Communications of Company
Check	187475	0	01/08/2024	\$	(117.23)	Posted		1	Frontier Communications of Company
Check	187476	0	01/08/2024	\$	(198.89)	Posted		1	Frontier Communications of Company
Check	187503	0	01/08/2024	\$	(5,125.76)	Posted		1	United Illuminating
Check	187480	0	01/08/2024	\$	(1,186.56)	Posted		1	Southern Connecticut Gas
Check	187481	0	01/08/2024	\$	(564.66)	Posted		1	Southern Connecticut Gas
Check	187482	0	01/08/2024	\$	(1,428.80)	Posted		1	Southern Connecticut Gas
Check	187483	0	01/08/2024	\$	(1,777.31)	Posted		1	Southern Connecticut Gas
Check	187484	0	01/08/2024	\$	(1,782.82)	Posted		1	Southern Connecticut Gas
Check	187485	0	01/08/2024	\$	(1,408.53)	Posted		1	Southern Connecticut Gas
Check	187486	0	01/08/2024	\$	(1,173.84)	Posted		1	Southern Connecticut Gas
Check	187487	0	01/08/2024	\$	(1,535.33)	Posted		1	Southern Connecticut Gas
Check	187488	0	01/08/2024	\$	(1,499.24)	Posted		1	Southern Connecticut Gas
Check	187489	0	01/08/2024	\$	(968.20)	Posted		1	Southern Connecticut Gas
Check	187490	0	01/08/2024	\$	-	Posted	01/09/2024	1	Southern Connecticut Gas
Check	187491	0	01/08/2024	\$	(144.33)	Posted		1	Southern Connecticut Gas
Check	187492	0	01/08/2024	\$	-	Posted	01/09/2024	1	Southern Connecticut Gas
Check	187493	0	01/08/2024	\$	(3,189.37)	Posted		1	Southern Connecticut Gas
Check	187494	0	01/08/2024	\$	(158.92)	Posted		1	Southern Connecticut Gas
Check	187495	0	01/08/2024	\$	(2,283.60)	Posted		1	Southern Connecticut Gas
Check	187496	0	01/08/2024	\$	(1,525.57)	Posted		1	Southern Connecticut Gas
Check	187497	0	01/08/2024	\$	(435.11)	Posted		1	Southern Connecticut Gas
Check	187498	0	01/08/2024	\$	(1,822.62)	Posted		1	Southern Connecticut Gas
Check	187499	0	01/08/2024	\$	(400.40)	Posted		1	Southern Connecticut Gas
Check	187500	0	01/08/2024	\$	(1,041.62)	Posted		1	Southern Connecticut Gas
Check	187501	0	01/08/2024	\$	(1,476.44)	Posted		1	Southern Connecticut Gas
Check	187502	0	01/08/2024	\$	(1,542.27)	Posted		1	Southern Connecticut Gas
Check	187479	0	01/08/2024	\$	(725.66)	Posted		1	Regional Water Authority
DD	0	31024	01/08/2024	\$	(419.50)	Posted		1	Cohen Key Shop
Check	187510	0	01/08/2024	\$	(106.51)	Posted		1	Yale Termite & Pest Elimination Corp.
DD	0	31027	01/08/2024	\$	(13,445.00)	Posted		1	Reitman Personnel Services, Inc.
DD	0	31026	01/08/2024	\$	(6,368.00)	Posted		1	Housing Insurance Services, Inc.
Check	187467	0	01/08/2024	\$	(2,174.68)	Posted		1	Deluxe Business Form
Check	187460	0	01/08/2024	\$	(161.85)	Posted		1	Comcast Cable
Check	187459	0	01/08/2024	\$	(298.35)	Posted		1	Comcast Cable

Check	187458	0	01/08/2024	\$	(198.35)	Posted		1	Comcast Cable
Check	187457	0	01/08/2024	\$	(198.35)	Posted		1	Comcast Cable
Check	187456	0	01/08/2024	\$	(198.35)	Posted		1	Comcast Cable
Check	187455	0	01/08/2024	\$	(198.35)	Posted		1	Comcast Cable
Check	187454	0	01/08/2024	\$	(258.31)	Posted		1	Comcast Cable
Check	187453	0	01/08/2024	\$	(17,025.34)	Posted		1	Colonial Life & Accident Insurance
Check	187477	0	01/08/2024	\$	(2,458.04)	Posted		1	Home Depot
Check	187466	0	01/08/2024	\$	(594.01)	Posted		1	Constellation Energy Services, Inc
Check	187465	0	01/08/2024	\$	(400.47)	Posted		1	Constellation Energy Services, Inc
Check	187464	0	01/08/2024	\$	(94.17)	Posted		1	Constellation Energy Services, Inc
Check	187463	0	01/08/2024	\$	(76.53)	Posted		1	Constellation Energy Services, Inc
Check	187462	0	01/08/2024	\$	(79.42)	Posted		1	Constellation Energy Services, Inc
Check	187461	0	01/08/2024	\$	(41.67)	Posted		1	Constellation Energy Services, Inc
DD	0	31025	01/08/2024	\$	(7,511.88)	Posted		1	Home Services & More, LLC
Check	187468	0	01/08/2024	\$	(9,062.33)	Posted		1	F.W. Webb Company
DD	0	31028	01/08/2024	\$	(52.00)	Posted		1	AFSCME PEOPLE Committee
Check	187515	0	01/09/2024	\$	(112.32)	Posted		1	United Illuminating
Check	187513	0	01/09/2024	\$	(331.09)	Posted		1	Southern Connecticut Gas
Check	187514	0	01/09/2024	\$	(3,190.00)	Posted		1	State Of Connecticut
Check	187511	0	01/09/2024	\$	(101.57)	Posted		1	Federal Express Corp.
DD	0	31029	01/09/2024	\$	(13,263.60)	Posted		1	360 Management Group. Co.
Check	187512	0	01/09/2024	\$	(1,944.25)	Posted		1	Laz Parking
Check	187525	0	01/09/2024	\$	(1,813.20)	Posted		1	Water Pollution Control
Check	187526	0	01/09/2024	\$	(2,246.70)	Posted		1	Water Pollution Control
Check	187527	0	01/09/2024	\$	(2,027.40)	Posted		1	Water Pollution Control
Check	187528	0	01/09/2024	\$	(120.00)	Posted		1	Water Pollution Control
Check	187529	0	01/09/2024	\$	(14,224.20)	Posted		1	Water Pollution Control
Check	187530	0	01/09/2024	\$	(441.30)	Posted		1	Water Pollution Control
Check	187524	0	01/09/2024	\$	(687.63)	Posted		1	United Illuminating
Check	187519	0	01/09/2024	\$	(464.13)	Posted		1	Southern Connecticut Gas
Check	187520	0	01/09/2024	\$	(163.49)	Posted		1	Southern Connecticut Gas
Check	187521	0	01/09/2024	\$	(6,508.34)	Posted		1	Southern Connecticut Gas
Check	187522	0	01/09/2024	\$	(2,906.87)	Posted		1	Southern Connecticut Gas
Check	187523	0	01/09/2024	\$	(2,780.04)	Posted		1	Southern Connecticut Gas
Check	187517	0	01/09/2024	\$	(2,617.00)	Posted		1	Eagle Elevator Company, Inc.
Check	187516	0	01/09/2024	\$	(15,849.34)	Posted		1	City of New Haven
Check	187518	0	01/09/2024	\$	(948.00)	Posted		1	Hands On Moving, LLC
Check	187531	0	01/09/2024	\$	(1,800.00)	Posted		1	Elm Haven Rental LP II
Check	187534	0	01/10/2024	\$	(4,228.50)	Posted		1	AM/PM Glass & Metal Fab., LLC
Check	187538	0	01/10/2024	\$	(658.76)	Posted		1	W.B. Mason Company Inc
Check	187539	0	01/10/2024	\$	(6,262.32)	Posted		1	Yale Termite & Pest Elimination Corp.
DD	0	31032	01/10/2024	\$	(123.55)	Posted		1	Infoshred, LLC
DD	0	31030	01/10/2024	\$	(3,743.51)	Posted		1	CWPM, LLC
Check	187532	0	01/10/2024	\$	(1,000.00)	Posted		1	Ace Van & Storage, Inc.
Check	187537	0	01/10/2024	\$	(18,426.43)	Posted		1	Stanley Convergent Security Solutions, Inc.
Check	187535	0	01/10/2024	\$	(261.96)	Posted		1	ARAMARK Uniform & Career Apparel
Check	187536	0	01/10/2024	\$	(15,490.89)	Posted		1	HD Supply Facilities Maintenance, Ltd
Check	187533	0	01/10/2024	\$	(18,066.81)	Posted		1	Advance Security Integration LLC dba Security 101
DD	0	31031	01/10/2024	\$	(50.00)	Posted		1	Holly A Bryk
Check	187540	0	01/10/2024	\$	(805.40)	Posted		1	AM/PM Glass & Metal Fab., LLC
Check	187545	0	01/10/2024	\$	(115.13)	Posted		1	United Illuminating
Check	187546	0	01/10/2024	\$	(2,091.85)	Posted		1	United Illuminating
Check	187547	0	01/10/2024	\$	(107.37)	Posted		1	United Illuminating
Check	187548	0	01/10/2024	\$	(425.50)	Posted		1	United Illuminating
DD	0	31034	01/10/2024	\$	(1,248.35)	Posted		1	Cohen Key Shop
DD	0	31039	01/10/2024	\$	(10,874.58)	Posted		1	Reitman Personnel Services, Inc.
DD	0	31036	01/10/2024	\$	(32,066.79)	Posted		1	CWPM, LLC
Check	187544	0	01/10/2024	\$	(233.71)	Posted		1	Ricoh USA Inc
Check	187541	0	01/10/2024	\$	(2,386.77)	Posted		1	ARAMARK Uniform & Career Apparel
DD	0	31035	01/10/2024	\$	(5,027.20)	Posted		1	Crumbie Law Group, LLC
DD	0	31038	01/10/2024	\$	(15,048.00)	Posted		1	Otis Elevator Company
DD	0	31037	01/10/2024	\$	(701.00)	Posted		1	Home Services & More, LLC
DD	0	31033	01/10/2024	\$	(5,587.67)	Posted		1	360 Management Group. Co.
Check	187542	0	01/10/2024	\$	(1,795.50)	Posted		1	Johnson Controls US Holdings LLC
Check	187543	0	01/10/2024	\$	(5,487.74)	Posted		1	Legacy Of Clean LLC dba/Green Restoration
Check	187551	0	01/10/2024	\$	(124.36)	Posted		1	United Illuminating
Check	187552	0	01/10/2024	\$	(202.07)	Posted		1	United Illuminating
Check	187553	0	01/10/2024	\$	(461.39)	Posted		1	United Illuminating
Check	187554	0	01/10/2024	\$	(126.63)	Posted		1	United Illuminating
Check	187555	0	01/10/2024	\$	(663.26)	Posted		1	United Illuminating
DD	0	31041	01/10/2024	\$	(840.64)	Posted		1	Housing Authority of the City of New Haven
DD	0	31040	01/10/2024	\$	(217,246.90)	Posted		1	360 Management Group. Co.
DD	0	31042	01/10/2024	\$	(240.00)	Posted		1	Mechanical Heating and Air Conditioning, Inc

Check	187549	0	01/10/2024	\$	(2,296.52)	Posted		1	Engie North America Inc
Check	187550	0	01/10/2024	\$	(118.96)	Posted		1	Engie North America Inc
DD	0	31043	01/10/2024	\$	-	Posted	01/10/2024	1	Hands On Landscaping LLC
DD	0	31044	01/10/2024	\$	-	Posted		1	Hands On Landscaping LLC
Check	187556	0	01/10/2024	\$	(2,700.00)	Posted		1	Hands On Landscaping LLC
Check	187557	0	01/10/2024	\$	(414.00)	Posted		1	Afscme Local 818
Check	187558	0	01/10/2024	\$	(184.00)	Posted		1	Afscme Local 818
DD	0	31045	01/10/2024	\$	(2,301.60)	Posted		1	Afscme Local 713/afscme Council 4
DD	0	31046	01/10/2024	\$	(5,082.70)	Posted		1	Afscme Local 713/afscme Council 4
Check	187570	0	01/10/2024	\$	(867.60)	Posted		1	Regional Water Authority
Check	187571	0	01/10/2024	\$	(1,903.92)	Posted		1	Regional Water Authority
Check	187572	0	01/10/2024	\$	(89.13)	Posted		1	Regional Water Authority
Check	187568	0	01/10/2024	\$	-	Posted	01/11/2024	1	Laz Parking
DD	0	31049	01/10/2024	\$	(5,513.48)	Posted		1	Housing Insurance Services, Inc.
DD	0	31050	01/10/2024	\$	(6,720.00)	Posted		1	Solar Youth Inc.
DD	0	31051	01/10/2024	\$	(6,720.00)	Posted		1	Solar Youth Inc.
Check	187573	0	01/10/2024	\$	(2,400.00)	Posted		1	U.S. Bank
Check	187561	0	01/10/2024	\$	(314.31)	Posted		1	Comcast Cable
Check	187562	0	01/10/2024	\$	(170.08)	Posted		1	Comcast Cable
Check	187559	0	01/10/2024	\$	(2,806.47)	Posted		1	City of New Haven
Check	187574	0	01/10/2024	\$	(2,087.25)	Posted		1	Verizon Wireless
DD	0	31047	01/10/2024	\$	(20.00)	Posted		1	AFSCME PEOPLE Committee
DD	0	31048	01/10/2024	\$	(10.00)	Posted		1	AFSCME PEOPLE Committee
Check	187564	0	01/10/2024	\$	(43.49)	Posted		1	Kimberly Johansen
Check	187565	0	01/10/2024	\$	(48.67)	Posted		1	Kimberly Johansen
Check	187560	0	01/10/2024	\$	(2,500.00)	Posted		1	Columbus House, Inc
Check	187569	0	01/10/2024	\$	(6,672.63)	Posted		1	New Reach, Inc.
Check	187566	0	01/10/2024	\$	(5,100.00)	Posted		1	Laz Parking
Check	187567	0	01/10/2024	\$	(4,950.00)	Posted		1	Laz Parking
Check	187563	0	01/10/2024	\$	(191.25)	Posted		1	Jerris Luncheonette Inc
Check	187575	0	01/10/2024	\$	(25.00)	Posted		1	Yoviel Manuel Morales
Check	187576	0	01/10/2024	\$	(25.00)	Posted		1	Zion Anthony Morales
Check	187612	0	01/10/2024	\$	(200.00)	Posted		1	Stevie Jackson
Check	187615	0	01/10/2024	\$	(1,784.09)	Posted		1	United Illuminating
Check	187616	0	01/10/2024	\$	(1,309.96)	Posted		1	United Illuminating
Check	187617	0	01/10/2024	\$	(942.18)	Posted		1	United Illuminating
Check	187618	0	01/10/2024	\$	(1,035.03)	Posted		1	United Illuminating
Check	187619	0	01/10/2024	\$	(1,020.39)	Posted		1	United Illuminating
Check	187620	0	01/10/2024	\$	(264.63)	Posted		1	United Illuminating
Check	187621	0	01/10/2024	\$	(762.68)	Posted		1	United Illuminating
Check	187622	0	01/10/2024	\$	(854.25)	Posted		1	United Illuminating
Check	187623	0	01/10/2024	\$	(1,393.12)	Posted		1	United Illuminating
Check	187624	0	01/10/2024	\$	(1,243.34)	Posted		1	United Illuminating
Check	187625	0	01/10/2024	\$	(1,362.65)	Posted		1	United Illuminating
Check	187607	0	01/10/2024	\$	(467.42)	Posted		1	Ricoh USA Inc
Check	187605	0	01/10/2024	\$	(181.72)	Posted		1	Northeast Electrical Distributors & Eagle Electric
Check	187593	0	01/10/2024	\$	(35.07)	Posted		1	Home Depot
Check	187586	0	01/10/2024	\$	(200.00)	Posted		1	Darius K Reid
Check	187602	0	01/10/2024	\$	(200.00)	Posted		1	Marta Laboy
DD	0	31059	01/10/2024	\$	(200.00)	Posted		1	Doris J Doward
DD	0	31054	01/10/2024	\$	(200.00)	Posted		1	Alberta W Golden
Check	187582	0	01/10/2024	\$	(200.00)	Posted		1	Brenda J Harris
DD	0	31067	01/10/2024	\$	(200.00)	Posted		1	Linda Cross
Check	187597	0	01/10/2024	\$	(200.00)	Posted		1	Judy Cosby
DD	0	31052	01/10/2024	\$	(200.00)	Posted		1	Airess Johnson
Check	187611	0	01/10/2024	\$	(200.00)	Posted		1	Shantour Jackson
Check	187608	0	01/10/2024	\$	(200.00)	Posted		1	Roberto Roman-Negron
DD	0	31071	01/10/2024	\$	(200.00)	Posted		1	Patricia Mabry
Check	187600	0	01/10/2024	\$	(200.00)	Posted		1	Major Banks
Check	187584	0	01/10/2024	\$	(200.00)	Posted		1	Christy A Pedini
Check	187591	0	01/10/2024	\$	(7,511.11)	Posted		1	HD Supply Facilities Maintenance, Ltd
DD	0	31073	01/10/2024	\$	(200.00)	Posted		1	Paul A Kates
DD	0	31072	01/10/2024	\$	(200.00)	Posted		1	Patricia Thorpe
Check	187601	0	01/10/2024	\$	(200.00)	Posted		1	Maritza Baez
DD	0	31056	01/10/2024	\$	(200.00)	Posted		1	Deborah Hudson
Check	187583	0	01/10/2024	\$	(200.00)	Posted		1	Bruce Gatling
DD	0	31064	01/10/2024	\$	(200.00)	Posted		1	Lagreta Riles
DD	0	31057	01/10/2024	\$	(200.00)	Posted		1	Dennis Nathaniel Jenkins
DD	0	31055	01/10/2024	\$	(200.00)	Posted		1	Alicia M Spencer
DD	0	31060	01/10/2024	\$	(200.00)	Posted		1	Dorothy M Smith
DD	0	31058	01/10/2024	\$	(200.00)	Posted		1	Donna Santiago
DD	0	31076	01/10/2024	\$	(200.00)	Posted		1	Teresa Nela Caporale
DD	0	31062	01/10/2024	\$	(200.00)	Posted		1	Jonathan Stewart

DD	0	31075	01/10/2024	\$ (200.00)	Posted		1	Perry Lamar Gary
Check	187588	0	01/10/2024	\$ (2,231.88)	Posted		1	F.W. Webb Company
Check	187587	0	01/10/2024	\$ (200.00)	Posted		1	Edward Beverley
Check	187603	0	01/10/2024	\$ (200.00)	Posted		1	Miguel Avila
DD	0	31077	01/10/2024	\$ (200.00)	Posted		1	Willard E. Ford
Check	187609	0	01/10/2024	\$ (200.00)	Posted		1	Russell Roberson
Check	187581	0	01/10/2024	\$ (200.00)	Posted		1	Billy Ray Mathews
DD	0	31053	01/10/2024	\$ (200.00)	Posted		1	Al Mccoy Langston
DD	0	31074	01/10/2024	\$ (200.00)	Posted		1	Pedro Octavio Jimenez
Check	187592	0	01/10/2024	\$ (200.00)	Posted		1	Hector A Lozada-Osorio
Check	187604	0	01/10/2024	\$ (200.00)	Posted		1	Noraima Avila
Check	187578	0	01/10/2024	\$ (200.00)	Posted		1	Angela Dixon
Check	187598	0	01/10/2024	\$ (200.00)	Posted		1	Kelly Nichols
DD	0	31065	01/10/2024	\$ (200.00)	Posted		1	Lavern Davis
DD	0	31070	01/10/2024	\$ (8,666.67)	Posted		1	NuEnergen, LLC
DD	0	31068	01/10/2024	\$ (200.00)	Posted		1	Luz E Torres
Check	187579	0	01/10/2024	\$ (200.00)	Posted		1	Annette Yancey
DD	0	31069	01/10/2024	\$ (24,282.89)	Posted		1	Mechanical Heating and Air Conditioning, Inc
DD	0	31063	01/10/2024	\$ (200.00)	Posted		1	Keith Davis
DD	0	31061	01/10/2024	\$ (5,280.00)	Posted		1	Ideal Printing Co. Inc
Check	187606	0	01/10/2024	\$ (200.00)	Posted		1	Ralph Berryman
Check	187580	0	01/10/2024	\$ (200.00)	Posted		1	Avis Grant
Check	187595	0	01/10/2024	\$ (200.00)	Posted		1	Janet Poole
Check	187585	0	01/10/2024	\$ (200.00)	Posted		1	Clenison Dickey
Check	187594	0	01/10/2024	\$ (200.00)	Posted		1	James Jenkins
Check	187589	0	01/10/2024	\$ (200.00)	Posted		1	Gail Pressley
Check	187610	0	01/10/2024	\$ (200.00)	Posted		1	Sean Holland
Check	187613	0	01/10/2024	\$ (200.00)	Posted		1	Teethenia Stroud
Check	187599	0	01/10/2024	\$ (200.00)	Posted		1	Lee C Moore
Check	187614	0	01/10/2024	\$ (200.00)	Posted		1	Todd Collins
Check	187596	0	01/10/2024	\$ (200.00)	Posted		1	Jennifer Malone
Check	187577	0	01/10/2024	\$ -	Posted	01/29/2024	1	Adalberto Rivera
DD	0	31066	01/10/2024	\$ (200.00)	Posted		1	Lenard Greene
Check	187590	0	01/10/2024	\$ (200.00)	Posted		1	George G Robinson
Check	187626	0	01/11/2024	\$ (1,568.65)	Posted		1	Autoscribe Corporation
Check	187628	0	01/11/2024	\$ -	Posted		1	Laz Parking
Check	187627	0	01/11/2024	\$ (5,250.00)	Posted		1	Laz Parking
Check	187652	0	01/11/2024	\$ (395.06)	Posted		1	W.B. Mason Company Inc
Check	187634	0	01/11/2024	\$ (1,574.52)	Posted		1	Frontier Communications of Company
Check	187635	0	01/11/2024	\$ (292.40)	Posted		1	Frontier Communications of Company
Check	187636	0	01/11/2024	\$ (161.88)	Posted		1	Frontier Communications of Company
Check	187637	0	01/11/2024	\$ (76.39)	Posted		1	Frontier Communications of Company
Check	187638	0	01/11/2024	\$ (117.26)	Posted		1	Frontier Communications of Company
Check	187639	0	01/11/2024	\$ (153.57)	Posted		1	Frontier Communications of Company
Check	187640	0	01/11/2024	\$ (76.39)	Posted		1	Frontier Communications of Company
Check	187641	0	01/11/2024	\$ (76.39)	Posted		1	Frontier Communications of Company
Check	187642	0	01/11/2024	\$ (76.39)	Posted		1	Frontier Communications of Company
Check	187643	0	01/11/2024	\$ (116.77)	Posted		1	Frontier Communications of Company
Check	187650	0	01/11/2024	\$ (85.00)	Posted		1	Supreme Corporation
DD	0	31079	01/11/2024	\$ (2,902.43)	Posted		1	CWPM, LLC
DD	0	31080	01/11/2024	\$ (3,669.90)	Posted		1	CWPM, LLC
DD	0	31078	01/11/2024	\$ (3,491.52)	Posted		1	Cdw Government Inc
Check	187631	0	01/11/2024	\$ (66.43)	Posted		1	Comcast Cable
Check	187632	0	01/11/2024	\$ (284.36)	Posted		1	Comcast Cable
Check	187629	0	01/11/2024	\$ (200.00)	Posted		1	Ace Van & Storage, Inc.
Check	187649	0	01/11/2024	\$ (3,864.81)	Posted		1	Stanley Convergent Security Solutions, Inc.
DD	0	31084	01/11/2024	\$ (3,401.60)	Posted		1	Kone Inc.
DD	0	31082	01/11/2024	\$ (11,408.68)	Posted		1	Housing Authority of the City of New Haven
Check	187644	0	01/11/2024	\$ (1,398.79)	Posted		1	HD Supply Facilities Maintenance, Ltd
DD	0	31081	01/11/2024	\$ (2,638.92)	Posted		1	Home Services & More, LLC
Check	187646	0	01/11/2024	\$ (2,391.12)	Posted		1	Johns Refuse & Recycling, LLC
Check	187630	0	01/11/2024	\$ (423.59)	Posted		1	Aramark Refreshment Services
DD	0	31083	01/11/2024	\$ (5,536.53)	Posted		1	Housing Development Fund, Inc.
Check	187648	0	01/11/2024	\$ (142.35)	Posted		1	Skyview Ridgefield LLC
Check	187645	0	01/11/2024	\$ (35,233.40)	Posted		1	Home Depot
Check	187633	0	01/11/2024	\$ (2,287.35)	Posted		1	Delta Dental of New Jersey, Inc
Check	187651	0	01/11/2024	\$ (700.00)	Posted		1	Tarin Evans
Check	187647	0	01/11/2024	\$ (466.18)	Posted		1	Johnson Controls US Holdings LLC
Check	187654	0	01/12/2024	\$ (142.70)	Posted		1	Frontier Communications of Company
Check	187659	0	01/12/2024	\$ (45.74)	Posted		1	United Illuminating
Check	187658	0	01/12/2024	\$ (67.76)	Posted		1	Regional Water Authority
Check	187657	0	01/12/2024	\$ (977.57)	Posted		1	Home Depot
Check	187655	0	01/12/2024	\$ (6,734.06)	Posted		1	G.L. Capasso, Inc

Check	187656	0	01/12/2024	\$ (1,559.47)	Posted		1	HD Supply Facilities Maintenance, Ltd
Check	187653	0	01/12/2024	\$ (4,103.40)	Posted		1	F.W. Webb Company
Check	187664	0	01/12/2024	\$ (14.70)	Posted		1	United Illuminating
Check	187665	0	01/12/2024	\$ (202.92)	Posted		1	United Illuminating
Check	187666	0	01/12/2024	\$ (424.58)	Posted		1	United Illuminating
Check	187667	0	01/12/2024	\$ (11,378.70)	Posted		1	United Illuminating
Check	187668	0	01/12/2024	\$ (1,283.84)	Posted		1	United Illuminating
Check	187669	0	01/12/2024	\$ (3,944.70)	Posted		1	United Illuminating
Check	187670	0	01/12/2024	\$ (3,271.00)	Posted		1	United Illuminating
Check	187671	0	01/12/2024	\$ (4,263.71)	Posted		1	United Illuminating
Check	187661	0	01/12/2024	\$ (150.20)	Posted		1	Regional Water Authority
Check	187662	0	01/12/2024	\$ (135.52)	Posted		1	Regional Water Authority
Check	187663	0	01/12/2024	\$ (28.61)	Posted		1	Regional Water Authority
Check	187660	0	01/12/2024	\$ (757.97)	Posted		1	Constellation Energy Services, Inc
Check	187672	0	01/12/2024	\$ (21,846.27)	Posted		1	United Illuminating
Check	187673	0	01/16/2024	\$ (245.00)	Posted		1	Ernestine Barnes
DD	0	31085	01/16/2024	\$ -	Posted	01/16/2024	1	Grasso Residential, LLC
Check	187674	0	01/16/2024	\$ (35.00)	Posted		1	Joyce R Talton-Traynham
Check	187676	0	01/16/2024	\$ (50.00)	Posted		1	Sette Real Estate, LLC
Check	187675	0	01/16/2024	\$ (2,734.00)	Posted		1	New Wave Holdings, LLC
DD	0	31086	01/16/2024	\$ -	Posted		1	Grasso Residential, LLC
Check	187678	0	01/16/2024	\$ (275.00)	Posted		1	Grasso Residential, LLC
Check	187677	0	01/16/2024	\$ -	Posted	01/16/2024	0	Grasso Residential, LLC
DD	0	31087	01/16/2024	\$ -	Posted	01/16/2024	1	Paul B. Bailey Architect
DD	0	31088	01/16/2024	\$ -	Posted		1	Paul B. Bailey Architect
Check	187679	0	01/16/2024	\$ (133,836.25)	Posted		1	Paul B. Bailey Architect
DD	0	31090	01/16/2024	\$ (4,298.00)	Posted		1	Enviromed Services, Inc.
Check	187681	0	01/16/2024	\$ (12,872.64)	Posted		1	Anthem Blue Cross/Blue Shield
Check	187682	0	01/16/2024	\$ (227,318.61)	Posted		1	Anthem Blue Cross/Blue Shield
Check	187684	0	01/16/2024	\$ (13,825.35)	Posted		1	Comcast Cable
Check	187680	0	01/16/2024	\$ (1,855.00)	Posted		1	Ace Van & Storage, Inc.
Check	187685	0	01/16/2024	\$ (11.59)	Posted		1	HD Supply Facilities Maintenance, Ltd
DD	0	31089	01/16/2024	\$ (13,080.00)	Posted		1	Christopher Williams Architects, LLC
DD	0	31091	01/16/2024	\$ (160.00)	Posted		1	Hands On Moving, LLC
Check	187683	0	01/16/2024	\$ (311.25)	Posted		1	Aramark Refreshment Services
Check	187686	0	01/16/2024	\$ (39,135.57)	Posted		1	Oxford Health Plans, LLC
Check	187687	0	01/16/2024	\$ (1,589.15)	Posted		1	Autoscribe Corporation
Check	187688	0	01/17/2024	\$ (2,668.35)	Posted		1	Hearst Media Services Connecticut, LLC
Check	187690	0	01/17/2024	\$ (38.50)	Posted		1	Torello Tire Inc.
Check	187689	0	01/17/2024	\$ (2,100.00)	Posted		1	Netz IB DE, LLC
DD	0	31092	01/17/2024	\$ (26,680.00)	Posted		1	Patterson & Associate Consulting, LLC
Check	187691	0	01/17/2024	\$ (2,340.00)	Posted		1	Tarin Evans
Check	187693	0	01/17/2024	\$ (439.12)	Posted		1	Standard Insurance Company.
Check	187692	0	01/17/2024	\$ (2,287.35)	Posted		1	Delta Dental of New Jersey, Inc
Check	187694	0	01/17/2024	\$ (1,306.38)	Posted		1	Tise Design Associates, Inc
DD	0	31093	01/17/2024	\$ -	Posted	01/17/2024	1	Kenneth Boroson Architects, LLC
DD	0	31094	01/17/2024	\$ -	Posted		1	Kenneth Boroson Architects, LLC
Check	187695	0	01/17/2024	\$ (5,264.95)	Posted		1	Kenneth Boroson Architects, LLC
DD	0	31095	01/17/2024	\$ (115.00)	Posted		1	Eagle Leasing Company
Check	187696	0	01/17/2024	\$ (39,586.02)	Posted		1	Oxford Health Plans, LLC
Check	187699	0	01/18/2024	\$ (457.79)	Posted		1	United Illuminating
Check	187700	0	01/18/2024	\$ (649.37)	Posted		1	United Illuminating
Check	187701	0	01/18/2024	\$ (899.07)	Posted		1	United Illuminating
Check	187702	0	01/18/2024	\$ (304.31)	Posted		1	United Illuminating
Check	187703	0	01/18/2024	\$ (29.77)	Posted		1	United Illuminating
Check	187704	0	01/18/2024	\$ (3,135.33)	Posted		1	United Illuminating
Check	187705	0	01/18/2024	\$ (1,838.43)	Posted		1	United Illuminating
Check	187706	0	01/18/2024	\$ (1,801.70)	Posted		1	United Illuminating
Check	187707	0	01/18/2024	\$ (3,035.11)	Posted		1	United Illuminating
Check	187708	0	01/18/2024	\$ (3,161.80)	Posted		1	United Illuminating
Check	187709	0	01/18/2024	\$ (2,796.86)	Posted		1	United Illuminating
Check	187710	0	01/18/2024	\$ (1,833.72)	Posted		1	United Illuminating
Check	187711	0	01/18/2024	\$ (11,182.02)	Posted		1	United Illuminating
Check	187712	0	01/18/2024	\$ (2,647.92)	Posted		1	United Illuminating
Check	187713	0	01/18/2024	\$ (186.57)	Posted		1	United Illuminating
Check	187714	0	01/18/2024	\$ (46.87)	Posted		1	United Illuminating
Check	187715	0	01/18/2024	\$ (298.32)	Posted		1	United Illuminating
Check	187716	0	01/18/2024	\$ (46.06)	Posted		1	United Illuminating
DD	0	31096	01/18/2024	\$ (55,550.26)	Posted		1	A. Prete Construction Company, Inc
Check	187698	0	01/18/2024	\$ (3,566.07)	Posted		1	Aramark Refreshment Services
Check	187697	0	01/18/2024	\$ (40,888.04)	Posted		1	Advance Security Integration LLC dba Security 101
DD	0	31097	01/18/2024	\$ (5,062.50)	Posted		1	Hands On Landscaping LLC
Check	187717	0	01/18/2024	\$ (63.49)	Posted		1	Frontier Communications of Company

Check	187718	0	01/18/2024	\$ (67.80)	Posted	1	Frontier Communications of Company
Check	187721	0	01/18/2024	\$ (4,391.60)	Posted	1	United Illuminating
Check	187722	0	01/18/2024	\$ (1,249.85)	Posted	1	United Illuminating
Check	187723	0	01/18/2024	\$ (2,321.57)	Posted	1	United Illuminating
Check	187724	0	01/18/2024	\$ (2,356.13)	Posted	1	United Illuminating
Check	187725	0	01/18/2024	\$ (1,795.44)	Posted	1	United Illuminating
Check	187726	0	01/18/2024	\$ (2,525.42)	Posted	1	United Illuminating
Check	187720	0	01/18/2024	\$ (3,890.51)	Posted	1	Southern Connecticut Gas
Check	187719	0	01/18/2024	\$ (537.96)	Posted	1	Regional Water Authority
DD	0	31098	01/18/2024	\$ (4,000.00)	Posted	1	212 Exchange Street LLC
Check	187730	0	01/18/2024	\$ (24.76)	Posted	1	United Illuminating
Check	187731	0	01/18/2024	\$ (189.86)	Posted	1	United Illuminating
Check	187732	0	01/18/2024	\$ (658.96)	Posted	1	United Illuminating
Check	187733	0	01/18/2024	\$ (902.35)	Posted	1	United Illuminating
Check	187727	0	01/18/2024	\$ (1,043.07)	Posted	1	Southern Connecticut Gas
Check	187728	0	01/18/2024	\$ (3,672.57)	Posted	1	Southern Connecticut Gas
Check	187729	0	01/18/2024	\$ (747.96)	Posted	1	Southern Connecticut Gas
Check	187734	0	01/18/2024	\$ (16.00)	Posted	3	Evelyn Santiago
Check	187735	0	01/19/2024	\$ (79.98)	Posted	1	Anais Esther Nunez
Check	187736	0	01/19/2024	\$ (452.50)	Posted	1	F.W. Webb Company
Check	187737	0	01/19/2024	\$ (875.00)	Posted	1	Yvette Gray
Check	187745	0	01/22/2024	\$ (659.10)	Posted	1	W.B. Mason Company Inc
Check	187741	0	01/22/2024	\$ (6,120.00)	Posted	1	Frankson Fence Company
Check	187744	0	01/22/2024	\$ (820.00)	Posted	1	Supreme Corporation
DD	0	31100	01/22/2024	\$ (12,276.36)	Posted	1	Infoshred, LLC
DD	0	31102	01/22/2024	\$ (11,300.00)	Posted	1	Nobe Construction Company
Check	187739	0	01/22/2024	\$ (10,580.00)	Posted	1	Eagle Elevator Company, Inc.
Check	187738	0	01/22/2024	\$ (786.72)	Posted	1	ARAMARK Uniform & Career Apparel
DD	0	31103	01/22/2024	\$ (2,175.00)	Posted	1	Palace Garage dba York Service Center
Check	187742	0	01/22/2024	\$ (238.46)	Posted	1	HD Supply Facilities Maintenance, Ltd
DD	0	31099	01/22/2024	\$ (689.50)	Posted	1	Home Services & More, LLC
Check	187743	0	01/22/2024	\$ (535.35)	Posted	1	Johnson Controls Inc
Check	187740	0	01/22/2024	\$ (951.07)	Posted	1	F.W. Webb Company
DD	0	31101	01/22/2024	\$ (14,741.74)	Posted	1	Mechanical Heating and Air Conditioning, Inc
DD	0	31104	01/22/2024	\$ (2,653.56)	Posted	1	United Ag & Turf NE, LLC
Check	187752	0	01/22/2024	\$ (2,157.48)	Posted	1	United Illuminating
Check	187753	0	01/22/2024	\$ (167.03)	Posted	1	United Illuminating
Check	187754	0	01/22/2024	\$ (17.26)	Posted	1	United Illuminating
Check	187755	0	01/22/2024	\$ (21.29)	Posted	1	United Illuminating
Check	187748	0	01/22/2024	\$ (1,358.52)	Posted	1	Southern Connecticut Gas
Check	187749	0	01/22/2024	\$ (790.03)	Posted	1	Southern Connecticut Gas
Check	187750	0	01/22/2024	\$ (1,142.51)	Posted	1	Southern Connecticut Gas
Check	187751	0	01/22/2024	\$ (259.22)	Posted	1	Southern Connecticut Gas
Check	187747	0	01/22/2024	\$ (684.97)	Posted	1	Regional Water Authority
DD	0	31109	01/22/2024	\$ (70.60)	Posted	1	Infoshred, LLC
DD	0	31106	01/22/2024	\$ (8,527.54)	Posted	1	Cdw Government Inc
DD	0	31108	01/22/2024	\$ (2,325.00)	Posted	1	Emphasys Computer Solutions
DD	0	31107	01/22/2024	\$ (10,489.50)	Posted	1	Crumbie Law Group, LLC
Check	187746	0	01/22/2024	\$ (555.19)	Posted	1	Canon Solutions America Inc.
DD	0	31105	01/22/2024	\$ (19,443.31)	Posted	1	360 Management Group. Co.
DD	0	31110	01/22/2024	\$ (7,732.73)	Posted	1	Mechanical Heating and Air Conditioning, Inc
DD	0	31111	01/22/2024	\$ (133.00)	Posted	1	Northwest Interpreters, Inc.
DD	0	31113	01/22/2024	\$ (63.00)	Posted	1	Berchem Moses PC
DD	0	31112	01/22/2024	\$ (53,631.52)	Posted	1	360 Management Group. Co.
Check	187756	0	01/22/2024	\$ (933.00)	Posted	1	Johnson Controls US Holdings LLC
Check	187757	0	01/23/2024	\$ (3,613.30)	Posted	1	Home Depot
Check	187758	0	01/23/2024	\$ (1,856.79)	Posted	1	Home Depot
Check	187761	0	01/23/2024	\$ (902.48)	Posted	1	Frontier Communications of Company
Check	187759	0	01/23/2024	\$ (224.40)	Posted	1	Comcast Cable
Check	187760	0	01/23/2024	\$ (237.84)	Posted	1	Comcast Cable
DD	0	31114	01/23/2024	\$ (400.00)	Posted	1	Holly A Bryk
Check	187762	0	01/23/2024	\$ (86.96)	Posted	1	Home Depot
Check	187763	0	01/23/2024	\$ (2,123.36)	Posted	1	Home Depot
Check	187765	0	01/23/2024	\$ (185.07)	Posted	1	W.B. Mason Company Inc
Check	187764	0	01/23/2024	\$ (1,335.90)	Posted	1	Home Depot
DD	0	31115	01/23/2024	\$ (843.75)	Posted	1	Hands On Landscaping LLC
Check	187766	0	01/23/2024	\$ (2,298.30)	Posted	1	Home Depot
Check	187767	0	01/23/2024	\$ (3,802.12)	Posted	1	Home Depot
Check	187768	0	01/23/2024	\$ (35.00)	Posted	1	Allison Haynes
Check	187770	0	01/23/2024	\$ (1,590.29)	Posted	1	Regional Water Authority
Check	187771	0	01/23/2024	\$ (276.80)	Posted	1	Regional Water Authority
Check	187772	0	01/23/2024	\$ (4,227.35)	Posted	1	Regional Water Authority
Check	187773	0	01/23/2024	\$ (409.08)	Posted	1	Regional Water Authority

Check	187774	0	01/23/2024	\$	(119.09)	Posted		1	Regional Water Authority
Check	187775	0	01/23/2024	\$	(3,330.63)	Posted		1	Regional Water Authority
Check	187776	0	01/23/2024	\$	(1,920.92)	Posted		1	Regional Water Authority
Check	187777	0	01/23/2024	\$	(1,142.51)	Posted		1	Regional Water Authority
Check	187778	0	01/23/2024	\$	(2,411.67)	Posted		1	Regional Water Authority
Check	187779	0	01/23/2024	\$	(2,076.00)	Posted		1	Regional Water Authority
Check	187780	0	01/23/2024	\$	(1,823.57)	Posted		1	Regional Water Authority
Check	187781	0	01/23/2024	\$	(5,473.84)	Posted		1	Regional Water Authority
DD	0	31117	01/23/2024	\$	(882.44)	Posted		1	MINITPRINT Inc d/b/a Docuprintnow
DD	0	31116	01/23/2024	\$	(1,842.01)	Posted		1	Cdw Government Inc
Check	187769	0	01/23/2024	\$	(775.00)	Posted		1	Conn NAHRO
Check	187782	0	01/23/2024	\$	(129.40)	Posted		1	Corporate Mailing Services LLC
Check	187783	0	01/23/2024	\$	(103.65)	Posted		1	Corporate Mailing Services LLC
Check	187784	0	01/23/2024	\$	(3,019.45)	Posted		1	Quadient Finance USA, INC
DD	0	31118	01/23/2024	\$	(271.76)	Posted		1	Holly A Bryk
DD	0	31119	01/23/2024	\$	(99.56)	Posted		1	Holly A Bryk
Check	187787	0	01/24/2024	\$	(87.13)	Posted		1	Regional Water Authority
Check	187788	0	01/24/2024	\$	(828.21)	Posted		1	Regional Water Authority
Check	187789	0	01/24/2024	\$	(2,565.99)	Posted		1	Regional Water Authority
Check	187790	0	01/24/2024	\$	(936.70)	Posted		1	Regional Water Authority
Check	187791	0	01/24/2024	\$	(3,464.69)	Posted		1	Regional Water Authority
Check	187792	0	01/24/2024	\$	(832.29)	Posted		1	Regional Water Authority
Check	187793	0	01/24/2024	\$	(1,448.49)	Posted		1	Regional Water Authority
Check	187794	0	01/24/2024	\$	(1,174.63)	Posted		1	Regional Water Authority
Check	187795	0	01/24/2024	\$	(7,895.65)	Posted		1	Regional Water Authority
Check	187796	0	01/24/2024	\$	(2,002.23)	Posted		1	Regional Water Authority
Check	187797	0	01/24/2024	\$	(3,831.73)	Posted		1	Regional Water Authority
Check	187798	0	01/24/2024	\$	(2,551.10)	Posted		1	Regional Water Authority
Check	187799	0	01/24/2024	\$	(655.35)	Posted		1	Regional Water Authority
Check	187786	0	01/24/2024	\$	(1,659.00)	Posted		1	L & I Investments, LLC
Check	187785	0	01/24/2024	\$	(2,802.50)	Posted		1	Carl Makula Jr.
Check	187800	0	01/24/2024	\$	(71.90)	Posted		1	Home Depot
Check	187801	0	01/24/2024	\$	(86.07)	Posted		1	Home Depot
Check	187802	0	01/24/2024	\$	(2,272.25)	Posted		1	Home Depot
Check	187803	0	01/24/2024	\$	(762.55)	Posted		1	Home Depot
Check	187804	0	01/24/2024	\$	(991.39)	Posted		1	Home Depot
Check	187805	0	01/24/2024	\$	(3,031.34)	Posted		1	Home Depot
Check	187806	0	01/24/2024	\$	(616.81)	Posted		1	Comcast Cable
Check	187807	0	01/24/2024	\$	(127.86)	Posted		1	Federal Express Corp.
DD	0	31120	01/24/2024	\$	(7,446.66)	Posted		1	360 Management Group. Co.
DD	0	31121	01/24/2024	\$	(10,395.90)	Posted		1	McCarter & English, LLP
Check	187826	0	01/24/2024	\$	(85.21)	Posted		1	Frontier Communications of Company
Check	187827	0	01/24/2024	\$	(190.29)	Posted		1	Frontier Communications of Company
Check	187828	0	01/24/2024	\$	(76.39)	Posted		1	Frontier Communications of Company
Check	187829	0	01/24/2024	\$	(247.85)	Posted		1	Frontier Communications of Company
Check	187830	0	01/24/2024	\$	(105.98)	Posted		1	Frontier Communications of Company
Check	187831	0	01/24/2024	\$	(167.48)	Posted		1	Frontier Communications of Company
Check	187832	0	01/24/2024	\$	(310.46)	Posted		1	Regional Water Authority
Check	187833	0	01/24/2024	\$	(795.98)	Posted		1	Regional Water Authority
Check	187834	0	01/24/2024	\$	(287.03)	Posted		1	Regional Water Authority
Check	187835	0	01/24/2024	\$	(557.60)	Posted		1	Regional Water Authority
Check	187836	0	01/24/2024	\$	(305.24)	Posted		1	Regional Water Authority
Check	187837	0	01/24/2024	\$	(685.57)	Posted		1	Regional Water Authority
Check	187838	0	01/24/2024	\$	(624.29)	Posted		1	Regional Water Authority
Check	187809	0	01/24/2024	\$	(11.18)	Posted		1	Comcast Cable
Check	187810	0	01/24/2024	\$	(198.35)	Posted		1	Comcast Cable
Check	187811	0	01/24/2024	\$	(301.32)	Posted		1	Comcast Cable
Check	187812	0	01/24/2024	\$	(354.50)	Posted		1	Comcast Cable
Check	187813	0	01/24/2024	\$	(162.85)	Posted		1	Comcast Cable
Check	187814	0	01/24/2024	\$	(262.12)	Posted		1	Comcast Cable
Check	187815	0	01/24/2024	\$	(198.35)	Posted		1	Comcast Cable
Check	187816	0	01/24/2024	\$	(298.35)	Posted		1	Comcast Cable
Check	187817	0	01/24/2024	\$	(442.79)	Posted		1	Comcast Cable
Check	187818	0	01/24/2024	\$	(298.35)	Posted		1	Comcast Cable
Check	187819	0	01/24/2024	\$	(210.85)	Posted		1	Comcast Cable
Check	187820	0	01/24/2024	\$	(164.85)	Posted		1	Comcast Cable
Check	187821	0	01/24/2024	\$	(132.42)	Posted		1	Comcast Cable
Check	187822	0	01/24/2024	\$	(198.35)	Posted		1	Comcast Cable
Check	187823	0	01/24/2024	\$	(202.85)	Posted		1	Comcast Cable
Check	187824	0	01/24/2024	\$	(298.35)	Posted		1	Comcast Cable
Check	187825	0	01/24/2024	\$	(132.42)	Posted		1	Comcast Cable
Check	187839	0	01/24/2024	\$	(400.00)	Posted		1	Thomaston Comfort Control, Inc
Check	187808	0	01/24/2024	\$	(57.49)	Posted		1	Cincinnati Copiers, Inc

DD	0	31122	01/24/2024	\$ (7,747.00)	Posted		1	Nonprofit HR Solutions LLC
DD	0	31123	01/24/2024	\$ (1,897.70)	Posted		1	Cohen Key Shop
DD	0	31124	01/24/2024	\$ (2,734.00)	Posted		1	Home Services & More, LLC
DD	0	31125	01/24/2024	\$ (8,251.92)	Posted		1	Ringcentral, Inc
DD	0	31126	01/24/2024	\$ (7,447.67)	Posted		1	Ringcentral, Inc
Check	187843	0	01/25/2024	\$ (179.99)	Posted		1	W.B. Mason Company Inc
Check	187841	0	01/25/2024	\$ (296.74)	Posted		1	Frontier Communications of Company
DD	0	31127	01/25/2024	\$ (19,256.34)	Posted		1	Reitman Personnel Services, Inc.
Check	187842	0	01/25/2024	\$ (183.23)	Posted		1	Home Depot
Check	187840	0	01/25/2024	\$ (224.02)	Posted		1	De Lage Landen Financial Services, Inc
DD	0	31128	01/25/2024	\$ (4,016.20)	Posted		1	Reitman Personnel Services, Inc.
Check	187848	0	01/25/2024	\$ (3,611.39)	Posted		1	W.B. Mason Company Inc
Check	187844	0	01/25/2024	\$ (35,800.60)	Posted		1	Engie North America Inc
Check	187845	0	01/25/2024	\$ (6.08)	Posted		1	Engie North America Inc
Check	187846	0	01/25/2024	\$ (23,552.44)	Posted		1	Engie North America Inc
Check	187847	0	01/25/2024	\$ (238.15)	Posted		1	Engie North America Inc
Check	187849	0	01/25/2024	\$ (6.32)	Posted		1	Engie North America Inc
Check	187850	0	01/25/2024	\$ (259.16)	Posted		1	Engie North America Inc
Check	187851	0	01/25/2024	\$ (317.26)	Posted		1	Engie North America Inc
Check	187852	0	01/25/2024	\$ (31.00)	Posted		1	Engie North America Inc
Check	187853	0	01/25/2024	\$ (10.03)	Posted		1	Engie North America Inc
Check	187854	0	01/25/2024	\$ (116.68)	Posted		1	Engie North America Inc
Check	187855	0	01/25/2024	\$ (37.60)	Posted		1	Engie North America Inc
Check	187856	0	01/25/2024	\$ (33.64)	Posted		1	Engie North America Inc
Check	187857	0	01/25/2024	\$ (140.08)	Posted		1	Engie North America Inc
Check	187858	0	01/25/2024	\$ (40.99)	Posted		1	Engie North America Inc
Check	187859	0	01/25/2024	\$ (7,172.05)	Posted		1	Engie North America Inc
Check	187860	0	01/25/2024	\$ (7,973.53)	Posted		1	Engie North America Inc
Check	187861	0	01/25/2024	\$ (965.69)	Posted		1	Engie North America Inc
Check	187862	0	01/25/2024	\$ (62.03)	Posted		1	Engie North America Inc
Check	187863	0	01/25/2024	\$ (6.54)	Posted		1	Engie North America Inc
DD	0	31129	01/25/2024	\$ (89.82)	Posted		1	Ringcentral, Inc
DD	0	31130	01/25/2024	\$ (4,445.40)	Posted		1	Sparks Security LLC
Check	187864	0	01/25/2024	\$ (250.00)	Posted		1	Ace Van & Storage, Inc.
Check	187876	0	01/25/2024	\$ (875.55)	Posted		1	Southern Connecticut Gas
Check	187877	0	01/25/2024	\$ (101.02)	Posted		1	Southern Connecticut Gas
Check	187878	0	01/25/2024	\$ (1,343.28)	Posted		1	Southern Connecticut Gas
Check	187879	0	01/25/2024	\$ (119.68)	Posted		1	Southern Connecticut Gas
DD	0	31131	01/25/2024	\$ (73.00)	Posted		1	Berchem Moses PC
Check	187873	0	01/25/2024	\$ (4,738.53)	Posted		1	Regional Water Authority
Check	187874	0	01/25/2024	\$ (2,156.55)	Posted		1	Regional Water Authority
Check	187875	0	01/25/2024	\$ (143.33)	Posted		1	Regional Water Authority
Check	187865	0	01/25/2024	\$ (83.56)	Posted		1	Corporate Mailing Services LLC
DD	0	31132	01/25/2024	\$ (28,879.09)	Posted		1	McCarter & English, LLP
DD	0	31133	01/25/2024	\$ (8,000.00)	Posted		1	The Narrative Project, LLC
Check	187866	0	01/25/2024	\$ (160.00)	Posted		1	Dakota Curry
Check	187867	0	01/25/2024	\$ (2,364.24)	Posted		1	Engie North America Inc
Check	187868	0	01/25/2024	\$ (737.66)	Posted		1	Engie North America Inc
Check	187869	0	01/25/2024	\$ (896.90)	Posted		1	Engie North America Inc
Check	187870	0	01/25/2024	\$ (83.14)	Posted		1	Engie North America Inc
Check	187871	0	01/25/2024	\$ (8,775.08)	Posted		1	Engie North America Inc
Check	187872	0	01/25/2024	\$ (6,182.34)	Posted		1	Engie North America Inc
DD	0	31134	01/26/2024	\$ (7,000.00)	Posted		1	Payne Environmental
Check	187880	0	01/26/2024	\$ (17,454.04)	Posted		1	Crosskey Architects, LLC
Check	187881	0	01/26/2024	\$ (7,290.00)	Posted		1	Fuss & O'Neill, Inc.
Check	187882	0	01/26/2024	\$ (661.03)	Posted		1	Tonisha L Gray
Check	187883	0	01/26/2024	\$ (10,000.00)	Posted		1	Fred V Leone
Check	187884	0	01/26/2024	\$ (7,030.00)	Posted		1	McCarter & English, LLP
Check	187885	0	01/26/2024	\$ (3,716.51)	Posted		1	McCarter & English, LLP
DD	0	31135	01/26/2024	\$ (2,612.50)	Posted		1	McCarter & English, LLP
Check	187965	0	01/29/2024	\$ (2,567.21)	Posted		1	Southern Connecticut Gas
Check	187966	0	01/29/2024	\$ (694.03)	Posted		1	Southern Connecticut Gas
Check	187967	0	01/29/2024	\$ (247.52)	Posted		1	Southern Connecticut Gas
Check	187968	0	01/29/2024	\$ (3,900.12)	Posted		1	Southern Connecticut Gas
Check	187964	0	01/29/2024	\$ (3,060.65)	Posted		1	Regional Water Authority
Check	187970	0	01/29/2024	\$ (198.10)	Posted		1	Afscme Local 818
DD	0	31145	01/29/2024	\$ (2,430.85)	Posted		1	Afscme Local 713/afscme Council 4
Check	187971	0	01/29/2024	\$ -	Posted	01/30/2024	1	Anthem Blue Cross/Blue Shield
Check	187972	0	01/29/2024	\$ (13,539.54)	Posted		1	Colonial Life & Accident Insurance
Check	187969	0	01/29/2024	\$ (589.64)	Posted		1	Aflac
DD	0	31146	01/29/2024	\$ (8.00)	Posted		1	AFSCME PEOPLE Committee
DD	0	31147	01/29/2024	\$ (16.00)	Posted		1	AFSCME PEOPLE Committee
Check	187973	0	01/29/2024	\$ (345.50)	Posted		1	Legal Shield

Check	187979	0	01/29/2024	\$ (2,305.35)	Posted	1	United Illuminating
Check	187980	0	01/29/2024	\$ (14,172.93)	Posted	1	United Illuminating
Check	187981	0	01/29/2024	\$ (6,758.90)	Posted	1	United Illuminating
Check	187977	0	01/29/2024	\$ (985.05)	Posted	1	Southern Connecticut Gas
Check	187976	0	01/29/2024	\$ (2,034.80)	Posted	1	Regional Water Authority
Check	187974	0	01/29/2024	\$ (11.21)	Posted	1	Comcast Cable
Check	187978	0	01/29/2024	\$ (1,260.86)	Posted	1	Standard Insurance Company.
DD	0	31148	01/29/2024	\$ (112.80)	Posted	1	Ringcentral, Inc
Check	187975	0	01/29/2024	\$ (1,269.82)	Posted	1	Johnson Controls US Holdings LLC
DD	0	31149	01/29/2024	\$ (25,949.39)	Posted	1	McCarter & English, LLP
Check	187982	0	01/29/2024	\$ (200.00)	Posted	1	Adalberto Rivera
Check	187983	0	01/30/2024	\$ (1,030.00)	Posted	1	Eagle Elevator Company, Inc.
Check	187984	0	01/30/2024	\$ (185.54)	Posted	1	Home Depot
Check	187985	0	01/30/2024	\$ (930.88)	Posted	1	Home Depot
Check	187986	0	01/30/2024	\$ (130.90)	Posted	1	Home Depot
Check	187990	0	01/30/2024	\$ (2,039.52)	Posted	1	Home Depot
Check	187987	0	01/30/2024	\$ (500.00)	Posted	1	Ace Van & Storage, Inc.
Check	187989	0	01/30/2024	\$ (11,183.46)	Posted	1	Eagle Elevator Company, Inc.
Check	187988	0	01/30/2024	\$ (36.63)	Posted	1	Aramark Refreshment Services
Check	187994	0	01/30/2024	\$ (454.12)	Posted	1	United Illuminating
Check	187995	0	01/30/2024	\$ (1,015.96)	Posted	1	United Illuminating
Check	187996	0	01/30/2024	\$ (10,357.93)	Posted	1	United Illuminating
Check	187997	0	01/30/2024	\$ (224.08)	Posted	1	United Illuminating
Check	187998	0	01/30/2024	\$ (517.85)	Posted	1	United Illuminating
Check	187993	0	01/30/2024	\$ (3,498.60)	Posted	1	Home Depot
Check	187992	0	01/30/2024	\$ (5,741.43)	Posted	1	HD Supply Facilities Maintenance, Ltd
DD	0	31150	01/30/2024	\$ (7,600.00)	Posted	1	212 Exchange Street LLC
Check	187991	0	01/30/2024	\$ (29.68)	Posted	1	F.W. Webb Company
DD	0	31151	01/30/2024	\$ (979.99)	Posted	1	Holly A Bryk
Check	188000	0	01/30/2024	\$ (1,079.14)	Posted	1	United Illuminating
Check	188001	0	01/30/2024	\$ (532.35)	Posted	1	United Illuminating
Check	188002	0	01/30/2024	\$ (1,212.32)	Posted	1	United Illuminating
Check	188003	0	01/30/2024	\$ (976.56)	Posted	1	United Illuminating
Check	188004	0	01/30/2024	\$ (319.26)	Posted	1	United Illuminating
Check	188005	0	01/30/2024	\$ (1,465.82)	Posted	1	United Illuminating
Check	187999	0	01/30/2024	\$ (1,600.88)	Posted	1	Home Depot
Check	188007	0	01/30/2024	\$ (900.00)	Posted	1	Tishma M Gomez
Check	188006	0	01/30/2024	\$ (900.00)	Posted	1	Anita Coleman
Check	188013	0	01/31/2024	\$ (3,033.09)	Posted	1	Yale Termite & Pest Elimination Corp.
Check	188012	0	01/31/2024	\$ (2,940.25)	Posted	1	Home Depot
Check	188009	0	01/31/2024	\$ (36.14)	Posted	1	Corporate Mailing Services LLC
DD	0	31152	01/31/2024	\$ (18,750.00)	Posted	1	212 Exchange Street LLC
DD	0	31153	01/31/2024	\$ (273.51)	Posted	1	LaToya Mills
Check	188011	0	01/31/2024	\$ (10,808.42)	Posted	1	F.W. Webb Company
Check	188010	0	01/31/2024	\$ (43.87)	Posted	1	Desire Sessions
Check	188008	0	01/31/2024	\$ (46.15)	Posted	1	Anthony Mcknight
DD	0	31154	01/31/2024	\$ (2,294.40)	Posted	1	Sparks Security LLC
Check	188021	0	01/31/2024	\$ (1,220.78)	Posted	1	United Illuminating
Check	188022	0	01/31/2024	\$ (690.29)	Posted	1	United Illuminating
Check	188023	0	01/31/2024	\$ (245.82)	Posted	1	United Illuminating
Check	188024	0	01/31/2024	\$ (707.73)	Posted	1	United Illuminating
Check	188025	0	01/31/2024	\$ (377.31)	Posted	1	United Illuminating
Check	188020	0	01/31/2024	\$ (186.63)	Posted	1	Torello Tire Inc.
Check	188019	0	01/31/2024	\$ (575.04)	Posted	1	Regional Water Authority
Check	188015	0	01/31/2024	\$ (314.31)	Posted	1	Comcast Cable
Check	188016	0	01/31/2024	\$ (302.82)	Posted	1	Comcast Cable
Check	188017	0	01/31/2024	\$ (302.85)	Posted	1	Comcast Cable
Check	188018	0	01/31/2024	\$ (9,950.08)	Posted	1	HD Supply Facilities Maintenance, Ltd
DD	0	31155	01/31/2024	\$ (1,632.60)	Posted	1	Otis Elevator Company
Check	188014	0	01/31/2024	\$ (1,024.65)	Posted	1	Aramark Refreshment Services
DD	0	31156	01/31/2024	\$ (11,018.25)	Posted	1	The Computer Company Inc
Check	188029	0	01/31/2024	\$ (4,783.15)	Posted	1	Southern Connecticut Gas
Check	188030	0	01/31/2024	\$ (23.00)	Posted	1	Southern Connecticut Gas
Check	188031	0	01/31/2024	\$ (2,069.21)	Posted	1	Southern Connecticut Gas
Check	188032	0	01/31/2024	\$ (1,637.44)	Posted	1	Southern Connecticut Gas
Check	188033	0	01/31/2024	\$ (980.74)	Posted	1	Southern Connecticut Gas
Check	188034	0	01/31/2024	\$ (1,507.85)	Posted	1	Southern Connecticut Gas
Check	188035	0	01/31/2024	\$ (1,087.94)	Posted	1	Southern Connecticut Gas
Check	188036	0	01/31/2024	\$ (463.98)	Posted	1	Southern Connecticut Gas
Check	188037	0	01/31/2024	\$ (1,453.26)	Posted	1	Southern Connecticut Gas
Check	188038	0	01/31/2024	\$ (2,034.04)	Posted	1	Southern Connecticut Gas
Check	188039	0	01/31/2024	\$ (1,685.23)	Posted	1	Southern Connecticut Gas
Check	188040	0	01/31/2024	\$ (238.42)	Posted	1	Southern Connecticut Gas

Check	188041	0	01/31/2024	\$ (1,514.30)	Posted		1	Southern Connecticut Gas
Check	188042	0	01/31/2024	\$ (865.93)	Posted		1	Southern Connecticut Gas
Check	188028	0	01/31/2024	\$ (730.00)	Posted		1	IREM-Institute of Real Estate Management
DD	0	31157	01/31/2024	\$ (5,641.47)	Posted		1	Housing Authority of the City of New Haven
DD	0	31158	01/31/2024	\$ (134.73)	Posted		1	Ringcentral, Inc
Check	188027	0	01/31/2024	\$ (85.00)	Posted		1	Aramark Refreshment Services
Check	188026	0	01/31/2024	\$ (1,185.00)	Posted		1	Advance Security Integration LLC dba Security 101
DD	0	31159	01/31/2024	\$ (2,413.90)	Posted		1	Sparks Security LLC
Check	188051	0	01/31/2024	\$ (356.58)	Posted		1	United Illuminating
Check	188052	0	01/31/2024	\$ (3,481.00)	Posted		1	United Illuminating
Check	188053	0	01/31/2024	\$ (283.17)	Posted		1	United Illuminating
Check	188046	0	01/31/2024	\$ (103.80)	Posted		1	Southern Connecticut Gas
Check	188047	0	01/31/2024	\$ (245.73)	Posted		1	Southern Connecticut Gas
Check	188048	0	01/31/2024	\$ (1,805.38)	Posted		1	Southern Connecticut Gas
Check	188049	0	01/31/2024	\$ (210.54)	Posted		1	Southern Connecticut Gas
Check	188050	0	01/31/2024	\$ (321.04)	Posted		1	Southern Connecticut Gas
Check	188043	0	01/31/2024	\$ (1,325.39)	Posted		1	Regional Water Authority
Check	188044	0	01/31/2024	\$ (415.46)	Posted		1	Regional Water Authority
Check	188045	0	01/31/2024	\$ (5,986.29)	Posted		1	Regional Water Authority
DD	0	31160	01/31/2024	\$ (28,801.24)	Posted		1	Housing Authority of the City of New Haven
Check	188054	0	01/31/2024	\$ (215.18)	Posted		1	Gayatri Rana
Check	188057	0	01/31/2024	\$ (3,516.00)	Posted		1	Southern Connecticut Gas
Check	188058	0	01/31/2024	\$ (4,292.89)	Posted		1	Southern Connecticut Gas
Check	188059	0	01/31/2024	\$ (402.15)	Posted		1	Southern Connecticut Gas
Check	188060	0	01/31/2024	\$ (342.60)	Posted		1	Southern Connecticut Gas
Check	188061	0	01/31/2024	\$ (456.89)	Posted		1	Southern Connecticut Gas
Check	188062	0	01/31/2024	\$ (1,798.92)	Posted		1	Southern Connecticut Gas
Check	188063	0	01/31/2024	\$ -	Posted	01/31/2024	1	Southern Connecticut Gas
Check	188064	0	01/31/2024	\$ -	Posted	01/31/2024	1	Southern Connecticut Gas
Check	188065	0	01/31/2024	\$ (1,984.69)	Posted		1	Southern Connecticut Gas
Check	188066	0	01/31/2024	\$ (1,187.28)	Posted		1	Southern Connecticut Gas
Check	188067	0	01/31/2024	\$ (291.77)	Posted		1	Southern Connecticut Gas
Check	188055	0	01/31/2024	\$ (1,647.54)	Posted		1	Regional Water Authority
Check	188056	0	01/31/2024	\$ -	Posted	01/31/2024	1	Regional Water Authority
Check	188068	0	01/31/2024	\$ (1,609.65)	Posted		1	Southern Connecticut Gas
Check	188069	0	01/31/2024	\$ (1,987.55)	Posted		1	Southern Connecticut Gas
Check	188070	0	01/31/2024	\$ (888.00)	Posted		1	AM/PM Glass & Metal Fab., LLC
DD	0	31161	01/31/2024	\$ (9,910.25)	Posted		1	The Computer Company Inc
Check	188072	0	01/31/2024	\$ (6,463.15)	Posted		1	AM/PM Glass & Metal Fab., LLC
Check	188071	0	01/31/2024	\$ (1,990.00)	Posted		1	Ace Van & Storage, Inc.
Check	188073	0	01/31/2024	\$ (1,764.39)	Posted		1	Southern Connecticut Gas

Total payments issued \$ (3,439,301.89)

President's Report

To: ECC/HANH Board of Commissioners

From: Karen DuBois-Walton, Ph.D., President

Date: February 20, 2024

RE: President's February 2024 Report

I. Administrative

Our team continues to work toward our strategic pillars:

- House more families (more quickly) in the highest quality housing in communities of their choice
- Support residents' ability to live their best life and achieve goals that move them toward greater housing and life choices
- Cost effective and cost-efficient delivery of services in ways that maximize impact in our community (jobs, contracting, economic development) and
- Spark policy change that creates growth in housing market especially for families in need of affordable housing

Time Extension Granted per Resolution #02-25/10-R

- No Cost time extension with Banton Construction for Robert T. Wolfe Life Health and Safety Upgrades PH1 from December 2, 2023 to January 16, 2024
- No Cost time extension with Banton Construction for Robert T. Wolfe Life Health and Safety Upgrades PH2 from December 2, 2023 to January 16, 2024
- No Cost time extension with Tri-Con Construction for 57 Mountaintop Lane Renovations from December 24, 2023 to February 22, 2024
- No Cost time extension with Security 101 for Essex Security Upgrades from December 31, 2023 to July 31, 2024
- No Cost time extension with Security 101 for George Crawford Security Upgrades from December 31, 2023 to March 28, 2024
- No Cost time extension with Security 101 for Robert T. Wolfe Security Upgrades from December 31, 2023 to February 29, 2024
- No Cost Time Extension to the contract of Talent Management with KJR Consulting which expires on July 31, 2023. Extension effective August 1, 2023 thru July 31, 2024.
- No Cost time extension with Carne Inn Group, LLC dba Residence Inn for relocation services for 57 Mountain Top Lane PO # 22916 from December 31, 2023, to January 31, 2024.
- No Cost time extension with F.W. Webb for Plumbing & Heating Supplies & Equipment off State of Connecticut Contract # 15PSX0193 PO # 22219-13719 from December 31, 2023, to December 31, 2024.

- No Cost time extension with A & A Office Systems, Inc for Scanning Services for LIPH PO # 22202-13703 from January 29, 2024 to June 30, 2024.

II. Finance

DECEMBER 2023 YTD Financials

The financial report covers three months (October 1 through December 31) of data. Total Revenues are \$52,338,079 Total Expenses are \$26,740,852 (including depreciation expense of \$568,858). The excess of revenue over expenses is reduced by \$(22,677,709) capitalized expenditures. Depreciation expense add-back is \$568,858. The HANH Net Surplus of \$3,488,377 was as follows:

MTW Programs

- Low Income Public Housing

Net surplus is \$1,992,851 versus a budget net surplus of \$217,488 for an overall favorable variance of \$1,775,363.

- Section 8 Housing Choice Voucher

Net deficit is \$(2,537,123) versus a budget surplus of \$330,544. The unfavorable variance is \$(2,867,667).

Non-MTW Programs

- Business Activities showed surplus of \$253,665 compared with a budgeted deficit of \$(210,056), resulting in a favorable variance of \$463,721.
- Central Office Cost Center shows a net surplus of \$3,778,983 compared to a budgeted surplus of \$604,922 resulting in a favorable variance of \$3,173,061.

December 2023	MTW Budget	MTW Actual	Variance	NON-MTW Budget	NON-MTW Actual	Variance2	ELIMS Budget	ELIMS Actual	Variance3	Total Budget	Total Actual	Total Variance
Column1												
70500 TENANT REVENUE	446,285	560,745	114,460	25,750	-	(25,750)	-	-	-	472,035	560,745	88,710
70600 HUD REVENUE	30,823,231	47,627,971	16,804,740	53,076	29,863	(23,213)	-	-	-	30,876,307	47,657,833	16,781,527
70000 OTHER REVENUE	3,000	229,770	226,770	5,807,763	8,688,802	2,881,039	(2,864,648)	(4,799,071)	(1,934,424)	2,946,115	4,119,500	1,173,386
71600 GAIN/LOSS ON SALE OF CAPITAL ASSETS	-	-	-	-	-	-	-	-	-	-	-	-
70000 TOTAL REVENUE	31,272,516	48,418,486	17,145,970	5,886,588	8,718,664	2,832,076	(2,864,648)	(4,799,071)	(1,934,424)	34,294,457	52,338,079	18,043,622
91000 OPERATING ADMINISTRATIVE	4,070,405	5,647,102	1,576,697	2,578,259	1,840,661	(737,598)	(2,864,648)	(4,799,071)	(1,934,424)	3,784,016	2,688,692	(1,095,324)
92500 TENANTS SERVICES	52,676	82,090	29,413	606,335	435,132	(171,202)	-	-	-	659,011	517,222	(141,789)
93000 UTILITIES	355,613	389,807	34,193	105,393	51,482	(53,911)	-	-	-	461,007	441,288	(19,718)
94000 MAINTENANCE	1,041,405	1,024,756	(16,649)	215,855	152,202	(63,653)	-	-	-	1,257,260	1,176,958	(80,302)
95000 PROTECTIVE SERVICES	61,711	47,993	(13,718)	7,560	32,054	24,494	-	-	-	69,271	80,048	10,776
96100 INSURANCE PREMIUMS	203,556	210,423	6,867	93,097	87,268	(5,830)	-	-	-	296,654	297,691	1,037
96000 GENERAL EXPENSE	92,241	-	(92,241)	100,000	-	(100,000)	-	-	-	192,241	-	(192,241)
96200 OTHER	455,467	483,569	28,102	-	-	-	-	-	-	455,467	483,569	28,102
96800 SEVERANCE EXPENSE	-	-	-	2,348,422	2,354,325	5,903	-	-	-	2,348,422	2,354,325	5,903
96900 TOTAL OPERATING EXPENSES	6,333,075	7,885,740	1,552,665	6,054,922	4,953,124	(1,101,798)	(2,864,648)	(4,799,071)	(1,934,424)	9,523,348	8,039,792	(1,483,556)
97100 EXTRAORDINARY MAINTENANCE	316,375	25,131	(291,244)	6,250	-	(6,250)	-	-	-	322,625	25,131	(297,494)
97200 CASUALTY LOSSES - NON CAPITALIZED	-	-	-	-	-	-	-	-	-	-	-	-
97300 HAP EXPENSE	18,592,767	18,107,071	(485,697)	-	-	-	-	-	-	18,592,767	18,107,071	(485,697)
97400 DEPRECIATION EXPENSE	274,258	381,949	107,691	187,512	186,910	(602)	-	-	-	461,769	568,858	107,089
90000 OTHER EXPENSES	19,183,400	18,514,150	(669,250)	193,762	186,910	(6,852)	-	-	-	19,377,161	18,701,060	(676,102)
TOTAL EXPENSES	25,516,474	26,399,890	883,415	6,248,683	5,140,033	(1,108,650)	(2,864,648)	(4,799,071)	(1,934,424)	28,900,510	26,740,852	(2,159,658)
RAD/DEV - MTW Fund Expenditures	(1,847,500)	(1,357,724)	489,776	(3,064,318)	(21,319,985)	(18,255,667)	-	-	-	(4,911,818)	(22,677,709)	(17,765,891)
Investment in the financing of affordable housing Dev	-	-	-	-	-	-	-	-	-	-	-	-
Reserve for interest on N/R	-	-	-	-	-	-	-	-	-	-	-	-
10010 Operating Transfer In	244,347	1,018,340	773,993	3,634,767	21,587,093	17,952,326	-	-	-	3,879,114	22,605,433	18,726,319
10020 Operating Transfer Out	(3,879,114)	(22,605,433)	(18,726,319)	-	-	-	-	-	-	(3,879,114)	(22,605,433)	(18,726,319)
10000 EXCESS OF REVENUE OVER (UNDER) EXPENSES	273,774	(926,220)	(1,199,995)	208,355	3,845,739	3,637,384	-	-	-	482,129	2,919,518	(2,437,389)
ADJ FOR DEPRECIATION EXPENSE	274,258	381,949	107,691	187,512	186,910	(602)	-	-	-	461,769	568,858	107,089
350 SURPLUS / (DEFICIT)	548,032	(544,271)	(1,092,304)	395,866	4,032,648	3,636,782	-	-	-	943,898	3,488,377	2,544,478

III. Operations

A. Vacancy Rate

HANH’s current occupancy rate for the month for November 2023 is 97.54%. The agency goal is 96.00%. Attainment of this goal remains the primary objective for the Operations Department.

B. Rent Collection

Rent Collection – HANH’s rent collection for the year to date ending the month of November 2023 is 67.72%. The agency goal is 95%. After many months of successfully reducing the TAR from a high in 2014, HANH saw the TAR reduced by over 75% prior to the COVID-19 pandemic. Rent collection has been poor over the past year and a half, however, staff is working with residents to get into compliance and to obtain rent relief resources through the city and state.

Total Collected

	CY 2023	CY 2024	Variance
January	65.57%	64.54%	-1.03
February	65.59%	69.55%	3.96
March	63.10%	65.13%	2.03
April	53.41%	66.46	13.05
May	67.34%	66.33	-1.01
June	60.22%	66.65	6.43
July	59.09%	67.50	8.41
August	58.41%	65.63	7.22
September	59.0%	66.84	7.84
October	59.0%	64.0	5.0
November	60.0%	67.72%	7.72%
December	61.77%		
Average	61.04%	66.40%	5.42

V.Planning and Modernization

HUD Emergency Safety and Security Grants:

P&M applied to HUD for 2022 funding to address security upgrades at Robert T. Wolfe and George Crawford Manor. The grant has enabled our high-rise Elderly and Disabled communities to have the extra layer of security necessary to exclude the influx of an uninvited element. The maximum award per HA annually is \$250,000. Application was submitted June 15, 2022, and the full amount was awarded, October 3, 2022. Contracts for the two (2) camera systems were submitted for BOC approval in May 2023, and funds were obligated on time. ECC has until 9/25/2024 to expend the funds. Construction is underway at both developments. Cameras are up and running at Robert T. Wolfe, 95%, and 90% completed at George Crawford Manor.

P&M applied to and was awarded \$250K from HUD for Emergency Safety and Security 2023 funding to address security upgrades at Essex Townhouses, a family development with 35 apartments. We will be replacing an antiquated camera system and damaged access control gates. Application submitted prior to due date of 6/28/2023. Work began in November, and is at 15%, currently paused due to weather conditions. Construction completion anticipated in May, 2024 with project closeout anticipated July, 2024.

Lead-Based Paint Capital Fund Program—Lead Grant Funding Years 2017 and 2020

HUD Housing Related Hazards 2020

- P&M responded to the HUD NOFA for the Housing Related Hazards for Fiscal Year 2020, due May 25, 2021. On September 29, 2021, ECC was awarded \$3,999,993 to address the following Hazards at Scattered Sites, Essex, Crawford Manor, Wolfe: Smoke and Carbon monoxide, Radon, Mold and Vermin (high-rise buildings). Work will include inspections, testing, installation of equipment, treatments and post-abatement testing, as required. The grant covers abatements in buildings encompassing 402 units. Scheduling/testing has begun with CO & smoke detectors (HUD stated priority), Radon testing and mitigation. Mold is being addressed in conjunction with Lead abatement projects as well as separately. Inspections for the Vermin (Bedbugs, rodents and cockroaches) portion of the grant has begun. A 3rd Quarterly benchmark report has been sent to the HUD Washington and our Regional offices. We worked directly with the HUD Washington LBP and Housing Related Hazards Team and our Field Office regarding applicability of coverage for the grants as we progress through the construction and ongoing abatement design and procurement of contractors. Current obligation of funds is at 59% and expenditure of funds at 42%.

HUD Lead Grant 2020--ECC applied and was awarded \$3,700,000, in May 2021.

What we have completed to date:

- Obligated and expended all \$986,260 of the 2017 LBP Grant funding.
- Tested all (299) LIPH family property units at risk for Lead Based Paint (Built before 1978).
- Units testing positive for lead were organized by priority in order of importance to address-- Amalgamated Prioritization Chart. Highest priority, units with children under the age of 6 years and actionable levels of lead.
- We are addressing units even if there are no children, now, as these could be rented in the future to a family with young children.
- ECC met with State of Connecticut and HUD Washington Lead Teams to align goals and verify plan of action.
- Applied for six-month extension for obligation deadline on the HUD LBP 2020 Grant. Ultimately, did not require the extension, as the grant was obligated in time.

- **Immediate action--Completed:**
 - Trained in-house staff to perform Interim Controls and to Follow Lead Safe Renovating practices
 - **Interim Controls:** Targeted highest priority units, temporarily removing lead dust while design and solicitation process was in progress
 - Highest priority Scattered site properties (**10 houses-17 units**)
 - McConaughy Terrace exterior source of lead dust--our largest Family development (**201 units**).
 - Removed Lead painted doors and friction components at McConaughy Terrace...no lead painted doors left at McConaughy Terrace (**201 units**).
- **Design, Abatement and Construction Complete** for Lead Abatement in the following properties:
 - Lead Groups 1, 2 and 3: 10 houses (**17 units lead safe**) in our Scattered Sites West Portfolio. Lead, encapsulated, including replacement of peeling porch components and encapsulation of some siding. These houses came first as they were highest on our Amalgamated Prioritization Chart. Essex Townhouses (**34 units Lead Free, and 1 unit Lead Safe**) ...all known lead components have been removed from 34 units, not just encapsulated. The remaining has lead which is not damaged or a friction or biting surface. A lead management plan will be provided.
 - McConaughy (201 units moved to redevelopment effort...however, units all had Interim Controls performed; More permanent Abatement to accompany redevelopment.
- **Redesign:** Upon receipt of the 2nd Lead Based Paint grant, design of remaining units were upgraded to remove instead of just encapsulate certain components, keeping to the priorities established by the testing. This was made possible due to the additional HUD funding and provides residents and ECC a more permanent and lasting solution to the Lead. With the obligation of Group D houses (21), only one 2-family house of the original 299 properties remains to be addressed by Planning and Modernization: 759 Quinnipiac Avenue, identified as Group A. The cost of construction for Group A came in significantly above the TDC for the 2 units. Project currently under reconsideration.
- **Other Housing Related Hazards:** ECC added elimination of other Housing Related Hazards upon receipt of a 3rd HUD grant \$3,999,993, where inspections identified significant mold, CO and Smoke detectors, vermin and Radon to mitigate or remove. Work on the multiple hazards started:
- All units with identified Radon, throughout the LIPH portfolio have been mitigated with installed piping and exhaust fan systems and confirmation testing. All properties have been inspected for needed CO and Smoke detectors and designs for more reliable hardwired systems is complete. Vermin are being addressed in conjunction with other construction projects. Mold is being addressed largely in the scattered sites AMPs, and at Essex Townhouses and with some properties with Lead Abatement work, others, separately. CO and Smoke detector project was put out for solicitation and received no bids. A smaller project went out for Solicitation as a pilot. No responses. 57 Mountaintop went out for solicitation for mold abatement. Responses were over threshold. The project was bid again and awarded. Construction and was substantially complete in November 2023.

Solicitations Awarded:

- **Group B: 3 Single-Family Houses** in the Scattered Site West portfolio (**Construction start, September 2, 2022; 100% Completed**)
- **Group C: 8 Units in 4 houses** in the Scattered Site East portfolio--**Solicitations went out for Bid, July 2022: Construction 100% Completed.**
- **Group A: 1 house, Scattered Sites East portfolio,** Lead, mold and asbestos abatement with site safety and historic preservation requirements; Solicitation out for Bid September 2022, originally going to the October Board, for construction start in Spring, 2023; 2 Bids were received. Contractor with lowest responsible Bid was awarded the contract in December 2022. The Contractor withdrew and the project is resolicited, bids due March 17, 2023. Two (2) viable bids were received; however, no contract was

awarded due to cost for bids being too high. Scope removal plans and re-solicitation scheduled in July. Project under reconsideration.

- **Group D: 21 houses** in the Scattered Sites East portfolio (houses currently without children under the age of 6 years but needing lead abatement for future family rentals). 3 bids received, for solicitation in February, 2023, including some mold abatement, bids due March 20, 2023. Rebid solicited with 3 bids received. Contract for BOC approval, May, 2023. Contract awarded. Construction started in 6 houses. 4 units completed. Four houses under construction. On schedule. **Testing results** are shared with residents and explained, if needed. State of CT Lead education packet is shared and consultants are available for any technical clarification. Prior to Covid, Lead education packets were available in our lobby. We will be starting to make these available, again. Ongoing Lead Management Plans are being developed for completed Construction projects, as required by HUD regulations.

P&M Projects 2020-2023

- **Crawford Manor: ADA Entrance and Access Improvements and Fire Panel and Fire Pump Replacement:** ECC rescinded previously awarded contract due to COVID considerations. Project was repackaged to perform PH1- ADA entry and fire pump renovations. PH 2, Fire Panel replacement work which requires entry into resident units in an Elderly development, was postponed until deemed safe to proceed, due to COVID. Seven (7) bids were received for Phase 1 vestibule and fire pump replacement. In March 2021, Board approved contract award. ADA entry vestibule is completed, and in use. The fire pump is installed. Fire Marshal required a change in electrical panels, a change order which added time. A portion of the work has been paid for by CARES funding. Work extended to March 31, 2022, to accommodate the Fire Department Fire Watch schedule. PH 2, was re-bid, for the Fire Panel and addressable fire alarm system and Life Health and Safety Upgrades. Resolution was brought to the Board of Commissioners, in April, 2022. Time extended due to long lead times on equipment. Installation of Fire Alarm Panel 100% complete as of June 2023. Booster pump system for Domestic Water replaced for 15 story building. Firefighters' communication system (BDA) installed. Final contract items, replacement of Main Electrical Power Distribution Panel to be completed and closed out by February 2023. 95% Complete.
- **437 M&N Eastern Street:** P&M solicited A&E and environmental design services for a vacancy rehabilitation project. 437 M&N Eastern Street sustained significant structural and cosmetic damage due to a fire. Solicitation received several bids; contract awarded. Roofing condition requires corrective structural fortification. Project was out for bid with bids due before Thanksgiving. Due to receiving only one bid, ECC resolicited the project and bids were due January 4, 2023. Contract awarded and NOA provided. Construction 100% completed and project closed out.
- **57 Mountaintop:** Scattered Sites East single-family home with extensive mold, requiring relocation of the household residents. Joint project between Operations Department and Planning & Modernization (P&M). Operations to address immediate mold abatement and miscellaneous housing upgrades to allow resident to return to the house. P&M has contracted with an Architect and Environmental consultant to design a remedy for long term remediation of the moisture source(s) which fed the mold and miscellaneous building and site upgrades. Operations has performed much of the needed immediate work. A solicitation went out to perform the mold preventative and restorative work needed. Responses above procurement threshold. Resolicitation proved successful, and construction start and finish will be in December, 2023. Clearance testing will be performed to establish house readiness for occupancy. Final Cleaning and testing scheduled.

- **George Crawford Structural Evaluation:** ECC is conducting a structural evaluation of 90 Park Street, which is on the National Register of Historic Places. This structural evaluation will not only provide information on the condition of the structure of the building for current life safety but will also provide information valuable to any future plans for the building. A contract was finalized with a structural engineering firm, and a final report has been submitted. A design for report recommendations is part of corrective work in advance of and in coordination with future development plans. Design completed January, 2024, under review.
- **546 Woodward Avenue:** Contractor completed the roof work for 3 units, and contract closed out.

VI. The Glendower Group

• Farnam Courts Phase II

- For the purpose of Financing Glendower bifurcated the redevelopment of Phase II into two phases – 4% and 9%.
- Glendower Farnam Courts 4%, LLC (closest to Farnam 1), consists of 45 units and Glendower Farnam Courts 9%, LLC consists of 66 units including 52 affordable, a community building, and a park.
- 100% drawing completed on January 24, 2020.
- Haynes Construction has been selected to be the General Contractor for Phase II.

▪ Farnam Courts Phase II 4%

- Successfully closed on July 7, 2020.
- Notice to proceed issued to begin work on July 13, 2020.
- Construction completed and keys turned over on 10/13/21.
- Closeout process ongoing. Waiting on Environmental closeout reports and updated O&M Manuals with survey.
- Conversion to permanent completed on February 28, 2023.

▪ Farnam Courts Phase II 9%

- Successfully closed on December 17, 2020
- Notice to proceed issued to begin vertical and demolition work on December 18, 2020.
- Demolition of former Farnam buildings completed.
- Phase 2b building construction was completed in May 2022. Fencing and the playground installation began 9-12-22.
- HTCC application submitted on June 1, 2021, for additional funding in the amount of \$500,000 due to offset the cost of the sharp increase in lumber pricing across construction nationally caused by the Covid pandemic. Awarded the full amount on October 8, 2021.
- Conversion to permanent financing targeted for 2nd quarter of 2024.

▪ Westville Manor

- The Authority submitted a 9% LIHTC application in November 2016 to complete the offsite component on the Rockview Phase II site and was awarded. - Contract closing for Rockview Phase 2 occurred on June 20, 2019.
- The Authority issued an RFQ for a Master Planner for Westville Manor and selected a team composed of Ken Boroson Architects and Torti Gallas Planners.
- The planning team has begun scheduling the necessary steps to prepare for the first application for on-site redevelopment with a target of January 2022. This application will address the first phase of Westville Manor consisting of 50 total units and will include the 21 unit 3-story main building.
- It is anticipated that funding for the final Westville Manor on-site phase consisting of 59 units will be submitted under the 9% LIHTC CHFA round in 2022 or 2023.

- The master Planning Team held a series of meetings and charrettes in September 2018 and will completed a final recommendation to stakeholders in January 2019. The Authority submitted a RAD application for Westville Manor and was awarded.
- It was determined that a Planned Development District (PDD) was the best approach to the redevelopment of the site. A PDD application was submitted to the City of New Haven in January 2019 that will include the redevelopment of 109 units on site of which 80% will be RAD replacement units and 20% unrestricted. The Board of Alders approved the PDD in April 2019.
- Submitted a 9% LIHTC application for on-site Phase 1 on January 12, 2022. This application was not awarded. The application will be resubmitted under the CHFA 2023 9% LIHTC round (due January 11, 2023).
- Anticipated closing in 4h quarter of 2024.

▪ **RAD Portfolio Award**

- The Authority received a portfolio award, inclusive of 13 developments, detailed herein. They have been grouped as follows:
 - **Group I: Motley, Bush, Harvey and Newhall Garden**
 - Development completed and leased.
 - **Group IIA: Waverly and Stanley Justice and Fulton Park**
 - Development completed and leased.
 - **Group IIB: Valley Townhomes**
 - Submitted financing template to the Resource desk on November 2, 2021
 - HUD concept call completed on October 7, 2021.
 - Closing anticipated to be the December 2022. Targeting October 2022 CHFA board approval.
 - Closing completed on December 23, 2022.
 - Demolition of existing buildings began on January 6, 2023.
 - Demolition of all buildings was completed in March 2023
 - Construction of the new buildings began in May 2023. Construction to be completed by April 2024.
 - Final construction completion is expected in March 2024
 - **Group III: McQueeney, and Celentano**
 - Closed February 27, 2020.
 - Construction began on March 9, 2020.
 - Construction activities are COVID delay of 8 weeks. State and nationwide slowdowns and shutdowns were monitored for possible schedule overruns.
 - Final completion for McQueeney October 31, 2021
 - Final completion for Celentano October 31, 2021
 - Conversion to permanent financing converted on June 1, 2022.
 - **Group IV: Ruoppolo and Fairmont,**
 - Closed on March 11, 2021.
 - Construction began March 15, 2021
 - Final completion for Fairmont Heights May 31, 2022
 - Final completion for Ruoppolo Manor May 31, 2022.
 - Glendower is working on adding elevator code upgrades to Fairmont scope.
 - Conversion to permanent financing targeted for 2nd quarter 2024.

▪ **McConaughy Terrace**

- For the purpose of Financing Glendower bifurcated the redevelopment into two phases – 4% and 9% Low Income Housing Tax Credit applications.
- Glendower McConaughy Terrace 4%, LLC will consist of 92 affordable units and Glendower McConaughy Terrace 9%, LLC will consist of 104 affordable and 26 market rate units.
- 90% drawing completed on October 31, 2021 for the 9% phase.
- LaRosa Building Group, LLC has been selected to be the General Contractor for the Development.
- **McConaughy Terrace 4%**
 - Submitted a LIHTC application to CHFA on November 12, 2021. Application awarded in conjunction with the 9% award identified below.
 - Closing anticipated to be in 1st quarter of 2022.
 - 92 total units, 66 rehab 26 new construction.
 - Closing completed on November 28, 2023.
 - Construction began on December 8, 2023.
 - Construction to be completed by March 2025.
- **McConaughy Terrace 9%**
 - Submitted a LIHTC application to CHFA on November 12, 2021.
 - Application was awarded under the 2021 competitive LIHTC round. The 9% LIHTC award also included approval of the 4% award.
 - Closing anticipated to be on the 1st quarter of 2023.
 - Phase includes the rehab of 130 units, 104 RAD units, and 26 to be market rate.
 - Closing completed on November 20, 2023.
 - Construction began on December 8, 2023.
 - Construction to be completed by March 2025.
- **Scattered Sites**
 - Scattered site is multifamily redevelopment which includes 88 units located in various part of the city. The developments are: 23 Chamberlain Street, 54 Kingswood Drive, 63 Fulton Street, 425 Eastern Street, 437 Easter Street, 1361 Quinnipiac Ave, 1368 Quinnipiac Ave, 1370 Quinnipiac Ave, 1376 Quinnipiac Ave, 1378 Quinnipiac Ave, 1381 Quinnipiac Ave, and 1435 Quinnipiac Ave.
 - Submitted a 9% LIHTC application on January 12, 2022. Project was not awarded.
 - Application will be resubmitted under the DOH DEP round.
 - Anticipated closing in 4th quarter of 2024.
- **34 Level Street/The Heights at Westrock**
 - Submitted a HUD Section 202 Supportive Housing for the Elderly application to HUD in January 2023.
 - The development includes 50 supportive housing units.
 - DECD Brownfields award of \$999,000 received in June 2023 to assist in clean up and removal of former nursing home.
 - Closing anticipated to be on the 4th quarter of 2024.
- **St Luke's Apartments, Whalley Ave.**
 - Submitted a CIF application on June 30, 2023.
 - State DOH engagement pre-application submitted May 2023.

- The development includes up to 54 housing units, including 8 market units
- Architectural Plans being reviewed to identify cost-saving methods.

MEMORANDUM

TO: Board of Commissioners

DATE: February 20, 2024

FROM: Karen DuBois-Walton, President

RE: Resolution Authorizing the Write-Off of Accounts Receivable of Former ECC/HANH Tenants of the Federal Public Housing Program for Financial Statement Reporting Purposes

ACTION: Recommend that the Board of Commissioners pass Resolution # **02-01/24-R**

TIMING: Immediately

DISCUSSION: ECC/ECC/HANH has accounts receivable balances for individuals that are no longer tenants. These balances need to be removed from our Financial Reporting systems. In writing these accounts off for financial reporting purposes, the accounts receivable detail will still remain in our Low-Income Housing system for possible collection efforts. The dollar amounts will simply not carry over to the Financial Reporting system, thus lowering the net accounts receivable balance to an amount closer to what is expected to be collected as required under Generally Accepted Accounting Principles (GAAP) for financial statement reporting.

Any tenant leaving ECC/HANH with an outstanding balance is to be denied re-admission to ECC/HANH and all other PHA's until all outstanding obligations are satisfied. Therefore, information regarding any outstanding accounts receivable will be maintained on Tenant Ledgers in the Low-Income Housing component of our computer system for review and possible reporting as allowed by HUD.

ECC/HANH is currently carrying a \$13,275.85 balance for 13 vacated tenants from the 1st Quarter FY 2024, a period ending 12/31/2023. This amount includes residents that are deceased, terminally ill and in nursing homes. It also includes residents that have been evicted or skip leaving no forwarding address.

FISCAL IMPACT: None

STAFF: John Rafferty, Sr. VP of Finance, IT & Administration

ELM CITY COMMUNITIES
Housing Authority of The City of New Haven

RESOLUTION # 02-01/24-R

**RESOLUTION AUTHORIZING THE WRITE-OFF OF FORMER TENANT ACCOUNTS RECEIVABLE
(TAR) FOR THE LOW-INCOME PUBLIC HOUSING (LIPH) PROGRAM FOR THE PERIOD ENDING
12/31/2023 IN THE AMOUNT OF \$13,275.85**

WHEREAS, ECC/HANH is responsible for the management and operation of all projects under the Federal Consolidate Program; and

WHEREAS, in the course of such operation, certain tenants of these developments discontinue occupancy leaving outstanding balances for rents and other charges with the ECC/HANH; and

WHEREAS, efforts were made to collect all outstanding balances while tenants remain in residence; and

WHEREAS, ECC/HANH has previously contracted with Collection Company of America during FY 2009 to pursue collection of outstanding balances, but effects proved to be unsuccessful; and

WHEREAS, ECC/HANH is currently carrying \$13,275.85 balance for 13 vacated tenants through December 31, 2023, and

WHEREAS, while ECC/HANH will remove the balances from ECC/HANH's Financial Reporting systems, the financial obligations of these former tenants will remain in the Low-Income Housing System for possible future collections; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF NEW HAVEN THAT:

1. The write-off for financial reporting purposes of all former tenant's accounts receivable balances accrued through December 31, 2023 for LIPH program in the amount of \$13,275.85 be and hereby is authorized and directed; and
2. The President be and is hereby authorized, empowered, and directed to take any and all such action ancillary, related and/or necessary action to fulfill the foregoing purposes and the purposes of this resolution; and
3. This resolution shall take effect immediately.

I hereby certify that the above resolution was adopted by a majority of the Commissioners present at a meeting duly called at which a quorum was present, on February 20, 2023.

Karen DuBois-Walton, Ph.D.
Secretary/President.

Date

REVIEWED:
MCCARTER & ENGLISH, LLP
GENERAL COUNSEL

Rolan Joni Young, Esq.
A Partner

**Housing Authority of the City of New Haven
Proposed Tenant Accounts Receivable Write-offs
For the Quarter Ended December 31, 2023**

Resident Name	Tax ID	AMP	Unit ID	Move Out Date	Current Balance	Sec. Dep. Paid Balance	Net Balance
Brittany Noel Warren	XXX-XX-5479	McConaughy Terrace	35308	11/14/2023	221.61	0.00	221.61
Ernestine Barnes	XXX-XX-8966	McConaughy Terrace	35406	11/28/2023	1,401.97	0.00	1,401.97
Janida Hernandez	XXX-XX-3198	McConaughy Terrace	35458	11/25/2023	748.00	0.00	748.00
Jannisha Marquisha Bowman	XXX-XX-3634	McConaughy Terrace	35482	10/18/2023	600.00	50.00	550.00
Jessica Bittle	XXX-XX-9082	McConaughy Terrace	35509	11/16/2023	189.00	0.00	189.00
Juanita Howard	XXX-XX-2204	McConaughy Terrace	35486	10/17/2023	2,678.00	107.00	2,571.00
Phillip Mention	XXX-XX-4513	McConaughy Terrace	35314	11/25/2023	765.00	476.00	289.00
Deborah Rivera	XXX-XX-5548	George Crawford Manor	12231	11/14/2023	2,068.23	0.00	2,068.23
Sandra Claxton	XXX-XX-1411	George Crawford Manor	31044	10/31/2023	200.00	0.00	200.00
Frederick James	XXX-XX-5435	Robert T Wolfe	16781	08/26/2023	646.00	289.00	357.00
Hattie Provo	XXX-XX-7585	Robert T Wolfe	16735	12/05/2023	1,616.00	90.00	1,526.00
Jennifer Langlais	XXX-XX-1183	Robert T Wolfe	16716	10/12/2023	124.00	0.00	124.00
Martha Council	XXX-XX-4381	Robert T Wolfe	16702	11/30/2023	3,030.04	0.00	3,030.04
Grand total Unsettled Amounts for all Development					14,287.85	1,012.00	13,275.85

MEMORANDUM

TO: Board of Commissioners

DATE: February 20, 2024

FROM: Karen DuBois-Walton, Ph.D., President

RE: Resolution Authorizing Ratification of Change Order #16 to A. Prete Construction Company, Inc. for Crawford Manor Health & Safety Contract in the Amount Not to Exceed \$32,084.67 Bringing the Adjusted Contract Value from \$4,007,684.22 to \$4,039,768.89

ACTION: Recommend that the Board of Commissioners adopt Resolution #02-XX/24-R

TIMING: Immediately

DISCUSSION: At Crawford Manor, 90 Park Street, ECC/HANH determined a need to perform building common area and unit health and safety upgrades, separately. As Phase 1, due to COVID safety concerns, ECC/HANH solicited bids and awarded a contract to renovate the vestibule entrance for improved security and accessibility and replace the building fire pump since this work did not require contractors to work in residents' apartments. Phase 1 work was completed in 2022.

As a second phase, ECC/HANH publicly issued Invitation for Bids #PM-22-IFB-593 Crawford Manor Fire Alarm, Life, Health and Safety Upgrades Rebid including fire alarm system replacement, electrical work, plumbing, painting and other work in occupied apartments. At the April 2022 Board meeting, the Commissioners authorized award of contract to A. Prete Construction Company, Inc. in the amount of \$3,317,703.00 for completion in 240 calendar days from Notice to Proceed.

As work progressed, conditions arose that required contract modifications. On September 15, 2022, ECC/HANH executed Change Order #1 in the amount of \$166,588.04 for unit heater/split system adjustment and water booster pump replacement bringing the adjusted contract value from \$3,317,703.00 to \$3,484,291.04.

ECC/HANH has also authorized:

- CO #2 for door modifications required by the Fire Marshall in the amount of \$27,430.29
- CO #3 for shower and bathroom exploratory repairs in the amount of \$64,922.33
- CO #4 for isolation valve replacement in the amount of \$23,524.01
- CO #5 for existing boiler exhaust repairs, community room abatement, main building shut-off valve replacement in the amount of \$33,267.03
- CO #6 no cost time extension until March 3, 2023 for long lead time for various fire alarm system components.
- CO #7 no cost time extension until April 2, 2023 for supply chain delays for the lead time for booster pump components

The combined value of Change Orders 1 through 7, \$315,731.70, was less than 10% of the contract value and did not require Board authorization. The adjusted contract value through Change Order #7 was \$3,633,434.70.

On March 21, 2023, the Board authorized:

- CO #8 in the amount not to exceed \$194,398.13 to install a new Bi-Directional Amplification System (BDA) to meet the new City of New Haven Fire Department standards.
- CO #9 for nine (9) additional range hood circuits in the amount of \$5,400.
- CO #10 for Replacement of additional main water shutoff bypass to main water line and meter not to exceed \$13,521.55

Following authorization of Change Orders #8 through #10, the adjusted contract value increased from \$3,633,434.70 to \$3,846,754.38.

ECC/HANH also authorized Change Order #11 a no-cost time extension until November 17, 2023 due to supply chain issues related to fire alarm system components and change order items.

On April 18, 2023, the Board authorized Change Order #12 in the amount not to exceed \$145,515 for extended contract general conditions. Following authorization of Change Order #12, the adjusted contract value increased from \$3,846,754.38 to \$3,992,269.38.

The City Fire Marshal required replacement of emergency building lighting prior to sign-off on the new fire alarm system installation. On May 1, 2023, ECC/HANH issued Construction Change Directive #2 authorizing the contractor to proceed with the emergency building lighting at a not to exceed value of \$32,500 less \$14,500 billed against the contract allowance of \$20,000 for a not to exceed change of \$18,000 with final value to be included in a change order.

On May 16, 2023, the Board authorized Resolution # 05-31/23-R authorizing Change Order #13 in the amount of \$17,537.04, for replacement of emergency lighting throughout the building as directed by the City Fire Marshal. Following authorization of Change Order #13, the adjusted contract value increased from \$3,988,606.42 to a not to exceed value of \$4,009,806.42.

ECC/HANH also authorized no cost Change Order #14 extending time until February 13, 2024 and credit Change Order #15 for work not required (\$2,122.20) and extending time until April 13, 2024 bringing the adjusted contract value from \$4,009,806.42 to \$4,007,684.22.

During the preparation process for the building electrical switchgear replacement, a decision was made to provide a second generator on site as added protection for a smooth transition to the new electrical system. On February 5, 2024, ECC/HANH issued Construction Change Directive #5 in the amount not to exceed \$29,913.67.

ECC/HANH is proposing ratification of Change Order #16 for a second on-site generator including expedited time costs in the amount of \$32,084.67. Following ratification of Change Order #16, the contract adjusted value will increase from \$4,007,684.22 to \$4,039,768.89.

In accordance with resolution #10-129/18-R for the Revised Procurement Policy approved by the Board of Commissioners on October 16, 2018, all Contracts greater than \$150,000.00 inclusive of all optional years and all Change Orders and amendments in excess of 10% or \$50,000.00 (whichever is higher) and which result in a total contract

greater than \$150,000.00 must be approved by the Board of Commissioners prior to execution. We request Board of Commissioners ratification of Change Order #16 in the amount not to exceed \$32,084.67, increasing contract value from \$4,007,684.22 to \$4,039,768.89.

FISCAL IMPACT: Not to Exceed \$32,084.67

SOURCE OF FUNDS: CFP 2023 funds

STAFF: Hannah Sokal-Holmes, Vice-President, Planning & Modernization

ELM CITY COMMUNITIES
Housing Authority of the City of New Haven

Resolution #02-XX/24-R

RESOLUTION AUTHORIZING RATIFICATION OF CHANGE ORDER #16 TO A. PRETE CONSTRUCTION COMPANY, INC. FOR CRAWFORD MANOR HEALTH & SAFETY CONTRACT IN THE AMOUNT NOT TO EXCEED \$32,084.67 BRINGING THE ADJUSTED CONTRACT VALUE FROM \$4,007,684.22 TO \$4,039,768.89

WHEREAS, at Crawford Manor, 90 Park Street, ECC/HANH determined a need to perform building common area and unit health and safety upgrades separately; and

WHEREAS, as Phase 1, due to COVID safety concerns, ECC/HANH solicited bids and awarded a contract to renovate the vestibule entrance for improved security and accessibility and replace the building fire pump since this work did not require contractors to work in residents' apartments; and

WHEREAS, Phase 1 work was completed in 2022; and

WHEREAS, as a second phase, on October 25, 2021, ECC/HANH publicly issued Invitation for Bids #PM-21-IFB-546 for Crawford Manor Fire Alarm, Life, Health and Safety Upgrades including fire alarm system replacement, electrical work, plumbing, painting and other work in occupied apartments; and

WHEREAS, on September 15, 2022, ECC/HANH executed Change Order #1 in the amount of \$166,588.04 for unit heater/split system adjustment and water booster pump replacement bringing the adjusted contract value from \$3,317,703.00 to \$3,484,291.04; and

WHEREAS, ECC/HANH also authorized:

- CO #2 for door modifications required by the Fire Marshall in the amount of \$27,430.29
- CO #3 for shower and bathroom exploratory repairs in the amount of \$64,922.33
- CO #4 for isolation valve replacement in the amount of \$23,524.01
- CO #5 for existing boiler exhaust repairs, community room abatement, main building shut-off valve replacement in the amount of \$33,267.03
- CO #6 extending time until March 3, 2023 for long lead time for various fire alarm system components; and
- CO #7 extending time until April 2, 2023 for supply chain delays for the lead time for booster pump components; and

WHEREAS, the combined value of Change Orders 1 through 7, \$315,731.70, was less than 10% of the contract value and did not require Board authorization; and

WHEREAS, the adjusted contract value through Change Order #7 was \$3,633,434.70; and

WHEREAS, on March 21, 2023, the Board authorized:

- CO #8 in the amount not to exceed \$194,398.13 to install a new Bi-Directional Amplification System (BDA) to meet the new City of New Haven Fire Department standards.
- CO #9 for nine (9) additional range hood circuits in the amount of \$5,400.
- CO #10 for Replacement of additional Main water shutoff bypass to main water line and meter not to exceed \$13,521.55; and

WHEREAS, ECC/HANH also authorized Change Order #11 extending time until November 17, 2023 due to supply chain issues related to fire alarm system components and change order items; and

WHEREAS, on April 18, 2023, the Board authorized Change Order #12 in the amount not to exceed \$145,515

for extended contract general conditions; and

WHEREAS, following authorization of Change Order #12, the adjusted contract value increased from \$3,846,754.38 to \$3,992,269.38; and

WHEREAS, the City Fire Marshal required replacement of emergency building lighting prior to sign-off on the new fire alarm system installation; and

WHEREAS, on May 1, 2023, ECC/HANH issued Construction Change Directive #2 authorizing the contractor to proceed with the emergency building lighting at a not to exceed value of \$32,500 less \$14,500 billed against the contract allowance of \$20,000 for a change not to exceed \$18,000; and

WHEREAS, on May 16, 2023, the Board authorized Resolution # 05-31/23-R authorizing Change Order #13 in the amount of \$17,537.04, for replacement of emergency lighting throughout the building as directed by the City Fire Marshal; and

WHEREAS, following authorization of Change Order #13, the adjusted contract value increased from \$3,988,606.42 to a not to exceed value of \$4,009,806.42; and

WHEREAS, ECC/HANH also authorized no cost Change Order #14 extending time until February 13, 2024 and credit Change Order #15 for work not required (\$2,122.20) and extending time until April 13, 2024 bringing the adjusted contract value from \$4,009,806.42 to \$4,007,684.22; and

WHEREAS, during the preparation process for the building electrical switchgear replacement, a decision was made to provide a second generator on site as added protection for a smooth transition to the new electrical system; and

WHEREAS, on February 5, 2024, ECC/HANH issued Construction Change Directive #5 in the amount not to exceed \$29,913.67; and

WHEREAS, ECC/HANH is proposing ratification of Change Order #16 for a second on-site generator including expedited time costs in the amount not to exceed \$32,084.67; and

WHEREAS, following ratification of Change Order #16, the contract adjusted value will increase from \$4,007,684.22 to \$4,039,768.89; and

WHEREAS, in accordance with resolution #10-129/18-R for the Revised Procurement Policy approved by the Board of Commissioners on October 16, 2018, all Contracts greater than \$150,000.00 inclusive of all optional years and all Change Orders and amendments in excess of 10% or \$50,000.00 (whichever is higher) and which result in a total contract greater than \$150,000.00 must be approved by the Board of Commissioners prior to execution. We request Board of Commissioners ratification of Change Order #16 in the amount not to exceed \$32,843.67 for second emergency generator including expedited time costs during electrical switchgear replacement bringing the adjusted contract value from \$4,007,684.22 to \$4,039,768.89.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF NEW HAVEN THAT:

- 1) Change Order #16 to contract #PM-22-C-593 with A. Prete Construction Company, Inc. in the amount not to exceed \$32,084.67 for second emergency generator including expedited time costs during electrical switchgear replacement bringing the adjusted contract value from \$4,007,684.22 to \$4,039,768.89 is hereby ratified.
- 2) The Executive Director-President be and hereby is authorized, empowered and directed to execute and deliver an agreement and expend the authorized funds.

- 3) The Executive Director-President be and hereby is authorized, empowered and directed to take any and all such ancillary action necessary and appropriate to fulfill the intent of the foregoing.
- 4) The resolution shall take effect immediately.

I hereby certify that the above resolution was adopted by a majority of the Commissioners present at a meeting duly called at which a quorum was present, on February 20, 2024.

Karen DuBois-Walton, Ph. D.
Secretary/President

Date

REVIEWED:
MCCARTER & ENGLISH, LLP
GENERAL COUNSEL

By: _____
Rolan Joni Young, Esq.
A Partner

AIA® Document G714® – 2017

Construction Change Directive

PROJECT: <i>(name and address)</i> Crawford Fire Alarm, Life, Health & Safety Upgrades 90 Park Street New Haven, CT 06511	CONTRACT INFORMATION: Contract For: General Construction Date: June 01, 2022	CCD INFORMATION: Directive Number: 005 Date: February 2, 2024
OWNER: <i>(name and address)</i> Housing Authority of New Haven 360 Orange Street New Haven, CT 06511	ARCHITECT: <i>(name and address)</i> Christopher Williams Architects LLC 85 Willow Street New Haven CT 06511	CONTRACTOR: <i>(name and address)</i> A. Prete Construction Co., Inc. 156 Fulton Terrace New Haven, CT 06512

The Contractor is hereby directed to make the following change(s) in this Contract:
(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits.)

Provision of an additional temporary generator and fuel for the upcoming power shutdown for the Building Switchgear replacement.

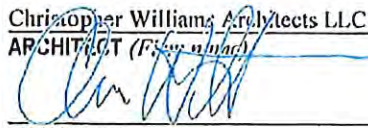
PROPOSED ADJUSTMENTS

- The proposed basis of adjustment to the Contract Sum or Guaranteed Maximum Price is:
 - Lump Sum
 - Unit Price of \$ per
 - Cost, as defined below, plus the following fee:
(Insert a definition of, or method for determining, cost)
 - As follows: Not to Exceed: \$29,913.67

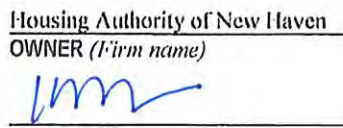
NOTE: The Owner, Architect and Contractor should execute a Change Order to supersede this Construction Change Directive to the extent they agree upon adjustments to the Contract Sum, Contract Time, or Guaranteed Maximum price for the change(s) described herein.

When signed by the Owner and Architect and received by the Contractor, this document becomes effective IMMEDIATELY as a Construction Change Directive (CCD), and the Contractor shall proceed with the change(s) described above.

Contractor signature indicates agreement with the proposed adjustments in Contract Sum and Contract Time set forth in this CCD.

Christopher Williams Architects LLC
(Firm name)

SIGNATURE

Christopher Williams, Principal
PRINTED NAME AND TITLE
2/2/2024
DATE

Housing Authority of New Haven
(Firm name)

SIGNATURE

Karen DuBois-Walton, President
PRINTED NAME AND TITLE
2/5/2024
DATE

A. Prete Construction Co., Inc.
(Firm name)

SIGNATURE

Jonathan Prete, Vice President
PRINTED NAME AND TITLE
2/5/24
DATE

Elm City Communities/ Housing Authority New Haven/ Glendower Group
 360 Orange Street
 New Haven, CT 06511

Contract No. _____
 Project No. _____
 Change Request No. 20

CONTRACTOR'S CHANGE ORDER PROPOSAL

Contractor Name: <u>A Prete Construction</u>		Date: <u>02/01/24</u>	
Address: <u>156 Fullon Terrace</u>		Allowance	
<u>New Haven, CT 06512</u>		Change Order	
Telephone No.: <u>(203) 469-1396</u>			

SECTION A: CONTRACTOR WORK	HANH REVISIONS	
1. Total Contractor Labor (from Labor Worksheet)	\$950.00	
2. Total Contractor Material (from Material Worksheet)	\$0.00	
3. Total Contractor Equipment (from Equipment Expense Proposal)	\$0.00	
4 SUBTOTAL (total lines 1 through 3)	\$950.00	
5 Premium Portion of Overtime (from Labor Worksheet)	\$0.00	
6 Under Special conditions as permitted by Owner: Gen. Conditions up to 6%	\$0.00	
7 Contractor's Markup Combined Overhead and Profit (% of line 4)	\$76.00	
8 CONTRACTOR TOTAL (Total lines 4, 5, 6 and 7)	\$1,026.00	

SECTION B: SUBCONTRACTOR WORK	(From Subcontractor's Proposal - Use a separate form for each Sub)	
9. Names of Subcontractors:	Base Cost Only (Line D3)	up to 8% Markup (Line D4)
A. ESG	\$24,903.16	\$1,992.25
B. _____		
C. _____		
D. _____		
10. TOTAL SUBCONTRACTORS' PROPOSALS	\$24,903.16	\$1,992.25
11. CM's/G Contractor's Markup on Subs' Cost (per Contract):		
11a. Overhead up to 2%		\$498.06
11b. Profit, Up to 6%		\$1,494.19
11c. _____		\$0.00
12. Subcontractors' Premium Portion of approved Overtime		\$0.00
13. SUBCONTRACTOR TOTAL		\$28,887.67

SECTION C: TOTAL CONTRACTED UNIT PRICE COSTS (from Unit Price Worksheet)	14.	\$0.00	
--	-----	--------	--

SECTION D: CONTRACTOR'S REQUESTED TOTAL	Round Totals to Nearest Dollar	
15. AMOUNT REQUESTED	(Total lines 8, 13, and 14.)	\$29,913.67
Signature of Contractor's Authorized Representative _____ Date _____		
Print Name _____ Print name of Contact Person (if different) _____		
Print Title _____ Phone No. (if different from above) _____		

SECTION E: CONSTRUCTION MANAGER'S/A/E REVIEW		
I have reviewed the labor hours, material quantities and equipment and no exceptions are taken to the Proposal. see comments noted on proposal or below: _____		
By: _____		
Construction Manager/A/E	Date	Phone No.
Project Manager	_____	_____
Construction Officer	_____	_____

Credit Change Order Payment Lines Affected					
Line	Amount	Line	Amount	Line	Amount
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____



PROPOSED CHANGE ORDER

Electrical Services Group LLC

37 Townsend Avenue
 New Haven, CT 06512
 Telephone: 203-745-0323
 Fax: 203-466-1045
 Contact: Edward Napolitano
 E-mail: edn@esg-ct.com

CCN # 11
 Date: 2/1/2024
 Project Name: Crawford Manor
 Project Number: Crawford Manor
 Page Number: 1

Client Address:

A. Prete Construction Co. Inc

Contact: John Prete
 156 Fulton Terrace
 New Haven, CT 06512

Work Description

INSTALLATION OF:

Provide an additional standby generator as backup to original.
 Includes 1 tank of fuel

Itemized Breakdown

Description	Qty	Total Mat.	Total Hrs.
500KW DIESEL GENERATOR (3 weeks)	1	15,400.00	8.00
GENERATOR DELIVERY/PICKUP	1	2,400.00	16.00
DIESEL FUEL	400	2,840.00	4.00
SETUP & TEST	16	0.00	16.00
FEES	1	363.00	0.00
Totals	419	21,003.00	44.00

Summary

General Materials		21,003.00
Material Total		21,003.00
FOREMAN	(44.00 Hrs @ \$88.64)	3,900.16
Subtotal		24,903.16
Markup	(@ 10.000 %)	2,490.32
Subtotal		27,393.48
Final Amount		\$27,393.48

CONTRACTOR CERTIFICATION

ORIGINAL

PROPOSED CHANGE ORDER

CCN # 11
Date: 2/1/2024
Project Name: Crawford Manor
Project Number: Crawford Manor
Page Number: 2

Electrical Services Group LLC
37 Townsend Avenue
New Haven, CT 06512

Client Address:

A. Prete Construction Co. Inc
Contact: John Prete
156 Fulton Terrace
New Haven, CT 06512

Name: _____
Date: _____
Signature: _____ <small>I hereby certify that this quotation is complete and accurate based on the information provided.</small>

CLIENT ACCEPTANCE

CCN # 11
Final Amount: \$27,393.48
Name: _____
Date: _____
Signature: _____
Change Order #: _____ <small>I hereby accept this quotation and authorize the contractor to complete the above described work.</small>

ORIGINAL

Model: **500REOZT**

KOHLER Power Systems

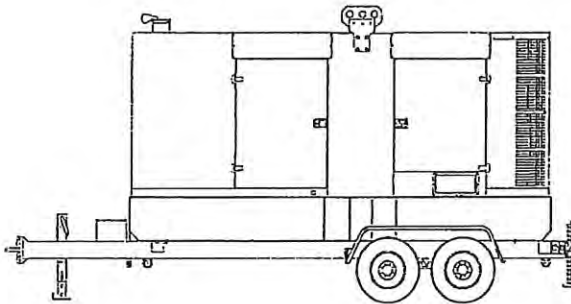
208-480 V

Diesel



Ratings Range

		60 Hz
Standby:	kW	460-510
	kVA	575-638
Prime:	kW	440-460
	kVA	550-575



Industrial Towable Generator Sets

- Kohler Co. provides one-source responsibility for the generating system and accessories.
- The generator set and its components are prototype-tested, factory-built, and production-tested.
- A one-year limited warranty covers all generator set systems and components.
- Generator sets are available with and without trailers.
- Generator set features:
 - Durable galvanized steel, sound-attenuating housing.
 - Electrical power panel.
 - Unit-mounted radiator with 40°C (104°F) ambient air capability with prime rating.
 - Skid and vibration isolators.
 - Main line circuit breaker, 1600 amps.
 - Microprocessor controller with emergency stop switch.
 - Externally mounted, recessed emergency stop switch.
 - Generator set and trailer operation literature.
- Engine features:
 - Volvo engine with 24-volt battery charging alternator.
 - Heavy-duty air cleaner with air restrictor indicator.
 - Battery, battery rack, and cables.
 - Engine is compliant with the Environmental Protection Agency (EPA) requirements.
 - Water separator fuel filter.
 - Battery disconnect switch.
 - Block heater, 120 V/2250 W.
- Enclosure/fuel tank package features:
 - Quiet operation, 75 dB(A) @ 7 m (23 ft.) (full load).
 - Lockable housing doors.
 - Subbase fuel tank, 1770 L (468 gal.).
 - 110% environmental containment basin for fuel, oil, and coolant.
- Trailer features:
 - Lunette eye.
 - Lockable utility tool box.
 - Running lights with 7-wire harness and connector.
 - Dual-axle trailer with electric brake system including breakaway and battery backup. 4536 kg (10000 lb.) rating per axle.
 - Steel wheels, 8-bolt, and 215/75R17.5 LRH tires with 2180 kg (4805 lb.) load rating.
 - Rear stabilizer trailer jacks.

Generator Set Ratings

Alternator	Voltage	Ph	Hz	Standby Rating		Prime Rating	
				kW/kVA	Amps	kW/kVA	Amps
LSA472M7	120/208	3	60	460/575	1596	440/550	1527
	277/480	3	60	510/638	767	460/575	692

RATINGS: All three-phase units are rated at 0.8 power factor. All single-phase units are rated at 1.0 power factor. **Standby Ratings:** The standby rating is applicable to varying loads for the duration of a power outage. There is no overload capability for this rating. **Prime Power Ratings:** At varying load, the number of generator set operating hours is unlimited. A 10% overload capacity is available for one hour in twelve. Ratings are in accordance with ISO-6520-1 and ISO-3046-1. For limited running time and continuous ratings, consult the factory. Obtain technical information bulletin (TIB-101) for ratings guidelines, complete ratings definitions, and site condition derates. The generator set manufacturer reserves the right to change the design or specifications without notice and without any obligation or liability whatsoever. For dual fuel engines, use the natural gas ratings for both the primary and secondary fuels.

Alternator Specifications

- NEMA-MG21, UTE NF C51.111, VDE 0530, BS 4999, CSA standards compliance for temperature rise and motor starting.
- Self-ventilated and dripproof construction.
- Windings are vacuum-impregnated with epoxy varnish for dependability and long life.
- Superior voltage waveform from a two-thirds pitch stator and skewed rotor.

Specifications	Alternator
Manufacturer	Leroy Somer
Type	4-Pole, Rotating-Field
Exciter type	Shunt
Leads: quantity, type	12, Reconnectable
Voltage regulator	Solid State, R230
Insulation:	NEMA MG1
Material	Class H
Bearing: quantity, type	1, Sealed
Coupling	Direct
Voltage regulation, no-load to full-load	±0.5%
Direct axis subtransient reactance (X"d), %	13.2

Application Data

Engine

Engine Specifications	
Manufacturer	Volvo
Engine model	TAD1641GE
Engine type	4-Cycle, Turbocharged
Cylinder arrangement	6 Inline
Displacement, L (cu. in.)	16.12 (983.7)
Bore and stroke, mm (in.)	144 x 165 (5.7 x 6.5)
Compression ratio	16.5:1
Piston speed, m/min. (ft./min.)	594 (1949)
Rated rpm	1800
Max. power at rated rpm, kWm (BHP)	565 (757)
Valve material:	
Intake	Chromium-Silicon Steel
Exhaust	Stainless Steel
Governor type	Electronic
Frequency regulation, no-load to full-load	ISO 5%
Frequency regulation, steady state	±2.5%
Air cleaner type, all models	Dry

Engine Electrical

Engine Electrical System	
Battery charging alternator:	
Ground (negative/positive)	Negative
Volts (DC)	24
Starter motor rated voltage (DC)	24
Battery, recommended cold cranking amps (CCA):	
Quantity, CCA rating each	Two, 1000
Battery voltage (DC)	12

Fuel

Fuel System	
Max. fuel flow, Lph (gph)	190 (50.2)
Fuel prime pump	Manual
Recommended fuel	#2 Diesel
Fuel tank capacity, L (gal.)	1770 (468)

Lubrication

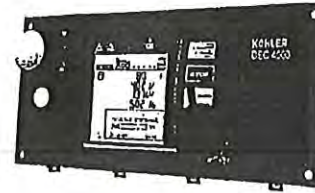
Lubricating System	
Type	Full Pressure
Oil pan capacity, L (qt.)	42 (44.4)
Oil pan capacity with filter, L (qt.)	48 (50.7)

Application Data

Operation Requirements

Fuel Consumption	
Diesel, Lph (gph) at % load	Prime Rating
100% (of the prime rating)	120.73 (31.9)
75% (of the prime rating)	88.79 (23.5)
50% (of the prime rating)	59.78 (15.8)

Controllers



Decision-Maker® 4000

Standard Features

- Large LCD display panel
- Unique control wheel for system access
- User buttons for start, stop, menu, and escape
- Emergency stop button
- On/off key switch
- Panel-mounted battery fuse
- Panel-mounted USB ports for PC access and software upgrades
- Password-protected access to control parameters

LCD Panel Features

- 600 x 800 resolution
- Multiple lines of text or graphic display
- Icons for quick identification of system status

Communication Features

- Engine communication via CANbus
- Modbus® communication via RS-485 or ethernet
- PC and flash drive connections via USB

Functions

- View and adjust system operation parameters
- View system faults

Viewable/Selectable Parameters (may require optional module)

- Voltage: phase-to-neutral, total voltage
- Current
- Frequency
- Power (active/reactive/apparent)
- Power factor
- Engine speed
- Oil pressure
- Coolant temperature
- Battery voltage
- Fuel level (%)
- Time delays

Viewable Faults (over 60 individual faults are monitored including)

- Alternator protection (if equipped)
- Circuit breaker and ground fault protection
- Communication and engine ECM monitoring
- Cooling air monitoring
- Electrical charging system
- Engine cooling system
- Engine lube system
- Fuel system
- Generator set status

Modbus® is a registered trademark of Schneider Electric.

KOHLER CO., Kohler, Wisconsin 53044 USA
 Phone 920-457-4441, Fax 920-459-1646
 For the nearest sales and service outlet in the
 US and Canada, phone 1-800-544-2444
 KOHLERPower.com

Kohler Power Systems, EMEA Headquarters
 Kohler Power Systems Netherlands B.V.
 Kristallaan 1
 4761 ZC Zevenbergen, The Netherlands
 Phone (31) 168 331630, Fax (31) 168 331631

Kohler Power Systems
 Asia Pacific Headquarters
 7 Jurong Pler Road
 Singapore 619159
 Phone (65) 6264-6422, Fax (65) 6264-6455

Distribution Panel

Bus Bar Connection

- Main bus connection studs enclosed behind a lockable access door for easy access and operator safety
- Strain relief to prevent cables from being pulled free from bus connections



Available Accessories

- Battery Charger, Equalize/Float Type
- Bottle Jack
- Cable Rack (bolt on)
- Fire Extinguisher
- Remote Start Connections
- Spare Tire
- Trailer (includes utility tool box)

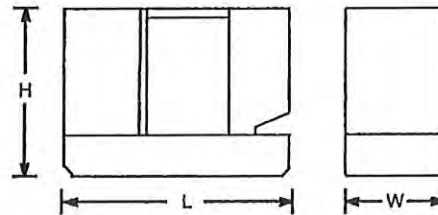
Dimensions and Weights

Overall Size, L x W x H, mm (in.):

5083 x 1560 x 2780
 (200.12 x 61.42 x 109.45)

Weight, wet, kg (lb.):

7280 (16050)

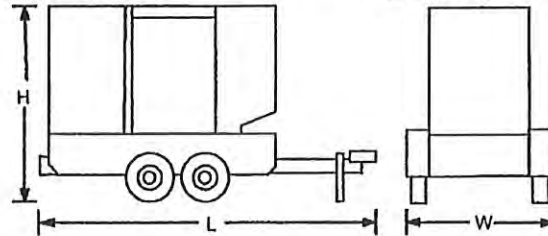


Overall Size, L x W x H, mm (in.):

6870 x 2308 x 3464
 (270.48 x 90.86 x 136.38)

Weight, wet, kg (lb.):

8659 (19750)



Note: This drawing is provided for reference only and should not be used for planning. Contact your local distributor for more detailed information.

DISTRIBUTED BY:

Rental Quotation
Q-24-0583

14 Connecticut South Drive
East Granby, CT 06026
860-844-6100, Fax: 860-844-6136



Customer PO#		Start Date		End Date	
Sales Person ID	Benjamin Kruger	Job Name:	ESG		
Quote Date:	1/31/2024 4:48 PM	Contact:	Edward Napolitano		
Customer (Lessee):	Electrical Serives Group	Email:	edn@esg-ct.com		
Address:	37 Townsend Avenue	Cell			
City/State/Zip:	New Haven CT	Phone:	(203) 627-5252		
Phone:		Fax:			
Delivery Address:	90 Park St				
City/State/Zip:	New Haven CT				
On Site Contact:		On Site Phone:			

Quantity	kW	Voltage	GPH 50%	GPH 100%	Tank Size (gal)	Daily Rate	Weekly Rate	Monthly Rate	Price*
1.0	500KW Trailer Rental								Week - Stand-By
		120/208 Volt							\$5,133.00

NOTE: FUEL FILL UP/PURCHASE IS THE RESPONSIBILITY OF THE RENTER. WE FUEL FOR STANDBY (BRIEF USE) ONLY, PER DOT FUEL TRANSPORT REGULATIONS. A LIST OF FUEL PROVIDERS IS AVAILABLE UPON REQUEST. IF THE UNIT RUNS OUT OF FUEL, A KINSLEY TECHNICIAN WILL NEED TO COME OUT TO REPLACE THE FILTERS AND YOU WILL BE RESPONSIBLE FOR THESE COSTS.

COMMENTS:	ENVIROMENTAL FEE	\$55.00
	DAMAGE WAIVER FEE	\$308.00
	FREIGHT – Delivery & Pickup	\$1,200.00
		+ Applicable TAX

QUOTE:	Valid for 30 days from date of issue. Monthly billing cycle is 28 days.	Initials _____
CERTIFICATE OF INSURANCE:	A valid Certificate of Insurance is required to be on file for Kinsley Power clients. The Damage Waiver will be automatically added at 14% of the cost of Materials (not trucking or service fees). Certificate of Insurance lists Kinsley Power as the additionally Insured.	Initials _____
PAYMENT:	Customer is responsible for <u>all</u> rental charges. Kinsley rental department is not responsible for any delays in the repairs to customer's equipment. Rental invoice payment terms are <u>net 30</u> , upon prior approval from our credit department	Initials _____
250 Hr. SERVICE:	Full service is required on all rental equipment after every 250 hours of operation. The COST of said service shall be the customer's responsibility. The cost for this is NOT included and will be billed in addition to the rental fees unless clearly defined in the list of materials above.	Initials _____
OFF RENT:	Calling a rental unit "off rent" must be done in writing to rentals@kinsleypower.com	Initials _____
FUEL:	Any fuel used and not replaced prior to generator return, will be invoiced at market rates plus 25% MU.	Initials _____

*** GENERATOR PRICING SUBJECT TO SHIFT MULTIPLIER IF BASELINE HOURS ARE EXCEEDED***				
	Day Rate	Weekly Rate	Monthly Rate	Shift Multiplier
Stand-By Baseline Hours	0 - 8 Hours	0 - 40 Hours	0-160 Hours	Quoted Rate x 1
Double Shift Baseline Hours	9 - 16 Hours	41 - 80 Hours	161-320 Hours	Quoted Rate x 1.5
Prime Power Hours	Unlimited	Unlimited	Unlimited	Quoted Rate x 2

To proceed with rental, please sign and date indicating your acceptance to this agreement.

Please provide certificate of insurance(\$) payable to Kinsley Power Systems.

Please provide PO# if applicable

Rental Quotation

Q-24-0583

KINSLEY

Signature: _____

Date: _____

CERTIFICATE OF INSURANCE:

Agreement subject to the Rental Terms and Conditions available at <https://www.kinsley-group.com/rentalterms/>

DETAILED CHANGE ORDER LOG

KEY

Fire Marshal AHJ Requirement
Bathroom & Water related work
Deferred maintenance work

Project Name		Crawford Life Health and Safety Upgrades							
Contractor Name		Prete Construction		10% BOC Threshold		\$331,770.30			
Contract No.		PM-22-C-593		Total Contract threshold		\$3,649,473.30			
Original Contract Value		\$3,317,703.00							
Original SOW Value		\$3,296,503.00		Original Contract Start Time		6/6/2022		2/1/2023	
Allowance		\$21,200.00							
Change Order Summary	No.	Proposed Value	Final Value	Adjusted Allowance	Adjusted SOW Value	Adjusted Contract Value	Contract End Time	Comments	
PCO #2 Split System Adjustment Unit Heater-1	1	\$3,257.28	\$166,588.04	\$21,200.00	\$3,463,091.04	\$3,484,291.04	2/1/2023	SUPPORT OPS (Anticipated delivery in July)	
PCO#3 Booster Pumps		\$153,330.76		\$21,200.00			2/1/2023		
Door Modifications Per New Haven Fire Marshals Office PCO Signed 10/27/2022	2	\$27,430.29	\$27,430.29	\$21,200.00	\$3,490,521.33	\$3,511,721.33	2/1/2023	Fire Marshal REQUIREMENT	
Bathroom repairs at 11 apts. (CCD #1 bathroom repairs)	3		\$64,922.33	\$21,200.00	\$3,555,443.66	\$3,576,643.66	2/1/2023	SD addition due to leaky resident bathrooms	
Additional isolation valves	4		\$23,524.01	\$21,200.00	\$3,578,967.67	\$3,600,167.67	2/1/2023	REQ FOR bathroom & booster pump repairs	
Existing boiler exhaust repairs; cmnty rm abate; replace main bldg. water shutoff valve	5		\$33,267.03	\$21,200.00	\$3,612,234.70	\$3,633,434.70	2/1/2023	Unforeseen + Bathroom repairs	
Time Extension due to supply chain issues related to FA components	6		\$0.00	\$21,200.00	\$3,612,234.70	\$3,633,434.70	3/3/2023	supply chain delays and delay due to Crawford fire and elevator breakdown at start of project	
No Cost Time extension	7		\$0.00	\$21,200.00	\$3,612,234.70	\$3,633,434.70	4/2/2023	supply chain delays and delay due to Crawford fire and elevator breakdown at start of project	
Fire Dept required Bi-Directional Amplification System (BDA)	8		\$194,398.13	\$21,200.00	\$3,806,632.83	\$3,827,832.83	4/2/2023	Fire Marshal REQUIREMENT	
Additional Range Hood Circuits--Unit Pricing	9		\$5,400.00	\$21,200.00	\$3,812,032.83	\$3,833,232.83	4/2/2023	Under estimated number needed	
Replacement of additional Main Water shut off bypass to main waterline & meter NTE	10		\$13,521.55	\$21,200.00	\$3,825,554.38	\$3,846,754.38	4/2/2023	REQ FOR bathroom & booster pump repairs	
Contract time extension to Nov 17, 2023	11		\$0.00	\$21,200.00	\$3,825,554.38	\$3,846,754.38	11/17/2023	Time	
General Conditions for extension of contract time to to complete work	12	\$344,913.66	\$145,515.00	\$21,200.00	\$3,971,069.38	\$3,992,269.38	11/17/2023	supply chain delays, additional bathroom work, and delay due to Crawford fire and elevator breakdown at the start of the project;	
Emergency Lighting all floors req'd by AHJ NTE \$18K	13-CCD #3	\$32,500.00	\$17,537.04	\$6,700.00	\$3,988,606.42	\$4,009,806.42	11/17/2023	Fire Marshal REQUIREMENT, including additional light fixtures and wiring	
Fire Marshalls Office Mandated Door Modifications. Substantial completion date extended 12/15/2023	14		\$0.00	\$0.00	\$3,988,606.42	\$4,009,806.42	2/13/2024	Substantial completion 12/15/2023. Contract end date 02/13/2024	
FA Panel & Device Emergency Service	15	\$2,654.10	-\$2,122.20	\$0.00	\$3,986,484.22	\$4,007,684.22	4/13/2024	Contract End Date 04/13/2024	
Credit for Exhaust Repairs		-\$4,776.30							
Second generator for switchgear replacement NTE	16 incl. CCD#5	\$29,913.67	\$32,084.67	\$0.00	\$4,039,768.89	\$4,039,768.89	4/13/2024	Second generator for switchgear replacement & Premium time/labor	
Total					\$4,039,768.89	\$4,039,768.89	4/13/2024		



NEW HAVEN HOUSING AUTHORITY
CONSTRUCTION CHANGE AUTHORIZATION FORM

PROJECT NAME: Crawford Manor CCA #021
ADDRESS: 90 Park Street DATE: 2/7/24
ARCHITECT: CWA
OWNER: Elm City Communities

In order to expedite the work and avoid or minimize delays in the Work, which will affect Contract Sum and / or Contract Time, the Contract Documents are hereby amended to include the additional Work described below:

Please proceed with the following work:

DESCRIPTION OF THE WORK:

Table with 3 columns: Trade Contractor, Description of Scope of Work, Amount. Rows include ESG, Premium Time, ESG 8%, APC OH&P 8%, and Total: \$2,171.00.

The following information is being provided by:

Method of determining value of change in contract:

Form with checkboxes for Lump Sum, Time and Material, Unit price, Other, Eligible, and Ineligible.

Change in Contract Sum: Amount: \$2,171.00

Note: Any costs included in this CCA are subject to Accounting Review.

Change in Contract Time:

ARCHITECT: Christopher Williams Architects

HANH MANAGER: New Haven Housing Authority

CONSTRUCTION MANAGER: A. Prete Construction Co., Inc

Jonathan Prete

Signature lines with labels DATE for Architect, Hanh Manager, and Construction Manager.



PROPOSED CHANGE ORDER

Electrical Services Group LLC

37 Townsend Avenue
 New Haven, CT 06512
 Telephone: 203-745-0323
 Fax: 203-466-1045
 Contact: Edward Napolitano
 E-mail: edn@esg-ct.com

CCN # 12
 Date: 2/8/2024
 Project Name: Crawford Manor
 Project Number: Crawford Manor
 Page Number: 1

Client Address:

A. Prete Construction Co. Inc

Contact: John Prete
 156 Fulton Terrace
 New Haven, CT 06512

Work Description

INSTALLATION OF:

Premium Time charges only for 10 hour days for week of 2/12/2024 thru 2/19/2024

Itemized Breakdown

Description	Qty	Total Mat.	Total Hrs.
MAN-HOURS	60	0.00	60.00
Totals	60	0.00	60.00

Summary

JOURNEYMAN	(48.00 Hrs @ \$30.90)	1,483.20
FOREMAN	(12.00 Hrs @ \$32.30)	387.60
Subtotal		1,870.80
Markup	(@ 10.000 %)	187.08 ¹⁵⁰
Subtotal		2,057.88
Final Amount		\$2,057.88 ²⁰²¹

CONTRACTOR CERTIFICATION

Name:	_____
Date:	_____
Signature:	_____
I hereby certify that this quotation is complete and accurate based on the information provided.	

ORIGINAL

PROPOSED CHANGE ORDER

CCN # 12
Date: 2/8/2024
Project Name: Crawford Manor
Project Number: Crawford Manor
Page Number: 2

Electrical Services Group LLC

37 Townsend Avenue
New Haven, CT 06512

Client Address:

A. Prete Construction Co. Inc

Contact: John Prete
156 Fulton Terrace
New Haven, CT 06512

CLIENT ACCEPTANCE

CCN #	12
Final Amount:	\$2,057.88
Name:	_____
Date:	_____
Signature:	_____
Change Order #:	_____

I hereby accept this quotation and authorize the contractor to complete the above described work.

ORIGINAL

MEMORANDUM

To: Board of Commissioners

From: Karen DuBois-Walton, Ph.D., Executive Director

Date: February 20, 2024

RE: RESOLUTION RATIFYING, AUTHORIZING, AND TO THE EXTENT NECESSARY, REAUTHORIZING CERTAIN ACTS IN CONNECTION WITH A HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT WITH BEACON COMMUNITIES SERVICES LLC FOR FORTY (40) PROJECT BASED UNITS FOR INITIAL TERM OF TWENTY (20) YEARS WITH AN OPTION TO RENEW FOR AN ADDITIONAL 20 YEARS AT THE AUTHORITY'S SOLE DISCRETION

ACTION: Recommend that the Board of Commissioners adopt Resolution #02-03/24-R

TIMING: **Immediately**

DISCUSSION: On July 13, 2020, ECC/HANH issued a Request for Proposals (RFP) for the Housing Choice Voucher (HCV/Section 8) Project-Based Assistance Program to Support the Development of Affordable Housing. ECC/HANH was seeking proposals from owners of Newly Constructed, Rehabilitated or Existing Units under the Project Based Voucher (PBV) Program. One hundred PBV's were set aside for extremely low and very low-income households with preferences for downtown and neighborhoods with affordable housing undergoing revitalization and housing with accessible units. The RFP was a "rolling process", which is a first come, first served basis. Proposals will be accepted for consideration on a continuous basis until ECC/HANH determined that funding or vouchers are no longer available for the award.

On August 5, 2020, Beacon Communities Services LLC responded to the RFP. The PBV units are located at Parkside Village 1 on 115 South Montowese Street, Branford.

Beacon Communities LLC will be allocating twenty vouchers immediately to residents on the ECC/HANH Housing Choice Voucher wait list. The remaining twenty vouchers will be allocated to exiting families residing at Parkside Village I. As these existing families move out, the units will then be occupied by families off the ECC/HANH Housing Choice Voucher Program waitlist.

On September 14, 2022, ECC/HANH entered into a Housing Assistance Payments Contract (HAP) with Beacon Communities Services LLC for the existing twenty (20) units.

ECC/HANH is requesting authorization of the second stage of this contract for the remaining twenty project-based units to be allocated to residents on the ECC/HANH Housing Choice Voucher wait list.

FISCAL IMPACT: Not to exceed \$396,323.40 Annually

STAFF: **Coreen Toussaint VP of Housing Choice Voucher**

**ELM CITY COMMUNITIES
Housing Authority of the City of New Haven**

RESOLUTION # #02-03/24-R

**RESOLUTION RATIFYING, AUTHORIZING, AND TO THE EXTENT NECESSARY,
REAUTHORIZING CERTAIN ACTS IN CONNECTION WITH A HOUSING
ASSISTANCE PAYMENT (HAP) CONTRACT WITH BEACON COMMUNITIES
SERVICES LLC FOR FORTY (40) PROJECT BASED UNITS FOR INITIAL TERM OF
TWENTY (20) YEARS WITH AN OPTION TO RENEW FOR AN ADDITIONAL 20 YEARS
AT THE AUTHORITY'S SOLE DISCRETION**

WHEREAS, July 13, 2020 ECC/HANH issued a Request for Proposals (RFP) for the Housing Choice Voucher (HCV/Section 8) Project-Based Assistance Program to Support the Development of Affordable Housing; and

WHEREAS, the RFP was a “rolling process”, which is a first come, first served basis and proposals will be accepted for consideration on a continuous basis until ECC/HANH determines that funding or vouchers are no longer available; and

WHEREAS, Beacon Communities LLC responded to the RFP and proposed to allocate 40 Project Based Vouchers; and

WHEREAS, Beacon Communities LLC allocated twenty (20) vouchers to residents on the ECC/HANH Housing Choice Voucher wait list; and

WHEREAS, the remaining twenty (20) vouchers were allocated to existing families residing at Parkside Village I, and when these units become vacant, the vouchers will be allocated to applicants on ECC/HANH Housing Choice Voucher waitlist; and

WHEREAS, project-based assistance will be provided for 20 years, subject to the availability of funds, with an option to renew for an additional 20 years in the sole discretion of the Authority for the 20 units set forth in Exhibit A attached hereto; and

WHEREAS, on September 14, 2022, ECC/HANH entered into a Housing Assistance Payments Contract (HAP) with Beacon Communities Services LLC for the existing twenty (20) units; and

WHEREAS, the contract units and the proposed contract rents set forth in Exhibit A and attached hereto are within the reasonable rent limits established by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the Authority may not enter into a HAP contract for these units until they receive environmental approval under 24 CFR Part 58, subsidy layering review, and all voucher federal requirements of the U.S. Department of Housing and Urban Development; and

WHEREAS, ECC/HANH is requesting authorization of the second stage of this contract for the remaining twenty project-based units to be allocated to residents on the ECC/HANH Housing Choice Voucher wait list. This agreement would commence upon approval of the TCO and confirmation of compliance of voucher HUD requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF NEW HAVEN THAT:

- 1) The staged Housing Assistance Payments (HAP) Contract with Beacon Communities LLC for the remaining twenty (20) project-based units as set forth in the recitals to this resolution be and hereby is, authorized and directed; and.
- 2) The President be and is hereby authorized, empowered and directed to take any and all such action and execute such documents as necessary to effectuate the terms and conditions of this Resolution, and to take any and all necessary action ancillary and related thereto; and
- 3) The resolution shall take effect immediately.

I hereby certify that the above resolution was adopted by a majority of the Commissioners present at a meeting duly called at which a quorum was present, on **February 20, 2024**.

Karen DuBois-Walton, Ph. D.
Secretary/President

Date

REVIEWED:
McCarter & English, LLP General Counsel

By: _____
Rolan Joni Young, Esq
A Partner

**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

**AGREEMENT TO ENTER INTO A
HOUSING ASSISTANCE PAYMENTS CONTRACT**

NEW CONSTRUCTION OR REHABILITATION

PART I

Public reporting burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting, reviewing and reporting the data. The information is being collected as required by 24 CFR 983.152, which requires the PHA to enter into an Agreement with the owner prior to execution of a HAP contract for PBV assistance as provided in §983.153. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

Privacy Act Statement. HUD is committed to protecting the privacy of individuals' information stored electronically or in paper form, in accordance with federal privacy laws, guidance, and best practices. HUD expects its third-party business partners, including Public Housing Authorities, who collect, use maintain, or disseminate HUD information to protect the privacy of that information in Accordance with applicable law.

1.1 Parties

This Agreement to Enter into Housing Assistance Payments Contract (“Agreement”) is between:

Housing Authority of the City of New Haven (“PHA”) and
Parkside Village I LLC (“owner”).

1.2 Purpose

The owner agrees to develop the Housing Assistance Payments Contract (“HAP Contract”) units to in accordance with Exhibit B and to comply with Housing Quality Standards (“HQS”), and the PHA agrees that, upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP Contract with the owner of the Contract units.

1.3 Contents of Agreement

This Agreement consists of Part I, Part II, and the following Exhibits:

EXHIBIT A: The approved owner's PBV proposal. (Selection of proposals must be in accordance with 24 CFR 983.51.)

EXHIBIT B: Description of work to be performed under this Agreement, including:

- if the Agreement is for rehabilitation of units, this exhibit must include the rehabilitation work write-up and, where the PHA has determined necessary, specifications and plans.
- if the Agreement is for new construction of units, the work description must include the working drawings and specifications.
- any additional requirements beyond HQS relating to quality, design and architecture that the PHA requires.
- work items resulting from compliance with the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205, the accessibility requirements under section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR 8.22 and 8.23, and accessibility requirements under Titles II and III of the Americans with Disabilities Act at 28 CFR parts 35 and 36, as applicable.

EXHIBIT C: Description of housing, including:

- project site.
- total number of units in project covered by this Agreement.
- locations of contract units on site.
- number of contract units by area (size) and number of bedrooms and bathrooms.
- services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent to owner.
- utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant.

- estimated initial rent to owner for the contract units.

EXHIBIT D: The HAP contract.

1.4 Significant Dates

- A. **Effective Date of the Agreement:** The Agreement must be executed promptly after PHA notice of proposal selection to the owner has been given. The PHA may not enter this Agreement with the owner until a subsidy layering review has been performed and an environmental review has been satisfactorily completed in accordance with HUD requirements.
- B. A project may either be a single-stage or multi-stage project. A single-stage project will have the same Agreement effective date for all contract units. A multi-stage project will separate effective dates for each stage.

Single-stage project

- i. Effective Date for all contract units: _____
- ii. Date of Commencement of the Work: The date for commencement of work is not later than 120 calendar days after the effective date of this Agreement.
- iii. Time for Completion of Work: The date for completion of the work is not later than 820 calendar days after the effective date of this Agreement.

Multi-Stage Project

Enter the information for each stage upon execution of the Agreement for the corresponding stage.

STAGE	NUMBER OF UNITS	EFFECTIVE DATE	DATE OF COMMENCEMENT OF WORK	TIME FOR COMPLETION OF WORK

1.5 Nature of the Work

- This Agreement is for **New Construction** of units to be assisted by the project-based Voucher program.
- This Agreement is for **Rehabilitation** of units to be assisted by the project-based Voucher program.

1.6 Schedule of Completion

- A. **Timely Performance of Work:** The owner agrees to begin work no later than the date for commencement of work as stated in Section 1.4. In the event the work is not commenced, diligently continued and completed as required under this Agreement, the PHA may terminate this Agreement or take other appropriate action. The owner agrees to report promptly to the PHA the date work is commenced and furnish the PHA with progress reports as required by the PHA.
- B. **Time for Completion:** All work must be completed no later than the end of the period stated in Section 1.4. Where completion in stages is provided for, work related to units included in each stage shall be completed by the stage completion date and all work on all stages must be completed no later than the end of the period stated in Section 1.4.
- C. **Delays:** If there is a delay in the completion due to unforeseen factors beyond the owner’s control as determined by the PHA, the PHA agrees to extend the time for completion for an appropriate period as determined by the PHA in accordance with HUD requirements.

1.7 Changes in Work

- A. The owner must obtain prior PHA approval for any change from the work specific in Exhibit B which would alter the design or quality of the rehabilitation or construction. The PHA is not required to approve any changes requested by the owner. PHA approval of any change may be conditioned on establishment of a lower initial rent to owner at the amounts determined by PHA.

- B. If the owner makes any changes in the work without prior PHA approval, the PHA may establish lower initial rents to owner at the amounts determined by PHA in accordance with HUD requirements.
- C. The PHA (or HUD in the case of insured or coinsured mortgages) may inspect the work during rehabilitation or construction to ensure that work is proceeding on schedule, is being accomplished in accordance with the terms of the Agreement, meets the level of material described in Exhibit B and meets typical levels of workmanship for the area.

1.8 Work completion

- A. Conformance with Exhibit B: The work must be completed in accordance with Exhibit B. The owner is solely responsible for completion of the work.
- B. Evidence of Completion: When the work is completed, the owner must provide the PHA with the following:
 - 1. A certification by the owner that the work has been completed in accordance with the HQS and all requirements of this Agreement.
 - 2. A certification by the owner that the owner has complied with labor standards and equal opportunity requirements in the development of the housing. (See 24 CFR 983.155(b)(1)(ii).)
 - 3. Additional Evidence of Completion: At the discretion of the PHA, or as required by HUD, this Agreement may specify additional documentation that must be submitted by owner as evidence of completion of the housing. Check the following that apply:
 - A certificate of occupancy or other evidence that the contract units comply with local requirements.
 - An architect's or developer's certification that the housing complies with:
 - the HQS;
 - State, local, or other building codes;
 - Zoning;
 - The rehabilitation work write-up for rehabilitated housing;

- The work description for newly constructed housing; or
- Any additional design or quality requirements pursuant to this Agreement.

1.9 Inspection and Acceptance by the PHA of Completed Contract Units

- A. Completion of Contract Units: Upon receipt of owner notice of completion of Contract units, the PHA shall take the following steps:
 - 1. Review all evidence of completion submitted by owner.
 - 2. Inspect the units to determine if the housing has been completed in accordance with this Agreement, including compliance with the HQS and any additional requirements imposed by the PHA under this Agreement.
- B. Non-Acceptance: If the PHA determines the work has not been completed in accordance with this Agreement, including non-compliance with the HQS, the PHA shall promptly notify the owner of this decision and the reasons for the non-acceptance. The parties must not enter into the HAP contract.
- C. Acceptance: If the PHA determines housing has been completed in accordance with this Agreement, and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

1.10 Acceptance where defects or deficiencies are reported:

- A. If other defects or deficiencies exist, the PHA shall determine whether and to what extent the defects or deficiencies are correctable, whether the units will be accepted after correction of defects or deficiencies, and the requirements and procedures for such correction and acceptance.
- B. Completion in Stages: Where completion in stages is provided for, the procedures of this paragraph shall apply to each stage.

1.11. Execution of HAP Contract

- A. Time and Execution: Upon acceptance of the units by the PHA, the owner and the PHA execute the HAP contract.

- B. Completion in Stages: Where completion in stages is provided for the number and types of units in each stage, and the initial rents to owner for such units, shall be separately shown in Exhibit C of the contract for each stage. Upon acceptance of the first stage, the owner shall execute the contract and the signature block provided in the contract for that stage. Upon acceptance of each subsequent stage, the owner shall execute the signature block provided in the contract for such stage.
- C. Form of Contract: The terms of the contract shall be provided in Exhibit D of this Agreement. There shall be no change in the terms of the contract unless such change is approved by HUD headquarters. Prior to execution by the owner, all blank spaces in the contract shall be completed by the PHA.
- D. Survival of owner Obligations: Even after execution of the contract, the owner shall continue to be bound by all owner obligations under the Agreement.

1.12 Initial determination of rents

- A. The estimated amount of initial rent to owner shall be established in Exhibit C of this Agreement.
- B. The initial amount of rent to owner is established at the beginning of the HAP contract term.
- C. The estimated and initial contract rent for each units may in no event exceed the amount authorized in accordance with HUD regulations and requirements. Where the estimated initial rent to owner exceeds the amount authorized in accordance with HUD regulations, the PHA shall establish a lower initial rent tow owner, in accordance with HUD regulations and requirements.

1.13 Uniform Relocation Act

- A. A displaced person must be provided relocation assistance at the levels described in and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and implementing regulations at 49 CFR part 24.
- B. The cost of required relocation assistance may be paid with funds provided by the owner, or with local public funds, or with funds available from other sources. Payment of relocation assistance must be paid in accordance with HUD requirements.

- C. The acquisition of real property for a project to be assisted under the program is subject to the URA and 49 CFR part 24, subpart B.
- D. The PHA must require the owner to comply with the URA and 49 CFR part 24.
- E. In computing a replacement housing payment to a residential tenant displaced as a direct result of privately undertaken rehabilitation or demolition of the real property, the term “initiation of negotiations” means the execution of the Agreement between the owner and the PHA.

1.14 Protection of In-Place Families

- A. In order to minimize displacement of in-place families, if a unit to be placed under Contract is occupied by an eligible family on the proposal selection date, the in-place family must be placed on the PHA’s waiting list (if they are not already on the list) and, once their continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized unit in the project.
- B. This protection does not apply to families that are not eligible to participate in the program on the proposal selection date.
- C. The term “in-place family” means an eligible family residing in a proposed contract unit on the proposal selection date.
- D. Assistance to in-place families may only be provided in accordance with the program regulations and other HUD requirements.

1.15 Termination of Agreement and Contract

The Agreement or HAP contract may be terminated upon at least 30 days notice to the owner by the PHA or HUD if the PHA or HUD determines that the contract units were not eligible for selection in conformity with HUD requirements.

1.16 Rights of HUD if PHA Defaults Under Agreement

If HUD determines that the PHA has failed to comply with this Agreement, or has failed to take appropriate action to HUD’s satisfaction or as directed by HUD, for enforcement of the PHA’s rights under this Agreement, HUD may assume the PHA’s rights and obligations under the Agreement, and may perform the obligations and enforce the rights of the PHA under the Agreement. HUD will, if it determines that the owner is not in default, pay Annual Contributions for the purpose of providing housing assistance payments with respect to the dwelling unit(s) under this Agreement for the duration of the HAP contract.

1.17 Owner Default and PHA Remedies

A. Owner Default

Any of the following is a default by the owner under the Agreement:

1. The owner has failed to comply with any obligation under the Agreement.
2. The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).
3. The owner has committed any fraud or made any false statement to the PHA or HUD in connection with the Agreement.
4. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing assistance program.
5. If the property where the contract units are located is subject to a lien or security interest securing a HUD loan or mortgage insured by HUD and:
 - a. The owner has failed to comply with the regulations for the applicable HUD loan or mortgage insurance program, with the mortgage or mortgage note, or with the regulatory agreement; or
 - b. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with the HUD loan or HUD-insured mortgage.
6. The owner has engaged in any drug-related criminal activity or any violent criminal activity.

B. PHA Remedies

1. If the PHA determines that a breach has occurred, the PHA may exercise any of its rights or remedies under the Agreement.
2. The PHA must notify the owner in writing of such determination. The notice by the PHA to the owner may require the owner to take corrective action (as verified by the PHA) by a time prescribed in the notice.

3. The PHA's rights and remedies under the Agreement include, but are not limited to: (i) terminating the Agreement; and (ii) declining to execute the HAP contract for some or all of the units.

C. PHA Remedy is not Waived

The PHA's exercise or non-exercise of any remedy for owner breach of the Agreement is not a waiver of the right to exercise that remedy or any other right or remedy at any time.

1.18 PHA and Owner Relation to Third Parties

A. Selection and Performance of Contractor

1. The PHA has not assumed any responsibility or liability to the owner, or any other party for performance of any contractor, subcontractor or supplier, whether or not listed by the PHA as a qualified contractor or supplier under the program. The selection of a contractor, subcontractor or supplier is the sole responsibility of the owner and the PHA is not involved in any relationship between the owner and any contractor, subcontractor or supplier.
2. The owner must select a competent contractor to undertake rehabilitation or construction. The owner agrees to require from each prospective contractor a certification that neither the contractor nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in contract by the Comptroller General or any federal Department or agency. The owner agrees not to award contracts to, otherwise engage in the service of, or fund any contractor that does not provide this certification.

B. Injury Resulting from Work under the Agreement: The PHA has not assumed any responsibility for or liability to any person, including a worker or a resident of the unit undergoing work pursuant to this Agreement, injured as a result of the work or as a result of any other action or failure to act by the owner, or any contractor, subcontractor or supplier.

C. Legal Relationship: The owner is not the agent of the PHA and this Agreement does not create or affect any relationship between the PHA and any lender to the owner or any suppliers, employees, contractor or subcontractors used by the owner in the implementation of the Agreement.

D. Exclusion of Third Party Claims: Nothing in this Agreement shall be construed as creating any right of any third party (other than HUD) to

enforce any provision of this Agreement or the Contract, or to assert any claim against HUD, the PHA or the owner under the Agreement or the Contract.

- E. Exclusion of owner Claims against HUD: Nothing in this Agreement shall be construed as creating any right of the owner to assert any claim against HUD.

1.19 PHA-Owned Units

Notwithstanding Section 1.18 of this Agreement, a PHA may own units assisted under the project-based voucher program, subject to the special requirements in 24 CFR 983.59 regarding PHA-owned units.

1.20 Conflict of Interest

- A. Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials
 1. No present or former member or officer of the PHA (except tenant-commissioners), no employee of the PHA who formulates policy or influences decisions with respect to the housing choice voucher program or project-based voucher program, and no public official or member of a governing body or State or local legislator who exercises functions or responsibilities with respect to these programs, shall have any direct or indirect interest, during his or her tenure or for one year thereafter, in the Agreement or HAP contract.
 2. HUD may waive this provision for good cause.
- B. Disclosure

The owner has disclosed to the PHA any interest that would be a violation of the Agreement or HAP contract. The owner must fully and promptly update such disclosures.

1.21 Interest of Member or Delegate to Congress

No member of or delegate to the Congress of the United States of America or resident-commissioner shall be admitted to any share or part of the Agreement or HAP contract or to any benefits arising from the Agreement or HAP contract.

1.22 Transfer of the Agreement, HAP Contract, or Property

A. PHA Consent to Transfer

The owner agrees that the owner has not made and will not make any transfer in any form, including any sale or assignment, of the Agreement, HAP contract, or the property without the prior written consent of the PHA. A change in ownership in the owner, such as a stock transfer or transfer of the interest of a limited partner, is not subject to the provisions of this section. Transfer of the interest of a general partner is subject to the provisions of this section.

B. Procedure for PHA Acceptance of Transferee

Where the owner requests the consent of the PHA for a transfer in any form, including any sale or assignment, of the Agreement, the HAP contract, or the property, the PHA must consent to a transfer of the Agreement or HAP contract if the transferee agrees in writing (in a form acceptable to the PHA) to comply with all the terms of the Agreement and HAP contract, and if the transferee is acceptable to the PHA. The PHA's criteria for acceptance of the transferee must be in accordance with HUD requirements.

C. When Transfer is Prohibited

The PHA will not consent to the transfer if any transferee, or any principal or interested party, is debarred, suspended, subject to a limited denial of participation, or otherwise excluded under 2 CFR part 2424, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

1.23 Exclusion from Federal Programs

A. Federal Requirements

The owner must comply with and is subject to requirements of 2 CFR part 2424.

B. Disclosure

The owner certifies that:

1. The owner has disclosed to the PHA the identity of the owner and any principal or interested party.

2. Neither the owner nor any principal or interested party is listed on the U.S. General Services Administration list of parties excluded from Federal procurement and nonprocurement programs; and none of such parties are debarred, suspended, subject to a limited denial of participation, or otherwise excluded under 2 CFR part 2424.

1.24 Lobbying Certifications

- A. The owner certifies, to the best of the owner's knowledge and belief, that:
 1. No Federally appropriated funds have been paid or will be paid, by or on behalf of the owner, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of the Agreement or HAP contract, or the extension, continuation, renewal, amendment, or modification of the HAP contract.
 2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Agreement or HAP contract, the owner must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification by the owner is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

1.25 Subsidy Layering

- A. Owner Disclosure

The owner must disclose to the PHA, in accordance with HUD requirements, information regarding any related assistance from the Federal government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is made available or is expected to be made available with respect to the contract units. Such related assistance includes, but is not limited to, any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

B. Limit of Payments

Housing assistance payments under the HAP contract must not be more than is necessary, as determined in accordance with HUD requirements, to provide affordable housing after taking account of such related assistance. The PHA will adjust in accordance with HUD requirements the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

1.26 Prohibition of Discrimination

- A. The owner may not refuse to lease contract units to, or otherwise discriminate against, any person or family in leasing of a contract unit, because of race, color, religion, sex, national origin, disability, age, or familial status.
- B. The owner must comply with the following requirements:
1. The Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100 *et seq.*;
 2. Executive Order 11063, as amended by Executive Order 12259 (3 CFR 1959–1963 Comp., p. 652, and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107;
 3. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1;
 4. The Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and implementing regulations at 24 CFR part 146;
 5. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at part 8 of this title;
 6. Title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*;
 7. 24 CFR part 8;
 8. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135;

9. Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60;
10. Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprise Development); and
11. Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393, and 3 CFR, 1987 Comp., p. 245) (Women’s Business Enterprise).
12. HUD’s Equal Access Rule at 24 CFR 5.105. [OGC- Nonconcurrency: This section failed to reference protections with respect to actual or perceived sexual orientation, gender identity, or marital status in accordance with HUD’s Equal Access Rule at 24 CFR 5.105(a). Revising as indicated above is sufficient to resolve this concern.

C. The PHA and the owner must cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and all related rules and regulations.

1.27 Owner Duty to Provide Information and Access to HUD and PHA

- A. The owner must furnish any information pertinent to this Agreement as may be reasonably required from time to time by the PHA or HUD. The owner shall furnish such information in the form and manner required by the PHA or HUD.
- B. The owner must permit the PHA or HUD or any of their authorized representatives to have access to the premises during normal business hours and, for the purpose of audit and examination, to have access to any books, documents, papers, and records of the owner to the extent necessary to determine compliance with this Agreement.

1.28 Notices and Owner Certifications

- A. Where the owner is required to give any notice to the PHA pursuant to this Agreement, such notice shall be in writing and shall be given in the manner designated by the PHA.

- B. Any certification or warranty by the owner pursuant to the Agreement shall be deemed a material representation of fact upon which reliance was placed when this transaction was entered into.

1.29 HUD Requirements

- A. The Agreement and the HAP contract shall be interpreted and implemented in accordance with all statutory requirements, and will all HUD requirements, including amendments or changes in HUD requirements. The owner agrees to comply with all such laws and HUD requirements.
- B. HUD requirements are requirements that apply to the project-based voucher program. HUD requirements are issued by HUD Headquarters as regulations, *Federal Register* notices, or other binding program directives.

1.30 Applicability of Part II Provisions — Check All that Apply

- Training, Employment, and Contracting Opportunities
Section 2.1 applies if the total of the contract rents for all units under the proposed HAP contract, over the maximum term of the contract, is more than \$200,000.
- Equal Employment Opportunity
Section 2.2 applies only to construction contracts of more than \$10,000.
- Labor Standards Requirements
Sections 2.4, 2.8, and 2.10 apply only when this Agreement covers nine or more units.
- Flood Insurance
Section 2.11 applies if units are located in areas having special flood hazards and in which flood insurance is available under the National Flood Insurance Program.

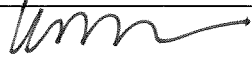
EXECUTION OF THE AGREEMENT

PUBLIC HOUSING AGENCY (PHA)

Name of PHA (Print)

Housing Authority of the City of New Haven

By:



Signature of authorized representative

Name and official title (Print)

Karen DuBois-Walton

Date

9/14/2022

OWNER

Name of Owner (Print)

Parkside Village I LLC By: Parkside Village I MM LLC, Its Managing Member By: Beacon Communities Corp., Its Managing Member

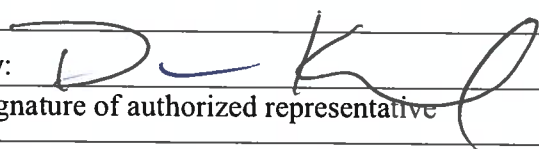
By:

Signature of authorized representative

Name and official title (Print)

Date

EXECUTION OF THE AGREEMENT

PUBLIC HOUSING AGENCY (PHA) Name of PHA (Print) Housing Authority of the City of New Haven
By: Signature of authorized representative
Name and official title (Print)
Date
OWNER Name of Owner (Print) <small>Parkside Village I LLC By: Parkside Village I MM LLC, its Administrative Managing Member By: Beacon Communities Corp., its Managing Member</small>
By: 
Signature of authorized representative
Dara Kovel, Chief Executive Officer
Name and official title (Print)
Date

**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

**AGREEMENT TO ENTER INTO A
HOUSING ASSISTANCE PAYMENTS CONTRACT**

NEW CONSTRUCTION OR REHABILITATION

PART II

Public reporting burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting, reviewing and reporting the data. The information is being collected as required by 24 CFR 983.152, which requires the PHA to enter into an Agreement with the owner prior to execution of a HAP contract for PBV assistance as provided in §983.153. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

Privacy Act Statement. HUD is committed to protecting the privacy of individuals' information stored electronically or in paper form, in accordance with federal privacy laws, guidance, and best practices. HUD expects its third-party business partners, including Public Housing Authorities, who collect, use maintain, or disseminate HUD information to protect the privacy of that information in Accordance with applicable law.

2.1 Training, Employment, and Contracting Opportunities

- A. The project assisted under this Agreement is subject to the requirements of section 3 of the Housing Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The owner shall carry out the provisions of section 3 and the regulations issued by HUD as set forth in 24 CFR part 135 and all applicable rules and orders of HUD issued thereunder prior to the execution of this Agreement. This shall be a condition of the Federal financial assistance provided to the project, binding upon the owner, the owner's contractors and subcontractors, successors and assigns. Failure to fulfill these requirements shall subject the owner, the owner's contractors and subcontractors, successors and assigns to the sanctions specified by this Agreement, and to such sanctions as are specified by 24 CFR part 135.
- B. The owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Agreement in excess of \$100,000 the following clause:

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. The parties to this Agreement agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, and shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135

require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Pursuant to 24 CFR §135.90, recipients of HUD financial assistance that is subject to Part 135 requirements, are required to submit Section 3 Annual Reports on Form HUD-60002 to the Office of Fair Housing and Equal Opportunity (FHEO). This form must be submitted electronically and can be found at www.hud.gov/section3.
7. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.
8. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 405e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprise. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

2.2 Equal Employment Opportunity

- A. The owner shall incorporate or cause to be incorporated into any contract in excess of \$10,000 for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR chapter 60, which is to be performed pursuant to this Agreement, the following nondiscrimination clause:

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising;

layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided by or at the direction of the Government advising the labor union or workers representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor of will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and with the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imported and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States.
- B. The owner agrees to be bound by the above nondiscrimination clause with respect to his or her own employment practices when participating in federally assisted construction work.
- C. The owner agrees to assist and cooperate actively with HUD and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the nondiscrimination clause and the rules, regulations, and relevant orders of the Secretary of Labor, to furnish HUD and the Secretary of Labor such information as they may require for the supervision of such compliance, and to otherwise assist HUD in the discharge of HUD's primary responsibility for securing compliance.
- D. The owner further agrees to refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the nondiscrimination clause as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to the Executive Order. In addition, if the owner fails or refuses to comply with these undertakings, HUD may take any or all of the following actions; cancel, terminate, or suspend in whole or in part this Agreement; refrain from extending any further assistance to the owner under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the owner, and refer the case to the Department of Justice for appropriate legal proceedings.

2.3 Reserved

2.4 HUD—Federal Labor Standards Provisions

The owner is responsible for inserting the entire text of section 2.4 of this Agreement in all construction contracts and, if the owner performs any rehabilitation work on the project, the owner must comply with all provisions of section 2.4. (Note: Sections 2.4(b) and (c) apply only when the amount of the prime contract exceeds \$100,000.)

(a)(1) Minimum Wages. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project) will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made part hereof regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-

1321)) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D. C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determinations or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractors under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and

on account of the contractor or subcontractor to the respective employees to whom they are due.

(3)(i) Payrolls and Basic Records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

*(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD the PHA. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included in weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at:
<http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor*

site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution

under section 1001 of Title 18 and section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and Trainees.(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the

contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employee and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted

under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act Requirements. The contractor shall comply with the requirements of 29 CFR part 3 which are incorporated by reference in this Agreement.

(6) Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in section 2.4(a)(1) through (11) and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section 2.4(a).

(7) Contract Terminations; Debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the PHA, HUD, the U. S. Department of Labor, or the employees or their representatives.

(10) Certification of Eligibility. (i) By entering into this Agreement, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR part 24.

(ii) No part of this Agreement shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, section 1010, Title 18, U.S.C., "Federal Housing Administration transactions, provides in part: "Whoever, for the purpose of ...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Agreement to his employer.

(b) Contract Work Hours and Safety Standards Act. The provisions of this paragraph (b) are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the

basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for Unpaid Wages and Liquidated Damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontractors. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

(c) Health and Safety. The provisions of this paragraph (c) are applicable only where the amount of the prime contract exceeds \$100,000.

- (1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as established under construction safety and health standards promulgated by the Secretary of Labor by regulation.*
- (2) The contractor shall comply with all regulations issue by the Secretary of Labor pursuant to Title 29 part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.*
- (3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.*

2.5 Reserved

2.6 Reserved

2.7 Reserved

2.8 Wage and Claims Adjustments

The owner shall be responsible for the correction of all violations under section 2.4, including violations committed by other contractors. In cases where there is evidence of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the owner or other contractor or a failure by the owner or other contractor to submit payrolls and related reports, the owner shall be required to place an amount in escrow, as determined by HUD sufficient to pay persons employed on the work covered by the Agreement the difference between the salaries or wages actually paid such employees for the total number of hours worked and the full amount of wages required under this Agreement, as well as an amount determined by HUD to be sufficient to satisfy any liability of the owner or other contractor for liquidated damages pursuant to section 2.4. The amounts withheld may be disbursed by HUD for and on account of the owner or other contractor to the respective employees to whom they are due, and to the Federal Government in satisfaction of liquidated damages under section 2.4.

2.9 Reserved

2.10 Evidence of Unit(s) Completion; Escrow

- A. The owner shall evidence the completion of the unit(s) by furnishing the PHA, in addition to the requirements listed in Part I of this Agreement, a certification of compliance with the provisions of sections 2.4 and 2.8 of this Agreement, and that to the best of the owner's knowledge and belief there are no claims of underpayment to laborers or mechanics in alleged violation of these provisions of the Agreement. In the event there are any such pending claims to the knowledge of the owner, the PHA, or HUD, the owner will place a sufficient amount in escrow, as directed by the PHA or HUD, to assure such payments.
- B. The escrows required under this section and section 2.8 of shall be paid to HUD, as escrowee, or to an escrowee designated by HUD, and the conditions and manner of releasing such escrows shall be designated and approved by HUD.

2.11 Flood Insurance

If the project is located in an area that has been identified by the Federal Emergency Management Agency as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Program, the owner agrees that: (1) the project will be covered, during the life of the property, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less; and (2) that it will advise any prospective purchaser or transferee of the property in writing of the continuing statutory requirement to maintain such flood insurance during the life of the property.

Exhibit A

AHAP Contract

Approved Owner's PBV Proposal

The Parkside Village I redevelopment involves the demolition of the existing Parkside Village I housing community at 115 South Montowese Street in Branford, CT. A new, 67-unit building will be constructed on the project site. Of these 67 units, forty (40) will benefit from a Project Based Voucher as awarded by the Housing Authority of New Haven ("HANH").

See attached award letter from HANH for Parkside Village I. The full proposal is held at HANH.

Exhibit B

AHAP Contract

Description of Work to be Performed under this Agreement

The Parkside Village I redevelopment involves the demolition of the existing, 50-unit Parkside Village I housing community and the new construction of a single 67-unit building.

Parkside Village I is an existing 50-unit residential community originally developed in 1974. The project consists of four buildings: three with apartments, and one community building. One residential building has been vacated and will be demolished shortly after construction begins; the other buildings will remain occupied and in use during the construction of a new, single, 67-unit building. Upon completion of the new building, existing residents will move into that new building and the remaining buildings will be demolished.

The new, 67-unit building will consist of a mix of one- and two-bedroom apartment units. The ground floor will contain community amenities such as a fitness center, wellness office, computer lab, and community room, as well as space for property management offices. The site will consist of 85 parking spaces, walkways, and a community garden.

The building is being designed and built to Passive House standards and has been pre-certified by PHIUS. It will be four stories of wood-frame construction, carefully designed to fit the surrounding neighborhood with thoughtful massing and placement on the site. Heating and cooling will be provided through individual ASHP units with a Daikin as a basis-of-design. Hot water will be provided by centrally-located, gas-fired hot water heaters with 96% AFUE efficiency. Ventilation consists of an >80% central ERV system with ventilation provided to bedrooms and living room, with exhaust from bathrooms and kitchen.

Seven units will be Type A accessible (Section 504- and UFAS-compliant): three one-bedroom units and four two-bedroom units. An additional three units will be designed for those with hearing impairments.

Enclosed is a list of drawings and specifications.

Of the 67 units, forty (40) of them will be Project Based Voucher ("PBV") units.

DRAWINGS

DRAWING LIST - VOLUME 1		
SHEET	NAME	Issue Date
0.00	COVERSHEET	12/13/2021
0.01	DRAWING LIST, MOUNTING HEIGHTS, ABBREVIATIONS, SYMBOLS & NOTES	12/13/2021
0.02	ADA CLEARANCES & MOUNTING HEIGHTS	12/13/2021
0.03	ADA CLEARANCES & MOUNTING HEIGHTS	12/13/2021
CRO.01	CODE REVIEW INFORMATION SHEET	12/13/2021
CRO.02	GARDEN LEVEL EGRESS PLAN	12/13/2021
CRO.03	FIRST FLOOR EGRESS PLAN	12/13/2021
CRO.04	SECOND FLOOR EGRESS PLAN	12/13/2021
CRO.05	THIRD FLOOR EGRESS PLAN	12/13/2021
AL-01	PROPERTY/TOPOGRAPHIC SURVEY	12/13/2021
1 of 1	PROPERTY SURVEY	12/13/2021
C1.01	SITE LAYOUT PLAN	12/13/2021
C1.02	GRADING, DRAINAGE AND UTILITIES PLAN	12/13/2021
C1.03A	PHASE 1 EROSION CONTROL PLAN	12/13/2021
C1.03B	PHASE 2 EROSION CONTROL PLAN	12/13/2021
C1.04	PHASE 3 EROSION CONTROL PLAN	12/13/2021
C1.05	EROSION CONTROL NARRATIVE AND DETAILS	12/13/2021
C1.06	LANDSCAPE & LIGHTING PLAN	12/13/2021
C1.07	EMERGENCY ACCESS AND EVACUATION PLAN	12/13/2021
C1.08	MISCELLANEOUS DETAILS	12/13/2021
C1.09	MISCELLANEOUS DETAILS	12/13/2021
C1.10	MISCELLANEOUS DETAILS	12/13/2021
C1.11	MISCELLANEOUS DETAILS	12/13/2021
C1.12	OPEN SPACE PLAN	12/13/2021
C1.13	SIGHT LINES	12/13/2021
C1.14	CT DOT STANDARD DETAILS	12/13/2021
PAGE 1 OF 3	PARKSIDE SITE LIGHTING CALCULATION	12/13/2021
A1.00	EDGE OF SLAB PLAN	12/13/2021
A1.01	GARDEN LEVEL PLAN	12/13/2021
A1.02	FIRST FLOOR OVERALL PLAN	12/13/2021
A1.03	SECOND FLOOR OVERALL PLAN	12/13/2021
A1.04	THIRD FLOOR OVERALL PLAN	12/13/2021
A1.05	ROOF PLAN	12/13/2021
A1.06	AIR SEALING AND COMPARTMENTALIZING STRATEGY	12/13/2021
A2.01	EXTERIOR ELEVATIONS	12/13/2021
A2.02	EXTERIOR ELEVATIONS	12/13/2021
A2.03	EXTERIOR ELEVATIONS	12/13/2021
A2.11	BUILDING SECTIONS	12/13/2021
A2.12	BUILDING SECTIONS	12/13/2021
A3.01	ENLARGED UNIT PLANS - 1 BEDROOM-UNIT TYPE 1B.A, 1B.1,1B.2,1B.3	12/13/2021
A3.02	ENLARGED UNIT PLANS - 1 BEDROOM- UNIT TYPE 1B.4,1B.5,1B.6,1B.7	12/13/2021
A3.03	ENLARGED UNIT PLANS - 1 BEDROOM-UNIT TYPE 1B.8,1B.9, 1B.10	12/13/2021
A3.04	ENLARGED UNIT PLANS - 2 BEDROOM-UNIT TYPE 2B.A, 2B.1,2B.2,2B.3	12/13/2021
A3.05	ENLARGED UNIT PLANS - 2 BEDROOM-UNIT TYPE 2B.4,2B.5,2B.6,2B.7	12/13/2021
A3.11	ENLARGED AMENITY SUITE PLAN	12/13/2021
A3.12	VESTIBULE CANOPY ENLARGED PLAN AND DETAILS	12/13/2021
A4.01	GARDEN LEVEL REFLECTED CEILING OVERALL PLAN	12/13/2021
A4.02	FIRST FLOOR REFLECTED CEILING OVERALL PLAN	12/13/2021
A4.03	SECOND FLOOR REFLECTED CEILING OVERALL PLAN	12/13/2021

A4.04	THIRD FLOOR REFLECTED CEILING PLAN	12/13/2021
A4.05	TYPICAL UNITS REFLECTED CEILING PLANS	12/13/2021

A5.01	ELEVATOR ENLARGED PLANS, SECTIONS & DETAILS	12/13/2021
A5.02	STAIR 1 ENLARGED PLANS, SECTIONS & DETAILS	12/13/2021
A5.03	STAIR 2 & EXTERIOR STAIR ENLARGED PLANS & SECTIONS	12/13/2021
A5.11	AMENITY SUITE & KITCHEN ELEVATIONS	12/13/2021
A5.12	KITCHEN ELEVATIONS	12/13/2021
A5.13	BATHROOM ELEVATIONS	12/13/2021
A6.01	EXTERIOR WALL SECTIONS	12/13/2021
A6.02	EXTERIOR WALL SECTIONS	12/13/2021
A6.03	EXTERIOR WALL SECTIONS	12/13/2021
A6.04	EXTERIOR WALL SECTIONS	12/13/2021
A6.05	EXTERIOR WALL SECTIONS	12/13/2021
A6.06	TRASH CHUTE WALL SECTIONS & DETAILS	12/13/2021
A6.11	FOUNDATION DETAILS	12/13/2021
A6.31	EXTERIOR DETAILS	12/13/2021
A6.32	EXTERIOR DETAILS	12/13/2021
A6.33	EXTERIOR DETAILS	12/13/2021
A6.34	EXTERIOR DETAILS	12/13/2021
A6.41	INTERIOR DETAILS	12/13/2021
A7.01	PLAN DETAILS	12/13/2021
A7.02	PLAN DETAILS	12/13/2021
A7.03	PLAN DETAILS	12/13/2021
A8.01	MILLWORK DETAILS	12/13/2021
A8.02	MILLWORK DETAILS	12/13/2021
A9.00	ROOFING DETAILS	12/13/2021
A9.01	ROOFING DETAILS	12/13/2021
A10.00	PARTITION SCHEDULE	12/13/2021
A10.01	FLOOR ASSEMBLY SCHEDULE	12/13/2021
A10.10	DOOR SCHEDULE	12/13/2021
A10.11	DWELLING UNIT DOOR SCHEDULE, DOOR TYPES, FRAME TYPES, SILL DETAILS	12/13/2021
A10.12	DOOR DETAILS	12/13/2021
A10.20	WINDOW TYPES & EXTERIOR DOOR TYPES	12/13/2021
A10.21	EXTERIOR DOOR DETAILS	12/13/2021
A10.30	ROOM FINISH SCHEDULE	12/13/2021
S1.00	FOUNDATION PLAN	12/13/2021
S1.01	FIRST FLOOR FOUNDATION PLAN	12/13/2021
S1.02	SECOND FLOOR FRAMING PLAN	12/13/2021
S1.02A	SHEAR WALL LAYOUT PLAN	12/13/2021
S1.03	THIRD FLOOR FRAMING PLAN	12/13/2021
S1.04	ROOF FRAMING PLAN	12/13/2021
S3.00	FOUNDATION SECTIONS	12/13/2021
S3.01	FOUNDATION SECTIONS	12/13/2021
S4.00	FLOOR SECTIONS	12/13/2021
S4.01	FLOOR SECTION	12/13/2021
S4.02	FLOOR SECTION	12/13/2021
S5.00	ROOF SECTIONS	12/13/2021
S5.01	ROOF SECTION	12/13/2021
S6.00	TYPICAL DETAILS	12/13/2021
S6.01	TYPICAL DETAILS	12/13/2021
S6.02	TYPICAL DETAILS	12/13/2021
S7.00	GENERAL NOTES	12/13/2021
S7.01	GENERAL NOTES	12/13/2021

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DRAWING LIST - VOLUME 2 SHEET	NAME	Issue Date
0.00	COVERSHEET	12/13/2021
0.01	DRAWING LIST, MOUNTING HEIGHTS, ABBREVIATIONS, SYMBOLS & NOTES	12/13/2021
0.02	ADA CLEARANCES & MOUNTING HEIGHTS	12/13/2021
0.03	ADA CLEARANCES & MOUNTING HEIGHTS	12/13/2021
M1.01	GARDEN LEVEL MECHANICAL PLAN-PART A	12/13/2021
M1.02	GARDEN LEVEL MECHANICAL PLAN-PART B	12/13/2021
M1.03	FIRST FLOOR MECHANICAL PLAN-PART A	12/13/2021
M1.04	FIRST FLOOR MECHANICAL PLAN-PART B	12/13/2021
M1.05	SECOND FLOOR MECHANICAL PLAN-PART A	12/13/2021
M1.06	SECOND FLOOR MECHANICAL PLAN-PART B	12/13/2021
M1.07	THIRD FLOOR MECHANICAL PLAN-PART A	12/13/2021
M1.08	THIRD FLOOR MECHANICAL PLAN-PART B	12/13/2021
M1.09	ROOF MECHANICAL PLAN-PART A	12/13/2021
M1.10	ROOF MECHANICAL PLAN-PART B	12/13/2021
M1.11	GARDEN LEVEL MECHANICAL PIPING PLAN-PART A	12/13/2021
M1.12	GARDEN LEVEL MECHANICAL PIPING PLAN-PART B	12/13/2021
M1.13	FIRST FLOOR MECHANICAL PIPING PLAN-PART A	12/13/2021
M1.14	FIRST FLOOR MECHANICAL PIPING PLAN-PART B	12/13/2021
M1.15	SECOND FLOOR MECHANICAL PIPING PLAN-PART A	12/13/2021
M1.16	SECOND FLOOR MECHANICAL PIPING PLAN-PART B	12/13/2021
M1.17	THIRD FLOOR MECHANICAL PIPING PLAN-PART A	12/13/2021
M1.18	THIRD FLOOR MECHANICAL PIPING PLAN-PART B	12/13/2021
M3.01	MECHANICAL DETAILS	12/13/2021
M3.02	MECHANICAL DETAILS	12/13/2021
M3.03	MECHANICAL SCHEDULES	12/13/2021
M3.04	MECHANICAL NOTES, LEGENDS AND SCHEDULES	12/13/2021
M3.05	MECHANICAL VRF PIPING DIAGRAMS	12/13/2021
SU1.01	SITE UTILITY PLAN	12/13/2021
E1.01	GARDEN LEVEL LIGHTING PLAN-PART A	12/13/2021
E1.02	GARDEN LEVEL LIGHTING PLAN-PART B	12/13/2021
E1.03	GARDEN LEVEL POWER PLAN-PART A	12/13/2021
E1.04	GARDEN LEVEL POWER PLAN-PART B	12/13/2021
E1.05	FIRST FLOOR LIGHTING PLAN-PART A	12/13/2021
E1.06	FIRST FLOOR LIGHTING PLAN-PART B	12/13/2021
E1.07	FIRST FLOOR POWER PLAN-PART A	12/13/2021
E1.08	FIRST FLOOR POWER PLAN-PART B	12/13/2021
E1.09	SECOND FLOOR LIGHTING PLAN-PART A	12/13/2021
E1.10	SECOND FLOOR LIGHTING PLAN-PART B	12/13/2021
E1.11	SECOND FLOOR POWER PLAN-PART A	12/13/2021
E1.12	SECOND FLOOR POWER PLAN-PART B	12/13/2021
E1.13	THIRD FLOOR LIGHTING PLAN-PART A	12/13/2021
E1.14	THIRD FLOOR LIGHTING PLAN-PART B	12/13/2021
E1.15	THIRD FLOOR POWER PLAN-PART A	12/13/2021
E1.16	THIRD FLOOR POWER PLAN-PART B	12/13/2021
E1.17	ROOF ELECTRICAL PLAN-PART A	12/13/2021
E1.18	ROOF ELECTRICAL PLAN-PART B	12/13/2021
E2.01	ENLARGED LIGHTING PLANS - ONE BEDROOM	12/13/2021
E2.02	ENLARGED POWER PLANS - ONE BEDROOM	12/13/2021

E2.03	ENLARGED LIGHTING PLANS - ONE BEDROOM	12/13/2021
E2.04	ENLARGED POWER PLANS - ONE BEDROOM	12/13/2021
E2.05	ENLARGED LIGHTING PLANS - ONE BEDROOM	12/13/2021

E2.06	ENLARGED POWER PLANS - ONE BEDROOM	12/13/2021
E2.07	ENLARGED LIGHTING PLANS - TWO BEDROOM	12/13/2021
E2.08	ENLARGED POWER PLANS - TWO BEDROOM	12/13/2021
E2.09	ENLARGED LIGHTING PLANS - TWO BEDROOM	12/13/2021
E2.10	ENLARGED POWER PLANS - TWO BEDROOM	12/13/2021
E3.01	ELECTRICAL RISER AND DETAIL	12/13/2021
E3.02	ELECTRICAL RISER AND SCHEDULES	12/13/2021
E3.03	ELECTRICAL SCHEDULES	12/13/2021
E3.04	ELECTRICAL SCHEDULES	12/13/2021
E3.05	ELECTRICAL SCHEDULES	12/13/2021
E3.06	ELECTRICAL NOTES, LEGENDS AND DETAILS	12/13/2021
E3.07	ELECTRICAL RISERS AND DETAILS	12/13/2021
P1.00A	UNDERGROUND PLUMBING PLAN-PART A	12/13/2021
P1.00B	UNDERGROUND PLUMBING PLAN-PART B	12/13/2021
P1.00C	UNDERGROUND PLUMBING PLAN-PART C	12/13/2021
P1.01	GARDEN LEVEL PLUMBING PLAN-PART A	12/13/2021
P1.02	GARDEN LEVEL PLUMBING PLAN-PART B	12/13/2021
P1.03	FIRST FLOOR PLUMBING PLAN-PART A	12/13/2021
P1.04	FIRST FLOOR PLUMBING PLAN-PART B	12/13/2021
P1.05	SECOND FLOOR PLUMBING PLAN-PART A	12/13/2021
P1.06	SECOND FLOOR PLUMBING PLAN-PART B	12/13/2021
P1.07	THIRD FLOOR PLUMBING PLAN-PART A	12/13/2021
P1.08	THIRD FLOOR PLUMBING PLAN-PART B	12/13/2021
P1.09	ROOF PLUMBING PLAN-PART A	12/13/2021
P1.10	ROOF PLUMBING PLAN-PART B	12/13/2021
P2.01	ENLARGED PLUMBING PLANS - ONE BEDROOM	12/13/2021
P2.02	ENLARGED PLUMBING PLANS - ONE BEDROOM	12/13/2021
P2.03	ENLARGED PLUMBING PLANS - ONE BEDROOM	12/13/2021
P2.04	ENLARGED PLUMBING PLANS - TWO BEDROOM	12/13/2021
P2.05	ENLARGED PLUMBING PLANS - TWO BEDROOM	12/13/2021
P3.01	PLUMBING DETAILS	12/13/2021
P3.02	PLUMBING DETAILS	12/13/2021
P3.03	PLUMBING DETAILS	12/13/2021
P3.04	PLUMBING NOTES AND SCHEDULES	12/13/2021
P3.05	PLUMBING NOTES, LEGENDS AND SCHEDULES	12/13/2021
P400A.1	WATER DISTRIBUTION RISER DIAGRAM-A.1	12/13/2021
P400A.2	WATER DISTRIBUTION RISER DIAGRAM-A.2	12/13/2021
P410A	VENT RISER DIAGRAM-A	12/13/2021
P410A2	VENT RISER DIAGRAM-A	12/13/2021
P410A3	VENT RISER DIAGRAM-A	12/13/2021
P410A4	VENT RISER DIAGRAM-A.4	12/13/2021
P410A5	VENT RISER DIAGRAM-A.5	12/13/2021
FP1.01	GARDEN LEVEL FIRE PROTECTION PLAN-PART A	12/13/2021
FP1.02	GARDEN LEVEL FIRE PROTECTION PLAN-PART B	12/13/2021
FP1.03	FIRST FLOOR FIRE PROTECTION PLAN-PART A	12/13/2021
FP1.04	FIRST FLOOR FIRE PROTECTION PLAN-PART B	12/13/2021

FP1.05	SECOND FLOOR FIRE PROTECTION PLAN-PART A	12/13/2021
FP1.06	SECOND FLOOR FIRE PROTECTION PLAN-PART B	12/13/2021
FP1.07	THIRD FLOOR FIRE PROTECTION PLAN-PART A	12/13/2021
FP1.08	THIRD FLOOR FIRE PROTECTION PLAN-PART B	12/13/2021
FP3.01	FIRE PROTECTION DETAILS	12/13/2021
FP3.02	FIRE PROTECTION DETAILS	12/13/2021
FP3.03	FIRE PROTECTION SEISMIC BRACING	12/13/2021
FP3.04	FIRE PROTECTION NOTES, LEGENDS AND SCHEDULES	12/13/2021
SEC.1	SECURITY LEGENDS AND NOTES	12/13/2021
SEC.2	VIDEO SURVEILLANCE VMS SPECIFICATIONS	12/13/2021
SEC.3	ACCESS CONTROL MANAGEMENT SYSTEM SPECIFICATIONS	12/13/2021
SEC.4	SITE SECURITY PLAN	12/13/2021
SEC.5	GARDEN LEVEL SECURITY PLAN	12/13/2021
SEC.6	FIRST FLOOR SECURITY PLAN	12/13/2021
SEC.7	SECOND FLOOR SECURITY PLAN	12/13/2021
SEC.8	THIRD FLOOR SECURITY PLAN	12/13/2021
SEC.9	VIDEO AND ACCESS RISER DIAGRAM	12/13/2021
SEC.10	VIDEO SURVEILLANCE MOUNTING DETAILS	12/13/2021
SEC.11	ACCESS CONTROL MOUNTING DETAILS	12/13/2021
SEC.12	HEAD END #1 SRW12US33 WALL RACK	12/13/2021
SEC.13	HEAD END #1 ACCESS CONTROL ENCLOSURE	12/13/2021
SEC.14	EQUIPMENT SCHEDULES 1 OF 2	12/13/2021
SEC.15	EQUIPMENT SCHEDULES 2 OF 2	12/13/2021
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SPECIFICATIONS

Division	Section Title	Date
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VOLUME I

PROCUREMENT AND CONTRACTING DOCUMENTS GROUP

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Exhibit C

AHAP Contract

Description of Housing

HANH has awarded the Parkside Village I project forty (40) PBVs which consist of nineteen (19) one-bedroom units and twenty-one (21) two-bedroom units. The owner is responsible for central heating and cooling*, water heating, water, sewer, maintenance and groundskeeping. The resident is responsible for electricity, cable, Internet, and phone.

The unit mix and gross rents for the forty PBVs are anticipated to be as follows (based on 2022 FMRs – the project will be subject to a percentage of the appropriate year’s FMRs upon completion):

Count	Bedroom Size	Number of Bathrooms	Contract Rent	Utility Allowance	Gross Rent (110% 2022 FMR)
19	1-BR	1	\$1,252	\$53	\$1,305
21	2-BR	1	\$1,518	\$74	\$1,592
40					

Exhibit D

AHAP Contract

Draft HAP Contract

**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

**SECTION 8 PROJECT-BASED VOUCHER PROGRAM
HOUSING ASSISTANCE PAYMENTS CONTRACT**

NEW CONSTRUCTION OR REHABILITATION

PART 1 OF HAP CONTRACT

Public reporting burden for this collection of information is estimated to average 2 hours. This includes the time for collecting, reviewing and reporting the data. The information is being collected as required by 24 CFR 983.202, which requires the PHA to enter into a HAP contract with the owner to provide housing assistance payments for eligible families. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

Privacy Act Statement. HUD is committed to protecting the privacy of individuals' information stored electronically or in paper form, in accordance with federal privacy laws, guidance, and best practices. HUD expects its third-party business partners, including Public Housing Authorities, who collect, use maintain, or disseminate HUD information to protect the privacy of that information in Accordance with applicable law.

1. CONTRACT INFORMATION

a. Parties

This housing assistance payments (HAP) contract is entered into between:

Housing Authority of the City of New Haven (PHA) and
Parkside Village I LLC (owner).

b. Contents of contract

The HAP contract consists of Part 1, Part 2, and the contract exhibits listed in paragraph c.

c. Contract exhibits

The HAP contract includes the following exhibits:

EXHIBIT A: TOTAL NUMBER OF UNITS IN PROJECT COVERED BY

THIS HAP CONTRACT; INITIAL RENT TO OWNER; AND DESCRIPTION OF THE CONTRACT UNITS. (See 24 CFR 983.203 for required items.) If this is a multi-stage project, this exhibit must include a description of the units in each completed phase.

EXHIBIT B: SERVICES, MAINTENANCE AND EQUIPMENT TO BE PROVIDED BY THE OWNER WITHOUT CHARGES IN ADDITION TO RENT TO OWNER

EXHIBIT C: UTILITIES AVAILABLE IN THE CONTRACT UNITS, INCLUDING A LISTING OF UTILITY SERVICES TO BE PAID BY THE OWNER (WITHOUT CHARGES IN ADDITION TO RENT TO OWNER) AND UTILITIES TO BE PAID BY THE TENANTS

EXHIBIT D: FEATURES PROVIDED TO COMPLY WITH PROGRAM ACCESSIBILITY FEATURES OF SECTION 504 OF THE REHABILITATION ACT OF 1973

ADDITIONAL EXHIBITS

d. Single-Stage and Multi-Stage Contracts (place a check mark in front of the applicable project description).

Single-Stage Project

This is a single-stage project. For all contract units, the effective date of the HAP contract is: 10/01/2023 .

Multi-Stage Project

This is a multi-stage project. The units in each completed stage are designated in Exhibit A.

The PHA enters the effective date for each stage after completion and PHA acceptance of all units in that stage. The PHA enters the effective date for each stage in the “Execution of HAP contract for contract units completed and accepted in stages” (starting on page 10).

The annual anniversary date of the HAP contract for all contract units in this multi-stage project is the anniversary of the effective date of the HAP

contract for the contract units included in the first stage. The expiration date of the HAP contract for all of the contract units completed in stages must be concurrent with the end of the HAP contract term for the units included in the first stage (see 24 CFR 983.206(c)).

e. Term of the HAP contract

1. Beginning of term

The PHA may not enter into a HAP contract for any contract unit until the PHA (or an independent entity, as applicable) has determined that the unit meets PBV inspection requirements. The term of the HAP contract for any unit begins on the effective date of the HAP contract.

2. Length of initial term

- a. Subject to paragraph 2.b, the initial term of the HAP contract for any contract units is: 20 years.
- b. The initial term of the HAP contract for any unit may not be less than one year, nor more than twenty years.

3. Extension of term

The PHA and owner may agree to enter into an extension of the HAP contract at the time of initial HAP contract execution, or any time prior to expiration of the contract. Any extension, including the term of such extension, must be in accordance with HUD requirements. A PHA must determine that any extension is appropriate to achieve long-term affordability of the housing or expand housing opportunities.

4. Requirement for sufficient appropriated funding

- a. The length of the initial term and any extension term shall be subject to availability, as determined by HUD, or by the PHA in accordance with HUD requirements, of sufficient appropriated funding (budget authority), as provided in appropriations acts and in the PHA's annual contributions contract (ACC) with HUD, to make full payment of housing assistance payments due to the owner for any contract year in accordance with the HAP contract.

- b. The availability of sufficient funding must be determined by HUD or by the PHA in accordance with HUD requirements. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA has the right to terminate the HAP contract by notice to the owner for all or any of the contract units. Such action by the PHA shall be implemented in accordance with HUD requirements.

f. Occupancy and payment

1. Payment for occupied unit

During the term of the HAP contract, the PHA shall make housing assistance payments to the owner for the months during which a contract unit is leased to and occupied by an eligible family. If an assisted family moves out of a contract unit, the owner may keep the housing assistance payment for the calendar month when the family moves out (“move-out month”). However, the owner may not keep the payment if the PHA determines that the vacancy is the owner’s fault.

2. Vacancy payment

THE PHA HAS DISCRETION WHETHER TO INCLUDE THE VACANCY PAYMENT PROVISION (PARAGRAPH e.2), OR TO STRIKE THIS PROVISION FROM THE HAP CONTRACT FORM.

- a. If an assisted family moves out of a contract unit, the PHA may provide vacancy payments to the owner for a PHA-determined vacancy period extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.
- b. The vacancy payment to the owner for each month of the maximum two-month period will be determined by the PHA, and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant’s security deposit). Any vacancy payment may cover only the period the unit remains vacant.

- c. The PHA may make vacancy payments to the owner only if:
 - 1. The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and the date when the family moved out (to the best of the owner's knowledge and belief);
 - 2. The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
 - 3. The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
 - 4. The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.
- d. The PHA must take every reasonable action to minimize the likelihood and length of vacancy.
- e. The owner may refer families to the PHA and recommend selection of such families from the PHA waiting list for occupancy of vacant units.
- f. The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payments.

3. PHA is not responsible for family damage or debt to owner

Except as provided in this paragraph e (Occupancy and Payment), the PHA will not make any other payment to the owner under the HAP contract. The PHA will not make any payment to the owner for any damages to the unit, or for any other amounts owed by a family under the family's lease.

g. Income-mixing requirement

- 1. Except as provided in paragraphs f.2 through f.5 below, the PHA will not

make housing assistance payments under the HAP contract for more than the greater of 25 units or 25 percent of the total number of dwelling units (assisted or unassisted) in any project. The term “project” means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land assisted under this HAP contract.

2. The limitation in paragraph f.1 does not apply to single-family buildings.
3. In referring eligible families to the owner for admission to the number of contract units in any project exceeding the 25 unit or 25 percent limitation under paragraph f.1, the PHA shall give preference to elderly families or to families eligible for supportive services, for the number of contract units designated for occupancy by such families. The owner shall rent the designated number of contract units to such families referred by the PHA from the PHA waiting list.
4. Up to the greater of 25 units or 40 percent of units (instead of the greater of 25 units or 25 percent of units) in a project may be project-based if the project is located in a census tract with a poverty rate of 20 percent or less.
5. Units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD do not count toward the income-mixing requirement if, in the five years prior to issuance of the Request for Proposal or notice of owner selection (for projects selected based on a prior competition or without competition), the unit received one of the forms of HUD assistance or was under a federal rent restriction as described in f.6 and f.7, below.
6. The following specifies the number of contract units (if any) that received one of the following forms of HUD assistance (enter the number of contract units in front of the applicable form of assistance):

- ___ Public Housing or Operating Funds;
- ___ Project-Based Rental Assistance (including Mod Rehab and Mod Rehab Single-Room Occupancy);
- ___ Housing for the Elderly (Section 202 or the Housing Act of 1959);
- ___ Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez Affordable Housing Act);

- Rent Supplement Program;
- Rental Assistance Program;
- Flexible Subsidy Program.

The following total number of contract units received a form of HUD assistance listed above: 0. If all of the units in the project received such assistance, you may skip sections g.7 and g.8, below.

7. The following specifies the number of contract units (if any) that were under any of the following federal rent restrictions (enter the number of contract units in front of the applicable type of federal rent restriction):

- Section 236;
- Section 221(d)(3) or (d)(4) BMIR (below-market interest rate);
- Housing for the Elderly (Section 202 or the Housing Act of 1959);
- Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez Affordable Housing Act);
- Flexible Subsidy Program.

The following total number of contract units were subject to a federal rent restriction listed above: 0. If all of the units in the project were subject to a federal rent restriction, you may skip section g.8, below.

8. The following specifies the number of contract units (if any) designated for occupancy by elderly families or by families eligible for supportive services:

- a. Place a check mark here if any contract units are designated for occupancy by elderly families; The following number of contract units shall be rented to elderly families:

_____.

- b. Place a check mark here if any contract units are designated for occupancy by families eligible for supportive services. The

following number of contract units shall be rented to families
eligible for supportive services:

40

9. The PHA and owner must comply with all HUD requirements regarding income mixing.

EXECUTION OF HAP CONTRACT FOR SINGLE-STAGE PROJECT

PUBLIC HOUSING AGENCY (PHA) Name of PHA (Print) Housing Authority of the City of New Haven
By: Signature of authorized representative
Name and official title (Print)
Date
OWNER Name of Owner (Print) Parkside Village I LLC By: Parkside Village I MM LLC, its Managing Member By: Beacon Communities Corp., its Managing Member
By: Signature of authorized representative
Name and official title (Print)
Date

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

**MOVING TO WORK (MTW) RIDER TO THE HOUSING ASSISTANCE PAYMENT (HAP)
CONTRACT FOR THE SECTION 8 TENANT-BASED ASSISTANCE HOUSING CHOICE VOUCHER
PROGRAM (HCV) AND/OR THE SECTION 8 PROJECT-BASED VOUCHER (PBV) PROGRAM**

Pursuant to the Public Housing Agency's (PHA) participation in the MTW demonstration, the PHA may establish Section 8 HCV or PBV policies or requirements that differ from statutory requirements for both programs contained in the U.S. Housing Act of 1937, the relevant regulatory requirements, and applicable Public and Indian Housing Notices. Where any particular provisions of this HAP Contract differ from or conflict with the MTW activities included in the PHA's approved MTW Supplement to its PHA Plan, the provisions of the MTW Operations Notice and the approved MTW Supplement to the PHA Plan shall supersede any conflicting or differing HAP Contract language. Further, the MTW Activity authorized by the MTW Operations Notice shall govern the PHA's administration of the program notwithstanding a conflicting or differing provision of the HAP Contract. This rider shall be in effect for the term of the HAP Contract or the term of the PHA's participation in the MTW demonstration, whichever ends sooner.

**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

**HOUSING ASSISTANCE PAYMENTS CONTRACT
NEW CONSTRUCTION OR REHABILITATION**

PART 2 OF HAP CONTRACT

Public reporting burden for this collection of information is estimated to average 2 hours. This includes the time for collecting, reviewing and reporting the data. The information is being collected as required by 24 CFR 983.202, which requires the PHA to enter into a HAP contract with the owner to provide housing assistance payments for eligible families. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

Privacy Act Statement. HUD is committed to protecting the privacy of individuals' information stored electronically or in paper form, in accordance with federal privacy laws, guidance, and best practices. HUD expects its third-party business partners, including Public Housing Authorities, who collect, use maintain, or disseminate HUD information to protect the privacy of that information in Accordance with applicable law.

2. DEFINITIONS

Agreement. Agreement to enter into HAP Contract between the owner and the PHA. The HAP contract was entered into following new construction or rehabilitation of the contract units by the owner pursuant to an Agreement.

Contract units. The housing units covered by this HAP contract. The contract units are described in Exhibit A.

Controlling interest. In the context of PHA-owned units (see definition below), controlling interest means:

- (a) Holding more than 50 percent of the stock of any corporation; or
- (b) Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a non-profit corporation); or
- (c) Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA; or
- (d) Holding more than 50 percent of all managing member interests in an LLC; or

(e) Holding more than 50 percent of all general partner interests in a partnership;
or

(f) Having equivalent levels of control in other ownership structures.

Family. The persons approved by the PHA to reside in a contract unit with assistance under the program.

HAP contract. This housing assistance payments contract between the PHA and the owner. The contract consists of Part 1, Part 2, and the contract exhibits (listed in section 1.c of the HAP contract).

Household. The family and any PHA-approved live-in aide.

Housing assistance payment. The monthly assistance payment by the PHA for a contract unit, which includes: (1) a payment to the owner for rent to the owner under the family's lease minus the tenant rent; and (2) an additional payment to or on behalf of the family if the utility allowance exceeds total tenant payment.

Housing quality standards (HQS). The HUD minimum quality standards for dwelling units occupied by families receiving project-based voucher program assistance.

HUD. U.S. Department of Housing and Urban Development.

HUD requirements. HUD requirements which apply to the project-based voucher program. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

Newly constructed housing. Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between the PHA and owner for use under the project-based voucher program.

Owner. Any person or entity who has the legal right to lease or sublease a unit to a participant.

PHA. Public Housing Agency. The agency that has entered into the HAP contract with the owner. The agency is a public housing agency as defined in the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

PHA-owned units. A unit is "owned by a PHA" if the unit is in a project that is:

(a) Owned by the PHA (which includes a PHA having a "controlling interest" in the entity that owns the unit; see definition above);

(b) Owned by an entity wholly controlled by the PHA; or

(c) Owned by a limited liability company (LLC) or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.

Premises. The building or complex in which a contract unit is located, including common areas or grounds.

Principal or interested party. This term includes a management agent and other persons or entities participating in project management, and the officers and principal members, shareholders, investors, and other parties having a substantial interest in the HAP contract, or in any proceeds or benefits arising from the HAP contract.

Program. The project-based voucher program (see authorization for project-based assistance at 42 U.S.C. 1437f(o)(13)).

Proposal selection date. The date the PHA gives written notice of proposal selection to the owner whose proposal is selected in accordance with the criteria established in the PHA's administrative plan.

Rehabilitated housing. Housing units that exist on the proposal selection date but do not substantially comply with the HQS on that date and are developed pursuant to an Agreement between the PHA and owner for use under the project-based voucher program.

Rent to owner. The total monthly rent payable to the owner under the lease for a contract unit. Rent to owner includes payment for any housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Tenant. The person or persons (other than a live-in aide) who executes the lease as a lessee of the dwelling unit.

Tenant rent. The portion of the rent to owner payable by the family, as determined by the PHA in accordance with HUD requirements. The PHA is not responsible for paying any part of the tenant rent.

3. **PURPOSE**

- a. This is a HAP contract between the PHA and the owner.
 - b. The purpose of the HAP contract is to provide housing assistance payments for eligible families who lease contract units that comply with
-

the HUD HQS from the owner.

- c. The PHA must make housing assistance payments to the owner in accordance with the HAP contract for contract units leased and occupied by eligible families during the HAP contract term. HUD provides funds to the PHA to make housing assistance payments to owners for eligible families.

4. RENT TO OWNER; HOUSING ASSISTANCE PAYMENTS

a. Amount of initial rent to owner

The initial rent to owner for each contract unit is stated in Exhibit A, which is attached to and made a part of the HAP contract. At the beginning of the HAP contract term, and until rent to owner is adjusted in accordance with section 5 of the HAP contract, the rent to owner for each bedroom size (number of bedrooms) shall be the initial rent to owner amount listed in Exhibit A.

Place a check mark here if the PHA has elected not to reduce rents below the initial rent to owner.

b. HUD rent requirements

Notwithstanding any other provision of the HAP contract, the rent to owner may in no event exceed the amount authorized in accordance with HUD requirements. The PHA has the right to reduce the rent to owner, at any time, to correct any errors in establishing or adjusting the rent to owner in accordance with HUD requirements. The PHA may recover any overpayment from the owner.

c. PHA payment to owner

1. Each month the PHA must make a housing assistance payment to the owner for a unit under lease to and occupied by an eligible family in accordance with the HAP contract.
2. The monthly housing assistance payment to the owner for a contract unit is equal to the amount by which the rent to owner exceeds the tenant rent.
3. Payment of the tenant rent is the responsibility of the family. The PHA is not responsible for paying any part of the tenant rent, or for paying any other claim by the owner against a family. The PHA is responsible only for making housing assistance payments to the

owner on behalf of a family in accordance with the HAP contract.

4. The owner will be paid the housing assistance payment under the HAP contract on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.
5. To receive housing assistance payments in accordance with the HAP contract, the owner must comply with all the provisions of the HAP contract. Unless the owner complies with all the provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.
6. If the PHA determines that the owner is not entitled to the payment or any part of it, the PHA, in addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner, including amounts due under any other housing assistance payments contract.
7. The owner will notify the PHA promptly of any change of circumstances that would affect the amount of the monthly housing assistance payment, and will return any payment that does not conform to the changed circumstances.

d. Termination of assistance for family

The PHA may terminate housing assistance for a family under the HAP contract in accordance with HUD requirements. The PHA must notify the owner in writing of its decision to terminate housing assistance for the family in such case.

5. ADJUSTMENT OF RENT TO OWNER

a. PHA determination of adjusted rent

1. At each annual anniversary during the term of the HAP contract, the PHA shall adjust the amount of rent to owner, upon request to the PHA by the owner, in accordance with law and HUD requirements. In addition, the PHA shall adjust the rent to owner when there is a ten percent decrease in the published, applicable Fair Market Rent in accordance with 24 CFR 983.302. However, if the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner, the rent to owner shall not be reduced below the initial rent to owner except in those cases

described in 24 CFR 983.302(c)(2).

2. The adjustment of rent to owner shall always be determined in accordance with all HUD requirements. The amount of the rent to owner may be adjusted up or down, in the amount defined by the PHA in accordance with HUD requirements.

b. Reasonable rent

The rent to owner for each contract unit, as adjusted by the PHA in accordance with 24 CFR 983.303, may at no time exceed the reasonable rent charged for comparable units in the private unassisted market, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner. The reasonable rent shall be determined by the PHA in accordance with HUD requirements.

c. No special adjustments

The PHA will not make any special adjustments of the rent to owner.

d. Owner compliance with HAP contract

The PHA shall not approve, and the owner shall not receive, any increase of rent to owner unless all contract units are in accordance with the HQS, and the owner has complied with the terms of the assisted leases and the HAP contract.

e. Notice of rent adjustment

Rent to owner shall be adjusted by written notice by the PHA to the owner in accordance with this section. Such notice constitutes an amendment of the rents specified in Exhibit A.

6. OWNER RESPONSIBILITY

The owner is responsible for:

- a. Performing all management and rental functions for the contract units.
- b. Maintaining the units in accordance with HQS.
- c. Complying with equal opportunity requirements.
- d. Enforcing tenant obligations under the lease.

- e. Paying for utilities and housing services (unless paid by the family under the lease).
- f. Collecting from the tenant:
 - 1. Any security deposit;
 - 2. The tenant rent; and
 - 3. Any charge for unit damage by the family.

7. OWNER CERTIFICATION

The owner certifies that at all times during the term of the HAP contract:

- a. All contract units are in good and tenantable condition. The owner is maintaining the premises and all contract units in accordance with the HQS.
- b. The owner is providing all the services, maintenance and utilities as agreed to under the HAP contract and the leases with assisted families.
- c. Each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements.
- d. To the best of the owner's knowledge, the members of the family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence.
- e. The owner (including a principal or other interested party) is not the parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit unless the PHA has determined that approving leasing of the unit would provide a reasonable accommodation for a family member who is a person with disabilities.
- f. The amount of the housing assistance payment is the correct amount due under the HAP contract.
- g. The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units.
- h. Except for the housing assistance payment and the tenant rent as provided under the HAP contract, the owner has not received and will not receive any payments or other consideration (from the family, the PHA, HUD, or

any other public or private source) for rental of the contract unit.

- i. The family does not own, or have any interest in the contract unit. If the owner is a cooperative, the family may be a member of the cooperative.

8. CONDITION OF UNITS

a. Owner maintenance and operation

The owner must maintain and operate the contract units and premises to provide decent, safe and sanitary housing in accordance with the HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance and utilities set forth in Exhibits B and C, and in the lease with each assisted family.

b. PHA inspections

1. The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with the HQS.
2. Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with the HQS.
3. At least biennially during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with the HQS. Turnover inspections pursuant to paragraph 2 of this section are not counted toward meeting this biennial inspection requirement.
4. If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.
5. The PHA must inspect contract units whenever needed to determine that the contract units comply with the HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information that comes to its attention in scheduling inspections.

c. Violation of the housing quality standards

1. If the PHA determines a contract unit is not in accordance with the HQS, the PHA may exercise any of its remedies under the HAP contract for all or any contract units. Such remedies include termination, suspension or reduction of housing assistance payments, and termination of the HAP contract.
2. The PHA may exercise any such contractual remedy respecting a contract unit even if the family continues to occupy the unit.
3. The PHA shall not make any housing assistance for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the PHA and the PHA verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within no more than 30 calendar days (or any PHA-approved extension).

d. Maintenance and replacement—owner’s standard practice

Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

9. LEASING CONTRACT UNITS

a. Selection of tenants

1. During the term of the HAP contract, the owner must lease all contract units to eligible families selected and referred by the PHA from the PHA waiting list. (See 24 CFR 983.251.)
2. The owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant’s ability to perform the lease obligations.
3. Consistent with HUD requirements, and Federal civil rights and fair housing requirements, the owner may apply its own nondiscriminatory admission procedures in determining whether to admit a family referred by the PHA for occupancy of a contract unit. The owner may refer families to the PHA, and recommend

selection of such families from the PHA waiting list for occupancy of vacant units.

4. The owner must promptly notify in writing any rejected applicant of the grounds for rejection.
5. The PHA must determine family eligibility in accordance with HUD requirements.
6. The contract unit leased to each family must be appropriate for the size of the family under the PHA's subsidy standards.
7. If a contract unit was occupied by an eligible family at the time the unit was selected by the PHA, or is so occupied on the effective date of the HAP contract, the owner must offer the family the opportunity to lease the same or another appropriately-sized contract unit with assistance under the HAP contract.
8. The owner is responsible for screening and selecting tenants from the families referred by the PHA from its waiting list.

b. Vacancies

1. The owner must promptly notify the PHA of any vacancy in a contract unit. After receiving the owner notice, the PHA shall make every reasonable effort to refer a sufficient number of families for owner to fill the vacancy.
2. The owner must rent vacant contract units to eligible families on the PHA waiting list referred by the PHA.
3. The PHA and the owner must make reasonable, good faith efforts to minimize the likelihood and length of any vacancy.
4. If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the PHA to fill such vacancies), the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

10. TENANCY

a. Lease

The lease between the owner and each assisted family must be in accordance with HUD requirements. In all cases, the lease must include the HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

b. Termination of tenancy

1. The owner may terminate a tenancy only in accordance with the lease and HUD requirements.
2. The owner must give the PHA a copy of any owner eviction notice to the tenant at the same time that the owner gives notice to the tenant. Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used to commence an eviction action under State or local law.

c. Family payment

1. The portion of the monthly rent to owner payable by the family (“tenant rent”) will be determined by the PHA in accordance with HUD requirements. The amount of the tenant rent is subject to change during the term of the HAP contract. Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the PHA to the family and the owner.
2. The amount of the tenant rent as determined by the PHA is the maximum amount the owner may charge the family for rent of a contract unit, including all housing services, maintenance and utilities to be provided by the owner in accordance with the HAP contract and the lease.
3. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess rent payment to the tenant.
4. The family is not responsible for payment of the portion of the contract rent covered by the housing assistance payment under the HAP contract. The owner may not terminate the tenancy of an assisted family for nonpayment of the PHA housing assistance

payment.

5. The PHA is responsible only for making the housing assistance payments to the owner on behalf of the family in accordance with the HAP contract. The PHA is not responsible for paying the tenant rent, or any other claim by the owner.

d. Other owner charges

1. Except as provided in paragraph 2, the owner may not require the tenant or family members to pay charges for meals or supportive services. Nonpayment of such charges is not grounds for termination of tenancy.
2. In assisted living developments receiving project-based voucher assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.
3. The owner may not charge the tenant or family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to the unsubsidized tenant in the premises.

e. Security deposit

1. The owner may collect a security deposit from the family.
2. The owner must comply with HUD and PHA requirements, which may change from time to time, regarding security deposits from a tenant.
3. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted families.
4. When the family moves out of the contract unit, the owner, subject to State and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit or other amounts which the family owes under the lease. The owner

must give the family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used as reimbursement to the owner, the owner must promptly refund the full amount of the balance to the family.

5. If the security deposit is not sufficient to cover amounts the family owes under the lease, the owner may seek to collect the balance from the family. However, the PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

11. FAMILY RIGHT TO MOVE

- a. The family may terminate its lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate (with a copy to the PHA) in accordance with the lease. If the family has elected to terminate the lease in this manner, the PHA must offer the family the opportunity for tenant-based rental assistance in accordance with HUD requirements.
- b. Before providing notice to terminate the lease under paragraph a, the family must first contact the PHA to request tenant-based rental assistance if the family wishes to move with continued assistance. If tenant-based rental assistance is not immediately available upon lease termination, the PHA shall give the family priority to receive the next available opportunity for tenant-based rental assistance.

12. OVERCROWDED, UNDER-OCCUPIED, AND ACCESSIBLE UNITS

The PHA subsidy standards determine the appropriate unit size for the family size and composition. The PHA and owner must comply with the requirements in 24 CFR 983.260. If the PHA determines that a family is occupying a wrong-size unit, or a unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the PHA must promptly notify the family and the owner of this determination, and of the PHA's offer of continued assistance in another unit. 24 CFR 983.260(a).

13. PROHIBITION OF DISCRIMINATION

- a. The owner may not refuse to lease contract units to, or otherwise discriminate against any person or family in leasing of a contract unit, because of race, color, religion, sex, national origin, disability, age or familial status.

- b. The owner must comply with the following requirements: The Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR part 100 *et seq.*; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and implementing regulations at 24 CFR part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*; 24 CFR part 8; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964-1965 Comp., p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).
- c. The owner must comply with HUD's Equal Access to HUD-assisted or -insured housing rule (24 CFR 5.105(a)(2)).
- d. The owner must comply with the Violence Against Women Act, as amended, and HUD's implementing regulation at 24 CFR part 5, Subpart L, and program regulations.
- e. The PHA and the owner must cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and all related rules and regulations.

14. PHA DEFAULT AND HUD REMEDIES

If HUD determines that the PHA has failed to comply with the HAP contract, or has failed to take appropriate action to HUD's satisfaction or as directed by HUD, for enforcement of the PHA's rights under the HAP contract, HUD may assume the PHA's rights and obligations under the HAP contract, and may perform the obligations and enforce the rights of the PHA under the HAP contract.

15. OWNER DEFAULT AND PHA REMEDIES

a. Owner default

Any of the following is a default by the owner under the HAP contract:

1. The owner has failed to comply with any obligation under the HAP contract, including the owner's obligations to maintain all contract units in accordance with the housing quality standards.
2. The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).
3. The owner has committed any fraud or made any false statement to the PHA or HUD in connection with the HAP contract.
4. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing assistance program.
5. If the property where the contract units are located is subject to a lien or security interest securing a HUD loan or a mortgage insured by HUD and:
 - i. The owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or
 - ii. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with the HUD loan or HUD-insured mortgage.
6. The owner has engaged in any drug-related criminal activity or any violent criminal activity.

b. PHA remedies

1. If the PHA determines that a breach has occurred, the PHA may exercise any of its rights or remedies under the HAP contract.
2. The PHA must notify the owner in writing of such determination. The notice by the PHA to the owner may require the owner to take corrective action (as verified by the PHA) by a time prescribed in

the notice.

3. The PHA's rights and remedies under the HAP contract include recovery of overpayments, termination or reduction of housing assistance payments, and termination of the HAP contract.

c. PHA remedy is not waived

The PHA's exercise or non-exercise of any remedy for owner breach of the HAP contract is not a waiver of the right to exercise that remedy or any other right or remedy at any time.

16. OWNER DUTY TO PROVIDE INFORMATION AND ACCESS REQUIRED BY HUD OR PHA

a. Required information

The owner must prepare and furnish any information pertinent to the HAP contract as may reasonably be required from time to time by the PHA or HUD. The owner shall furnish such information in the form and manner required by the PHA or HUD.

b. PHA and HUD access to premises

The owner must permit the PHA or HUD or any of their authorized representatives to have access to the premises during normal business hours and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the owner to the extent necessary to determine compliance with the HAP contract, including the verification of information pertinent to the housing assistance payments or the HAP contract.

17. PHA AND OWNER RELATION TO THIRD PARTIES

a. Injury because of owner action or failure to act

The PHA has no responsibility for or liability to any person injured as a result of the owner's action or failure to act in connection with the implementation of the HAP contract, or as a result of any other action or failure to act by the owner.

b. Legal relationship

The owner is not the agent of the PHA. The HAP contract does not create or affect any relationship between the PHA and any lender to the owner or any suppliers, employees, contractors or subcontractors used by the owner in connection with the implementation of the HAP contract.

c. Exclusion of third-party claims

Nothing in the HAP contract shall be construed as creating any right of a family or other third party (other than HUD) to enforce any provision of the HAP contract, or to assert any claim against HUD, the PHA or the owner under the HAP contract.

d. Exclusion of owner claims against HUD

Nothing in the HAP contract shall be construed as creating any right of the owner to assert any claim against HUD.

18. PHA-OWNED UNITS

Notwithstanding Section 17 of this HAP contract, a PHA may own units assisted under the project-based voucher program, subject to the special requirements in 24 CFR 983.59 regarding PHA-owned units.

19. CONFLICT OF INTEREST

a. Interest of members, officers, or employees of PHA, members of local governing body, or other public officials

1. No present or former member or officer of the PHA (except tenant-commissioners), no employee of the PHA who formulates policy or influences decisions with respect to the housing choice voucher program or project-based voucher program, and no public official or member of a governing body or State or local legislator who exercises functions or responsibilities with respect to these programs, shall have any direct or indirect interest, during his or her tenure or for one year thereafter, in the HAP contract.
2. HUD may waive this provision for good cause.

b. Disclosure

The owner has disclosed to the PHA any interest that would be a violation of the HAP contract. The owner must fully and promptly update such disclosures.

c. Interest of member of or delegate to Congress

No member of or delegate to the Congress of the United States of America or resident-commissioner shall be admitted to any share or part of this HAP Contract or to any benefits arising from the contract.

20. EXCLUSION FROM FEDERAL PROGRAMS

a. Federal requirements

The owner must comply with and is subject to requirements of 2 CFR part 2424.

b. Disclosure

The owner certifies that:

1. The owner has disclosed to the PHA the identity of the owner and any principal or interested party.
2. Neither the owner nor any principal or interested party is listed on the U.S. General Services Administration list of parties excluded from Federal procurement and nonprocurement programs; and none of such parties are debarred, suspended, subject to a limited denial of participation or otherwise excluded under 2 CFR part 2424.

21. TRANSFER OF THE CONTRACT OR PROPERTY

a. When consent is required

1. The owner agrees that neither the HAP contract nor the property may be transferred without the advance written consent of the PHA in accordance with HUD requirements.
2. "Transfer" includes:
 - a. Any sale or assignment or other transfer of ownership, in any form, of the HAP contract or the property;
 - b. The transfer of any right to receive housing assistance payments that may be payable pursuant to the HAP contract;
 - c. The creation of a security interest in the HAP contract or

the property;

- d. Foreclosure or other execution on a security interest; or
 - e. A creditor's lien, or transfer in bankruptcy.
3. If the owner is a corporation, partnership, trust or joint venture, the owner is not required to obtain advance consent of the PHA pursuant to paragraph a for transfer of a passive and non-controlling interest in the ownership entity (such as a stock transfer or transfer of the interest of a limited partner), if any interests so transferred cumulatively represent less than half the beneficial interest in the HAP contract or the property. The owner must obtain advance consent pursuant to paragraph a for transfer of any interest of a general partner.

b. Transferee assumption of HAP contract

No transferee (including the holder of a security interest, the security holder's transferee or successor in interest, or the transferee upon exercise of a security interest) shall have any right to receive any payment of housing assistance payments pursuant to the HAP contract, or to exercise any rights or remedies under the HAP contract, unless the PHA has consented in advance, in writing to such transfer, and the transferee has agreed in writing, in a form acceptable to the PHA in accordance with HUD requirements, to assume the obligations of the owner under the HAP contract, and to comply with all the terms of the HAP contract.

c. Effect of consent to transfer

- 1. The creation or transfer of any security interest in the HAP contract is limited to amounts payable under the HAP contract in accordance with the terms of the HAP contract.
- 2. The PHA's consent to transfer of the HAP contract or the property does not to change the terms of the HAP contract in any way, and does not change the rights or obligations of the PHA or the owner under the HAP contract.
- 3. The PHA's consent to transfer of the HAP contract or the property to any transferee does not constitute consent to any further transfers of the HAP contract or the property, including further transfers to any successors or assigns of an approved transferee.

d. When transfer is prohibited

The PHA will not consent to the transfer if any transferee, or any principal or interested party is debarred, suspended subject to a limited denial of participation, or otherwise excluded under 2 CFR part 2424, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

22. SUBSIDY LAYERING

a. Owner disclosure

The owner must disclose to the PHA, in accordance with HUD requirements, information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is made available or is expected to be made available with respect to the contract units. Such related assistance includes, but is not limited to, any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

b. Limit of payments

Housing assistance payments under the HAP contract must be no more than is necessary, as determined in accordance with HUD requirements, to provide affordable housing after taking account of such related assistance. The PHA will adjust in accordance with HUD requirements the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

23. OWNER LOBBYING CERTIFICATIONS

a. The owner certifies, to the best of owner's knowledge and belief, that:

1. No Federally appropriated funds have been paid or will be paid, by or on behalf of the owner, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of the HAP contract, or the extension, continuation, renewal, amendment, or modification of the HAP contract.
2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to

influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the HAP contract, the owner must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- b. This certification by the owner is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

24. TERMINATION OF HAP CONTRACT FOR WRONGFUL SELECTION OF CONTRACT UNITS

The HAP contract may be terminated upon at least 30 days notice to the owner by the PHA or HUD if the PHA or HUD determines that the contract units were not eligible for selection in conformity with HUD requirements.

25. NOTICES AND OWNER CERTIFICATIONS

- a. Where the owner is required to give any notice to the PHA pursuant to the HAP contract or any other provision of law, such notice must be in writing and must be given in the form and manner required by the PHA.
- b. Any certification or warranty by the owner pursuant to the HAP contract shall be deemed a material representation of fact upon which reliance was placed when this transaction was made or entered into.

26. NOTICE OF TERMINATION OR EXPIRATION WITHOUT EXTENSION

- a. An owner must provide notice to the PHA, and to the affected tenants, not less than 1 year prior to the termination or expiration without extension of a HAP contract.
- b. An owner who fails to provide such notice must permit tenants to remain in their units for the required notice period with no increase in the tenant portion of the rent. During this time period, an owner may not evict a tenant as a result of the owner's inability to collect an increased tenant portion of rent. With PHA agreement, an owner may extend the terminating contract for a period of time sufficient to give tenants 1 years' advance notice.

27. FAMILY'S RIGHT TO REMAIN

Upon termination or expiration of the contract without extension, each family assisted under the contract may elect to use its assistance to remain in the project

if the family's unit complies with the inspection requirements under section 8(o)(8) (42 U.S.C. 1437f(o)(8) of the U.S. Housing Act of 1937 ("the 1937 Act")), the rent for the unit is reasonable as required by section 8(o)(10)(A) of the 1937 Act, and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard.

28. ENTIRE AGREEMENT; INTERPRETATION

- a. The HAP contract, including the exhibits, is the entire agreement between the PHA and the owner.
- b. The HAP contract must be interpreted and implemented in accordance with all statutory requirements, and with all HUD requirements, including amendments or changes in HUD requirements during the term of the HAP contract. The owner agrees to comply with all such laws and HUD requirements. Any regulatory citation specifically included in this HAP contract is subject to any subsequent revision of such citation.

**Exhibit A
Parkside Village I PBV Unit Summary**

Unit Size (Bdrm)	Unit Count	Contract Rent	Utility Allowance	Gross Rent	Annual Gross Rent Potential (based on 110% 2022 FMRs)
1	19	\$ 1,252	\$ 53	\$ 1,305	\$ 297,540
2	21	\$ 1,518	\$ 74	\$ 1,592	\$ 401,184

Total: 40

Parkside Village I PBV Unit Detail

Unit Size (Bdrm)	Street Address	Contract Rent	Utility Allowance	Gross Rent
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Each unit PBV should be listed

EXACT UNIT ADDRESSES TO BE ASSIGNED

Exhibit B

Services, Maintenance and Equipment to Be Provided by the Owner Without Charge in Addition to Rent to Owner

List of Equipment/Appliances Supplied to Tenants:

Stove with oven
Refrigerator
On-site trash disposal
Secured mailbox

Residents have access to the following amenities, features & services:

Off-street parking spaces
Community room with kitchenette, computer lab, and lounge area
Laundry rooms
Fitness center
On-site property management offices

Description of Maintenance Services:

Overview of maintenance Services:

1. Emergency Work Orders
2. Urgent Work Orders
3. Routine Service
4. Planned Maintenance
5. Turnover Vacant Units
6. After Hours Service
7. Special Projects

Maintenance operations will provide for:

1. Timely response by Maintenance Staff to emergencies.
2. A minimal backlog of maintenance work orders.
3. A Maintenance Staff appropriately utilized, trained, staffed and supervised.
4. A program for repairing and returning vacant units to occupancy within an acceptable time frame.
5. A routine Maintenance Program.
6. Servicing of mechanical systems.
7. Supervision of maintenance work carried out by private contractors.
8. Grounds maintenance.

Exhibit C

Utilities Available in the Contract Units, Including a Listing of Utility Services to Be Paid by the Owner (Without Charges in Addition to Rent to Owner) and Utilities to Be Paid by the Tenants

Parkside Village I LLC (Owner) shall provide the following for all units:

Central heating & cooling (electric)

Water heating (gas)

Water

Sewer

Refrigerator

The tenant is responsible for Electricity, Cable, Internet and Telephone.

Exhibit D:

Features Provided to Comply with Program Accessibility Features of Section 504 of the Rehabilitation Act of 1973

The subject property is required to contain a minimum of 5% of dwelling units that meet mobility impairment requirements. Based on a total of 67 units, the subject property is required to provide at least 4 handicap accessible units which meet mobility impairment requirements including Section 504 and UFAS. Parkside Village I will include seven (7) dwelling units that meet these mobility impairment requirements. These units will meet UFAS standards for wheelchair accessible units, including pathways through the unit; accessible kitchens, including cabinetry, countertops and appliances; accessible bathrooms, including shower and grab bars in appropriate locations; and in unit accessible outlets, thermostats, light switches, and circuit breaker boxes at appropriate heights.

In addition, Section 504 requires 2% of the units to be accessible to the hearing and visually impaired. Based on a total of 67 units, the subject property is required to provide at least 2 units accessible to the hearing and visually impaired. Parkside Village I will include three (3) dwelling units that meet these hearing & visual impairment requirements. Features for these units include smoke/CO detectors hardwired with lights and alarms, appropriate signage for the blind, and door bells that use both sound and light.

MEMORANDUM

To: Board of Commissioners

From: Karen DuBois-Walton, Ph.D., Executive Director

Date: February 20, 2024

RE: RESOLUTION RATIFYING, AUTHORIZING AND TO THE EXTENT NECESSARY REAUTHORIZING THE HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT WITH CASA OTONAL DBA CASA FAMILIA I, LP FOR TWELVE PROJECT BASED VOUCHERS FOR AN ADDITIONAL (15) YEARS FOR AN ANNUAL HAP CONTRACT AMOUNT OF \$220,632.00 COMMENCING FEBRUARY 12, 2024 AND ENDING FEBRUARY 11, 2039

ACTION: Recommend that the Board of Commissioners adopt Resolution #02-04/24-R

TIMING: Immediately

DISCUSSION:

On February 12, 2009, ECC enter into a fifteen year Housing Assistance Payment (HAP) contract with Casa Otonal to provide Project Based Housing Choice Voucher (HCV)/Section 8 rental assistance for twelve (12) residents at Sylvan Ave for a period of (15) fifteen years commencing on February 12, 2009 and ending on February 11, 2024.

ECC/HANH now seeks to renew the existing contract for the (12) twelve residents at Sylvan Ave. for a period of (15) fifteen years commencing February 12, 2024 to February 11, 2039.

In accordance with resolution #10-129/18-R for the Revised Procurement Policy approved by the Board of Commissioners on October 16, 2018, all Contracts greater than \$150,000.00 inclusive of all optional years and all Change Orders and amendments in excess of 10% or \$50,000.00 (whichever is higher) and which result in a total contract greater than \$150,000.00 must be approved by the Board of Commissioners prior to execution. ECC/HANH staff is recommending that the Board of Commissioners ratify the renewal of the HAP contract with Casa Otonal dba Casa Familia I, LP for an additional fifteen (15) years in an amount of \$220,632.00 annually.

FISCAL IMPACT: \$220,632.00 ANNUALLY plus Annual Rental Increases in MTW Funding

STAFF: Coreen Toussaint, VP of Housing Choice Voucher

ELM CITY COMMUNITIES
Housing Authority of the City of New Haven

RESOLUTION # #02-04/24-R

**RESOLUTION RATIFYING, AUTHORIZING AND TO THE EXTENT NECESSARY
REAUTHORIZING THE HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT
WITH CASA OTONAL DBA CASA FAMILIA I, LP FOR TWELVE PROJECT BASED
VOUCHERS FOR AN ADDITIONAL (15) YEARS FOR AN ANNUAL HAP CONTRACT
AMOUNT OF \$220,632.00 COMMENCING FEBRUARY 12, 2024 AND ENDING
FEBRUARY 11, 2039**

WHEREAS, on February 12, 2009, ECC enter into a fifteen-year Housing Assistance Payment (HAP) contract with Casa Otonal to provide Project Based Housing Choice Voucher (HCV)/Section 8 rental assistance for twelve (12) residents at Sylvan Ave for a period of (15) fifteen years commencing on February 12, 2009 and ending on February 11, 2024; and

WHEREAS, ECC/HANH now seeks to renew the existing contract for the (12) twelve residents at Sylvan Ave. for a period of (15) fifteen years commencing February 12, 2024 to February 11, 2039; and

WHEREAS, the voucher support will ensure quality affordable units; and

WHEREAS, in accordance with resolution #10-129/18-R for the Revised Procurement Policy adopted by the Board of Commissioners on October 16, 2018, all Contracts greater than \$150,000.00 inclusive of all optional years and all Change Orders and amendments in excess of 10% or \$50,000.00 (whichever is higher) and which result in a total contract greater than \$150,000.00 must be authorized by the Board of Commissioners prior to execution; and

WHEREAS, ECC/HANH staff is recommending that the Board of Commissioners ratify, authorize and, to the extent necessary, reauthorize the renewal of the HAP contract with Casa Otonal dba Casa Familia I, LP for an additional fifteen (15) years in an amount of \$220,632.00 annually.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF NEW HAVEN THAT:

- 1) The renewal HAP contract with Casa Otonal dba Casa Familia I, LP for an additional fifteen (15) years in an amount of \$220,632.00 annually be and hereby is ratified, authorized and, to the extent necessary, reauthorized; and
- 2) The President be and is hereby authorized, empowered and directed to take any and all such action and execute such documents as necessary to effectuate the terms and conditions of this Resolution, and to take any and all necessary action ancillary and related thereto; and
- 3) The resolution shall take effect immediately.

I hereby certify that the above resolution was adopted by a majority of the Commissioners present at a meeting duly called at which a quorum was present, on February 20, 2024.

Karen DuBois-Walton, Ph. D.
Secretary/President

Date

REVIEWED:
McCarter & English, LLP General Counsel

By: _____
Rolan Joni Young, Esq
A Partner

Casa Familia 1, LP

130 Sylvan Avenue
New Haven, CT 06519
Ph. 203-777-2272
Fax. 203-772-0109

January 8, 2024

RE: Casa Otonal dba Casa Familie PBV Contract Renewal

Dear Sir or Madam:

I, Angelina Maldonado with Winn Residential and agent for owner of Casa Familia located on 130 Sylvan Ave, New Haven CT 06519 is requesting to renew the HAP Contract at Casa Familia LP. We are requesting to renew the HAP contract term of 15 years effective 02/12/2024. The HAP renewal for Casa Familia is required to continue so that we can continue to provide affordable housing to low-income households at Casa Familia.

Kindly renew our request, and please do not hesitate to reach out to us with any questions at amaldonado@winnco.com.

Sincerely,

Angelina Maldonado

Angelina Maldonado
Regional Vice President
Winn Residential

cc. Elmer Rivera (President COI)

**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

**SECTION 8 PROJECT-BASED VOUCHER PROGRAM
HOUSING ASSISTANCE PAYMENTS CONTRACT**

EXISTING HOUSING

PART 1 OF HAP CONTRACT

OMB Burden Statement. The public reporting burden for this collection of information is estimated to average 1 hour. This form is required to establish terms between a PHA and owner to provide housing assistance. This contract allows a PHA to enter into a HAP contract with the owner to provide housing assistance payments for eligible families. Assurances of confidentiality are not provided under this collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Office of Public and Indian Housing, US. Department of Housing and Urban Development, Washington, DC 20410. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Privacy Notice. The Department of Housing and Urban Development (HUD) is authorized to collect the information on this form by 24 CFR § 983.202. This contract allows a PHA to enter into a HAP contract with the owner to provide housing assistance payments for eligible families. Assurances of confidentiality are not provided under this collection. The Personally Identifiable Information (PII) data collected on this form are not stored or retrieved within a system of record.

1. CONTRACT INFORMATION

a. Parties

This housing assistance payments (HAP) contract is entered into between:

_____ (PHA) and

_____ (owner).

b. Contents of contract

The HAP contract consists of Part 1, Part 2, and the contract exhibits listed in paragraph c.

c. Contract exhibits

The HAP contract includes the following exhibits:

- EXHIBIT A: TOTAL NUMBER OF UNITS IN PROJECT COVERED BY THIS HAP CONTRACT; INITIAL RENT TO OWNER; AND DESCRIPTION OF THE CONTRACT UNITS. (See 24 CFR 983.203 for required items.)
- EXHIBIT B: SERVICES, MAINTENANCE AND EQUIPMENT TO BE PROVIDED BY THE OWNER WITHOUT CHARGES IN ADDITION TO RENT TO OWNER
- EXHIBIT C: UTILITIES AVAILABLE IN THE CONTRACT UNITS, INCLUDING A LISTING OF UTILITY SERVICES TO BE PAID BY THE OWNER (WITHOUT CHARGES IN ADDITION TO RENT TO OWNER) AND UTILITIES TO BE PAID BY THE TENANTS
- EXHIBIT D: FEATURES PROVIDED TO COMPLY WITH PROGRAM ACCESSIBILITY FEATURES OF SECTION 504 OF THE REHABILITATION ACT OF 1973 AND IMPLEMENTING REGULATIONS AT 24 CFR PART 8

ADDITIONAL EXHIBITS

d. Effective date and term of the HAP contract

1. Effective date

- a. The PHA may not enter into a HAP contract for any contract unit until the PHA (or an independent entity, as applicable) has determined that the unit meets the PBV inspection requirements.
- b. For all contract units, the effective date of the HAP contract is:
_____.
- c. The term of the HAP contract begins on the effective date.

2. Length of initial term

- a. Subject to paragraph 2.b, the initial term of the HAP contract for all contract units is:
_____.
- b. The initial term of the HAP contract may not be less than one year,

nor more than twenty years.

3. Extension of term

The PHA and owner may agree to enter into an extension of the HAP contract at the time of initial HAP contract execution, or any time prior to expiration of the contract. Any extension, including the term of such extension, must be in accordance with HUD requirements. A PHA must determine that any extension is appropriate to achieve long-term affordability of the housing or expand housing opportunities.

4. Requirement for sufficient appropriated funding

- a. The length of the initial term and any extension term shall be subject to availability, as determined by HUD, or by the PHA in accordance with HUD requirements, of sufficient appropriated funding (budget authority), as provided in appropriations acts and in the PHA's annual contributions contract (ACC) with HUD, to make full payment of housing assistance payments due to the owner for any contract year in accordance with the HAP contract.
- b. The availability of sufficient funding must be determined by HUD or by the PHA in accordance with HUD requirements. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA has the right to terminate the HAP contract by notice to the owner for all or any of the contract units. Such action by the PHA shall be implemented in accordance with HUD requirements.

e. Occupancy and payment

1. Payment for occupied unit

During the term of the HAP contract, the PHA shall make housing assistance payments to the owner for the months during which a contract unit is leased to and occupied by an eligible family. If an assisted family moves out of a contract unit, the owner may keep the housing assistance payment for the calendar month when the family moves out (“move-out month”). However, the owner may not keep the payment if the PHA determines that the vacancy is the owner’s fault.

2. Vacancy payment

THE PHA HAS DISCRETION WHETHER TO INCLUDE THE VACANCY PAYMENT PROVISION (PARAGRAPH e.2), OR TO STRIKE THIS PROVISION FROM THE HAP CONTRACT FORM.

- a. If an assisted family moves out of a contract unit, the PHA may provide vacancy payments to the owner for a PHA-determined vacancy period extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.
- b. The vacancy payment to the owner for each month of the maximum two-month period will be determined by the PHA, and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Any vacancy payment may cover only the period the unit remains vacant.
- c. The PHA may make vacancy payments to the owner only if:
 1. The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and the date when the family moved out (to the best of the owner's knowledge and belief);
 2. The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
 3. The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
 4. The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.
- d. The PHA must take every reasonable action to minimize the likelihood and length of vacancy.
- e. The owner may refer families to the PHA for placement on the PBV waiting list.

- f. The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payments.

3. PHA is not responsible for family damage or debt to owner

Except as provided in this paragraph e (Occupancy and Payment), the PHA will not make any other payment to the owner under the HAP contract. The PHA will not make any payment to the owner for any damages to the unit, or for any other amounts owed by a family under the family's lease.

f. Income-mixing requirement

1. Except as provided in paragraphs f.2 through f.5 below, the PHA will not make housing assistance payments under the HAP contract for more than the greater of 25 units or 25 percent of the total number of dwelling units (assisted or unassisted) in any project. The term "project" means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land assisted under this HAP contract.
2. The limitation in paragraph f.1 does not apply to single-family buildings.
3. In referring eligible families to the owner for admission to the number of contract units in any project exceeding the 25 unit or 25 percent limitation under paragraph f.1, the PHA shall give preference to the applicable families as listed in f.8 below, for the number of contract units exclusively made available for occupancy by such families. The owner shall rent that number of contract units to such families referred by the PHA from the PHA waiting list.
4. Up to the greater of 25 units or 40 percent of units (instead of the greater of 25 units or 25 percent of units) in a project may be project-based if the project is located in a census tract with a poverty rate of 20 percent or less.
5. Units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD do not count toward the income-mixing requirement if, in the five years prior to issuance of the Request for Proposal or notice of owner selection (for projects selected based on a prior competition or without competition), the unit received one of the forms of HUD assistance or was under a federal rent restriction as described in f.6 and f.7, below.

6. The following specifies the number of contract units (if any) that received one of the following forms of HUD assistance:

- Public Housing or Operating Funds;
- Project-Based Rental Assistance (including Mod Rehab and Mod Rehab Single-Room Occupancy);
- Housing for the Elderly (Section 202 or the Housing Act of 1959);
- Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez Affordable Housing Act);
- Rent Supplement Program;
- Rental Assistance Program;
- Flexible Subsidy Program.

Place a check mark in front of the form of assistance received by any of the contract units. The following total number of contract units received a form of HUD assistance listed above:

_____.

If all of the units in the project received such assistance, you may skip number g.8, below.

7. The following specifies the number of contract units (if any) that were under any of the following federal rent restrictions:

- Section 236;
- Section 221(d)(3) or (d)(4) BMIR (below-market interest rate);
- Housing for the Elderly (Section 202 or the Housing Act of 1959);
- Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez Affordable Housing Act);
- Flexible Subsidy Program.

Place a check mark in front of the type of federal rent restriction that applied to any of the contract units. The following total number of contract

units were subject to a federal rent restriction listed above:

_____.

If all of the units in the project were subject to a federal rent restriction, you may skip number g.8, below.

8. The following specifies the number of contract units (if any) exclusively made available to elderly families, families eligible for supportive services, or eligible youth receiving Family Unification Program or Foster Youth to Independence (FUP/FYI) assistance:

a. Place a check mark here ___ if any contract units are exclusively made available for occupancy by elderly families; The following number of contract units shall be rented to elderly families:

_____.

b. Place a check mark here ___ if any contract units are exclusively made available for occupancy by families eligible for supportive services. The following number of contract units shall be rented to families eligible for supportive services:

_____.

c. Place a check mark here ___ if any contract units are exclusively made available for occupancy by eligible youth receiving FUP/FYI assistance. The following number of contract units shall be rented to eligible families receiving FUP/FYI assistance:

_____.

9. The PHA and owner must comply with all HUD requirements regarding income mixing.

EXECUTION OF HAP CONTRACT FOR EXISTING HOUSING

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).

PUBLIC HOUSING AGENCY (PHA) Name of PHA (Print)
By:
Signature of authorized representative
Name and official title (Print)
Date
OWNER Name of Owner (Print)
By:
Signature of authorized representative
Name and official title (Print)
Date

Contract Unit Address	Unit Number	Bedroom size	New Contract Rent 2/1/2024
130 Sylvan Ave	101	3	1733
130 Sylvan Ave	102	2	1492
130 Sylvan Ave	103	2	1492
130 Sylvan Ave	302	2	1492
130 Sylvan Ave	303	2	1492
130 Sylvan Ave	305	2	1492
130 Sylvan Ave	306	3	1492
130 Sylvan Ave	307	2	1492
130 Sylvan Ave	402	2	1492
130 Sylvan Ave	404	3	1733
130 Sylvan Ave	406	2	1492
130 Sylvan Ave	407	2	1492

UA Paid by tenants
Other Electric
Cooking with Gas
AC

MEMORANDUM

To: Board of Commissioners

From: Karen DuBois-Walton, Ph.D., Executive Director

Date: February 20, 2024

RE: AUTHORIZING AN AGREEMENT WITH IMMIX TECHNOLOGY, INC. FOR THE PURCHASE OF SOFTWARE KNOWN AS BOB. AI FOR ONE YEAR WITH THE OPTION TO RENEW FOR (2) TWO ADDITIONAL ONE YEAR TERMS IN AN AMOUNT NOT TO EXCEED \$259,725.33

ACTION: Recommend that the Board of Commissioners adopt Resolution #02-05/24-R

TIMING: **Immediately**

DISCUSSION: The Housing Authority of the City of New Haven/Elm City Communities ("ECC" or "HANH") Housing Choice Voucher Department (HCV) which administers vouchers to the New Haven area wishes to purchase and enter into an agreement with Immix Technology, Inc to utilize Bob. AI, an artificial intelligence program. HUD Procurement Policy allows for PHA's to utilize Schedule 70, Information Technology and Consolidated Schedules contracts containing IT SINs from the General Services Administration (GSA). Bob. AI is a Dallas- based software company with the expertise in AI and core business system development, which aims to move PHA's away from paper.

Bob. AI has successfully partnered with the Houston Housing Authority. The software would assist HCV with applications, waitlist management, voucher signing, electronic (e) RFTA's, rental adjustments, relocation, and inspections. This purchase will limit the number of delinquent certifications, and HQS inspections; and provide for a more efficient process.

This resolution seeks authorization from the Board of Commissioners to enter into an agreement with Immix Technology, Inc for the purchase of the software known as Bob. Ai for one year with the option to renew for (2) two additional one-year terms in an amount not to exceed of \$259,725.33.

FISCAL IMPACT: \$259,725.33 (\$111,842.37 first year and \$73,941.48 each the following two years)

STAFF: **Coreen Toussaint, Housing Choice Voucher Vice President**

**ELM CITY COMMUNITIES
Housing Authority of the City of New Haven**

RESOLUTION #02-05/24-R

AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH IMMIX TECHNOLOGY, INC FOR THE PURCHASE OF THE SOFTWARE KNOWN AS BOB. AI FOR ONE YEAR WITH THE OPTION TO RENEW FOR (2) TWO ADDITIONAL ONE YEAR OPTIONS IN AN AMOUNT NOT TO EXCEED \$259,725.33

WHEREAS, the Housing Authority of the City of New Haven/Elm City Communities ("ECC" or "HANH") wishes to purchase and enter into an agreement with general services administration office of it schedule program (GSA) to utilize Bob. AI, an artificial intelligence program; and

WHEREAS, to date, Bob. AI has successfully partnered with the Houston Housing Authority, and as such, ECC's HCV department wishes to utilize the software for with applications, waitlist management, voucher signing, electronic (e)RFTA's, rental adjustments, relocation, and Inspections; and

WHEREAS, this purchase will limit the number of delinquent certifications, non-compliant HQS inspections, and make for a more efficient process; and

WHEREAS, this resolution seeks authorization from the Board of Commissioners to enter into an agreement with Immix Technology, Inc for the purchase of the software known as Bob. Ai for one year with the option to renew for (2) two additional one-year terms in an amount not to exceed of \$259,725.33.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF NEW HAVEN THAT:

- 1) The agreement with Immix Technology, Inc for the purchase of the software known as Bob. AI for one year with the option to renew for (2) two additional one-year terms in an amount not to exceed of \$259,725.33 is hereby authorized; and
- 2) The Executive Director-President be and hereby is authorized, empowered and directed to execute and deliver an agreement and expend the authorized funds as set forth in the recitals hereinabove; and
- 3) The Executive Director-President be and hereby is authorized, empowered and directed to take any and all such ancillary action necessary and appropriate to fulfill the intent of the foregoing; and
- 4) The resolution shall take effect immediately.

I hereby certify that the above resolution was adopted by a majority of the Commissioners present at a meeting duly called at which a quorum was present, on February 20, 2024.

Karen DuBois-Walton, Ph. D.
Secretary/President

Date

REVIEWED:
McCarter & English, LLP
General Counsel

By: _____
Rolan Joni Young, Esq
A Partner

immixTechnology, Inc.

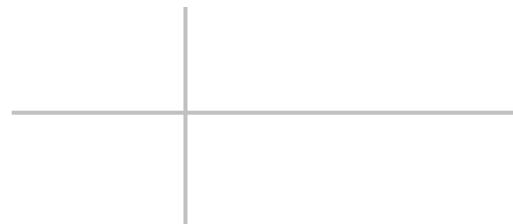
a subsidiary of  immixGroup



*General Services Administration
Federal Supply Service
Multiple Award Schedule
Authorized Federal Supply Schedule Pricelist
GS-35F-0265X*

Period Covered by Contract: March 3, 2011 through March 2, 2026.

Pricelist current through Modification #PO-2476 dated August 31, 2023.



**GENERAL SERVICES ADMINISTRATION
FEDERAL SUPPLY SERVICE
MULTIPLE AWARD SCHEDULE
AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE
LIST**

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA Advantage!®, a menu-driven database system. The INTERNET address GSA Advantage!® is: GSAAdvantage.gov.

Contract Number:
GS-35F-0265X

For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at <https://www.gsa.gov/buying-selling/purchasing-programs/gsa-schedules>.

Contract Period:
March 3, 2011 through March 2, 2026

Pricelist current through Modification #PO-2476 dated August 31, 2023.

Contractor:
immixTechnology, Inc.
8444 Westpark Drive, Suite 200
McLean, VA 22102

Phone:
703-752-0610

Email:
GSAteam@immixgroup.com

Website:
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

Business Size:
Other than small

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CUSTOMER INFORMATION

1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).

SIN	SIN Title
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts
511210	Software Licenses
54151	Software Maintenance Services
518210C	Cloud and Cloud-Related IT Professional Services
611420	Information Technology Training
54151ECOM	Electronic Commerce and Subscription Services
517312	Wireless Mobility Solutions
33411	Purchasing of new electronic equipment

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply.

See attached authorized price list – Attachment B

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate “Not applicable” for this item.

Not Applicable

2. Maximum order.

SIN	SIN Title	Maximum Order (\$)
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts	500,000
511210	Software Licenses	500,000
54151	Software Maintenance Services	500,000
518210C	Cloud and Cloud-Related IT Professional Services	500,000
611420	Information Technology Training	250,000
54151ECOM	Electronic Commerce and Subscription Services	500,000
517312	Wireless Mobility Solutions	500,000
33411	Purchasing of new electronic equipment	500,000

3. Minimum order.

\$100.00

4. Geographic coverage (delivery area).

Domestic delivery

5. Point(s) of production (city, county, and State or foreign country).

For a current list of all Authorized Service and Distribution points by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

6. Discount from list prices or statement of net price.

Prices shown herein are Net (discounts deducted)

7. Quantity discounts.

None unless otherwise specified in the pricelist

8. Prompt payment terms. Note: Prompt payment terms must be followed by the statement "Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions."

0% - Net 30 days from receipt of invoice or date of acceptance, whichever is later

9a. Notification that Government purchase cards are accepted at or below the micro-purchase threshold.

Government purchase cards are accepted at or below the micro-purchase threshold but above the Minimum order threshold.

9b. Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold.

Government purchase cards are accepted above the micro-purchase threshold

10. Foreign items (list items by country of origin).

See attached authorized price list – Attachment B

11a. Time of delivery. (Contractor insert number of days.)

The Contractor shall deliver to destination within thirty (30) calendar days after receipt of order (ARO), unless set forth

otherwise on the Schedule Contract Pricelist to this schedule pricelist appended hereto and incorporated herein

11b. Expedited Delivery. The Contractor will insert the sentence "Items available for expedited delivery are noted in this price list." under this heading. The Contractor may use a symbol of its choosing to highlight items in its price lists that have expedited delivery.

Quicker delivery times than those set forth in the Schedule Contract Pricelist are available from the Contractor based on the availability of product inventory. Improved delivery times in the number of days after receipt of an order (ARO) if available, are as negotiated between the ordering activity and the Contractor or its Authorized Government Resellers

11c. Overnight and 2-day delivery. The Contractor will indicate whether overnight and 2-day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2-day delivery.

Unless otherwise specified by Manufacturer in the Schedule Contract Pricelist, when ordering activities require overnight or 2-day delivery, ordering activities are encouraged to contact the Contractor for the purpose of obtaining accelerated delivery. Overnight and 2-day delivery times are subject to the availability of product inventory

11d. Urgent Requirements. The Contractor will note in its price list the "Urgent Requirements" clause of its contract and advise agencies that they can also contact the Contractor's representative to affect a faster delivery.

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the Ordering Activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract

12. F.O.B. point(s).

Destination

13a. Ordering address(es).

immixTechnology, Inc.
8444 Westpark Drive, Suite 200
McLean, VA 22102

Or

See Authorized Dealers Listing by Manufacturer for Ordering Address and Contact Information at:
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

13b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.

14. Payment address(es).

immixTechnology, Inc.

8444 Westpark Drive, Suite 200
McLean, VA 22102

Or

See Authorized Dealers Listing by Manufacturer for Ordering
Address and Contact Information at:
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

15. Warranty provision.

See attached Contractor Supplemental Pricelist Information and
Incorporated Terms – Attachment A

16. Export packing charges, if applicable.

Not applicable

17. Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level).

None

18. Terms and conditions of rental, maintenance, and repair (if applicable).

See attached Contractor Supplemental Pricelist Information and
Incorporated Terms – Attachment A

19. Terms and conditions of installation (if applicable).

See attached Contractor Supplemental Pricelist Information and
Incorporated Terms – Attachment A

20. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable).

See attached Contractor Supplemental Pricelist Information and
Incorporated Terms – Attachment A

20a. Terms and conditions for any other services (if applicable).

See attached Contractor Supplemental Pricelist Information and
Incorporated Terms – Attachment A

21. List of service and distribution points (if applicable).

For a current list of all Authorized Service and Distribution points
by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

22. List of participating dealers (if applicable).

For a current list of all Authorized Service and Distribution points
by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

23. Preventive maintenance (if applicable).

See attached Contractor Supplemental Pricelist Information and
Incorporated Terms – Attachment A

24a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants).

Please contact immixTechnology, Inc. at
GSAteam@immixgroup.com

24b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at: www.Section508.gov/.

Please contact immixTechnology, Inc. at
GSAteam@immixgroup.com

25. Data Universal Number System (DUNS) number.

098692374

26. Notification regarding registration in System for Award Management (SAM) database.

Registration active

27. Integration:

The Non-Disclosure provisions set forth in Section 9b.(7), the IP Infringement provisions set forth in Section 9b.(9) and the Limitation of Liability provisions set forth in Section 3c. of the Terms and Conditions Applicable to Software Licenses (Special Item Number 511210) and Software Maintenance Services (Special Item Number 54151) of General Purpose Commercial Information Technology Software are hereby incorporated into and made a part of the terms applicable to all SINS.

28. Glossary of Definitions:

- a. **“Contractor”** means immixTechnology, Inc.
- b. **“Contractor and its affiliates”** and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.
- c. **“Manufacturer”** shall mean a manufacturer, supplier or producer of Equipment (as defined below) or a publisher or developer of Software or related Training Materials (as defined below) provided to Contractor through a letter of supply to be licensed or sold to Ordering Activities under this contract.
- d. **“Ordering Activity”** shall mean, 1) any entity authorized to use GSA sources of supply and services as set forth in GSA Directive OGP 4800.21 or such later issued version, and 2) any entity acting on behalf of an Ordering Activity pursuant to a properly issued letter of authorization per Section 24 above – “Prime Contractor Ordering from Federal Supply Schedules” under Information for Ordering Activities applicable to All Special Item Numbers.

29. Responsibilities of Contractor:

The parties understand and agree that Contractor acts as a reseller of all Equipment, Software, Documentation, and services offered under this contract. With regard to Equipment, Software, and Documentation, Contractor represents that it has the requisite right and authority under its reseller agreements with the Manufacturers to offer the products and grant the rights specified in this contract, and Manufacturers shall have no privity of contract with an Ordering Activity hereunder. With regard to services, while some or all of the services ordered hereunder may be physically

performed by Manufacturer, Service Provider, or other third-party personnel (as is specified under applicable SINs) acting under a subcontract or similar arrangement with Contractor, and while the scope and price of such services are defined by the applicable provider's policies (such as Maintenance Services Policies, Electronic Commerce Service Policies, or Wireless Services plans), Contractor remains solely responsible to the Ordering Activity for all such performance.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY, PURCHASING OF NEW ELECTRONIC EQUIPMENT (SPECIAL ITEM NUMBER 33411)

1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment whether on-line or in hard copy.
- b. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.

2. MATERIAL AND WORKMANSHIP

All Equipment furnished hereunder must substantially perform the function for which it is intended as set forth in the accompanying Documentation.

3. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.

For credit card orders and BPAs, telephone orders are permissible.

4. TRANSPORTATION OF EQUIPMENT

FOB DESTINATION. Prices cover Equipment delivery to destination, for any location within the geographic scope of this contract.

5. INSTALLATION AND TECHNICAL SERVICES

- a. **INSTALLATION.** When the Equipment provided under this contract is not normally self-installable, the Contractor its Manufacturer or other authorized service provider’s technical personnel shall be available to the Ordering Activity, at the Ordering Activity’s location, to install the Equipment and to train Ordering Activity personnel in the use and maintenance of the Equipment. The charges, for such services are listed by Manufacturer, in the schedule pricelist.
- b. **OPERATING AND MAINTENANCE MANUALS.** The Contractor or its Manufacturer shall furnish the Ordering Activity with one (1) copy of all Documentation, which is normally provided with the Equipment being purchased. For Documentation only available on-line,

Contractor or its Manufacturer shall provide Ordering Activity access to such Documentation.

6. INSPECTION/ACCEPTANCE

The Contractor shall only deliver those items ordered that substantially conform to the requirements of this contract and the applicable Manufacturer’s Documentation. Therefore, items delivered shall be deemed accepted upon delivery to Ordering Activity’s designated receiving facility. The Ordering Activity reserves the right to inspect or test any equipment that has been delivered. The Ordering Activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post-acceptance rights (1) within the applicable warranty period as set forth below; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

7. WARRANTY

- a. Unless specified otherwise in this contract, the warranties extended to the Ordering Activity for Equipment and Documentation, and the exclusions and disclaimers applicable to such warranties, shall be as set forth on Attachment A to this schedule pricelist (Contractor Supplemental Pricelist Information and Incorporated Terms). Notwithstanding anything to the contrary that may be marked on or provided with the Equipment or Documentation, the parties understand and agree that such warranties, exclusions and disclaimers follow the applicable Manufacturer’s standard commercial warranties, exclusions and disclaimers but are provided to the Ordering Activity by the Contractor, who will be responsible to the Ordering Activity for all compliance, service and remedies thereunder.
- b. **Limitation of Liability**
 - i. **Exclusion of Consequential Damages.** EXCEPT FOR A) A CLAIM OF IP INFRINGEMENT HEREUNDER, OR B) AS PROVIDED IN SUBSECTION (b)(iii) BELOW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
 - ii. **Limitation of Direct Damages.** Except for a) a claim of IP Infringement, hereunder, or b) as provided in subsection (b)(iii) below, the aggregate and cumulative liability of Contractor for damages hereunder shall in no event exceed the amount of fees paid by Ordering Activity under the order giving rise to such liability,

and if such damages relate to particular Equipment such liability shall be limited to fees paid for the relevant Equipment.

- iii. Non-Applicability to Statutory or Regulatory Rights. Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover for fraud or crimes arising out of or relating to this contract under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733), or (b) to express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into this contract, including without limitation the GSAR 552.215-72 Price Adjustment – Failure to Provide Accurate Information (August 1997) or GSAR 552.238-75 Price Reductions (May 2004) Alternate I (May 2003).

- c. Inspection and repair of defective Equipment under this warranty may be performed, at the option of the Contractor, at a service facility/plant authorized by the Contractor. The Ordering Activity may not return defective Equipment to the Contractor, the Manufacturer or its authorized service provider for repair or replacement without prior consultation and instruction.

8. PURCHASE PRICE FOR ORDERED EQUIPMENT

The purchase price that the Ordering Activity will be charged will be the Ordering Activity purchase price in effect at the time of order placement (which shall not exceed the price agreed to at the time of award of the GSA Schedule contract, as may be revised from time to time through a contract modification agreed to and issued by the GSA Schedule contracting officer), or the Ordering Activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less. Provided, however, that the Ordering Activity shall only be entitled to a lower price if the installation date is no longer than thirty (30) days after the date of order placement.

9. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

10. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT

When an Ordering Activity determines that Information Technology Equipment will be replaced, the Ordering Activity shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY,

COMPUTER AND OFFICE MACHINE REPAIR AND MAINTENANCE (SPECIAL ITEM NUMBER 811212)

1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment whether on-line or in hard copy.
- b. **“Maintenance Services”** shall mean the services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then current Maintenance Services Policy.
- c. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer’s standard maintenance and support offerings, policies and procedures for its Equipment, a copy of which is set forth in Attachment A to this schedule pricelist.
- d. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.

2. SERVICE AREAS

- a. The types/levels of maintenance, geographic scope of availability, and applicable rates vary by Manufacturer and are generally set forth in an applicable Manufacturer’s Maintenance Services Policy. If any additional charge is to apply because of distance from the Contractor’s service locations, the mileage rate or other distance factor shall be negotiated at the Task Order level.
- b. When repair services cannot be performed at the Ordering Activity installation site, the repair services will be performed at the Contractor’s, Manufacturer’s or authorized service provider’s plant(s).

3. MAINTENANCE ORDER

- a. Agencies may use written orders, EDI orders, credit card orders, or BPAs, for ordering maintenance under this contract. The Contractor shall confirm orders within fifteen (15) calendar days from the date of receipt, except that confirmation of orders shall be considered automatic for renewals for maintenance (Special Item Number 132-12). Automatic acceptance of order renewals for maintenance service shall apply for machines which may have been discontinued from use for temporary periods of time not longer than 120 calendar days. If the order is not confirmed by the Contractor as prescribed by this paragraph, the order shall be considered to be confirmed by the Contractor.
- b. The Contractor shall honor orders for Maintenance Services for the duration of the contract period or a lesser period of time, for the Equipment shown in the schedule pricelist. Maintenance Services shall commence on a mutually agreed upon date, which will be written into the maintenance order. Maintenance orders

shall not be made effective before the expiration of any applicable maintenance and parts guarantee/warranty period associated with the purchase of Equipment. Orders for Maintenance Service shall not extend beyond the end of the contract period.

- c. Maintenance Services may be discontinued by the Ordering Activity on thirty (30) calendar days written notice, or shorter notice when agreed to by the Contractor; such notice to become effective thirty (30) calendar days from the date on the notification. However, the Ordering Activity may extend the original discontinuance date upon written notice to the Contractor, provided that such notice is furnished at least ten (10) calendar days prior to the original discontinuance date.
- d. Annual Funding. When annually appropriated funds are cited on a maintenance order, the period of maintenance shall automatically expire on September 30th of the contract period, or at the end of the contract period, whichever occurs first. Renewal of a maintenance order citing the new appropriation shall be required, if maintenance is to continue during any remainder of the contract period.
- e. Cross-year Funding Within Contract Period. Where an Ordering Activity's specific appropriation authority provides for funds in excess of a 12-month, fiscal year period, the Ordering Activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- f. Ordering Activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of Maintenance Services, if maintenance is to be terminated at that time. Orders for continued maintenance will be required if maintenance is to be continued during the subsequent period.

4. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS

Repair service and repair parts/spare parts orders are not available under the scope of this schedule contract.

5. LOSS OR DAMAGE

- a. When the Contractor, through the Manufacturer, or its authorized service provider removes equipment to its establishment for repairs, the Contractor shall be responsible for any damage or loss, from the time the Equipment is removed from the Ordering Activity installation, until the equipment is returned to such installation.
- b. When Equipment is returned by Ordering Activity to the Contractor through the Manufacturer's or its authorized service provider's facility for repairs, the Ordering Activity shall be responsible for any loss or damage to the Equipment being returned by the Ordering Activity for repair. Contractor shall only be responsible for any loss or damage while the Equipment is at the Contractor's or its Manufacturer's or authorized

service provider's facility and until it is returned to the Ordering Activity's location.

6. SCOPE

- a. In exchange for the applicable fees, the Contractor, through the Manufacturer or its authorized service provider shall provide Maintenance Services for all Equipment listed herein, as requested by the Ordering Activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the Equipment types/models within the scope of this Information Technology Schedule.
- b. Equipment placed under Maintenance Service shall be in good operating condition.
 - 1) In order to determine that the Equipment is in good operating condition, the Equipment shall be subject to inspection by the Contractor through the Manufacturer or its authorized service provider without charge to the Ordering Activity.
 - 2) Costs of any repairs performed for the purpose of placing the Equipment in good operating condition shall be borne by the Contractor, provided the Equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.
 - 3) If the Equipment was not under the Contractor's responsibility, the costs necessary to place the Equipment in proper operating condition shall be borne by the Ordering Activity, in accordance with the provisions of Special Item Number 132-12 (or outside the scope of this contract).
 - 4) Contractor shall have no obligation to provide Maintenance Services for Equipment that has been modified by Ordering Activity, is in disrepair or subject to any other exclusions as set out in Manufacturer's Maintenance Services Policy.

7. RESPONSIBILITIES OF THE ORDERING ACTIVITY

- a. Ordering Activity personnel shall not perform maintenance or attempt repairs to Equipment while such Equipment is under the purview of a maintenance order, unless agreed to by the Contractor. The Ordering Activity will follow Contractor's designated procedures when returning Equipment to Contractor's, Manufacturer's or its authorized service provider's facility for repairs.
- b. Subject to security regulations, the Ordering Activity shall permit access to the Equipment, which is to be maintained or repaired by Contractor, Manufacturer or its authorized service provider.

- c. If the Ordering Activity desires a factory authorized/certified service personnel, then this should be clearly stated in the task or delivery order.

8. RESPONSIBILITIES OF THE CONTRACTOR

- a. For Equipment not covered by a maintenance contract or warranty, the Contractor, through the Manufacturer's or its authorized service provider's repair service personnel shall complete repairs as soon as reasonably possible after notification by the Ordering Activity that service is required.
- b. If the Ordering Activity task or delivery order specifies factory authorized/certified service personnel then the Contractor is obligated to provide such factory authorized/certified service personnel for the Equipment to be repaired or serviced, unless otherwise agreed to in advance between the Ordering Activity and the Contractor.

9. MAINTENANCE RATE PROVISIONS

- a. For Equipment under monthly Maintenance Services, the Contractor shall bear all costs of maintenance, including labor, parts, and such other expenses as are necessary to keep the Equipment in good operating condition, provided that the required repairs are not occasioned by fault or negligence of the Ordering Activity.
- b. **REGULAR HOURS.** The basic monthly rate for each makes and model of Equipment shall entitle the Ordering Activity to the Maintenance Services as set forth in the applicable Manufacturer's Maintenance Services Policy.
- c. **AFTER HOURS.** Should the Ordering Activity require that maintenance be performed outside of Regular Hours, charges for such maintenance, if any, will be specified in the pricelist or in the applicable Manufacturer's Maintenance Services Policy. Periods of less than one hour will be prorated to the nearest quarter hour.
- d. **TRAVEL AND TRANSPORTATION.** If any charge is to apply, over and above the regular maintenance rates, because of the distance between the Ordering Activity location and the Contractor's service area, the charge will be negotiated at the Task Order level.
- e. **QUANTITY DISCOUNTS.** Quantity discounts from listed Maintenance Services rates for multiple Equipment owned and/or leased by a Ordering Activity are not provided under this schedule contract unless otherwise specified by a Manufacturer in the pricelist.

10. REPAIR SERVICE RATE PROVISIONS

Repair service rate fees and provisions for Equipment not under monthly Maintenance Services are not available under the scope of this schedule contract.

11. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

Repair parts/spare parts rate provisions after the expiration of the guarantee/warranty provisions are not available under the scope of this schedule contract.

12. GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS

Guarantee/warranty-repair parts/spare parts after the expiration of the guarantee/warranty provisions are not available under the scope of this schedule contract.

13. INVOICES AND PAYMENTS

Invoices for Maintenance Services shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

Payment for Maintenance Services of less than one month's duration shall be prorated at 1/30th of the monthly rate for each calendar day.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE SUBCATEGORY, SOFTWARE LICENSES (SPECIAL ITEM NUMBER 511210) AND SOFTWARE MAINTENANCE SERVICES (SPECIAL ITEM NUMBER 54151)

1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer's then current help guides, and manuals issued by Manufacturer and made generally available by Manufacturer for the Software whether on-line or in hard copy. Documentation shall include any updated Documentation that Manufacturer provides with any updates.
- b. **“Maintenance Services”** shall mean the Software maintenance and support services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer's then current Maintenance Services Policy.
- c. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer's standard Software maintenance and support offerings, policies and procedures, a copy of which is located on Attachment A to this schedule pricelist.
- d. **“Software”** shall mean (i) the version of the computer program identified on Attachment B and (ii) updates to such programs.

2. INSPECTION/ACCEPTANCE

The Contractor shall only deliver those items ordered that substantially conform to the requirements of this contract and the Software's Documentation. Therefore, items delivered shall be deemed accepted upon delivery. The Ordering Activity reserves the right to inspect or test any Software that has been delivered. The Ordering Activity may require repair or replacement of nonconforming Software at no increase in contract price. The Ordering Activity must exercise its post-acceptance rights (1) within the warranty period as set forth below; and (2) before any

substantial change occurs in the condition of the Software, unless the change is due to the defect in the Software.

3. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the warranties extended to the Ordering Activity for Software and Documentation, and the exclusions and disclaimers applicable to such warranties, shall be as set forth on Attachment A to this schedule pricelist (Contractor Supplemental Pricelist Information and Incorporated Terms). Notwithstanding anything to the contrary that may be marked on or provided with the Software or Documentation, the parties understand and agree that such warranties, exclusions and disclaimers follow the applicable Manufacturer's standard commercial warranties, exclusions and disclaimers but are provided to the Ordering Activity by the Contractor, who will be responsible to the Ordering Activity for all compliance, service and remedies thereunder.

b. Limitation of Liability.

- (1) Exclusion of Consequential Damages. EXCEPT FOR A) A CLAIM OF IP INFRINGEMENT HEREUNDER, OR B) AS PROVIDED IN (b)(iii) BELOW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES provided however, that in the event Ordering Activity makes unauthorized copies of the Software, Contractor shall be entitled to recover the full amount of any license fees that would relate to such copies.
- (2) Limitation of Direct Damages. Except for a) a claim of IP Infringement hereunder, or b) as provided in (b)(iii) below, the aggregate and cumulative liability of Contractor and licensors for damages hereunder shall in no event exceed the amount of fees paid by Ordering Activity under the order giving rise to such liability, and if such damages relate to particular Software or Maintenance Services, such liability shall be limited to fees paid for the relevant Software or Maintenance Services giving rise to the liability.
- (3) Non-Applicability to Statutory or Regulatory Rights. Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover for fraud or crimes arising out of or

relating to this contract under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733), or (b) to express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into this contract, including without limitation the GSAR 552.215-72 Price Adjustment – Failure to Provide Accurate Information (August 1997) or GSAR 552.238-75 Price Reductions (May 2004) Alternate I (May 2003).

4. TECHNICAL SERVICES

A hot line technical support number for the purpose of providing user assistance and guidance to the Ordering Activity in the implementation of the Software may be provided as part of Maintenance Services.

5. SOFTWARE MAINTENANCE

a. Software maintenance as it is defined:

- (1) Software Maintenance as a Product (SIN 511210)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that is included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self-diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

- (2) Software Maintenance as a Service (SIN 54151)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized

support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

- b. If purchased by Ordering Activity, Contractor, through the applicable Manufacturer, shall provide Maintenance Services for the Software pursuant to the applicable Manufacturer's then current Maintenance Services Policy. Fees or rates for such Maintenance Services are set forth in Attachment B.
- c. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324) for Maintenance as a Service. PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

6. PERIODS OF TERM LICENSES AND MAINTENANCE

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Term licenses and/or maintenance may be discontinued by the Ordering Activity on thirty (30) calendar days written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.
- d. Cross-Year Funding Within Contract Period. Where an Ordering Activity's specific appropriation authority provides for funds in excess of a 12-month (fiscal year) period, the Ordering Activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- e. Ordering Activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE

Conversion from term licenses to perpetual licenses for any or all Software is not available under the scope of this contract.

Outside the scope of this contract, the Ordering Activity may contact the Manufacturer directly to discuss the permissibility, costs and operation of such conversion(s). Contractor agrees to reasonably assist Ordering Activity in this regard.

8. TERM LICENSE CESSATION

If a term Software license granted hereunder terminates for any reason, Ordering Activity shall (i) cease using the applicable Software, Documentation, and related Confidential Information, and (ii) certify to Contractor within thirty (30) days after termination that Ordering Activity has destroyed, or has returned to Contractor or its Manufacturer the Software, Documentation, related Confidential Information of Contractor and all copies thereof, whether or not modified or merged into other materials.

9. UTILIZATION LIMITATIONS (SIN 511210 AND SIN 54151)

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
 - b. When acquired by the Ordering Activity, commercial computer Software and related Documentation shall be subject to the following:
 - (1) Title to and ownership of the Software and Documentation shall remain with the Contractor or its Manufacturer or licensors, unless otherwise specified. Contractor and its Manufacturers reserve all rights in and to the Software and Documentation not expressly granted to Ordering Activity herein.
 - (2) United States Government Legends. The Software, Documentation and any other technical data provided hereunder is commercial in nature and developed solely at private expense. The Software is delivered as "Commercial Computer Software" as defined in DFARS 252.227-7014 (June 1995) or as a "Commercial Item" as defined in FAR 2.101(a) and as such is provided with only such rights as are provided in Manufacturer's standard commercial license for the Software. Technical data is provided with limited rights only as provided in DFAR 252.227-7015 (Nov. 1995) or FAR 52.227-14 (June 1987), whichever is applicable.
- Contractor grants Ordering Activity only those utilization rights (and reserves the same utilization limitations) as specified in the applicable Manufacturer's commercial license terms, a description of which is set forth on Attachment A to this schedule pricelist and incorporated herein.

Notwithstanding the forgoing, Contractor acknowledges and agrees that Ordering Activity shall have the minimum restricted rights as set forth in 9.b(4) below.

- (3) Except as is provided in paragraph 9.b(2) above, the Ordering Activity shall not provide or otherwise make available the Software or Documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the Ordering Activity who have the Ordering Activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed Software and Documentation only in accordance with these restrictions. This provision does not limit the right of the Ordering activity to use Software, Documentation, or information therein, which the Ordering Activity may already have or obtains without restrictions.
- (4) The Ordering Activity shall have the right to use the computer Software and Documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of Disaster Recovery, the Ordering Activity has the right to transfer the Software to another site if the Ordering Activity site for which it is acquired is deemed to be unsafe for Ordering Activity personnel; to use the computer Software and Documentation with a backup computer when the primary computer is inoperative; and to copy computer Software for safekeeping (archive) or backup purposes; to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.
- (5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.
- (6) The Software and Documentation hereunder is offered by the Contractor under licenses customarily provided to the public. The Contractor does not

furnish technical information related to commercial computer Software (or commercial computer software Documentation) that is not customarily provided to the public. Further, the Contractor does not relinquish rights to use, modify, reproduce, release, perform, display, or disclose commercial computer Software (or commercial computer Software Documentation) except as mutually agreed to by the parties. See 48 CFR 12.212.

- (7) Nondisclosure. Ordering Activity may have access to information that is confidential to Contractor or its Manufacturers ("Confidential Information"). Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential. Contractor's Confidential Information shall include, but not be limited to, the Software, Documentation, all materials provided to Ordering Activity in the course of performing Maintenance Services hereunder, formulas, methods, know how, processes, designs, new products, developmental work, marketing requirements, marketing plans, customer names, prospective customer names, and the terms and pricing hereunder, regardless of whether such information is identified as confidential. Confidential Information includes all information received from third parties that Contractor is obligated to treat as confidential.

Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information. In addition, if Ordering Activity recommends to Contractor additional features, functionality, or performance or if Contractor retains generalized information hereunder that Contractor or its Manufacturer subsequently incorporates into its product or service offerings, then with respect to such recommendations and information, Ordering Activity hereby (a) grants

Contractor a worldwide, non-exclusive, royalty-free, perpetual right and license to use and incorporate such recommendations and such information into such offerings, and (b) acknowledges that all right and title to such offerings incorporating such recommendations and information shall be the sole and exclusive property of Contractor or its Manufacturer and all such recommendations and information shall be free from any confidentiality restrictions that might otherwise be imposed upon Contractor pursuant to this section.

Further, this section will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required by law or valid order of a court or other governmental authority.

Ordering Activity shall not disclose the results of any performance tests of the Software to any third party without Contractor's prior written approval. Ordering Activity agrees to hold Confidential Information in confidence and to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in breach of these Terms and Conditions. Ordering Activity acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this section, and that such breach would cause irreparable harm to Contractor; therefore, Contractor shall be entitled to seek immediate injunctive relief, in addition to whatever remedies it might have at law or under these terms and conditions.

- (8) Verification. At Contractor's written request, but not more frequently than annually, Ordering Activity shall furnish Contractor with a document signed by Ordering Activity's authorized representative verifying that the Software is being used pursuant to the provisions of this contract. To the extent permitted by and subject to an Ordering Activity's security requirements (including, but not limited to, use of cleared personnel, badging and other requirements). Contractor reserves the right to audit Ordering Activity's use of the Software no more than once annually at Contractor's expense. Contractor shall schedule any audit at least thirty (30) days in advance. Any such audit shall be conducted during regular business hour at Ordering Activity's facilities and shall not unreasonably

interfere with Ordering Activity's business.

- (9) Intellectual Property Infringement. If a third party makes a claim against Ordering Activity that the Software directly infringes any patent, copyright, or trademark or misappropriates any trade secret ("IP Claim"); Contractor will (i) assist in defending Ordering Activity against the IP Claim at Contractor's cost and expense, and (ii) pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Ordering Activity by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Contractor arising out of such IP Claim; provided that: (i) Ordering Activity promptly notifies Contractor in writing no later than sixty (60) days after Ordering Activity's receipt of notification of a potential claim and (ii) Ordering Activity provides Contractor, at Contractor's request and expense, with the assistance, information and authority necessary to perform Contractor's obligations under this Section. Notwithstanding the foregoing, Contractor shall have no liability for any claim of infringement based on (a) the use of a superseded or altered release of the Software if the infringement would have been avoided by the use of a current unaltered release of the Software, (b) the modification of the Software, (c) the use of the Software other than in accordance with the Documentation or this contract, or (d) any materials or information provided to Contractor by Ordering Activity, for which Ordering Activity shall be solely responsible.

If the Software is held to infringe or are believed by Contractor to infringe, Contractor shall have the option, at its expense, to (a) replace or modify the Software to be non-infringing, or (b) obtain for Ordering Activity a license to continue using the Software. If it is not commercially reasonable to perform either of the foregoing options, then Contractor may terminate the Program license for the infringing Software and refund the license fees paid for the Software upon return of the Software by Ordering Activity. This section states Contractor's entire liability and Ordering Activity's exclusive remedy for any claim of infringement.

- (10) Delivery. All Software and Documentation provided by Contractor hereunder shall be deemed to be delivered by Contractor: 1) Upon physical delivery, or 2) Once the Software is made available to Ordering

Activity via electronic download by provision of a license key, link to a website, FTP site or similar site from which the Ordering Activity can electronically download or otherwise access the Software and Documentation.

10. SOFTWARE CONVERSIONS

Conversion from one version of the Software to another such as the result of a change in operating system, or from one computer system to another is not available under the scope of the contract.

Outside the scope of this contract, the Ordering Activity may contact the Manufacturer directly to discuss the permissibility, costs and operation of such conversion(s). Contractor agrees to reasonably assist Ordering Activity in this regard.

11. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

For information concerning supported hardware or compatibility requirements the Ordering Activity is advised to contact the Contractor or the applicable Manufacturer.

12. RIGHT TO COPY PRICING

Right-to-copy license pricing is not available under the scope of this contract unless specifically specified in the pricelist. The Ordering Activity must contact the Manufacturer directly to discuss the applicability and associated costs of right-to-copy pricing.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CLOUD AND CLOUD-RELATED IT PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 518210C)

1. SCOPE

The prices, terms and conditions stated under Special Item Number (SIN) 518210C Cloud Computing Services apply exclusively to Cloud Computing Services within the scope of this Information Technology Schedule.

This SIN provides ordering activities with access to technical services that run-in cloud environments and meet the NIST Definition of Cloud Computing Essential Characteristics. Services relating to or impinging on cloud that do not meet all NIST essential characteristics should be listed in other SINs.

The scope of this SIN is limited to cloud capabilities provided entirely as a service. Hardware, software and other artifacts supporting the physical construction of a private or other cloud are out of scope for this SIN. Currently, an Ordering Activity can procure the hardware and software needed to build on premise cloud functionality, through combining different services on other Federal Supply Schedule SINs (e.g. 54151S).

Sub-categories in scope for this SIN are the three NIST Service Models: Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS). Offerors may optionally select a single sub-category that best fits a proposed cloud service offering. Only one sub-category may be selected per each proposed cloud service offering. Offerors may elect to submit multiple cloud service offerings, each with its own single sub-category. The selection of one of three sub-categories does not

prevent Offerors from competing for orders under the other two sub-categories.

See service model guidance for advice on sub-category selection.

Sub-category selection within this SIN is optional for any individual cloud service offering, and new cloud computing technologies that do not align with the aforementioned three sub-categories may be included without a sub-category selection so long as they comply with the essential characteristics of cloud computing as outlined by NIST.

See Table 1 for a representation of the scope and sub-categories.

Table 1: Cloud Computing Services SIN

SIN Description	Sub-Categories ¹
<ul style="list-style-type: none"> ● Commercially available cloud computing services ● Meets the National Institute for Standards and Technology (NIST) definition of Cloud Computing essential characteristics ● Open to all deployment models (private, public, community or hybrid), vendors specify deployment models 	<p>1. Software as a Service (SaaS): Consumer uses provider’s applications on cloud infrastructure. Does not manage/control platform or infrastructure. Limited application level configuration may be available.</p> <p>2. Platform as a Service (PaaS): Consumer deploys applications onto cloud platform service using provider-supplied tools. Has control over deployed applications and some limited platform configuration but does not manage the platform or infrastructure.</p> <p>3. Infrastructure as a Service (IaaS): Consumer provisions computing resources. Has control over OS, storage, platform, deployed applications and some limited infrastructure configuration, but does not manage the infrastructure.</p>
<p>¹ Offerors may optionally select the single sub-category that best fits each cloud service offering, per Service Model Guidance, or select no sub-category if the offering does not fit an existing NIST service model.</p>	

2. DESCRIPTION OF CLOUD COMPUTING SERVICES AND PRICING

a. Service Description Requirements for Listing Contractors

The description requirements below are in addition to the overall Schedule 70 evaluation criteria described in SCP-FSS-001-N Instructions Applicable to New Offerors (Alternate I – MAR 2016) or SCP-FSS-001-S Instructions Applicable to Successful FSS Program Contractors, as applicable, SCP-FSS-004 and other relevant publications.

Refer to overall Federal Supply Schedule requirements for timelines related to description and other schedule updates, including but not limited to clauses 552.238-81 – section E and clause I-FSS-600.

Table 2 summarizes the additional Contractor-provided description requirements for services proposed under the Cloud Computing Services SIN. All mandatory description requirements must be complete, and adequate according to evaluation criteria.

In addition, there is one “Optional” reporting description which exists to provide convenient service selection by relevant criteria. Where provided, optional description requirements must be complete and adequate according to evaluation criteria:

- (1) The NIST Service Model provides sub-categories for the Cloud SIN and is strongly encouraged, but not required. The Service Model based sub-categories provide this SIN with a structure to assist ordering activities in locating and comparing services of interest. Contractors may optionally select the single service model most closely corresponding to the specific service offering.
- (2) If a sub-category is selected it will be evaluated with respect to the NIST Service Model definitions and guidelines in “Guidance for Contractors”.

b. Pricing of Cloud Computing Services

All current pricing requirements for Schedule 70, including provision SCP-FSS-001-N (Section III Price Proposal), SCP-FSS-001-S, SCP-FSS-004 (Section III Price Proposal), and clause I-FSS-600 Contract Price Lists, apply. At the current time there is no provision for reducing or eliminating standard price list posting requirements to accommodate rapid cloud price fluctuations.

In addition to standard pricing requirements, all pricing models must have the core capability to meet the NIST Essential Cloud Characteristics, particularly with respect to on-demand self-service, while allowing alternate variations at the task order level at agency discretion, pursuant to the guidance on NIST Essential Characteristics.

3. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character.

a. Acceptance Testing

Any required Acceptance Test Plans and Procedures shall be negotiated by the Ordering Activity at task order level. The Contractor shall perform acceptance testing of the systems for Ordering Activity approval in accordance with the approved test procedures.

b. Training

If training is provided commercially the Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system. Contractor is responsible for indicating if there are separate training charges.

c. Information Assurance/Security Requirements

The contractor shall meet information assurance/security requirements in accordance with the Ordering Activity requirements at the Task Order level.

d. Related Professional Services

The Contractor is responsible for working with the Ordering Activity to identify related professional services and any other services available on other SINs that may be associated with deploying a complete cloud solution. Any additional substantial and ongoing professional services related to the offering such as integration, migration, and other cloud professional services are out of scope for this SIN.

e. Performance of Cloud Computing Services

The Contractor shall respond to Ordering Activity requirements at the Task Order level with proposed capabilities to Ordering Activity performance specifications or indicate that only standard specifications are offered. In all cases the

Table 2: Cloud Service Description Requirements

#	Descriptions Requirement	Reporting Type	Instructions
1	Provide a brief written description of how the proposed cloud computing services satisfies each individual essential NIST Characteristic	Mandatory	The cloud service must be capable of satisfying each of the five NIST essential Characteristics as outlined in NIST Special Publication 800-145. See ‘GUIDANCE FOR CONTRACTORS: NIST Essential Characteristics’ below in this document for detailed overall direction, as well as guidance on inheriting essential characteristics.
2	Select NIST deployment models for the cloud computing service proposed.	Mandatory	Contractors must select at least one NIST deployment model as outlined in NIST Special Publication 800-145 describing how the proposed cloud computing service is deployed. Select multiple deployment models if the service is offered in more than one deployment model. See ‘GUIDANCE FOR CONTRACTORS: NIST Deployment Model’ below in this document for detailed direction on how to best categorize a service for the NIST deployment models.
3	Optionally select the most appropriate NIST service model that will be the designated sub-category or may select no sub-category.	Optional	Contractor may select a single NIST Service model to sub-categorize the service as outlined in NIST Special Publication 800-145. Sub-category selection is optional but recommended. See ‘GUIDANCE FOR CONTRACTORS: NIST Service Model’ below in this document for detailed direction on how to best categorize a service for the NIST IaaS, PaaS, and SaaS service models.

Contractor shall clearly indicate standard service levels, performance and scale capabilities.

The Contractor shall provide appropriate cloud computing services on the date and to the extent and scope agreed to by the Contractor and the Ordering Activity.

f. Reporting

The Contractor shall respond to Ordering Activity requirements and specify general reporting capabilities available for the Ordering Activity to verify performance, cost and availability.

In accordance with commercial practices, the Contractor may furnish the Ordering Activity/user with a monthly summary Ordering Activity report.

4. RESPONSIBILITIES OF THE ORDERING ACTIVITY

The Ordering Activity is responsible for indicating the cloud computing services requirements unique to the Ordering Activity. Additional requirements should not contradict existing SIN or IT Schedule 70 Terms and Conditions. Ordering Activities should include (as applicable) Terms & Conditions to address Pricing, Security, Data Ownership, Geographic Restrictions, Privacy, SLAs, etc.

Cloud services typically operate under a shared responsibility model, with some responsibilities assigned to the Cloud Service Provider (CSP), some assigned to the Ordering Activity, and others shared between the two. The distribution of responsibilities will vary between providers and across service models. Ordering activities should engage with CSPs to fully understand and evaluate the shared responsibility model proposed. Federal Risk and Authorization Management Program (FedRAMP) documentation will be helpful regarding the security aspects of shared responsibilities, but operational aspects may require additional discussion with the provider.

a. Ordering Activity Information Assurance/Security Requirements Guidance

- (1) The Ordering Activity is responsible for ensuring to the maximum extent practicable that each requirement issued is in compliance with the Federal Information Security Management Act (FISMA) as applicable.
- (2) The Ordering Activity shall assign a required impact level for confidentiality, integrity and availability (CIA) prior to issuing the initial statement of work.¹

The Contractor must be capable of meeting at least the minimum-security requirements assigned against a low-impact information system in each CIA assessment area (per FIPS 200) and must detail the FISMA capabilities

of the system in each of CIA assessment area.

- (3) Agency level FISMA certification, accreditation, and evaluation activities are the responsibility of the Ordering Activity. The Ordering Activity reserves the right to independently evaluate, audit, and verify the FISMA compliance for any proposed or awarded Cloud Computing Services.
- (4) The Ordering Activity has final responsibility for assessing the FedRAMP status of the service, complying with and making a risk-based decision to grant an Authorization to Operate (ATO) for the cloud computing service, and continuous monitoring. A memorandum issued by the Office of Management and Budget (OMB) on Dec 8, 2011 outlines the responsibilities of Executive departments and agencies in the context of FedRAMP compliance.²
- (5) Ordering activities are responsible for determining any additional information assurance and security related requirements based on the nature of the application and relevant mandates.

b. Deployment Model

If a particular deployment model (Private, Public, Community, or Hybrid) is desired, Ordering Activities are responsible for identifying the desired model(s). Alternately, Ordering Activities could identify requirements and assess Contractor responses to determine the most appropriate deployment model(s).

c. Delivery Schedule

The Ordering Activity shall specify the delivery schedule as part of the initial requirement. The Delivery Schedule options are found in Information for Ordering Activities Applicable to All Special Item Numbers.

d. Interoperability

Ordering Activities are responsible for identifying interoperability requirements. Ordering Activities should clearly delineate requirements for API implementation and standards conformance.

e. Performance of Cloud Computing Services

The Ordering Activity should clearly indicate any custom minimum service levels, performance and scale requirements as part of the initial requirement.

¹ Per Federal Information Processing Standards Publication 199 & 200 (FIPS 199, "Standards for Security Categorization of Federal Information and Information Systems") (FIPS 200, "Minimum Security Requirements for Federal Information and Information Systems")

² MEMORANDUM FOR CHIEF INFORMATION OFFICERS: Security Authorization of Information Systems in Cloud Computing Environments. December 8, 2011

f. Reporting

The Ordering Activity should clearly indicate any cost, performance or availability reporting as part of the initial requirement.

g. Privacy

The Ordering Activity should specify the privacy characteristics of their service and engage with the Contractor to determine if the cloud service is capable of meeting Ordering Activity requirements. For example, a requirement could be requiring assurance that the service is capable of safeguarding Personally Identifiable Information (PII), in accordance with NIST SP 800-1224³ and OMB memos M-06-16⁴ and M-07-16⁵. An Ordering Activity will determine what data elements constitute PII according to OMB Policy, NIST Guidance and Ordering Activity policy.

h. Accessibility

The Ordering Activity should specify the accessibility characteristics of their service and engage with the Contractor to determine the cloud service is capable of meeting Ordering Activity requirements. For example, a requirement could require assurance that the service is capable of providing accessibility based on Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

i. Geographic Requirements

Ordering activities are responsible for specifying any geographic requirements and engaging with the Contractor to determine that the cloud services offered have the capabilities to meet geographic requirements for all anticipated task orders. Common geographic concerns could include whether service data, processes and related artifacts can be confined on request to the United States and its territories, or the continental United States (CONUS).

j. Data Ownership and Retrieval and Intellectual Property

Intellectual property rights are not typically transferred in a cloud model. In general, CSPs retain ownership of the Intellectual Property (IP) underlying their services and the customer retains ownership of its intellectual property. The CSP gives the customer a license to use the cloud services for the duration of the contract without transferring rights. The government retains ownership of the IP and data they bring to the customized use of the service as spelled out in the FAR and related materials.

General considerations of data ownership and retrieval are covered under the terms of Schedule 70 and the FAR and other laws, ordinances, and regulations (Federal, State, City, or otherwise).

Because of considerations arising from cloud shared responsibility models, ordering activities should engage with the Contractor to develop more cloud-specific understandings of the boundaries between data owned by the government and that owned by the cloud service provider, and the specific terms of data retrieval.

In all cases, the Ordering Activity should enter into an agreement with a clear and enforceable understanding of the boundaries between government and cloud service provider data, and the form, format and mode of delivery for each kind of data belonging to the government.

The Ordering Activity should expect that the Contractor shall transfer data to the government at the government's request at any time, and in all cases when the service or order is terminated for any reason, by means, in formats and within a scope clearly understood at the initiation of the service. Example cases that might require clarification include status and mode of delivery for:

- Configuration information created by the government and affecting the government's use of the cloud provider's service.
- Virtual machine configurations created by the government but operating on the cloud provider's service.
- Profile, configuration and other metadata used to configure SaaS application services or PaaS platform services.

The key is to determine in advance the ownership of classes of data and the means by which Government owned data can be returned to the Government.

k. Service Location Distribution

The Ordering Activity should determine requirements for continuity of operations and performance and engage with the Contractor to ensure that cloud services have adequate service location distribution to meet anticipated requirements. Typical concerns include ensuring that:

- (1) Physical locations underlying the cloud are numerous enough to provide continuity of operations and geographically separate enough to avoid an anticipated single point of failure within the scope of anticipated emergency events.
- (2) Service endpoints for the cloud are able to meet anticipated performance

³ NIST SP 800-122, "Guide to Protecting the Confidentiality of Personally Identifiable Information (PII)"

⁴ OMB memo M-06-16: Protection of Sensitive Agency Information Hyperlink: <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2006/m06-16.pdf>

⁵ OMB Memo M-07-16: Safeguarding Against and Responding to the Breach of Personally Identifiable Information. Hyperlink:

<http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf>

requirements in terms of geographic proximity to service requestors.

Note that cloud providers may address concerns in the form of minimum distance between service locations, general regions where service locations are available, etc.

I. Related Professional Services

Ordering activities should engage with Contractors to discuss the availability of limited assistance with initial setup, training and access to the services that may be available through this SIN.

Any additional substantial and ongoing professional services related to the offering such as integration, migration, and other cloud professional services are out of scope for this SIN. Ordering activities should consult the appropriate GSA professional services schedule.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CONTINUOUS DIAGNOSTICS AND MITIGATION (CDM) TOOLS (SPECIAL ITEM NUMBER 541519CDM)

1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment and/or Software whether on-line or in hard copy.
- b. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.
- c. **“Equipment Maintenance Services”** shall mean the Equipment maintenance services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then-current Maintenance Services Policy.
- d. **“Software Maintenance Services”** shall mean the Software maintenance and support services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then current Maintenance Services Policy.
- e. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer’s standard Equipment or Software maintenance and support offerings, policies and procedures, a copy of which is located on Attachment A to this schedule pricelist.
- f. **“Services”** shall mean services associated with products, other than Software Maintenance Services, Equipment Maintenance Services, and training.

- g. **“Software”** shall mean (i) the version of the computer program identified on Attachment B and (ii) updates to such programs.

2. SCOPE

- a. Special Item Number (SIN) 541519CDM Continuous Diagnostics and Mitigation (CDM) Tools is a solutions SIN. This SIN includes both Equipment and Software products and any associated services for the products to include installation, maintenance, and training.
- b. In addition to the terms and conditions of this CDM SIN: the terms and conditions of SIN 33411 shall apply to the purchase of Equipment provided under the CDM SIN; the terms and conditions of SIN 811212 shall apply to Equipment Maintenance Services provided under the CDM SIN; the terms and conditions of SINs 511210 and 54151 shall apply to Software and Software Maintenance Services provided under the CDM SIN; and the terms and conditions of SIN 611420 shall apply to the purchase of training courses provided under the CDM SIN.
- c. 541519CDM - Continuous Diagnostics and Mitigation Tools - SUBJECT TO COOPERATIVE PURCHASING - Includes Continuous Diagnostics and Mitigation (CDM) Approved Products List (APL) Equipment and Software products/tools and associated Services and Maintenance Services. The full complement of CDM subcategories includes tools, associated Maintenance Services, and other related activities such as training.
- d. The 5 subcategories CDM capabilities specified under this SIN are:
 - (1) Manage “What is on the network?”: Identifies the existence of hardware, software, configuration characteristics and known security vulnerabilities.
 - (2) Manage “Who is on the network?”: Identifies and determines the users or systems with access authorization, authenticated permissions and granted resource rights.
 - (3) Manage “How is the network protected?”: Determines the user/system actions and behavior at the network boundaries and within the computing infrastructure.
 - (4) Manage “What is happening on the network?”: Prepares for events/incidents, gathers data from appropriate sources; and identifies incidents through analysis of data.
 - (5) Emerging Tools and Technology: Includes CDM cybersecurity tools and technology not in any other subcategory.

5 subcategories represent the scope of the CDM program and reflect widely exercised functional

and operational scenarios that CDM is interested in identifying, monitoring and addressing from a security perspective.

To provide a holistic security approach, these capabilities adhere to the National Institute of Science and Technology (NIST) Cybersecurity Framework security functions to identify, protect, detect, respond and recover. CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

As shown in Table 1, the 5 CDM Tools SIN subcategories cover the previous CDM BPA 15 CDM Tool Functional Areas (TFAs) and allow for future innovation.

Table 1: SIN to TFA mapping

5 SIN Subcategories	15 CDM BPA TFAs
1. Manage “What is on the network?”	<ul style="list-style-type: none"> ● TFA 1 – Hardware Asset Management ● TFA 2 – Software Asset Management ● TFA 3 – Configuration Settings Management ● TFA 4 – Vulnerability Management
2. Manage “Who is on the network?”	<ul style="list-style-type: none"> ● TFA 6 – Manage Trust in People Granted Access ● TFA 7 – Manage Security-Related Behavior ● TFA 8 – Manage Credential and Authentication ● TFA 9 – Manage Account/Access/Manage Privileges
3. Manage “How is the boundary protected?” for BOUND	<ul style="list-style-type: none"> ● TFA 5 – Manage Network Access Controls
4. Manage “What is happening on the network?” for MNGEVT	<ul style="list-style-type: none"> ● TFA 10 – Prepare for Contingencies and Incidents ● TFA 11 – Respond to Contingencies and Incidents
4. Manage “What is happening on the network?” for DBS	<ul style="list-style-type: none"> ● TFA 12 – Design and Build in Requirements Policy and Planning ● TFA 13 – Design and Build in Quality
4. Manage “What is happening on the network?” for OMI	<ul style="list-style-type: none"> ● TFA 14 – Manage Audit Information ● TFA 15 – Manage Operation Security
5. Emerging Tools and Technologies	Future innovations

(1) Manage “What is on the network?”

Focus: The primary focus of Manage Assets is to identify “What is on the network?”; that is, to identify the existence of hardware, software, configuration characteristics and known security vulnerabilities.

Manage hardware and software baseline system inventory is based on Phase 1 Hardware Asset Management (HWAM) and Software Asset Management (SWAM) requirements that requires the discovery and identification of devices to define a baseline of inventory hardware and software assets to establish the Agency’s span of control.

Hardware and software configurations are based on Phase 1 Configuration Settings Management (CSM) requirements to ensure

that hardware and software (specifically the operating system and installed applications) assets are securely configured and hardened.

Manage vulnerabilities is based on Phase 1 Vulnerability Management (VUL) requirements to identify and manage vulnerabilities in software installed on network devices to minimize exploitation of known software weaknesses.

These CDM capabilities cover verification and validation for the existence of hardware infrastructure devices; the accurate identification of approved software components; verification and validation that hardware devices have the correct security configuration settings, and system platform is hardened to reduce the platform attack surface; and the identification and management of risks presented by known software weaknesses that are subject to exploitation.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

(2) Manage “Who is on the network?”

Focus: The primary focus of Manage People is to determine “Who is on the network?”; that is, identify and determine the users or systems with authorized access.

Manage People is based on Phase 2 PRIV, CRED, TRUST and BEHAVE requirements that require the management of users/accounts as an asset to assure the appropriate individual has the right access to the right resource.

This CDM capability covers the verification and validation of allowed user privileges, issuance and management of user owned credentials, appropriate user security behavior training, trustworthiness, authenticated permissions, and management of resource access rights granted to users.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

(3) Manage “How is the boundary protected?”

Focus: The primary focus of Manage Boundary Protection is to determine “How is the boundary protected?”; that is, to determine the user/system actions and behavior at the physical/logical network boundaries and within the computing infrastructure.

“How is the boundary protected?” is based on Phase 3 BOUND requirements to defend physical and logical network boundaries and identify abnormal behavior (of networks and users) that may identify that an incident has occurred.

This CDM capability covers verification and validation of logical and physical network interfaces to reduce intrusive, malicious, and disruptive attacks; cryptographic mechanisms ensure confidentiality and integrity of data on the network; and methods to identify security incidents.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

(4) Manage “What is happening on the network?”

Due to the complexity to manage “What is happening on the network?”; this area is covered by three focus areas:

- a. Manage Events (MNGEVT)
- b. Operate, Monitor and Improve (OMI)
- c. Design and Build in Security (DBS)

Manage Events

Focus: Manage Events is responsible for preparing for events/incidents, gathering appropriate audit data from appropriate sources, identifying incidents through analysis of data, and performing ongoing assessment.

Manage Events is based on the Phase 3 MNGEVT requirements to prepare for incidents/events (through processes, policies, and procedures), gather appropriate audit/log data from appropriate sources, and identify events/incidents (network and user abnormal behavior) through the analysis of audit/log data.

Manage Events supports the runtime collection of attributes (actual state) and continuous monitoring of the policies related to attributes for Ongoing Assessment (actual state vs. desired state) to enhance current or apply new security and privacy controls and countermeasures. The results of the Ongoing Assessment will be used as inputs to OMI Ongoing Authorization risk assessment process to determine if the level of risk remains acceptable for a given information system to support continued authorization and operation.

Ongoing Assessment is the continuous process of comparing security related attributes between the Actual State and the Desired State. This comparison is performed by the CDM Policy Decision Point (PDP). The discrepancy between Actual State and Desired state impacts the security posture of the implementation of NIST SP 800-53 controls and countermeasures. The results of the Ongoing Assessment are used to evaluate the changes in risk posture associated with the discrepancy. Ideally, the Ongoing Assessment process is fully automated with the Desired State being encoded in the CDM PDP and the Actual State being measured using CDM sensors.

This CDM capability covers verification and validation of processes, policies, and procedures supporting cybersecurity preparation, audit and log data collection, security analysis of audit/log data, incident reporting to provide forensic evidence of malicious or suspicious behavior, and ongoing assessment.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

Operate, Monitor and Improve

Focus: Operate, Monitor and Improve is responsible for audit data aggregation, correlation, and analysis, incident prioritization and response, and post-incident activities (e.g., information sharing).

Operate, Monitor and Improve is based on Phase 3 OMI requirements for audit data aggregation, correlation and analysis, incident prioritization and response, and post incident activities (e.g., information sharing).

Ongoing Authorization is the continuous evaluation of the change in risk level related to changes in security policies concerning static object attributes (i.e., actual state and desired state) for threat behaviors that impact the security posture. This impact to security is measured by capturing changes in existing safeguards (e.g., NIST SP 800-53 controls and countermeasures) and identification of new component weaknesses and vulnerabilities.

This CDM capability covers verification and validation of processes/procedures to aggregate, correlate, and analyze audit/log data, to prioritize incidents and associated response actions, to quickly mitigate the impact of an incidents, to take appropriate remediation actions to eliminate the impact (restore normal

operations) of the same incident, to support information sharing and collaboration (both internal and external) to minimize or prevent impact of future incidents, and ongoing authorization.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover. CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

Design and Build in Security

Focus: Design and Build in Security is responsible for preventing exploitable vulnerabilities from being effective in the software/system while in development or deployment. The Design and Build in Security process is focused on identifying, controlling and removing weaknesses/vulnerabilities from the software/system. Exploitable vulnerabilities may include software/system design, coding errors, software/system designs that leave a large and complex attack surface that cannot be defended, and weaknesses that can only be exploited during system/software execution.

Design and Build in Security is based on the Phase 3 DBS requirements that extend the focus of Phase 1 Software Asset Management and Vulnerability Management to achieve a level of confidence that software is free from vulnerabilities, either intentionally designed into the software or accidentally inserted at any time during its life cycle and that the software functions in the intended manner.

The U.S. government and critical infrastructure sectors are increasingly dependent on commercial products and systems, which present significant benefits including low cost, interoperability, rapid innovation, a variety of product features, and choice among competing vendors. However, with some of these benefits there is an increase in the risk of a threat event which can directly or indirectly affect the supply chain, which often go undetected, and may result in risks to the acquirer. The purpose of Supply Chain Risk Management (SCRM) is to enable the provisioning of the least vulnerable solutions to agencies, through a robust assessment of supply chain risks, communication about those risks to the agencies, and appropriate response and monitoring of those risks throughout the entire system lifespan.

This CDM capability covers verification and validation of processes/procedures to prevent and detect software vulnerabilities, to determine the provenance of system components, and to measure software assurance for built and acquired software components.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover to security infractions due to malicious behavior and unintentional user actions during normal operations.

(5) Emerging Tools and Technologies

Focus: Innovative capabilities to cybersecurity not currently encompassed by the other capability areas.

3. STANDARDS COMPLIANCE

Contractors providing offerings through the CDM Tools SIN must provide compliant products and services in accordance with the laws and standards cited herein. Additional laws and standards may be applicable to specific orders and Blanket Purchase Agreements.

4. ORDER

- a. Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.
- b. All delivery or task orders are subject to the terms and conditions of the contract. In the event of conflict between an order and the contract, the contract will take precedence.

5. ENTERPRISE USER LICENSE AGREEMENTS REQUIREMENTS (EULA)/COMMERCIAL SUPPLIER AGREEMENTS (CSAs)

The Contractor shall provide all Commercial Supplier Agreements (CSAs) to include End User License Agreements (EULAs) or Terms of Service (ToS) in an editable Microsoft Office (Word) format.

6. TECHNICAL SERVICES

A hotline technical support number for the purpose of providing user assistance and guidance in the implementation of any software provided as part of Equipment Maintenance Services or Software Maintenance Services.

7. PERFORMANCE OF SERVICES ASSOCIATED WITH PRODUCTS

- a. The Contractor shall commence performance of Services on the date agreed to by the Contractor and the Ordering Activity.
- b. The Contractor agrees to render Services during normal working hours, unless otherwise agreed to by the Contractor and the Ordering Activity.
- c. The Ordering Activity should include the criteria for satisfactory completion of each order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of the CDM Tools SIN for a specific requirement at the order level must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts. All travel will be agreed upon with the Ordering Activity prior to the Contractor's travel.

8. RESPONSIBILITIES OF THE CONTRACTOR

- a. The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of an order is custom-developed software, FAR 52.227-14 Rights in Data may apply.

- b. The Contractor shall comply with contract clause (FAR 52.204-21) for the basic safeguarding of contractor information systems that process, store, or transmit Federal contract information (as defined in the contract clause) received by the Contractor in performance of the contract.

9. INVOICES FOR SERVICES

The Contractor, upon completion of the Services ordered, shall submit invoices. FAR 52.212-4 in the contract contains terms for commercial items. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring Services performed during the preceding month

10. DESCRIPTION OF PRODUCTS AND SERVICES AND PRICING

The Contractor shall provide a description of offerings under CDM Tools SIN in the same manner as the Contractor sells to its commercial and Ordering Activity customers. The Contractor shall provide pricing and a description with part numbers for products and the associated services that have been approved as part of the Product Qualification Requirements of the SIN. Any applicable delivery and licensing terms should be included.

11. TOTAL SOLUTION

Labor categories/qualifications are not included in this SIN; however, ordering activities may acquire a total solution to meet a specific requirement for an order or BPA involving multiple Federal Supply Schedule SINs. Contractors report the sales to GSA under the SINs the items are sold. For example, an agency may post an RFQ requesting a total solution anticipating offerings from multiple SINs, such as IT Professional Services 54151S or Highly Adaptive Cybersecurity Services (HACS) 54151HACS along with CDM Tools 541519CDM for products and product associated services.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TRAINING SUBCATEGORY, INFORMATION TECHNOLOGY TRAINING (SPECIAL ITEM NUMBER 611420)

1. GLOSSARY OF DEFINITIONS

- a. **“Training Materials”** shall mean the, manuals, handbooks, texts, handouts, etc. normally provided with course offerings.
- b. **“Training Catalog”** shall mean the document setting out a description of the training services and courses offered along with the related policies and procedures in regard to such training.

2. SCOPE

- a. The Contractor through the Manufacturer shall provide training courses normally available to commercial customers, which will permit Ordering Activity users to make full, efficient use of general-purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's or Manufacturer's facility and/or at

the Ordering Activity's location, as agreed to by the Contractor and the Ordering Activity.

3. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

4. TIME OF DELIVERY

The Contractor or its Manufacturer shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the Ordering Activity.

5. CANCELLATION AND RESCHEDULING

- a. Terms and conditions governing a Manufacturer's cancellation and rescheduling policies are as set forth in the applicable Manufacturer's Training Catalog.
- b. The Ordering Activity reserves the right to substitute one student for another up to the first day of class.
- c. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the Ordering Activity, Contractor must notify the Ordering Activity at least seventy-two (72) hours before the scheduled training date.

6. FOLLOW-UP SUPPORT

Follow-up support to training courses is not available under the scope of this schedule contract unless expressly set forth in an applicable Manufacturer's Training Catalog and, in that case, follow-up support shall be provided as stated therein.

7. PRICE FOR TRAINING

The price that the Ordering Activity will be charged will be the Ordering Activity training price in effect at the time of order placement, or the Ordering Activity price in effect at the time the training course is conducted, whichever is less.

8. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after Ordering Activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

9. FORMAT AND CONTENT OF TRAINING

- a. The Contractor or its Manufacturer shall provide the Training Materials normally provided with course offerings. Unless stated otherwise in an applicable Manufacturer's Training Catalog, such documentation will become the property of the student upon completion of the training class, provided, however, Contractor and or its Manufacturer shall retain all right, title and interest to the intellectual property rights contained therein (e.g., copyrights) and provided further, however, that such Training Materials

shall be considered the Confidential Information of Manufacturer and subject to the non-disclosure provisions set forth above in the terms applicable to SINs 511210 and 54151.

- b. For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.
- c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.
- d. The Training Catalog shall provide most of the following information for each training course offered:
 - (1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
 - (2) The length of the course;
 - (3) Mandatory and desirable prerequisites for student enrollment;
 - (4) The minimum and maximum number of students per class;
 - (5) The locations where the course is offered;
 - (6) Class schedules; and
 - (7) Price (per student, per class (if applicable)).
- e. For those courses conducted at the Ordering Activity's location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- f. For Online Training Courses, a copy of all training material must be available for electronic download by the students.

10. "NO CHARGE" TRAINING

"No charge" training is not available under the scope of this schedule contract.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY ELECTRONIC COMMERCE SUBCATEGORY, ELECTRONIC COMMERCE AND SUBSCRIPTION SERVICES (SPECIAL ITEM NUMBER 54151ECOM)

1. GLOSSARY OF DEFINITIONS

- a. "Service Provider" shall mean a provider of the Electronic Commerce Services

offered to Contractor through a letter of supply to be sold to Ordering Activities under this contract.

- b. “Statement of Work” shall mean the mutually agreed upon document between Contractor and Ordering Activity setting forth the description of services to be performed including milestones, any specifications and evaluation criteria.

2. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 54151ECOM Electronic Commerce (EC) Services apply exclusively to EC Services within the scope of this Information Technology Schedule.
- b. The Contractor, through Service Provider, shall provide services at a location, as agreed to by the Contractor and the Ordering Activity.

3. PERFORMANCE INCENTIVES I-FSS-60 Performance Incentives (April 2000)

- a. Performance incentives may be agreed upon between the Contractor and the Ordering Activity on individual fixed price orders or Blanket Purchase Agreements under this contract.
- b. The Ordering Activity must establish a maximum performance incentive price for the services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, Ordering Activities shall consider establishing incentives where performance is critical to the Ordering Activity’s mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

4. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made, and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.

- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

5. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the Ordering Activity.
- b. The Ordering Activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- c. Any Contractor travel required in the performance of EC Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

6. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

- a. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:
 - i. Cancel the stop-work order; or
 - ii. Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- b. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
- c. The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

- d. The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- e. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

7. INSPECTION OF SERVICES

The Inspection of Services–Fixed Price (AUG 1996) (Deviation – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection–Time and Materials and Labor-Hour (MAY 2001) (Deviation – May 2003) clause at FAR 52.246-6 applies to time and materials and labor-hour orders placed under this contract.

8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product (i.e., deliverable) of a Statement of Work is custom developed software, then FAR 52.227-14 (Deviation – May 2003) Rights in Data – General, may apply.

9. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the Ordering Activity shall permit Contractor access to all facilities necessary to perform the requisite EC Services.

10. INDEPENDENT CONTRACTOR

All EC Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the Ordering Activity.

11. ORGANIZATIONAL CONFLICTS OF INTEREST

- a. Definitions.
 - An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed Ordering Activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.
- b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the Ordering Activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational

conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

12. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for EC services. Progress payments may be authorized by the Ordering Activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

13. PAYMENTS

- a. For firm-fixed price orders the Ordering Activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time and materials orders, the Payments under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to time and materials orders placed under this contract. For labor hour orders, the Payment under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to labor hour orders placed under this contract. 52.216-31 (Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition. As prescribed in 16.601(e)(3), insert the following provision:
 - b. The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.
 - c. The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—
 - i. The offeror;
 - ii. Subcontractors; and/or
 - iii. Divisions, subsidiaries, or affiliates of the offeror under a common control.

14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the Ordering Activity in accordance with the guidelines set forth in the FAR.

15. APPROVAL OF SUBCONTRACTS

The Ordering Activity understands that Contractor, as an authorized reseller, will ultimately subcontract or furnish any of the work called for in a task order or Statement of Work through an applicable Service Provider.

16. DESCRIPTION OF ELECTRONIC COMMERCE (EC) SERVICES AND PRICING

- a. A description of each type of EC Service offered under Special Item Numbers 54151ECOM E-Commerce is set forth in Attachment A. Services and rates should be presented in the same manner as the Contractor sells to its commercial customers and other Ordering Activity customers.
- b. Pricing for all EC Services shall be in accordance with the Contractor's customary commercial practices: e.g., hourly rates, monthly rates, term rates, unit prices and/or fixed prices.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TELECOMMUNICATIONS SUBCATEGORY, WIRELESS MOBILITY SOLUTIONS (SPECIAL ITEM NUMBER 517312)

1. GLOSSARY OF DEFINITIONS

- a. "Service Provider" shall mean a provider of the Wireless Services offered to Contractor through a letter of supply to be sold to Ordering Activities under this contract.

2. ACCEPTANCE TESTING

The Contractor shall provide acceptance test plans and procedures for ordering activity approval. The Contractor shall perform acceptance testing of the systems for ordering activity approval in accordance with the approved test procedures.

3. EQUIPMENT

The Contractor shall make available cellular voice and data devices. The cellular devices offered shall be compatible with the cellular access standards employed within the geographical scope of contract.

The Contractor shall provide programming of any cellular telephone device, including Contractor-provided and ordering activity-furnished devices, that conforms to the cellular service furnished by the Contractor.

4. WARRANTY

The Contractor shall provide a warranty covering each Contractor-provided device. The minimum duration of the warranty shall be the duration of the manufacturer's commercial warranty.

The warranty shall commence upon the later of the following:

- a. Activation of the user's service
- b. Installation/delivery of the equipment

The Contractor, by repair or replacement of the defective item, shall use reasonable commercial efforts to complete all warranty services promptly upon notification of the defect. Warranty service shall be deemed complete when the user has possession of the repaired or replaced item. If the Contractor renders warranty service by replacement, the user shall return the defective item(s) to the Contractor as soon as possible but not later than ten (10) working days after notification.

5. MANAGEMENT AND OPERATIONS PRICING

The Contractor shall provide management and operations pricing on a uniform basis. All management and operations requirements for which pricing elements are not specified shall be provided as part of the basic service.

6. TRAINING

The Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system at the prices specified in Attachment B.

7. MONTHLY REPORTS

In accordance with commercial practices, the Contractor may furnish the Ordering Activity/user with a monthly summary Ordering Activity report.

8. WIRELESS SERVICE PLAN

The wireless service plans offered by Contractor hereunder are listed by applicable Service Provider in Attachment A.

USA COMMITMENT TO PROMOTE SMALL BUSINESS PARTICIPATION PROCUREMENT PROGRAMS

PREAMBLE

(Name of Company) provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

COMMITMENT

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts.

Here is a general outline on how it works:

- The customer identifies their requirements.
- Federal Supply Schedule Contractors may individually meet the customer's needs, or - Federal Supply Schedule Contractors may individually submit a Schedules "Team Solution" to meet the customer's requirement.
- Customers make a best value selection.

ATTACHMENT A - CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

Next Page

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

INSTRUCTIONS: Select the Manufacturer whose supplemental pricelist information and terms you want to view.

Manufacturer Name	
Anakam, Inc.	Kronos Incorporated
BeyondTrust Software, Inc.	MarkLogic Corporation
Bivio Networks, Inc.	MSC Software Corporation
BT Federal	Napatech, Inc.
Cambium Networks	Oversight Systems, Inc.
Carbon Black (FKA Bit9, Inc.)	The Paciello Group
Convergys Customer Management Group, Inc	Pegasystems, Inc.
Dataguise, Inc.	Pitney Bowes Software, Inc.
Decision Lens, Inc.	Planview, Inc.
DS Government Solutions Corp.	Pragma Systems, Inc.
Egenera, Inc.	PTC, Inc.
FireMon, LLC	Qualys, Inc.
Flexera Software, Inc.	RedSeal Systems, Inc.
ForeScout Technologies, Inc.	SecureLogix Corporation
Freedom Scientific	Silver Peak Systems, Inc.
Gigamon	SmartComms LLC.
Hewlett-Packard Company	Upland Software
Hexagon Manufacturing Intelligence, Inc.	Verint Americas, Inc.
Infor, Inc.	Worksoft
Information Builders, Inc.	ZyLab North America, LLC
Kaseya	
Klas Telecom, Inc.	

Anakam, Inc.
11710 Plaza America Drive
Suite 500
Reston, VA 20193

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Anakam, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor’s assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor’s assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

ANAKAM, INC.

ANAKAM LICENSE, WARRANTY AND SUPPORT TERMS

Section 1 - SOFTWARE LICENSE AND SERVICES AGREEMENT

1. DEFINITIONS

- **“Affiliate(s)”** shall mean, with respect to the Ordering Activity: (1) all business units and divisions of Ordering Activity, and (2) any entity controlled by, controlling, or under common control with Ordering Activity. Such entity shall be deemed to be an “Affiliate” only so long as such control exists. Upon request, Ordering Activity agrees to confirm the Affiliate status of a particular entity.
- **“Anakam Materials”** shall mean any materials provided to Ordering Activity by Anakam in the course of performing Services other than Maintenance Services.
- **“Ancillary Program(s)”** shall mean the third party materials delivered with the Programs as specified in one or more Order Forms or the Documentation.
- **“Commencement Date”** shall mean the date on which the Program(s) specified in an Order Form is first delivered to

Ordering Activity.

- **“Documentation”** shall mean Anakam’s then current on-line help, guides, and manuals published by Anakam and made generally available by Anakam for the Programs. Documentation shall include any updated Documentation that Anakam provides with Updates.
 - **“Maintenance Services”** shall mean the services provided by Anakam pursuant to its then current Maintenance Services Policy.
- **“Order Form(s)”** shall mean a document by which Ordering Activity orders Program licenses and related Services and which is executed by the parties. Each Order Form shall incorporate this Agreement by reference.
- **“Program(s)”** shall mean (i) the version of the Anakam software identified as Program(s) specified in an Order Form, and (ii) Updates to such Programs. Programs shall not include Ancillary Programs.
- **“Services”** shall mean all services provided by Anakam under this Agreement, including Maintenance Services, Training Services, the Programs, Ancillary Programs, Documentation and Anakam Materials.
- **“Supported Platform”** shall mean the hardware and software platforms (e.g., database server systems, application server systems, and client systems) that operate with the Programs as expressly set forth in the Documentation.
- **“Update(s)”** shall mean (a) subsequent releases of the Programs that Anakam makes generally available to its Ordering Activities, and that (i) add new features, functionality, and/or improved performance, (ii) operate on new or other databases, operating systems, or client or server platforms, or (iii) add new foreign language capabilities; (b) bug or error fixes, patches, workarounds, and maintenance releases; (c) new point releases, including those denoted by a change to the right of the first decimal point (e.g., v3.0 to 3.1), and (d) new major version releases, regardless of the version name or number, but including those denoted by (i) a change to the left of the first decimal point (e.g., v5.0 to 6.0) and/or (ii) the addition of a date designation or a change in an existing date designation (e.g., v1999 to 2000); provided, however that Updates shall not include new or separate products which Anakam offers only for an additional fee to its Ordering Activities generally, including those Ordering Activities purchasing Maintenance Services.
- **“User(s)”** shall mean the named or specified (by password or other user identification) individuals authorized by Ordering Activity to use Programs, regardless of whether the individual is actively using the Programs at any given time. Ordering Activity may replace authorized Users as necessary to reflect personnel changes provided that the number of individuals authorized to use the Programs does not exceed the maximum number of authorized Users at any time. A User is considered an active licensee for a minimum period of six (6) months once the User is registered by the Ordering Activity in the licensed Programs even if the User is removed from the User database during that six (6) month period (an “Active Authorized User”). After six (6) months, such Active Authorized User status is transferable to a new User as long as the Ordering Activity has not exceeded the maximum number of Users specified in the Order Form. User licensing is based on the number of Active Authorized Users stored within the licensed Program. Active Authorized Users shall not include test Users. The maximum number of Users that may use or access the Programs is specified in the Order Form. Users may include the employees of Ordering Activity or third parties; *provided* that such third party is limited to use of the Programs (i) only as configured and deployed by Ordering Activity, and (ii) solely in connection with Ordering Activity’s internal business operations as conducted by or through such third party, including but not limited to the

installation, administration or implementation of the Programs for Ordering Activity. Ordering Activity agrees that it is responsible for ensuring that any usage by its employees and any such third parties is in accordance with the terms and conditions of this Agreement.

2. LICENSE

2.1 License Grant. Subject to the terms and conditions of this Agreement, Anakam grants Ordering Activity the following worldwide, nontransferable, nonexclusive license to use the Services, solely for the purpose of aiding Ordering Activity in the attempted prevention of fraudulent online account access to Ordering Activity's web portal solution: (i) to use the Programs and Ancillary Programs subject to all of the terms of this Agreement; (ii) to use the Documentation as provided therein solely for purposes of supporting Ordering Activity's use of the Programs; (iii) to use the Programs that are development tools (i.e., the Anakam Tools Programs) solely in accordance with the Documentation to create materials that may be used solely with the Programs; (iv) to use the Anakam Materials solely for purposes of installing or operating the Programs; (v) to install, integrate, and implement the Programs and Ancillary Programs or to have third parties do so for the Ordering Activity; (vi) to use the Ancillary Programs only in combination with the Programs and solely for purposes of installing or operating the Programs; (vii) to copy and to use, and to allow its Users to copy and to use, screen shots from the Programs licensed by Ordering Activity hereunder for the sole purpose of incorporating such screen shots into written end-user training materials prepared by Ordering Activity or a third party who is one of Ordering Activity's Users solely to train Ordering Activity's Users in the use of such Programs; (viii) to copy the Programs, Ancillary Programs and Documentation as reasonably necessary to support the maximum number of Users; and (ix) to make a reasonable number of additional copies of the Programs, Ancillary Programs, and Documentation solely for archival, emergency back-up, or disaster recovery purposes. With respect to any and all copies of the Programs, Ancillary Programs, and Documentation, Ordering Activity shall ensure that each copy contains all titles, trademarks, and copyright and restricted rights notices, and all such copies shall be subject to the terms and conditions of this Agreement. **THIS AGREEMENT IS NOT A SALE OF THE SERVICES.** Anakam retains exclusive title and ownership in the Services and all rights therein, except for those expressly granted to Ordering Activity by this Agreement.

2.2 License Restrictions. The rights granted in Section 2.1 are subject to the following restrictions: (i) Ordering Activity shall not sublicense, assign, transfer or alienate the Services; (ii) Ordering Activity may not use the Ancillary Programs as stand-alone applications; (iii) Ordering Activity may not reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code of the Services; provided that, if required under applicable law, upon Ordering Activity's request, Anakam shall provide information necessary for Ordering Activity to achieve interoperability between the Programs and other software for a nominal administrative charge; (iv) Ordering Activity may not sublicense or use the Services for commercial time-sharing, rental, outsourcing, or service bureau use, or to train persons other than Users, unless previously agreed to in writing by Anakam; (v) Ordering Activity shall not use the Programs that are development tools for general application development purposes; (vi) Ordering Activity may not use (or cause to be used) the Services for rental, as part of a service bureau, or for any similar purpose that purports to permit direct use by a third party; (vii) Ordering Activity may not download any of the Services or data, other than explicitly downloadable forms, for any purpose, or otherwise convert the information and data contained in the Services, without first obtaining Anakam's express written permission; (viii) If Ordering Activity desires to sell, license or otherwise commercially exploit any of the data, information, or intellectual property contained in the Services, Ordering Activity must obtain a special, additional, express license from Anakam for that purpose; (ix) Ordering Activity may not modify, loan, distribute, or create derivative works, as that term is used in the copyright laws of the United States, anywhere in the world based upon the Services in whole or in part.

2.3 Retention of Rights. Anakam reserves all rights not expressly granted to Ordering Activity in this Agreement. Without limiting the generality of the foregoing, Ordering Activity acknowledges and agrees that: (i) except as specifically set forth in this Agreement, Anakam and its suppliers retain all rights, title and interest in and to the Services, and Ordering Activity does not acquire any right, title, or interest to the Services except as set forth herein, and (ii) any configuration or deployment of the Services shall not affect or diminish Anakam's rights, title, and interest in and to the Services. Nothing in this Agreement shall limit in any way Anakam's right to develop, use, license, create derivative works of, or otherwise exploit the Services, or to permit third parties to do so.

2.4 Feedback. Any comments or materials sent to Anakam including feedback data, such as questions, comments, suggestions, or the like regarding the Services (collectively "Feedback"), shall be deemed to be nonconfidential. Anakam shall have no obligation of any kind with respect to such Feedback and shall be free to reproduce, use, disclose, exhibit, display, transform, create derivative works and distribute the Feedback to others without limitation. Further, Anakam shall be free to use any ideas, concepts, know-how or techniques contained in such Feedback for any purpose whatsoever, including but not limited to developing, manufacturing and marketing products incorporating such Feedback.

2.5 Residual Knowledge. Anakam retains the right to use Residuals in its business, but such right does not include a license to disclose Confidential Information of Ordering Activity in violation of this Agreement. "Residuals" mean general ideas, concepts, knowledge, skills, expertise, know-how and techniques relating to data processing, software, computer and other services related to the Services, including the software and attendant documentation, that are retained in the minds of Anakam personnel.

3. Reserved.

4. SERVICES

4.1 Maintenance Services for Programs. Ordering Activity agrees to purchase Maintenance Services for the period specified in the applicable Order Form for each Program licensed pursuant to this Agreement.

4.2 Reserved.

- 4.3 Other Services.** Anakam will provide other Services (other than Maintenance Services and Training Services), subject to availability, in accordance with Anakam's GSA price list in effect at the time such Services are ordered.

5. Reserved.

6. Reserved.

6.2 Limited Warranties and Disclaimers

- A. Program Warranty.** Anakam warrants for one (1) year from the Commencement Date that each Program will perform in all material respects the functions described in the Documentation when operated in accordance with the Documentation on a Supported Platform.
- B. Media Warranty.** Anakam warrants for ninety (90) days from the Commencement Date that the media upon which Anakam delivers Programs to Ordering Activity will be free of defects in materials and workmanship under normal use.
- C. Anti-Virus and Disabling Code Warranty.** Anakam warrants that it shall use reasonable technical means to detect computer viruses. Anakam further warrants that the Programs as delivered by Anakam do not contain any virus or computer software code, routines or devices (other than as set forth in the Documentation) designed to disable, damage, impair, erase, deactivate, or electronically repossess the Programs or other software or data.
- D. Ancillary Program Warranties.** Ordering Activity shall have the benefit of any third party warranties, service agreements and infringement indemnities available to end users of the Ancillary Programs; provided, however, that Ordering Activity's sole remedy for breach of any such warranty, indemnification, service agreement, or other rights shall be against the third party offering such rights and not against Anakam. In the event that an Ancillary Program causes the Programs to fail to perform in all material respects the functions described in the Documentation when operated on a Supported Platform, Anakam will use commercially reasonable efforts to provide Ordering Activity with a workaround or fix where such workaround or fix may include, at Anakam's option, replacing the Ancillary Program with a replacement Ancillary Program having substantially equivalent functionality at no additional charge.
- E. Disclaimers.** Anakam does not warrant that (i) the Programs will meet Ordering Activity's requirements, (ii) the Programs will operate in combinations with other hardware, software, systems or data not provided by Anakam (except as expressly specified in writing by Anakam in the Documentation) which Ordering Activity may select for use, (iii) the operation of the Programs will be uninterrupted or error-free, or (iv) all Program errors will be corrected; provided, however, that if Ordering Activity is current on Maintenance Services fees, Anakam shall be obligated to provide Maintenance Services. Notwithstanding any provision to the contrary, the Services are distributed and provided "AS IS."

THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, AND ANAKAM AND ITS LICENSORS HEREBY DISCLAIM ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, QUALITY OF SERVICE AND ANY WARRANTIES ARISING FROM COURSE OF PERFORMANCE OR DEALING.

6.3 Exclusive Remedies. Ordering Activity must report in writing any breach of the warranties contained in Sections 6. to Anakam during the relevant warranty period, and Ordering Activity's exclusive remedy and Anakam's entire liability for any breach of such warranties shall be as set forth below:

- A. Program Warranty.** To use its commercially reasonable efforts to correct or provide a workaround for reproducible Program errors that cause a breach of this warranty, or if Anakam is unable to make the Program operate as warranted within a reasonable time considering the severity of the error and its impact on the Ordering Activity, Ordering Activity shall be entitled to return the Program to Anakam and recover the fees paid to Anakam for the Program license and any Services that directly relate to the Program license.
- B. Media Warranty.** The replacement of the defective media.
- C. Anti-virus Warranty.** The immediate replacement of all copies of the affected Programs in the possession of Ordering Activity with copies that do not contain such virus or disabling code. In addition, Anakam agrees to use commercially reasonable efforts to assist Ordering Activity in reducing the effects of such virus, if any, on the Programs.
- D.** The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from Anakam's negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.
7. Reserved.
8. Reserved.
9. Reserved.

1. **Scope.** This Agreement establishes the terms and conditions pursuant to which Ordering Activity will use the identity and fraud services (“**IFS Services**”).
2. **License.** Subject to Ordering Activity’s compliance with the terms of this Agreement, CONTRACTOR grants to Ordering Activity and Ordering Activity receives a non-transferrable, non-exclusive, license to access and use the IFS Services within the Permitted Territory for the sole purpose of fraud prevention and not for any other purpose.
3. **Territory.** Ordering Activity may access, use, and store the IFS Services only at or from locations within the territorial boundaries of the United States, Canada, and the United States territories of Puerto Rico, Guam, and the Virgin Islands (collectively, the “**Permitted Territory**”). Ordering Activity may not access, use, or store the IFS Services at or from, or send the IFS Services to, any location outside of the Permitted Territory.
4. **Configuration.** The configuration of the IFS Services will be in accordance with CONTRACTOR’s standard configuration for the IFS Services. Each Party will be responsible for all configuration, hosting and other costs associated with the pages residing on their respective servers. The “**Specifications**” for Ordering Activity requested changes to the standard configuration (“**Customizations**”), additional configurations of the IFS Services or assignment of additional member numbers and applicable Fees will be set forth in an Ordering Document and signed by the parties. CONTRACTOR shall have no responsibility or liability for the performance of the IFS Services in the event that the IFS Services are not used in accordance with the Agreement or are modified or interfaced with hardware, software or data not provided by CONTRACTOR.
5. **New Releases.** During the Term, Ordering Activity will be provided with new releases of the IFS Services that CONTRACTOR generally makes available to similar licensees of the applicable IFS Services (“**New Release**”). Ordering Activity is responsible for migrating to such New Releases prior to the migration deadline. New Releases do not include any services that may be required for the continued operability of Ordering Activity’s Customizations. CONTRACTOR will migrate Customizations on a time and materials basis at CONTRACTOR’s then current professional service GSA rates pursuant to a mutually agreed to Ordering Document.
6. **Acceptance.** Upon completion of all internal testing required by CONTRACTOR, CONTRACTOR will advise Ordering Activity in writing (“**Notice of Completion**”) that the IFS Services are configured in accordance with the Specifications, at which time (“**Test Period**”), CONTRACTOR will make the IFS Services available to Ordering Activity via CONTRACTOR’s staging environment. During such Test Period, Ordering Activity may examine, test and evaluate the IFS Services to determine whether they IFS Services substantially conform to the Specifications (“**User Acceptance Testing**” or “**UAT**”). If Ordering Activity provides CONTRACTOR written notice setting forth with specificity the grounds for Ordering Activity’s rejection (“**Notice of Rejection**”), according to such further instructions as agreed to, CONTRACTOR will use commercially reasonable efforts to correct the discrepancy and, once corrected, will issue another Notice of Completion and another Test Period will follow. The foregoing process will be repeated until Acceptance. UAT support is available 8:00 AM to 5:00 PM EST, on weekdays excluding New Year’s Day, Martin Luther King Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day and the days before and after Christmas Day (“**Normal Business Hours**”). CONTRACTOR does not guarantee production quality availability of the staging environment.
7. **No Guarantee.** Ordering Activity acknowledges and agrees that the IFS Services do not guarantee the identity of individual persons (each an “**ID Subject**”), but merely provide a risk assessment regarding the ID Subject’s identity that is derived, in part, from information provided by the ID Subject or otherwise relayed for use with the IFS Services (“**ID Subject Content**”).
8. **Risk Decisioning.** In connection with certain IFS Services, Ordering Activity will establish a risk decision threshold above which the ID Subject is verified or authenticated, depending on the applicable Service, and below which the ID Subject is not verified or authenticated (“**Risk Decision Threshold**”). CONTRACTOR may act as a consultant to review Ordering Activity’s risk strategies, but Ordering Activity, in its sole discretion, will set its Risk Decision Threshold(s); and (ii) that depending upon the Risk Decision Threshold, an ID Subject may be able to successfully pass verification and authentication even though the individual submitting the ID Subject Content is not the actual individual to whom the ID Subject Content pertains.
9. **Reserved.**
10. **Service Providers.** Ordering Activity may not allow a third party to access, use, or store the IFS Services on its behalf without obtaining CONTRACTOR’s prior written consent. Ordering Activity shall be as fully responsible to CONTRACTOR for the acts and omissions of such third parties as Ordering Activity is for the acts and omissions of its own employees. CONTRACTOR consents to Ordering Activity’s use of third party web hosts or web integrators. In the event that the Queries and Answers are relayed to or from the ID Subject through an authorized Service Provider system or call center, Ordering Activity shall ensure such authorized Service Provider’s compliance with the terms of this Agreement, including but not limited to, the Purge Requirement.
11. **Ordering Activity Representations.** Ordering Activity represents and warrants that at all times during the Term of the Agreement that:

a) Ordering Activity is a valid business, has a true business identity, and is not an adult entertainment service of any kind, business that operates out of an apartment or within a residence, credit counseling firm, credit repair clinic, an online gambling business of any kind, massage or tattoo service, an individual seeking information for their private use, or a company or individual involved in spiritual counseling.

b) Ordering Activity shall use the IFS Services exclusively within Ordering Activity’s own organization for the purpose of fraud prevention and for no other purpose and that it shall use and ensure that its Authorized Agents and authorized Service Providers access the IFS Services in accordance with the terms of the Agreement.

- c) Ordering Activity shall use the IFS Services, including the transmission of ID Subject Content to CONTRACTOR, in a manner that (i) complies with all applicable federal, state and local laws, rules, regulations and ordinances, including those governing privacy, data protection, fair information practices, public records, marketing to consumers and consumers' rights to privacy; (ii) does not, in any way or for any purpose, infringe any third party's intellectual or proprietary rights, including but not limited to, copyright, patent, trademark, or trade secret; (iii) is not defamatory, libelous, harmful to minors, obscene, pornographic, unlawfully threatening or unlawfully harassing.
- d) Ordering Activity shall not share or permit the use of the IFS Services, in whole or in part, with any third party including, but not limited to, Ordering Activity's parent, affiliates, subsidiaries, contractors, service providers, joint marketing partners, without the express prior written consent of CONTRACTOR. In the event CONTRACTOR provides such consent, Ordering Activity shall remain responsible to CONTRACTOR for the actions of such third parties.
- e) Ordering Activity has the right to transmit and authorize CONTRACTOR to use ID Subject Content and hereby authorizes CONTRACTOR to use ID Subject Content as required to perform the IFS Services; analyze, enhance or improve the performance of the IFS Services; and disclose ID Subject Content as required by law or the operation of the IFS Services. Ordering Activity will timely, reliably and accurately relay the Queries, Answers and other ID Subject Content to and from CONTRACTOR and the applicable ID Subject.
- f) Ordering Activity shall not provide CONTRACTOR with any Protected Health Information (as that term is defined in 45 C.F.R. Sec. 160.103) or with Electronic Health Records or Patient Health Records (as those terms are defined in 42 U.S.C. Sec. 17921(5), and 42 U.S.C. Sec. 17921(11), respectively) or with information from such records without the execution of a separate agreement between the parties.
- g) When providing ID Subjects with access to the IFS Services via the Internet, Ordering Activity shall adopt, publish, maintain and adhere to a privacy policy and upon request from CONTRACTOR, provide CONTRACTOR with a copy of Ordering Activity's privacy policy.
- h) Ordering Activity shall establish and maintain a manual verification process in the event that Ordering Activity determines that an ID Subject does not pass the Risk Decision Threshold or a flag is received from the IFS Services indicating a possible match from a fraud detection database.
- i) Ordering Activity shall not (i) access or use or allow the access or use of the IFS Services from Internet Protocol addresses located outside of the Permitted Territory regardless of whether such use or access is by off-shore Authorized Agents or authorized Service Providers of Ordering Activity or an off-shore department or division of Ordering Activity, or (ii) export or permit the export of the IFS Services outside of the Permitted Territory. Ordering Activity shall not transmit any user guides, manuals, operator guides, installation guides, and other similar materials (or any portions thereof) generally made available to CONTRACTOR's Ordering Activities to facilitate proper use of the IFS Services (collectively, the "**Documentation**") to locations outside of the Permitted Territory.
- j) Ordering Activity shall ensure that its connection or transmission to the IFS Services is free of bugs, viruses, "time-bombs" or other functions, routines, devices or instructions that may create or allow unauthorized access to or interruption of the IFS Services.
- k) Ordering Activity shall not: (i) sell, convey, license, sublicense, copy, commingle, archive, reproduce, display, publish, disclose, distribute, disseminate, transfer, use or otherwise make available the IFS Services, or any portion thereof, to another in any manner or by any means; (ii) reverse engineer, decompile, modify in any manner or create derivative works from the IFS Services; or (iii) interface or connect the IFS Services with any other computer software or system.

12. eIDverifier. If Ordering Activity orders eIDverifier, Ordering Activity shall not:

i) relay the Queries and Answers to and from an ID Subject through Ordering Activity's systems or authorized third party systems, unless such systems are located within the Permitted Territory; and ii) maintain, copy, capture, reproduce, re-use or otherwise retain in any manner the interactive questions or multiple choice answers provided as part of the IFS Services ("**Queries**"), the ID Subject responses to the Queries ("**Answers**"). Without limiting the generality of the foregoing, Ordering Activity shall not retain or make copies of, and must purge from its system, the Queries and Answers prior to Ordering Activity's receipt of any scores, flags and reason codes provided by the IFS Services ("**Scores**") relating to such Queries and Answers; and in the event Ordering Activity receives eIDverifier at its call center (or call center maintained by a third party), Ordering Activity shall ensure that the call center operators are unable to retrieve the Queries and Answers after the delivery of the Score by, for example, disabling the use the back button key after the delivery of the Score ("**Purge Requirement**"). In the event that the eIDverifier does not provide a response, the Queries must be purged as expeditiously as possible but in no event longer than thirty (30) minutes after receipt of such Queries. In the event that the Queries and Answers are relayed to or from the ID Subject through an authorized Service Provider system or call center, Ordering Activity shall ensure such authorized Service Provider's compliance with the terms of this Agreement, including but not limited to, the Purge Requirement.

13. OFAC Screen. Ordering Activity acknowledges that an indicator returned from the OFAC Screen may or may not pertain to the actual individual to whom the ID Subject Content pertains and is merely a message that the ID Subject may be listed on one or more U.S. government-maintained lists of persons subject to economic sanctions, and that Ordering Activity should contact the appropriate government agency for confirmation and instructions. Ordering Activity acknowledges receipt of the OFAC Ordering Activity Guide, and shall refer to it for further guidance on the use of OFAC Screen. Contractor does not represent or warrant that the performance of the OFAC screen constitutes compliance with any law or regulation.

14. Reserved.

15. Reserved.

16. Data Security.

(a) The term “**Authorized User**” means an Ordering Activity employee that Ordering Activity has authorized to order or access the IFS Services and who is trained on Ordering Activity’s obligations under this Agreement with respect to the ordering and use of the IFS Services. Ordering Activity shall, with respect to handling any data provided through the IFS Services: (a) ensure that all devices used to access the IFS Services are in a secure location and accessible only by Authorized Users, and that such devices are secured when not in use through such means as screen locks, shutting power controls off, or other commercially reasonable security procedures; and (b) take commercially reasonable measures to prevent unauthorized access to the IFS Services by any person other than an Authorized User. Those measures will include, without limitation, limiting the knowledge of any passwords to those individuals with a need to know, assigning unique user IDs to each person and prohibiting the sharing of user IDs or passwords, changing user passwords at least every ninety (90) calendar days or sooner if an Authorized User is no longer responsible for accessing the IFS Services or if Ordering Activity suspects an unauthorized person has learned the password, and perform at least quarterly entitlement reviews to recertify and validate Authorized User’s access privileges. Ordering Activity will monitor compliance with the obligations of this section, and will immediately notify CONTRACTOR if Ordering Activity suspects or knows of any unauthorized access or attempt to access the IFS Services. In addition, Ordering Activity shall: (i) only use company-owned assets to access or store the IFS Services; (ii) use commercially reasonable efforts to secure the IFS Services during transit, at rest, and in storage; (iii) ensure that any Authorized User with access to the IFS Services adheres to security requirements that are no less stringent than those applicable to Ordering Activity under this section; and (iv) dispose of the information from the IFS Services in a secure manner.

(b) Ordering Activity shall maintain an information security program that includes appropriate administrative, technical and physical safeguards reasonably designed to: (a) ensure the security and confidentiality of CONTRACTOR Property; (b) protect against any anticipated threats or hazards to the security or integrity of CONTRACTOR Property; (c) protect against unauthorized access to or use of CONTRACTOR Property that could result in substantial harm or inconvenience to CONTRACTOR; and (d) dispose of CONTRACTOR Property in a secure manner. Ordering Activity will promptly notify CONTRACTOR upon Ordering Activity’s detection of any breach of Ordering Activity’s systems or any actual unauthorized access to or theft or other loss of any CONTRACTOR Property and will take appropriate action designed to prevent further unauthorized access. Ordering Activity will provide any information that CONTRACTOR reasonably requests pertaining to the incident and will reasonably cooperate with CONTRACTOR to investigate any such unauthorized access.

17. **Security of ID Subject Content.** CONTRACTOR maintains an information security program that includes appropriate administrative, technical and physical safeguards reasonably designed to: (a) ensure the security and confidentiality of ID Subject Content; (b) protect against any anticipated threats or hazards to the security or integrity of ID Subject Content; (c) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to Ordering Activity; and (d) ensure the proper disposal of ID Subject Content.

18. **Intellectual Property Ownership.** CONTRACTOR and its suppliers retain all ownership rights in the IFS Services and their offerings, technology, methods, processes, software, know-how, data, and all intellectual property rights therein (collectively, the “**CONTRACTOR Property**”). CONTRACTOR Property includes, and CONTRACTOR and its data providers and suppliers own all rights, title, and interest in, and to, any and all: (a) derivatives and customizations of, and improvements and extensions to, the CONTRACTOR Property, provided Ordering Activity has a nonexclusive, nontransferable license to use said derivatives and customizations for its own internal use at no additional charge; and (b) deliverables that are based on, relate to, or include any CONTRACTOR Property. Ordering Activity agrees that (i) the Queries, Scores and Transaction IDs contain trade secrets of CONTRACTOR, are included in the definition of CONTRACTOR Property.

19. **Patent Marking.** The IFS Services are protected by United States Patents No. 6,263,447, 6,282,658, 6,857,073, 7,234,156,6,321,339 and 6,496,936 (“**Patents**”). Ordering Activity shall permanently mark the numbers of the Patents in the manner required by 35 U.S.C. § 287, and in such manner as to provide reasonable notice thereof, on at least one screen face generated or supported by Ordering Activity in connection with its delivery of the IFS Services.

20. **Reserved.**

21. **Reserved.**

22. **Disclaimer.** Ordering Activity shall employ decision-making processes appropriate to the nature of the transaction and in accordance with industry standards, and Ordering Activity will use the IFS Services only for the purposes set forth in this Agreement. Ordering Activity is solely responsible for the results of its and its Subscribers and their agents and employees’ use, inability to use or misuse of the IFS Services. TO THE MAXIMUM EXTENT ALLOWABLE BY LAW, ALL IFS SERVICES ARE PROVIDED BY CONTRACTOR ON AN “AS-IS,” AS-AVAILABLE BASIS, AND CONTRACTOR AND ITS DATA PROVIDERS AND SUPPLIERS HEREBY DISCLAIM ANY AND ALL PROMISES, REPRESENTATIONS, GUARANTEES, AND WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITH RESPECT TO THE ACCURACY, COMPLETENESS, CURRENTNESS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE IFS SERVICES.

23. **Reserved.**

24. **Reviews.** CONTRACTOR may review Ordering Activity’s practices and procedures including, without limitation, any relevant documentation, to determine Ordering Activity’s compliance with this Agreement, subject to applicable Government security requirements. Ordering Activity shall promptly provide CONTRACTOR with copies of all requested documents and records. If CONTRACTOR reasonably believes a compliance issue exists, subject to Ordering Activity’s security requirements, CONTRACTOR or its designated representative may enter Ordering Activity’s facilities, upon at least five (5) business days prior written notice and at a mutually agreed upon time, to conduct an on-site

assessment of Ordering Activity's practices and procedures relating to Ordering Activity's request for, and use of, the IFS Services and Ordering Activity's security practices with respect thereto.

25. Reserved.

26. Reserved.

27. Reserved.

28. Reserved.

Section 2 - IDENTITY AND FRAUD SERVICES RIDER FOR ACCOUNT VERIFY

In addition to the terms stated in the Agreement between Ordering Activity and CONTRACTOR for Identity and Fraud Services, the below terms apply to Ordering Activity's ordering and use of Account Verify. Any terms in this Rider that modify or change the terms stated in the Agreement shall apply only to Account Verify.

1. Usage Restrictions.

(a) The Scores returned from Account Verify are consumer reports as defined by the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (the "**FCRA**"). Exhibit A-1 attached hereto contains the Notice to Users of Consumer Reports ("**Notice to Users**") prescribed by the Consumer Financial Protection Bureau pursuant to the FCRA. Ordering Activity acknowledges receipt of the Notice to Users and certifies that it will order Account Verify only when Ordering Activity intends to use the consumer reports in accordance with the FCRA and all state law FCRA counterparts, and for one of the FCRA permissible purposes and no other purpose.

(b) Prior to submitting a request for account verification, Ordering Activity shall first obtain the ID Subject's written consent to have their identity authenticated by comparing the financial information provided by the ID Subject to the financial account information maintained in the ID Subject's consumer file. CONTRACTOR will place a soft inquiry on the ID Subject's consumer file indicating that such file was accessed in connection with a request by Ordering Activity (including the date of access), which was at the ID Subject's request.

(c) Ordering Activity shall not interpret the failure of CONTRACTOR to verify an account number as an indication of fraud or a statement regarding such ID Subject's credit worthiness, because the inability to verify may result from one or more factors unrelated to attempted fraud or credit worthiness, including, without limitation, the inability to verify debit cards or account numbers that are truncated or encrypted in the file maintained by CONTRACTOR.

(d) Ordering Activity shall not take adverse action, as defined in the Equal Credit Opportunity Act, 15 U.S.C. §1691 *et seq.*, and Regulation B with respect to any ID Subject on the basis of Account Verify. Ordering Activity acknowledges that verification of an account number communicates no information regarding the payment status of that account.

2. **Reserved.**

3. **Reserved.**

BeyondTrust Software, Inc.
30401 Agoura Road
Suite 200
Agoura Hills, CA 91301

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **BeyondTrust Software, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.

2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (*e.g.*, the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15),

DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:

- a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
- b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
- c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
- d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
- e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
- f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
- g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
- h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.

- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

BEYONDTRUST

BEYONDTRUST LICENSE, WARRANTY AND SUPPORT TERMS

DEFINITION OF BEYONDTRUST PRODUCTS. For purposes of these terms, the "BeyondTrust Products" shall mean the BeyondTrust software product(s) (the "Software") and certain hardware ("Equipment"), if applicable, identified in a purchase order issued by the Ordering Activity and accepted by Contractor (collectively a "Purchase Order") together with the related user manuals and other related documentation ("Documentation"). The Software is delivered on magnetic disk(s), compact disc(s) or Internet download(s) ("Media"), as and when determined by Contractor. "You" and "Your," as used herein, shall refer to the Ordering Activity.

LIMITED USE. If You have downloaded or have otherwise been provided with a BeyondTrust Product for Use pursuant to a Purchase Order, Contractor hereby grants You a perpetual, revocable, nonexclusive, nontransferable, non-assignable right and license to install and use the Software (a) on the physical and virtual machine(s) located at the physical location(s) designated in the applicable Purchase Order or (b) on the Managed User Objects and/or Managed Computer Objects set forth in the applicable Purchase Order and to use the Documentation provided in connection therewith.

Your use of the Software is limited to the number of licenses set forth in the applicable Purchase Order (the "Permitted Licenses"). If You desire to use the BeyondTrust Products in excess of the Permitted Licenses or at another location, You must first obtain the written consent of Contractor, and pay the then-current Software license fee and transfer and/or upgrade charges. The BeyondTrust Products may only be used to process data which is Your property and to administer Your internal business operations. You may not assign, sell, rent, lease, sublicense, lend, transfer, resell or distribute the BeyondTrust Products to any third party or use the BeyondTrust Products on behalf of any third-party. You agree not to copy the BeyondTrust Products, in whole or in part, except for backup purposes, unless Contractor consents in writing. In total no more than one (1) copy of the Software may be generated by You for the authorized purposes, unless given written consent by Contractor. You agree not to modify, obscure, or delete any proprietary rights notices included in or on the Software, Documentation, or Media, and You agree to include all such notices on all copies. You may not modify the BeyondTrust Products, make derivative works or merge the Software into any other computer programs. You may not reverse engineer or disassemble or decompile the Software, in whole or in part or otherwise attempt to derive their source code.

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SUPPORT AND UPDATES. Contractor, through its supplier, BeyondTrust, will provide ESS for the Software for an initial period beginning on the date Contractor delivers the Software to You or otherwise makes the Software available for download by You and ending twelve (12) months thereafter (the "Initial ESS Period"), unless stated otherwise in the Purchase Order. Unless otherwise notified by Contractor, ESS will consist of (a) telephone hot-line support, (b) Software error corrections, (c) workmanship defect corrections and/or replacements, and (d) any updates that Contractor offers, when and if available, as part of ESS (which, for the avoidance of doubt exclude enhancements which are separately offered by Contractor). Cancellation of ESS will not terminate Your right to continue to use the BeyondTrust Product(s). ESS fees shall be due in advance of Renewal ESS Period and shall be subject to the payment requirements set forth in the Schedule. Contractor's obligation under this section shall be to either correct or replace the affected BeyondTrust Products, or, at Contractor's option, to refund the paid license fee during the initial term or the unexpired portion of the paid ESS fee during the affected renewal period, as applicable upon return of the BeyondTrust Products.

POWERBROKER PASSWORD SAFE LICENSE (FORMERLY POWERKEEPER)

In lieu of the Limited Use rights provided above, the following Limited Use rights shall apply for BeyondTrust PowerBroker Password Safe products. All other terms and conditions shall remain unchanged.

LIMITED USE. If You have downloaded or have otherwise been provided with a BeyondTrust Product for Use pursuant to a Purchase Order and subject to Contractor's receipt of the applicable license fees, Contractor hereby grants You a perpetual, revocable, nonexclusive, nontransferable, non-assignable right and license to install and use the Software pursuant to the following: (a) if You have obtained a Server License, You may use the Products to administer up to those authorized number of Your non-desktop managed systems located at the designated location(s) stated on the applicable Purchase Order, and make a reasonable number of additional copies of the Software to be used solely for non-productive archival or passive disaster recovery purposes, so long as neither the original copy nor two copies of the same software are used at the same time. For purposes of these terms, "non-desktop" managed systems means and includes all hardware and software, including servers, firewalls, databases, routers and switches, but excludes desktop computers. (b) If You have obtained a User Desktop License, You may use the Products to administer up to those authorized number of Your desktop computers and at the designated location(s) stated on the applicable purchase order. (c) If You have obtained a High Availability License, You are provided with a backup unit of the Products to be used only when and if the primary licensed Products unit has failed or is otherwise temporarily deactivated. (d) If You have obtained a Cold Spare License, You are provided with an off-line Products unit that only replaces the primary licensed Products unit if and when the primary and the High Availability License Products units fail or are otherwise temporarily deactivated. (e) Use of the Products pursuant to a High Availability or Cold Spare License shall only be used to the maximum authorized extent as originally licensed by You under a Server or Desktop License. (f) If You desire to expand the authorized use of the Products, or change the designated location, You must first obtain the written consent of Contractor, and pay the then current license, transfer and/or upgrade charges. The Products may only be used to process Your data and administer Your internal business operations. You agree not to copy the Programs, in whole or in part. You agree not to modify, obscure, or delete any proprietary rights notices included in or on the Programs, Equipment, Documentation, or Media, and You agree to include all such notices on all copies that are permitted by Contractor. You may not modify the Products or merge the Programs into any other computer programs. You may not reverse engineer or disassemble or decompile the Programs or Equipment, in whole or in part.

SUPPLEMENTAL PRICING NOTES

Retina with Retina CS Console Bundle (SKU Base = "RCS")

Retina w/Retina CS Console Notes

** Bundled solution of Retina Network Security Scanner, Retina CS Console, Retina Insight, Retina Protection Module, Enterprise Update Server and Standard or Platinum Support

** Minimum asset count is 256 Assets and we offer 500 Asset License and in increments of 500 thereafter

** UVM20 Appliance is available as an option with additional Charge for up to 20,000 IPs - Shipping & Handling needs to be added for any appliance order

*** Required Professional Service Level: See Professional Services section for Pricing and product codes

Configuration Compliance Add On Module (SKU Base = "RCSC")

Configuration Compliance Notes

- **Define & manage enterprise-wide security policies to help monitor compliance to industry and internally developed configuration benchmarks
- **This is an Add-on Module for Retina CS Console Bundle (not to be sold stand alone)
- **Includes Standard or Platinum Support (support level must match Retina CS support level)
- **Minimum asset count is 256 Assets and we offer 500 Asset License and in increments of 500 thereafter
- **Pricing is based on IP count (IP count purchased must match current Retina CS IP count)

Patch Management Add On Module (SKU Base = "RCSP")

Patch Management Notes

- **Closes the loop on vulnerabilities and provides seamless patching from the CS Console
- **This is an Add-on Module for Retina CS Console Bundle (not to be sold stand alone)
- **Includes Standard or Platinum Support (support level must match Retina CS support level)
- **Minimum asset count is 256 Assets and we offer 500 Asset License and in increments of 500 thereafter
- **Pricing is based on IP count (IP count purchased must match current Retina CS IP count)

Healthcare Reporting Pack Add On Module (SKU Base = "RCSH")

Healthcare Reporting Pack Notes

- **Automated solution that maps each vulnerability to the regulatory mandate included in vertical reporting pack for Health Care (SOX, HIPPA)
- **This is an Add-on Module for Retina CS Console Bundle (not to be sold stand alone)
- **Includes Standard or Platinum Support (support level must match Retina CS support level)
- **Minimum asset count - 256 IPs
- **Pricing is based on IP count (IP count purchased must match current Retina CS IP count)

Financial Reporting Pack Add On Module (SKU Base = "RCSF")

Financial Reporting Pack Notes

- **Automated solution that maps each vulnerability to the regulatory mandate included in vertical reporting pack for Financials (SOX, GLBA)
- **This is an Add-on Module for Retina CS Console Bundle (not to be sold stand alone)
- **Includes Standard or Platinum Support (support level must match Retina CS support level)
- **Minimum asset count is 256 Assets and we offer 500 Asset License and in increments of 500 thereafter
- **Pricing is based on IP count (IP count purchased must match current Retina CS IP count)

Retail Reporting Pack Add On Module (SKU Base = "RCSR")

Retail Reporting Pack Notes

- **Automated solution that maps each vulnerability to the regulatory mandate included in vertical reporting pack for Retail (SOX, PCI)
- **This is an Add-on Module for Retina CS Console Bundle (not to be sold stand alone)
- **Includes Standard or Platinum Support (support level must match Retina CS support level)
- **Minimum asset count is 256 Assets and we offer 500 Asset License and in increments of 500 thereafter
- **Pricing is based on IP count (IP count purchased must match current Retina CS IP count)

Government Reporting Pack Add On Module (SKU Base = "RCSG")

<p>Government Reporting Pack Notes</p> <ul style="list-style-type: none"> **Automated solution that maps each vulnerability to the regulatory mandate included in vertical reporting pack for Government (FISMA, NERC, MASS 201) **This is an Add-on Module for Retina CS Console Bundle (not to be sold stand alone) **Includes Standard or Platinum Support (support level must match Retina CS support level) **Minimum asset count is 256 Assets and we offer 500 Asset License and in increments of 500 thereafter **Pricing is based on IP count (IP count purchased must match current Retina CS IP count)
<p>Retina Network Security Scanner (SKU Base = "RNSS")</p>
<p>Retina Network Security Scanner Notes</p> <ul style="list-style-type: none"> ** Includes basic support only - Standard or Platinum support offered as upgrade for additional fee ** Minimum purchase for new license is 32 IPs and we offer 64, 128, 256 and 512 IP Version of the license ** Licenses over 512 IPs should be sold as Retina with Retina CS Console Bundle ** 651 Appliance is available as an option with an additional Charge - Shipping & Handling needs to be added for any appliance order ** Platinum or Standard Support Upgrade is required on 651 Appliance purchase
<p>Retina Web Security Scanner (SKU Base = "RWSS")</p>
<p>Retina Web Security Scanner Notes</p> <ul style="list-style-type: none"> ** All orders include one installation (seat) *** Required Professional Service Level: See Professional Services section for Pricing and product codes *** Required Standard or Platinum support upgrade on new purchases *** To purchase more than 1 application, contact eEye Sales for pricing
<p>Retina STIG Audits (SKU Base = "RSTIG")</p>
<p>Retina STIG Audits Notes</p> <ul style="list-style-type: none"> **STIG Audits are sold per IP of Retina
<p>PowerBroker Endpoint Protection Platform Total Protection with Retina CS Console Bundle (SKU Base = "PBETP")</p>
<p>PowerBroker Endpoint Protection Platform Total Protection with Retina CS Notes</p> <ul style="list-style-type: none"> ** Bundled solution of PowerBroker Endpoint Protection Platform Professional and/or PowerBroker Endpoint Protection Platform Server with Retina CS Console, Enterprise Update Server and either Standard or Platinum Support ** Minimum asset count - 25 Assets ** Asset count indicates the total number of PowerBroker Endpoint Protection Platform Professional and/or PowerBroker Endpoint Protection Platform Server ** UVM20 Appliance is available as an option with additional Charge for up to 20,000 IPs - Shipping & Handling needs to be added for any appliance order *** Required Professional Service Level: See Professional Services section for Pricing and product codes
<p>PowerBroker Endpoint Protection Platform Server (SKU Base = "PBEPS")</p>
<p>PowerBroker Endpoint Protection Platform Server Notes</p> <ul style="list-style-type: none"> ** PowerBroker Endpoint Protection Platform Server is sold with Standard or Platinum Support options ** Licenses over 20 assets should be sold as PowerBroker Endpoint Protection Platform Total Protection
<p>PowerBroker Endpoint Protection Platform Server Web Edition (SKU Base = "PBEPWS")</p>

immixTechnology, Inc.

a subsidiary of  immixGroup

PowerBroker Endpoint Protection Platform Server Web Edition Notes

- ** PowerBroker Endpoint Protection Platform Server Web Edition is sold with Standard or Platinum Support options
- ** License Bundle Includes: PowerBroker Endpoint Protection Platform Server, SecureIIS

SecureIIS (SKU Base = "SIIS")

SecureIIS Notes

- ** SecureIIS is offered with Standard and Platinum Support
- *** Required Professional Service Level: See Professional Services section for Pricing and product codes

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Bivio Networks, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

BIVIO NETWORKS

BIVIO NETWORKS LICENSE, WARRANTY AND SUPPORT TERMS

LICENSE OF SOFTWARE. The Products incorporate or use some proprietary and/or custom software (the "Licensed Software"). The Ordering Activity acknowledges that the Licensed Software is not sold to Ordering Activity and is licensed pursuant to the terms and conditions set forth below.

WARRANTIES. Contractor warrants the Products against defective material and workmanship under normal use and service for a period of one (1) year commencing from the delivery date of such Product (the "Warranty Period"). Contractor does not warrant that the use of the Licensed Software will be error-free and uninterrupted. Contractor will, at its own expense and as its sole obligation, and as Ordering Activity's exclusive remedy, for any breach of this warranty reported to Contractor in writing during the Warranty Period, at its option, either replace the Product with a new Product or repair the Product. Any such repair or replacement by Contractor will not extend the original warranty period. The warranty set forth above does not apply to damage resulting from misuse, abuse or neglect, and becomes null and void upon any modification, movement or improper service performed on any Products by or at the direction of Ordering Activity or any third party. This warranty is applicable to the original Ordering Activity only and may not be asserted by Ordering Activity's customers or users of Ordering Activity's products.

THE FOREGOING LIMITED WARRANTY IS IN LIEU OF OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

LICENSE

The Software. "Software" means the program modules and features of the Contractor or Contractor-supplied software, and updates and releases of such software, for which Ordering Activity has paid the applicable license or support fees to Contractor.

License Grant. Contractor grants to Ordering Activity a non-exclusive and non-transferable license, without right to sublicense, to use the Software, in executable form only, subject to the following use restrictions:

- a. Ordering Activity shall use the Software solely as embedded in, and for execution on, Bivio equipment originally purchased by Ordering Activity from Contractor or an authorized Bivio reseller, unless the applicable Bivio documentation expressly permits installation on non-Bivio equipment.
- b. Ordering Activity shall use the Software on a single hardware chassis having a single processing unit, or as many chassis or processing units for which Ordering Activity has paid the applicable license fees.
- c. Other Bivio documentation for the Software (such as product purchase documents, documents accompanying the product, the Software user manual(s), Contractor's website for the Software, or messages displayed by the Software) may specify limits to Ordering Activity's use of the Software. Such limits may restrict use to a maximum number of seats, concurrent users, sessions, subscribers, nodes, or transactions, or require the purchase of separate licenses to use particular features, functionalities, or capabilities, or provide temporal or geographical limits. Ordering Activity's use of the Software shall be subject to all such limitations and purchase of all applicable licenses.

The foregoing license is not transferable or assignable by Ordering Activity. No license is granted herein to any user who did not originally purchase the applicable license(s) for the Software from Contractor or an authorized Bivio reseller.

Use Prohibitions. Notwithstanding the foregoing, the license provided herein does not permit the Ordering Activity to, and Ordering Activity agrees not to and shall not: (a) modify, unbundle, reverse engineer, or create derivative works based on the Software; (b) make unauthorized copies of the Software (except as necessary for backup purposes); (c) rent, transfer, or grant any rights in and to any copy of the Software, in any form, to any third party; (d) remove any proprietary notices, labels, or marks on or in any copy of the Software; (e) distribute any copy of the Software to any third party, including as may be embedded in Bivio equipment sold in the secondhand market; (f) use any 'locked' or key-restricted feature, function, or capability without first purchasing the applicable license(s) and obtaining a valid key from Contractor, even if such feature, function, or capability is enabled without a key; (g) distribute any key for the Software provided by Contractor to any third party; (h) use the Software in any manner that extends or is broader than the uses purchased by Ordering Activity from Contractor or an authorized Bivio reseller; (i) use the Software on non-Bivio equipment where the Bivio documentation does not expressly permit installation on non-Bivio equipment; (j) use the Software (or make it available for use) on Bivio equipment that the Ordering Activity did not originally purchase from Contractor or an authorized Bivio reseller; or (k) use the Software in any manner other than as expressly provided herein.

No Reverse Engineering. ORDERING ACTIVITY SHALL NOT REVERSE ENGINEER, DECOMPILE, DISASSEMBLE OR OTHERWISE ATTEMPT TO DISCOVER THE SOURCE CODE OF THE SOFTWARE OR SCHEMATICS OF THE HARDWARE.

Warranty, Disclaimer of Warranty. If the Software is distributed on physical media (such as CD), Contractor warrants for 90 days from delivery that the media on which the Software is delivered will be free of defects in material and workmanship under normal use. This limited warranty extends only to the Ordering Activity. Except as may be expressly provided in separate documentation from Contractor, no other warranties apply to the Software, and the Software is otherwise provided AS IS. Ordering Activity assumes all risks arising from use of the Software. Ordering Activity's remedy and Contractor's liability under this limited warranty is that Contractor, at its option, will repair or replace the media containing the Software, or provide a refund, provided that Ordering Activity makes a proper warranty claim to Contractor, in writing, within the warranty period. Nothing herein shall give rise

to any obligation to support the Software. Any such support shall be governed by a separate, written agreement. In no event shall Contractor be liable for damages arising from unauthorized or improper use of any Bivio software.

TO THE EXTENT PERMITTED BY LAW, CONTRACTOR DISCLAIMS ANY AND ALL WARRANTIES IN AND TO THE SOFTWARE (WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE), INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. IN NO EVENT DOES CONTRACTOR WARRANT THAT THE SOFTWARE, OR ANY EQUIPMENT OR NETWORK RUNNING THE SOFTWARE, WILL OPERATE WITHOUT ERROR OR INTERRUPTION, OR WILL BE FREE OF VULNERABILITY TO INTRUSION OR ATTACK.

WARRANTY SERVICES

Bivio Networks Standard Warranty Support

Warranty coverage for Bivio Networks products are described below. Additional support coverage can be purchased with Ordering Activity's Bivio Networks Products. Please contact a designated sales representative for support pricing.

	Duration	Hardware	Software
Standard Warranty	1 Year Hardware 90 Day Software	Return to Factory	Software updates, bug fixes

Standard Hardware Warranty & Procedure

Hardware Repair Service - 1 Year from date of purchase

In the event of a hardware system failure within the first 1-year period of ownership, the unit will be either repaired or, at Contractor's discretion, replaced with a new or reconditioned unit. This service requires a phone support evaluation of the failed system by Technical Support personnel, and the issuance of a Technical Support RMA number. The Ordering Activity must ship the failed unit, pre-paid, to Contractor. A repaired or replacement unit will be shipped at Contractor's expense within 15 business days after receipt of the failed unit. (See complete procedure below.)

Return Material Authorization Procedure

Pre-requisite from Ordering Activity:

- Name
- Account Name
- Contract or Bivio Networks Identification
- Hardware/Software Platform
- Chassis Serial Number
- Description of the failure

Return to Factory Hardware Support

- Ordering Activity shall contact Technical Support with all related failure information and request an RMA number.
- Contractor, through its supplier, Bivio Networks, will provide an approved RMA number. This number must be attached on all returns for proper credit to be issued.
- Ordering Activity will return failed products to Contractor for repair and Contractor shall repair or replace, at its discretion, the malfunctioning product and return ship the product to the Ordering Activity within fifteen (15) days of Contractor's receipt of the malfunctioning part from Ordering Activity.
- Ordering Activity will ship all return products freight prepaid. Contractor will return ship the repaired product(s) via standard freight.
- Ordering Activity is responsible for de-installation and installation of products, unless Contractor is contracted or Ordering Activity has a separate contract that supports this.
- The warranty on the replacement product will be thirty (30) days or the remainder of the term on the existing service contract, whichever is longer.

Advanced Replacement Hardware Support (Custom Contracts Only)

- Ordering Activity shall contact Technical Support with all related failure information and request an expedited replacement shipment. Once approved, an RMA number will also be issued for the eventual return of the defective part. This number must be attached on all returns for proper credit to be issued.
- Contractor shall forward replacement products the same business day, by priority shipment, marked for next day delivery, where available.
- Requests for advance shipment of replacement parts (products) must be received no later than 1:00 PM (Pacific Time).
- When failures are remotely diagnosed by Contractor as a hardware problem, Contractor shall forward replacement products the next business day, by priority shipment, marked for next day delivery, where available.
- Contractor shall not be liable for next day delivery for shipments that must clear customs or for delivery to locations outside the next day delivery zone of the carrier.
- Contractor's TAC will advise Ordering Activity at the time of request whether product will be shipped the same business day or the next business day.
- Ordering Activity shall return the malfunctioning hardware product to Contractor within fifteen (15) days of receipt of the replacement hardware product. The previously issued RMA number must be attached to the product to ensure proper credit.

- Malfunctioning hardware product not returned to Contractor within fifteen (15) days of Ordering Activity 's receipt of replacement hardware product, shall be invoiced at Contractor' then-current list price.

Hardware Repair Service – After one year from date of purchase (Non-Warranty)

In the event of a hardware system failure after the first year of ownership, the unit may be sent by Ordering Activity to Contractor for repair. Contractor shall evaluate the condition of the system and provide options with their associated costs for repair/replacement. Contractor may charge Ordering Activity a fee for this evaluation. This service requires a phone support evaluation of the failed system by Technical Support personnel, and the issuance of a Technical Support RMA number. The Ordering Activity must ship the failed unit, pre-paid, to Contractor. The RMA number must be clearly indicated on the box and shipping papers. A repaired or replacement unit will be shipped at Contractor's expense within 15 business days after receipt of the failed unit.

Standard Software Warranty & Procedure

Software Updates - 90 days from date of purchase

Software Updates for system software and Software Products released by Bivio Networks within 90 days of Ordering Activity's purchase of a Bivio Networks product are available by contacting Technical Support. System Software Updates include applicable minor releases (e.g. Release 1.0 to 1.1) to the Bivio Networks family of products. The Ordering Activity must have access to the Internet for Web Browser or FTP downloads as directed by Technical Support.

Software Updates released after the initial 90-day warranty period are available as an upgrade product for the then applicable list price.

Development Support Programs

Contractor's comprehensive Bivio Networks support plans ensure that our customers have access to the critical resources that they need to protect and maximize hardware and software investments throughout the development, integration and deployment phases of the product lifecycle.

Bivio Development Support services are designed to assist our customers in the integration of their system applications into the Bivio Networks hardware and software environment. This aspect of Contractor's support program relates specifically to assistance for the development and QA teams of our customers during their implementation timeframes.

Inquiries typically covered by development support include (but are not limited to):

- Training on hardware and software environment
- Assistance for compiling in BiviOS
- Bivio-specific configuration elements
- Startup scripts
- Hardware and software optimizations
- Performance characterization

We offer a wide variety of support options designed to allow our customers to select the level of support that is right for them. Our development partners may choose from Pro or ProPlus packages, or customize a program to meet their individual needs. The table below illustrates the features of each program.

Development Support Programs	Pro	ProPlus
Base Warranty	Included	Included
Support Hours (PST)	9AM-5PM PST, M-F (Pacific)	24 x 7 x 365
Call Response Time	4 hours	1 hour (9-5 PST, M-F) 2 hours (after hours)
Email Response Time	24 hours (standard business hours)	24 hours (standard business hours)
Web Ticket Response Time	24 hours (standard business hours)	24 hours (standard business hours)
Call Acknowledgement Time	2 Minutes	2 Minutes
RMA Hardware Repair Time (for development systems)	Expedited (5 business days)	Expedited (5 business days) Up to 3 adv. repl./seat
Access to Software releases and/or patches	Included	Included
On-site FAE support	N/A	Up to 2 visits/year (not to exceed 2 days/visit)

2-day Training Seminar (up to 3 participants)	Bivio Corporate	Onsite (North America) (International add'l charge)
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The Development Support Program may be renewed annually, and is purchased by “developer seat” for each Ordering Activity project. The selection of “Pro” or “ProPlus” must be made prior to receiving technical support services and at the time of the initial development system order. Additional development seats may be purchased at any time, pro-rated to the annual rate.

Technical Support Options - Leverage Resources by Relying on Ours

Optimize human resources by relying on our product and industry expertise. Our flexible technical support offerings put the Ordering Activity in charge through a variety of options designed to meet the Ordering Activity’s needs and response time requirements. Support may be obtained at the Ordering Activity’s preference by telephone, email, or web.

- “Pro” Program: 5x8 - Business Hour Support (Monday – Friday, 9:00AM - 5:00PM Pacific, excluding holidays)
- “ProPlus” Program 7x24x365 - Ensure maximum response time with around-the-clock support

Technical Support Personnel will respond to calls within the “Initial Acknowledgement Time” specified by the plan during standard business hours (Monday – Friday, 9AM-5PM Pacific Time) and, for ProPlus contracts (only) within 2 hours for calls made outside of its standard business hours.

Ordering Activity agrees to leave multiple contact phone numbers if possible (Pager, Cellular phone, Alternate Office number, Lab Phone number, etc.) Ordering Activity may contact Technical Support at 1-866-TSBIVIO (1-866-872-4846) or 925-924-8888 (international), and must provide its TAC ID number in order to receive support. Only Ordering Activity’s Bivio-trained staff may contact Bivio for support.

Expedited RMA Hardware Repair Time

To minimize development system downtime, Development Support Programs include an expedited RMA hardware repair time for development system hardware. In the event of a hardware system failure on a specified development system, the unit will be either repaired or, at Contractor’s discretion, replaced with a new or reconditioned unit. This service requires a phone support evaluation of the failed system by Technical Support personnel, and the issuance of a Technical Support RMA number. The Ordering Activity must ship the failed unit, pre-paid, to Contractor. A repaired or replacement unit will be shipped at Contractor’s expense within 5 business days after receipt of the failed unit.

Advanced Replacement (ProPlus Program Only): To further minimize development system downtime, the ProPlus Development Support Program includes Advanced Replacement services for up to three (3) hardware failures (per seat). The Advanced Replacement service allows Ordering Activities to request that a replacement unit be shipped prior to the return of the failed unit. This service requires a phone support evaluation of the failed system by Technical Support personnel, and the issuance of a Technical Support RMA number. Replacement parts will be shipped at Contractor’s expense within 24 hours after Technical Support confirmation of the failed unit. Contractor must receive the failed unit within 15 days after issuance of the RMA to avoid replacement charges, billed at the then current list price of the unit including installed options. A replacement unit may be a new or reconditioned unit of equivalent or better value as determined by Contractor.

Software Maintenance

Bivio software maintenance includes the following software services:

- Minor software updates (OS updates, hardware drivers, management interface updates, minor feature enhancements, bug fixes, patches, etc.)
- Major software upgrades (major functionality releases)

On-Site FAE Support (ProPlus Program Only)

The ProPlus Development Support Program includes up to two pre-scheduled visits (per contract year) to the Ordering Activity’s development site by a Field Application Engineer (FAE). The on-site visits may be used to assist developers with specific tasks such as optimizing system configurations or debugging code associated with BiviOS APIs (such as the CIG functionality). The specific purpose of the on-site visit must be discussed with Technical Support prior to scheduling the FAE visit.

Maintenance Support Programs

The Bivio Networks Maintenance Support Programs provide continuous hardware and software maintenance and change visibility throughout the production lifecycle of the product. Ordering Activities may choose from two programs, “Sapphire” or “Diamond” in order to select the program features that best meet their product lifecycle support requirements. The table below illustrates the features of each program.

Maintenance Support Programs and Features	Sapphire	Diamond
Base Warranty	▲	▲
Support Hours (PST)	9AM-5PM PST, M-F	24 x 7 x 365
Call Response Time	4 hours	1 hour (9-5 PST, M-F) 2 hours (after hours)
Email Response Time	24 hours (standard business hours)	24 hours (standard business hours)

The	Web Ticket Response Time	24 hours (standard business hours)	24 hours (standard business hours)
	Call Acknowledgement Time	2 Minutes	2 Minutes
	On-site FAE support	N/A	Up to 2 visits/year (not to exceed 2 days/visit)
	Extended HW Warranty	N/A	Optional (additional charge)
	Adv. Replacement	N/A	Yes
	RMA HW Repair Time	15 business days	15 business days
	Access SW releases/patches	Included	Included
	ECN Notification	Included	Included
	Customized EOL Program	Optional (additional charge)	Optional (additional charge)

Maintenance Support Program may be renewed annually, and is purchased for each Bivio appliance platform and associated spare components that are shipped as Ordering Activity production (revenue) systems. The selection of “Sapphire” or “Diamond” must be made at the time of each production system order.

Maintenance Support Options – Continuous Support through Product Lifespan

Bivio Maintenance Support programs offer a variety of options designed to meet the Ordering Activity’s needs and response time requirements. Support may be obtained at the Ordering Activity’s preference by telephone, email, or web.

- “Sapphire” Program: 5x8 - Business Hour Support (Monday – Friday, 9:00AM - 5:00PM Pacific, excluding holidays)
- “Diamond” Program 7x24x365 - Ensure maximum response time with around-the-clock support

Technical Support Personnel will respond to calls within the “Initial Acknowledgement Time” specified by the plan during standard business hours (Monday – Friday, 9AM-5PM Pacific Time) and, for Diamond contracts (only) within 2 hours for calls made outside of its standard business hours.

Ordering Activity agrees to leave multiple contact phone numbers if possible (Pager, Cellular phone, Alternate Office number, Lab Phone number, etc.) Ordering Activity may contact Technical Support at 1-866-TSBIVIO (1-866-872-4846) or 925-924-8888 (international), and must provide its TAC ID number in order to receive support. Only Ordering Activity’s Bivio-trained staff may contact Bivio for support.

Advanced Replacement (Diamond Program Only): To minimize production system downtime, the Diamond Maintenance Support Program includes Advanced Replacement services for all covered systems. The Advanced Replacement service allows Ordering Activities to request that a replacement unit be shipped prior to the return of the failed unit. This service requires a phone support evaluation of the failed system by Technical Support personnel, and the issuance of a Technical Support RMA number. Replacement parts will be shipped at Contractor’ expense within 24 hours after Technical Support confirmation of the failed unit. Contractor must receive the failed unit within 15 days after issuance of the RMA to avoid replacement charges, billed at the then current list price of the unit including installed options. A replacement unit may be a new or reconditioned unit of equivalent or better value as determined by Contractor.

Software Maintenance

Bivio software maintenance includes the following software services:

- Minor software updates (OS updates, hardware drivers, management interface updates, minor feature enhancements, bug fixes, patches, etc.)
- Major software upgrades (major functionality releases)

ECN Notification

Bivio Maintenance Support Programs also allow Ordering Activities to receive advance notification of relevant product changes at the system or sub-system level. The ECN notification includes pertinent information regarding the reason for the change and potential impact, if any, to production systems.

ON-SITE FAE SUPPORT (DIAMOND PROGRAM ONLY)

The Diamond Maintenance Support Program includes up to two pre-scheduled visits (per contract year) to the Ordering Activity’s production site by a Field Application Engineer (FAE). The on-site visits may be used to assist in analyzing or debugging errant or failed systems at the deployed location. The specific purpose of the on-site visit must be discussed with Technical Support prior to scheduling the FAE visit.

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immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **BT Federal** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor’s assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor’s assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

BT FEDERAL

BT FEDERAL LICENSE, WARRANTY AND SUPPORT TERMS

Definitions and Interpretation

The following definitions will apply to the provision of the Service.

“**CEP**” means Customer Enrollment Package.

“**Sensor**” means a device, operating system, database or other software or hardware that the Ordering Activity owns or licenses and that is configured to send messages to the Sentry.

“**Sentry**” means a passive data receiver used to enable BT to provide the Services

“**Service**” means the service, as described in below.

“**Messages**” means any data sent by a Sensor to a Sentry, whether a log message, or an alert, or an accept/deny notification from a firewall. Messages most often arrive at the Sentry via syslog (udp/514) but other transport protocols used include SNMP traps (udp/162), SMTP (tcp/25), and Checkpoint’s LEA interface.

Service Description

Contractor through BT Federal (“BT”) will provide managed computer security monitoring services. The base service is Managed Security Monitoring in which BT will configure one or more Sentry units in accordance with the technical and business information provided by the Ordering Activity.

Contractor warrants that the Services will be performed in a professional and workmanlike manner consistent with industry standards. CONTRACTOR HEREBY DISCLAIMS ANY OTHER WARRANTY, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT AND THE SERVICES PROVIDED HEREUNDER.

Minimum Period of Service

Unless otherwise specified on the Order Form, the Minimum Period of Service for each Site will be 12 Months which will commence on the Operational Service Date of each Site. For the avoidance of doubt, the Minimum Period of Service may not be less than 12 Months.

Service Delivery

Contractor through BT will remotely configure any Equipment used in the supply of Services and upon installation of Equipment by Ordering Activity personnel or Ordering Activity designated representatives, conduct a set of standard tests to ensure that the configuration at a Site is functioning correctly. These tests shall include but not be limited to verifying Sentry has connected to a BT Security Operations Center (“SOC”); verifying a Sensor is successfully transmitting Messages to Sentry; and verifying Ordering Activity’s access to the BT provided web-portal designated to Ordering Activity. The Operational Service Date for a Site occurs on successful completion of the tests at that Site.

Contractor’s Responsibilities

- Contractor through BT shall provide the Services to the Ordering Activity based on the technical and business information, including, but not limited to, the information contained in the Customer Enrollment Package provided by the Ordering Activity. BT will deliver the Sentry(s), according to the parameters specified in the CEP.
- Contractor through BT will provide the IP address range(s) of the gateways located at each BT SOC that will be supporting the Ordering Activity.
- Contractor through BT will provide 24x7x365 real time monitoring of Sensors from a SOC which will be fully supported by a redundant SOC so that at least one BT SOC will be available to the Internet 100% of the time each Month excluding failures due to Force Majeure Events.
- The Sentry Unit will capable of automatic fail-over to an alternative SOC if there is a fault in the primary SOC. If the Sentry Unit hardware fails, Contractor through BT will ship a replacement Sentry Unit within 48 hours of the failure being identified.
- Contractor through BT will provide 24x7x365 real time event response, in accordance with alert guidelines and escalation and notification using a Ordering Activity provided in the contact tree in the CEP.
- Contractor through BT will make reporting information available via a web portal.
- Contractor through BT will retain the Ordering Activity’s Messages that are transmitted to BT’s SOCs as follows:

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- Three (3) months of messages in original form will be retained on-line in Socrates and the portal;
- Six (6) months of weekly reports will be retained on-line in the portal;
- One (1) year of online storage for monthly reports; and
- In the event of expiration or termination of this Attachment A, Contractor through BT shall store Ordering Activity Messages within its data backup complex and shall safeguard Ordering Activity Messages at consistent production levels as then in effect. BT shall use approved commercial services to destroy storage media at BT determined intervals or upon media failure
- Contractor through BT will retain the Firewall Messages that are transmitted to BT's SOCs as follows,.
- A daily summary will be computed for total bytes and connections and Ninety (90) days of daily summary information will be retained online;
- No data detail or summary information will be retained offline for firewall traffic logs.
- Ticketed events from Firewall Threshold violations will be kept as per Section 5.7 above
- Following expiration or termination of Service, Contractor through BT will continue to store the Ordering Activity's data in its data backup complex and continue to safeguard such data at the same levels as existing customers. BT will use approved commercial services to destroy storage media at BT determined intervals or upon media failure.

The Ordering Activity's Responsibilities

- The Ordering Activity will provide Contractor through BT with complete and accurate technical and business information as defined in the CEP and shall provide a completed CEP to BT within seven (7) days of the Effective Date ("CEP Date"). The Ordering Activity will promptly notify BT in writing of changes in such information.
- The Ordering Activity will install or provide Contractor through BT the ability to install Sentry Unit(s) inside the Ordering Activity's network on a network segment where Sensors being monitored can deliver Messages to the Sentry.
- For Sensors not managed by Contractor through BT the Ordering Activity will
 - configure the devices to transmit messages to the Sentry Unit(s).
 - work with BT to reconfigure and tune the devices to reduce the generation of false positives from the customer's infrastructure.
- The Ordering Activity will enable remote access from the onsite Sentry (s) to Contractor through BT's Security Operations Centers via SSL and will enable temporary inbound access via SSH upon request from BT.
- Notwithstanding Clause 4, the Ordering Activity will confirm in writing that service is activated.
- The Ordering Activity will provide adequate physical security for the Sentry Unit(s) and an environment suitable for correct operation of the Unit(s).
- The Ordering Activity's network will provide minimum outbound bandwidth equivalent of a T1 circuit for the Sentry to use to maintain connectivity from the Ordering Activity site to a SOC.

Use of the Service

- The Ordering Activity shall use the Services for its internal business purposes. The Services are intended for the Ordering Activity's use and shall not be resold by the Ordering Activity. The Ordering Activity shall not use the Services to monitor a third party's network or any devices or applications not expressly chosen by the Ordering Activity for its internal business purposes to be active on the Ordering Activity's network.

The Ordering Activity shall not attempt to access or modify the hardware or software of any BT product or service, nor shall the Ordering Activity copy or reverse engineer any BT product or service.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Cambium Networks** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor’s assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor’s assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

CAMBIUM NETWORKS

CAMBIUM NETWORKS LICENSE, WARRANTY AND SUPPORT TERMS

1. Definitions:

"Cambium" shall mean Cambium Networks Limited (a company registered in England with company number 07752773 whose registered office is Unit B2 Linhay Business Park, Eastern Road, Ashburton, Newton Abbot, Devon, United Kingdom, TQ13 7UP), its successors and assigns.

"Attachment A" means these terms and conditions.

"Contract" means the contract between Contractor and the Ordering Activity for the supply of Products and/or Services comprising the Attachment A and the documents referred to in them.

"Intellectual Property Rights" all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"Order" means a written request by the Ordering Activity for Products and/or Services.

"Ordering Activity" shall mean the entity that is purchasing Cambium's Product(s) and/or Service(s).

"Product(s)" shall collectively mean the goods, equipment and accessories, including software, identified by Model/ Part Number on the Sales Acknowledgement.

"Sales Acknowledgement" means Cambium's formal written acknowledgment of any Order placed by the Ordering Activity.

"Services" shall mean any supplementary Services to be supplied to Ordering Activity in relation to the Products and identified on the Sales Acknowledgement.

"Underlying Agreement" means a written agreement between the Ordering Activity and Contractor for the sale and purchase of the Products and/or Services.

2. Basis of Contract: The Order constitutes an offer by the Ordering Activity to purchase Products and/or Services from Contractor under the terms and conditions of this Attachment A. The Order shall be deemed accepted when Contractor issues written acceptance by Contractor through Cambium of the Ordering Activity's Order in the form of a Sales Acknowledgement at which date the Contract shall come into existence. Any terms proposed in any document submitted by the Ordering Activity or any other party which add to, vary from, or conflict with these Attachment A are hereby excluded and any such terms proposed by the Ordering Activity shall not apply.

3. Products and Specifications

3.1 Contractor through Cambium is entitled to supply Products incorporating modifications or to supply Products of a similar specification as a replacement for ordered products. The Ordering Activity will not alter, obscure, remove or otherwise interfere with any markings or other indication of use source or origin on any Product or their labeling and/or packing. Cambium does not make any additional representations with respect to Products or Services to satisfy any statutes, regulations or provisions applicable to governmental purchases. 3.2 The Ordering Activity is solely responsible for obtaining all necessary permits, approvals and licenses related to the purchase, marketing and sale of the Products by the Ordering Activity.

4. Delivery, title and risk

4.1 Contractor through Cambium will use reasonable endeavors to deliver the Products and/or perform the Services by the date(s) confirmed by Cambium. Delivery dates are estimated only.

4.2 Cambium reserves the right to make deliveries in installments, which shall not relieve the Ordering Activity from of its obligation to pay for remaining deliveries. The Ordering Activity shall check all delivery documentation upon delivery or collection and will inspect all Products

5 Buyer and End User Warranties

5.1 Contractor warrants to the Ordering Activity that: (i) the Products (excluding batteries) shall conform in all material respects with their description and any applicable specification and be free from material defects in design, materials and workmanship for a period of 12 months from the date of delivery or collection; (ii) any batteries provided with any Product shall be free from material defects for a period of 12 months from the date of delivery or collection; and (iii) any Services shall be provided with reasonable care and skill. The warranty periods under this

Condition 5.1 shall not be extended for repairs or replacements.

5.2 Subject to Conditions 5.3, if the Ordering Activity notifies Contractor of a defect during the Warranty period and Contractor agrees that there is a defect, then Contractor, at its option, may repair or replace the defective Product(s), or failing this, will reimburse the price of the Product subject to a deduction taking into account the use of the Product since it was delivered. Contractor reserves the right to sub-contract the performance of warranty services to third parties.

5.3 Contractor shall not be liable for defects or damage arising from: (i) use of the Product other than in a normal or customary manner and/or failure to follow instructions as to storage, installation, use and maintenance; or (ii) the repair or alteration of a Product or a replacement part being fitted to the Product, in each case by anyone other than Contractor or its authorized service sub-contractors; or (iii) altering, obscuring or removing or otherwise interfering with markings or labelling on the Product.

5.4 Warranty claims shall be made in writing within the relevant warranty period to the customer service department of Contractor through Cambium or its authorized service sub-contractor.

5.5 This Contract states the Ordering Activity's remedy for defective Product(s) and/ or breach of warranty. Contractor makes no representation or warranty of any other kind, express or implied, and expressly disclaims any implied warranties of quality or fitness for a particular purpose, to the extent permitted by law.

6 Responsibility for Waste Electrical and Electronic Equipment

The Ordering Activity must ensure that all Products which are no longer to be used and are therefore waste electrical and electronic equipment are correctly collected, treated, recovered and environmentally and soundly disposed of in accordance with the relevant waste disposal laws and regulations. The Ordering Activity must maintain evidence of the treatment of such waste electrical and electronic equipment and upon written request of Contractor through Cambium provide written evidence of such disposal as soon as reasonably practical.

7. Proprietary Rights

7.1 The Ordering Activity shall not engage in or encourage any practice that may be detrimental to the goodwill or brand name of Cambium.

7.2 All Intellectual Property Rights in or arising out of or in connection with the Products and/or Services shall be owned by Cambium or its licensors.

7.3 Cambium has certain rights in software, firmware, and computer programs or data residing in the Products ("Software"), including without limitation the right to prepare derivative works and distribute copies, title to which at all times remains with Cambium or a third party licensor as the case may be. Products are sold subject to any applicable third party's rights. The Ordering Activity shall not prepare works derived from, reproduce in copies or distribute copies of any Cambium Software.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Bit9, Inc. (Carbon Black)**, ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

CARBON BLACK (FKA BIT9, INC.)

CARBON BLACK LICENSE, WARRANTY AND SUPPORT TERMS

CARBON BLACK ANALYZER:

1. **DEFINITIONS.** IN THIS ATTACHMENT A, THE FOLLOWING DEFINITIONS SHALL APPLY (IN ADDITION TO THOSE SET FORTH IN THE BODY OF THIS ATTACHMENT A):

“You” or “Your” means the Ordering Activity purchasing the Bit9 Analyzer subscription and utilizing the GSR service.

“Initial Term” means the initial subscription term specified in the Order.

“Licensed Materials” means the GSR, Bit9 Analyzer and all associated written or electronic documentation (“Documentation”) that is provided by Bit9 to You for use in conjunction with the operation of the GSR and Bit9 Analyzer. The information delivered to You by the GSR is intended to enable You to identify software using algorithmic hashes. Such information may be internally generated by Bit9 or externally gathered from third-parties and while such information is believed to be reliable, such third-party information may not have been independently authenticated, tested, or verified in whole or in part.

“Order” means an order by You for a subscription license to the Bit9 Analyzer.

“Global Software Registry” or “GSR” means Bit9’s proprietary database (and any updates and modifications thereto provided by Bit9), delivered through the Bit9 Analyzer. The Global Software Registry is a database containing the hash values and other pieces of metadata for application software. The GSR contains the MD5 hash values and metadata including, but not limited to, publisher name, program name, package type, filename, language, first seen date and threat level.

“Bit9 Analyzer” means Bit9’s proprietary product that makes the GSR accessible through Guidance EnCase® Forensic or Enterprise Software (“EnCase”). Bit9 Analyzer is delivered as a hard drive containing the hash database and software scripts designed to run with EnCase and permit licensed users of EnCase to connect and interface data collected with EnCase against the groups of hash values present in the GSR.

2. **License; Restrictions.** In consideration of Your payment to Contractor of the Fees, You are granted (for the Term specified in the Order), for Your internal use only, a non-exclusive, non-transferable license, without right to sublicense, to (a) allow the number of examiners specified in the Order access and use of Bit9 Analyzer; (b) allow Your employees to access the GSR solely through Bit9 Analyzer for the limited purpose of identifying software by searching the software binary file metadata cataloged by the GSR; and (c) use the Documentation. Examiners shall not be reassigned by You, to different individuals, except in the event of a job change or termination of employment of such examiner. License of the Licensed Materials is limited to read-only access by query by hash value and data may not be bulk exported from the GSR or Bit9 Analyzer. The Licensed Materials may not physically leave the premise/site to which the Licensed Materials are licensed. All Licensed Materials under this Attachment A are licensed and not sold and shall remain, the sole and exclusive property of Contractor. Contractor reserves all other rights to the licensed Materials and all intellectual property relating thereto not specifically licensed in this Attachment A. You shall not sell, transfer, rent, copy, duplicate, reverse engineer, reverse compile, modify or create derivative works of, tamper with or grant any rights in Licensed Materials. You agree to display of any copyright and trademark notices incorporated by Bit9.

3. **Ownership.** Unless otherwise agreed to in writing by Contractor, all written materials, including programs, files, specifications and documentation and any work product, patents, information, inventions or copyrightable material that are produced by Bit9 or any of its employees or consultants during the course of its performance hereunder or results from the performance of any services by Contractor through Bit9 shall be the sole property of Contractor. You are granted a license to use such material to the extent necessary to obtain the benefits contemplated by the license granted by this Attachment A.

4. **Warranties; Disclaimer.** Contractor warrants that for the Initial Term (“Warranty Period”), the Bit9 Analyzer will conform in all material respects to the applicable specifications. If the Bit9 Analyzer does not meet Contractor’s warranty during the Warranty Period, Contractor will (at its option), as Your remedy, (a) repair, replace or modify the Bit9 Analyzer so it will comply with the applicable warranty, or (b) refund the Fee of the Bit9 Analyzer within thirty (30) calendar days of the termination of the respective license. Contractor warranties are for the benefit of You only and are void if the GSR or Bit9 Analyzer is used in violation of the applicable Documentation or Bit9’s instructions. Notwithstanding any other provision of this Attachment A, the information provided by the GSR is provided on an “as is” basis only. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ERROR FREE OPERATION OR NON-INTRUSION DUE TO HACKING OR OTHER SIMILAR MEANS OF UNAUTHORIZED ACCESS.

BIT9, INC. (CARBON BLACK). CYBER FORENSICS:

1. **DEFINITIONS.** IN THIS ATTACHMENT A, THE FOLLOWING DEFINITIONS SHALL APPLY (IN ADDITION TO THOSE SET FORTH IN THE BODY OF THIS ATTACHMENT A):

“You” or “Your” means the Ordering Activity purchasing the Bit9 Cyber Forensics Service subscription and utilizing the GSR service.

“Initial Term” means the initial subscription term specified in the Order.

“Licensed Materials” means the GSR, Bit9 Cyber Forensics Service and all associated written or electronic documentation (“Documentation”) that is provided by Bit9 to You for use in conjunction with the operation of the GSR and Bit9 Cyber Forensics Service. The information delivered to You by the GSR is intended to enable You to identify software using algorithmic hashes. Such information may be internally generated by Bit9 or externally gathered from third-parties and while such information is believed to be reliable, such third-party information may not have been independently authenticated, tested, or verified in whole or in part.

“Order” means an order by You for a subscription license to the Bit9 Cyber Forensics Service.

“Global Software Registry” or “GSR” means Bit9’s proprietary database (and any updates and modifications thereto provided by Bit9), delivered through the Bit9 Cyber Forensics Service. The Global Software Registry is a database containing the hash values and other pieces of metadata for application software. The GSR contains the MD5 hash values and metadata including, but not limited to, publisher name, program name, package type, filename, language, first seen date and threat level.

“Bit9 Cyber Forensics Service” means Bit9’s proprietary product that makes the GSR accessible through the Bit9 Cyber Forensics Service API. The Bit9 Cyber Forensics Service provides access to information about application software, including, but not limited to, hash values, publisher name, filename, first seen date, trust factor and threat level and is delivered via a monthly physical database drop with USB 2.0 connection or via a web services interface.

2. License; Restrictions. In consideration of Your payment to Contractor of the Fees, You are granted (for the Term specified in the Order), for Your internal use only, a non-exclusive, non-transferable license, without right to sublicense, to (a) allow the number of named users specified in the Order access and use of the version of the Bit9 Cyber Forensics Service specified in the Order; (b) allow Your employees to access the GSR solely through Bit9 Cyber Forensics Service for the limited purpose of identifying software by searching the software binary file metadata cataloged by the GSR; and (c) use the Documentation. The number of queries shall not exceed fifty thousand (50,000) hash-based queries per day per named user if the delivery model specified in the Order is web services. Named users shall not be reassigned by You, to different individuals, except in the event of a job change or termination of employment of such named user. License of the Licensed Materials is limited to read-only access by query by hash value and data may not be bulk exported from the GSR or Bit9 Cyber Forensics Service. The method of delivery of the Bit9 Cyber Forensics Service will be specified in the Order. The Licensed Materials may not physically leave the one (1) premise/site to which the Licensed Materials are licensed. All Licensed Materials under this Attachment A are licensed and not sold and shall remain, the sole and exclusive property of Contractor. Contractor reserves all other rights to the licensed Materials and all intellectual property relating thereto not specifically licensed in this Attachment A. You shall not sell, transfer, rent, copy, duplicate, reverse engineer, reverse compile, modify or create derivative works of, tamper with or grant any rights in Licensed Materials. You agree to display of any copyright and trademark notices incorporated by Bit9.

3. Ownership. Unless otherwise agreed to in writing by Contractor, all written materials, including programs, files, specifications and documentation and any work product, patents, information, inventions or copyrightable material that are produced by Bit9 or any of its employees or consultants during the course of its performance hereunder or results from the performance of any services by Contractor through Bit9 shall be the sole property of Contractor. You are granted a license to use such material to the extent necessary to obtain the benefits contemplated by the license granted by this Attachment A.

4. Warranties; Disclaimer. Contractor warrants that for the Initial Term (“Warranty Period”), the Bit9 Cyber Forensics Service will conform in all material respects to the applicable specifications. If the Bit9 Cyber Forensics Service does not meet Contractor’s warranty during the Warranty Period, Contractor will (at its option), as Your remedy, (a) repair, replace or modify the Bit9 Cyber Forensics Service so it will comply with the applicable warranty, or (b) refund the Fee of the Bit9 Cyber Forensics Service within thirty (30) calendar days of the termination of the respective license. Contractor warranties are for the benefit of You only and are void if the GSR or Bit9 Cyber Forensics Service is used in violation of the applicable Documentation or Contractor’s instructions. Notwithstanding any other provision of this Attachment A, the information provided by the GSR is provided on an “as is” basis only. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ERROR FREE OPERATION OR NON-INTRUSION DUE TO HACKING OR OTHER SIMILAR MEANS OF UNAUTHORIZED ACCESS.

BIT9, INC. (CARBON BLACK). PARITY KNOWLEDGE SERVICE:

1. DEFINITIONS. IN THIS ATTACHMENT A, THE FOLLOWING DEFINITIONS SHALL APPLY (IN ADDITION TO THOSE SET FORTH IN THE BODY OF THIS ATTACHMENT A):

“You” or “Your” means the Ordering Activity purchasing the Bit9 Parity Knowledge Service subscription.

“Initial Term” means the initial subscription term specified in the Order.

“Licensed Materials” means the Parity Knowledge Service and all associated written or electronic documentation (“Documentation”) that is provided by Bit9 to You for use in conjunction with the operation of the Parity Knowledge Service. The information delivered to You by the Parity Knowledge Service may be internally generated by Bit9 or externally gathered from third-parties and while such information is believed to be reliable, such third-party information may not have been independently authenticated, tested, or verified in whole or in part.

“Order” means an order by You for a subscription license to the Parity Knowledge Service.

“Parity Knowledge Service” means the web-based software identification and information service for Windows computers provided by Bit9 through Bit9’s Parity product (“Parity”) or directly through Bit9’s website located at <http://www.bit9.com> and related websites (the “Website”).

2. License; Restrictions. In consideration of Your payment to Contractor of the Fees, You are granted (for the Term specified in the Order), for Your internal use only, a non-exclusive, non-transferable license, without right to sublicense, to (a) allow the number of named users specified in the Order access and use of Parity Knowledge Service; and (b) use the Documentation. Named users shall not be reassigned by You, to different individuals,

except in the event of a job change or termination of employment of such named user. All Licensed Materials under this Attachment A are licensed and not sold and shall remain, the sole and exclusive property of Contractor. Contractor reserves all other rights to the licensed Materials and all intellectual property relating thereto not specifically licensed in this Attachment A. You shall not sell, transfer, rent, copy, duplicate, reverse engineer, reverse compile, modify or create derivative works of, tamper with or grant any rights in Licensed Materials, nor may you use Parity Knowledge Service to conduct a service bureau or similar business for the benefit of third parties. You agree to display of any copyright and trademark notices incorporated by Bit9.

If You are using the FileAdvisor™ version of Parity Knowledge Service, either party may terminate Parity Knowledge Service with notice to the other party. For other licensees of Parity Knowledge Service, the license shall terminate at the end of the term set forth in an applicable Order, unless otherwise terminated as set forth herein. In addition, any Bit9 software that may be downloaded by You or provided to You by Contractor in connection with Your use of Parity Knowledge Service, including, without limitation, (i) Parity; and (ii) any patch, update, upgrade, modification or other enhancement provided by Contractor through Bit9 with respect to such software, is licensed subject to these terms and conditions of this Attachment A. Your Parity license serves as Your Registration to the extent it so indicates.

3. **Ownership.** Unless otherwise agreed to in writing by Contractor, all written materials, including programs, files, specifications and documentation and any work product, patents, information, inventions or copyrightable material that are produced by Bit9 or any of its employees or consultants during the course of its performance hereunder or results from the performance of any services by Contractor through Bit9 shall be the sole property of Contractor. You are granted a license to use such material to the extent necessary to obtain the benefits contemplated by the license granted by this Attachment A.

4. **Warranties; Disclaimer.** Contractor warrants that for the Initial Term ("Warranty Period"), the Parity Knowledge Service will conform in all material respects to the applicable specifications. If Parity Knowledge Service does not meet Contractor's warranty during the Warranty Period, Contractor will (at its option), as Your remedy, (a) repair, replace or modify Parity Knowledge Service so it will comply with the applicable warranty, or (b) refund the Fee for Parity Knowledge Service on a pro rata basis within thirty (30) calendar days of the termination of the respective license. Contractor warranties are for the benefit of You only and are void if Parity Knowledge Service is used in violation of the applicable Documentation or Contractor's instructions. Notwithstanding any other provision of this Attachment A, the information provided by Parity Knowledge Service is provided on an "as is" basis only. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ERROR FREE OPERATION OR NON-INTRUSION DUE TO HACKING OR OTHER SIMILAR MEANS OF UNAUTHORIZED ACCESS. IN ADDITION, PARITY KNOWLEDGE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. CONTRACTOR IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

BIT9, INC. (CARBON BLACK). PARITY SOFTWARE APPLICATION:

1. **DEFINITIONS.** IN THIS ATTACHMENT A, THE FOLLOWING DEFINITIONS SHALL APPLY (IN ADDITION TO THOSE SET FORTH IN THE BODY OF THIS ATTACHMENT A):

"You" or "Your" means the Ordering Activity purchasing the Bit9 Parity software application (referred to herein as the "Software").

"Package" means and includes, as applicable, executable files that You may download or a CD-ROM or other tangible media, in either case containing Bit9's Parity software application and certain written materials (the "Documentation").

Any patch, update, upgrade, modification or other enhancement provided by Licensor with respect to the Software or the Documentation shall be included within the meanings of those terms, for the purposes of this Attachment A, except to the extent expressly provided below.

LIMITED LICENSE: Contractor hereby grants to You, subject to the terms and conditions of this Attachment A, a non-exclusive, non-transferable right and license to use the Software only for Your own internal business purposes. You may not sell or transfer reproductions of the Software or Documentation to third parties in any way. You may only use the functionality in the Software available in the type of license and for the network and number of network terminals specified in an order or invoice from Contractor that has been accepted by You (the "Order"). You may not use the Software for any purposes not specifically permitted hereunder or on networks not specified in the Order or make the Software available to more network terminals than the number specified in the Order.

OWNERSHIP; COPYRIGHT: Title to the Software and the Documentation, and patents, copyrights and all other property rights applicable thereto, shall at all times remain with Contractor, and You shall not take any action inconsistent with such title. The Software and the Documentation are protected by United States and other applicable laws and by international treaty provisions. Any rights not expressly granted herein are reserved to Contractor.

OTHER RESTRICTIONS: You may not cause or permit the disclosure, copying, renting, licensing, sublicensing, leasing, dissemination or other distribution of the Software or the Documentation by any means or in any form, without the prior written consent of Contractor. You may not use the Software to conduct a service bureau or similar business for the benefit of third parties. You may not modify, enhance, supplement, create derivative work from, adapt, translate, reverse engineer, decompile, disassemble or otherwise reduce the Software to human readable form.

ULTRAHAZARDOUS ACTIVITIES: The Software is not designed, manufactured or intended for use in any environment in which the failure of the Software could lead to death, personal injury or severe physical or environmental damage, which uses and environments may include, but are not limited to, the design or operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines or weapons systems or the on-line control of equipment in any hazardous environment requiring fail-safe performance ("Ultra-hazardous Activities"). You represent and warrant to Contractor that You will not install or use the Software for such purposes.

LIMITED WARRANTY:

Contractor warrants that for a period of ninety (90) days after the delivery of the Software ("Software Warranty Period"), the Software will conform in all material respects to the applicable Documentation. This limited warranty: (i) applies to the initial Ordering Activity only and may be acted upon only by the initial Ordering Activity; (ii) does not apply in the event of any alteration of the Software or any use of the Software other than as permitted hereby or in accordance with its published specifications; and (iii) does not apply to any patch, update, upgrade, modification, or other enhancement provided by Contractor with respect to the Software or the Documentation, which are provided on an AS IS BASIS ONLY.

EXCEPT AS EXPLICITLY STATED ABOVE, CONTRACTOR MAKE NO OTHER WARRANTY OR CONDITION, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, REGARDING THIS SOFTWARE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

If You believe You have found any such error or defect in the Software during the Software Warranty Period, call Bit9's Customer Service Department at +1 (617) 393-7487 or 877-BIT9-098 between the hours of 8:00 a.m. and 8:00 p.m. Monday through Friday (Eastern Time), holidays excluded, and provide Your Product number. Contractor's liability and Your remedy for breach of this limited warranty shall be the replacement of the Software, within a reasonable period of time and without charge, with a corrected version of the Software.

BIT9, INC. (CARBON BLACK). MAINTENANCE & SUPPORT SERVICES:

1.0. Telephone / Email / Portal. Contractor through Bit9 will provide reasonable telephone, email and/or portal support for problem determination and resolution for problems arising during normal operation of the Software. Contractor through Bit9 may require the Ordering Activity to provide a written assistance request describing the problem.

1.1. Support Phone Number: 617-393-7487 / 877-BIT9-098

1.2. Support Email Address: support@bit9.com

1.3. Support Portal: <http://www.bit9.com/contact/support.php>

2.0 Bit9 Primary Support Contact.

2.1 Definitions.

(A) Professional Services Team: Bit9 or certified solution partner personnel responsible for managing the installation and initial configuration of the Software in accordance with a statement of work.

(B) Technical Support Team: Bit9 personnel responsible for providing technical support for the Software.

2.2 During a service engagement, the Professional Services Team is the primary support contact for the Ordering Activity for technical or other issues related to the service engagement, including but not limited to implementation and configuration of the Software.

2.3 During a service engagement, if a technical issue is suspected to be a product defect or requires diagnosis or remediation beyond the capabilities of the Professional Services Team, the Technical Support Team may become the primary contact for that specific issue. Once the issue is resolved, the primary support contact for the Ordering Activity returns to the Professional Services Team until the completion of the service engagement.

2.4 During a service engagement, Ordering Activities with a premium support contract who have an issue of a Critical severity level (as defined in Section 6.0 herein) should contact the Professional Service Team during Bit9's normal working hours (as defined in Section 3.1 herein) and the Technical Support Team during off-hours.

2.5 Once a service engagement is complete, the Professional Services Team will transfer the primary support contact to the Technical Support Team.

3.0 Support Hours.

3.1. Ordering Activities with a standard support contract will receive assistance during Bit9's normal working hours of 8:00 a.m. to 8:00 p.m., Monday through Friday, Eastern Standard Time.

3.2. Ordering Activities with a premium support contract with issues of a Critical severity level (as defined in Section 6.0 herein), will receive reasonable telephone support for operational problem determination and resolution 24 hours a day, 7 days a week. For all other issues of lesser severity, general support is available during Bit9's normal working hours of 8:00 a.m. to 8:00 p.m., Monday through Friday, Eastern Standard Time.

4.0. On-Site Emergency Support. Ordering Activity may request Contractor through Bit9 to provide on-site emergency operational support services as a separate and distinct billable service.

5.0. Maintenance Updates and Upgrades. The Support Services purchased by Ordering Activity, pursuant to the applicable order, include updates to major, minor, and maintenance releases at no additional cost.

For the purposes of this Attachment A, (i) "maintenance releases" shall mean such bug fixes and/or platform updates that are designated as "maintenance releases" by Contractor through Bit9; (ii) "minor releases" shall mean such bug fixes, platform updates, and/or minor product

enhancements that are designated as “minor releases” by Contractor through Bit9; and (iii) “major releases” shall mean such bug fixes, platform updates, and major product enhancements and/or new features that are designated as “major releases” by Contractor through Bit9.

To the extent applicable, all Support Services provided by Contractor through Bit9 to Ordering Activity (including all maintenance releases, minor releases, and major releases that may be provided to Ordering Activity by Contractor through Bit9 from time to time) shall be subject to the applicable Attachment A terms above between Contractor and Ordering Activity.

6.0. Problem Determination and Resolution. Contractor through Bit9 resources will be allocated to resolve reported problems based on the severity level set forth in the table below and Bit9 will use commercially reasonable efforts to provide an acceptable resolution, workaround, or a plan for the provision of a resolution or acceptable workaround in the timeframe set forth in the table below:

Severity Level	Definition	Acknowledgement	Commitment
Critical	An error that causes a catastrophic failure substantially impacting Ordering Activity’s business.	4 hours	Bit9 and Ordering Activity will commit full-time resources for problem resolution, to obtain workaround, or reduce the severity of the error.
Major	An error that causes Bit9 product to fail without significant business impact. Causes a substantial reduction in protection.	4 hours	Bit9 and Ordering Activity will commit full-time resources during normal business hours for problem resolution, to obtain workaround, or reduce the severity of the error.
Minor	An error that causes only minor impact on use of the product.	8 hours	Bit9 and Ordering Activity will commit resources during normal business hours for problem resolution.
Request	A service request for a new feature, additional documentation, or an explanation of product functionality.	8 hours	Bit9 and Ordering Activity will provide resources during normal business hours to address request.

(A) Acknowledgement. Once a problem has been reported, Ordering Activity will receive an acknowledgement via email, phone or the support portal, as to the receipt of the problem as reported and a confirmation of the problem severity. Contractor through Bit9 will begin the process of problem determination and resolution at this point.

(B) Status Updates. During the problem determination and resolution process, Ordering Activity may receive regular communications, via email, phone or the support portal, as to the status of the problem determination and resolution.

(C) Resolution. In response to the problem reported, Ordering Activity will receive, as appropriate, one of the following resolutions: an existing correction, a new correction, a viable workaround, or a plan on how the problem will be addressed.

(D) Severity Re-classification. If Ordering Activity determines that a previously reported and in-progress issue’s severity needs to be re-classified or escalated, Ordering Activity should issue a new call or email to the Technical Support Team.

7.0. Exclusions. Contractor through Bit9 will have no obligation to support the following, pursuant to the terms of this Attachment A:

- (A) Software not covered by an active support contract and/or not in compliance with these Attachment A terms.
- (B) Software that is altered or modified other than as approved by Contractor through Bit9 or any portion of the Software incorporated with or into other software not specifically approved by Contractor through Bit9.
- (C) Any Software that is not the current major release or immediately previous major release with most current minor update.
- (D) Problems caused by misuse or misapplication of the Software.
- (E) Software installed on any computer hardware/software configurations not supported by Contractor through Bit9.

Contractor through Bit9, in its sole discretion, shall determine whether any of the foregoing exclusions are applicable to Ordering Activity.

8.0. Ordering Activity’s Obligations for Operational Support.

8.1. Contact Person(s). Ordering Activity will designate up to two (2) contact person(s) (or such other replacement individuals as Ordering Activity may designate in writing) (each a “**Contact Person**”), who shall be the sole contacts for the coordination and receipt of the Support Services set forth in this Attachment A. Each Contact Person shall be knowledgeable about the Software. If Contractor through Bit9 is unable to contact any designated Contact Person through the specified means for a period of time and such contact would be helpful for performing the Support Services, Bit9 may refuse to perform the Support Services until Bit9 is able to contact a designated Contact Person, in which case the times for resolution set forth in Section 6 will be suspended for such period of time.

8.2. Remote Access. For the purpose of problem determination and analysis, Ordering Activity will provide, as necessary and at Ordering Activity's discretion, the Technical Support Team with remote access capabilities into Ordering Activity's system's running the Software.

8.3. Supporting Data. Ordering Activity will provide reasonable supporting data to aid in the identification and resolution of the issue.

8.4. Installation. Ordering Activity will be responsible for installing any error correction, update or upgrade.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Convergys Customer Management Group, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

CONVERGY'S

CONVERGY'S LICENSE, WARRANTY AND SUPPORT TERMS

1. **RCA Services.** For the period covered for the RCA Services and subject to the terms and conditions of this Attachment A, Contractor through Convergys shall provide Ordering Activity the RCA Services set out in this Attachment A. RCA offers different levels of maintenance based on customer requirements. Ordering Activity acknowledges that currently Convergys offers its Ordering Activity a choice of three levels of support plans: Basic, Preferred and Premier. Ordering Activity understands that should it elect the Basic plan, no on-site labor required to deliver satisfactory RCA services is included in the Basic plan. Support services are offered from 8:30 a.m. to 5:30 p.m., local time at the place of installation of the System(s), Monday through Friday, excluding Convergys holidays; to support 24 hours per day 7 days per week, 365 days per year, fees are based on the level of maintenance selected by Ordering Activity. The current recognized holidays for Convergys are New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving, Day after Thanksgiving, and Christmas Day.

The RCA Services plan chosen and the related period of service (the "Period of Service") will be specified on the appropriate purchase order. Remedies may consist of temporary procedures to be followed by Ordering Activity while a permanent remedy is being sought. Remedial maintenance will commence upon notice to Contractor through Convergys that any System covered by this Attachment A is not in good working order and will continue during the Period of Service until the System is restored to good working order.

2. **Remedial Maintenance.** Remedial maintenance service included as part of the RCA Services is provided under the terms of this Attachment A as well as the Exhibit 1 to this Attachment A.
 - a. **Diagnosis and Correction.** Contractor through Convergys will provide diagnosis and correction of System malfunctions and failures to ensure that the System and/or Software are in conformance with the Documentation.
 - b. **Labor and Parts.** Except as otherwise provided herein, Contractor through Convergys will provide at its own expense all labor and parts which, in the opinion of Convergys service personnel, are necessary for providing the remedial maintenance services required by this Attachment A. Only new or refurbished parts that are equivalent to new in performance will be used under this Attachment A. All parts and products removed for replacement by Convergys or Ordering Activity shall become the property of Convergys, and in the event any part or product is removed by any person not under the control of Convergys, such part or product shall be immediately returned to Convergys by Ordering Activity.
 - c. **Modification of Equipment.** In order to facilitate the remedial maintenance services, Contractor through Convergys may, at its discretion, make or cause to be made, modifications to any Systems covered by this Attachment A. Ordering Activity shall provide access during the Period of Service to the Systems to be modified upon notification from Convergys that a modification is to be made.
 - d. **Additional Systems.** Any Convergys System(s), System upgrades and/or expansions, acquired by Ordering Activity may be included in the System(s) covered under this Attachment A upon written approval by Contractor through Convergys and Ordering Activity and, if so included, shall be subject to the then prevailing GSA service charges and to all terms and conditions of this Attachment A.
3. **STANDARD SOFTWARE UPGRADES AND UPDATES.** Ordering Activity understands that not all levels of RCA offered by Contractor through Convergys contain the right to obtain standard software upgrades, updates and patches and if Ordering Activity purchases those levels of RCA, this Section shall not apply. So long as the level of RCA maintenance services purchased by Ordering Activity, includes standard software upgrades and updates, the terms of this Section shall apply. Updates and upgrades to Software provided by Convergys will be provided as follows:
 - a. **Standard Software Upgrades.** Ordering Activity is entitled to receive a license to all standard software upgrades and updates released and marketed by Contractor through Convergys (the "Software Upgrade Services") for: (a) InterSoft, InVision and Windows NT, Windows 2000, and Windows 2003, operating system software (collectively, "Standard Software Upgrades") licensed by Ordering Activity for the System(s); and (b) any Feature or Interface (as such terms are defined below) licensed by Ordering Activity for use with the System(s) (collectively, "Feature and Interface Upgrades"). The Windows NT, Windows 2000, and Windows 2003 software (and any future Microsoft operating system included in Software Upgrade Services) is referred to herein collectively as the "Microsoft OS") terms of this Section are applicable where such Microsoft OS is supplied to Ordering Activity by Convergys.
 - b. **Features and Interfaces.** The term a "Feature" means any feature which provides or enables, voice recognition functionality, text to speech functionality, fax functionality, data connect functionality or system management functionality; and the term "Interface" means any CTI interface, database interface, host interface, or telephony interface. Contractor through Convergys may from time to time offer new or different features and/or interfaces, and all such features and Interfaces shall be deemed "Features" and "Interfaces" for purposes of this Attachment A.
 - c. **Decision to Market.** Contractor through Convergys reserves the right to determine, in its sole discretion, whether to market any upgrade or update to the Windows OS made available by Microsoft, or any Feature or Interface made available by the third party supplier of such Feature or Interface. All Standard Software Upgrades and/or Feature and/or Interface Upgrades, will be provided pursuant to this Attachment A.

- d. Requests for Standard Software Upgrades. Any time Contractor requests Contractor through Convergys to provide a Standard Software Upgrade, Convergys may, in its sole discretion, (a) replace a Feature or Interface on the System(s) with a reasonably equivalent Feature or Interface at Convergys's sole expense; or (b) if Convergys determines, in its sole discretion, that a Standard Software Upgrade is not compatible with one or more of Ordering Activity's existing Features and/or Interfaces for the System, Convergys may elect not to deliver the requested Standard Software Upgrade. If Convergys elects not to deliver a Standard Software Upgrade requested by Ordering Activity for a System, Contractor shall refund to Ordering Activity the pro rata amount of the RealCare Advantage Fees related to Software Upgrade Services paid by Ordering Activity for the System, for the period beginning on the last to occur of (i) the commencement date of the original warranty for the System; (ii) the date, if any, that Convergys has most recently delivered a Standard Software Upgrade for the System; or (iii) the date three years prior to the date Ordering Activity requests the Standard Software Upgrade which Convergys elects not to deliver. Ordering Activity will have no obligation to make any further payments of RCA Fees for a System after the date that Convergys elects not to deliver a Standard Software Upgrade for such System requested by Ordering Activity. Remedial maintenance for such System will continue to be provided for the remainder of the then current term.
- e. Exclusions. Standard Software Upgrades are only available for Systems using a Windows NT, Windows 2000, or Windows 2003 operating systems. If Contractor through Convergys ceases to provide Standard Software Upgrades for either of such operating systems and elects to include other operating systems hereunder in lieu thereof and Ordering Activity elects to license such other operating systems, then Convergys shall offer Standard Software Upgrades to Ordering Activity for such operating systems. The Standard Software Upgrades expressly exclude Microsoft Speech Server products and the related Microsoft Operating System as well as any and all custom software and software customizations developed pursuant to Ordering Activity specifications or requirements, including, without limitation, all custom or customized: applications, call-flows, interfaces (database, CTI, host or telephony), features, macros and DLLs. The Standard Software Upgrades expressly exclude any and all installation services, software or interface modification services, services related to integrating the Standard Software Upgrades or Feature or Interface Upgrades with other hardware or software and any other services required to implement such Upgrades. The Standard Software Upgrades also expressly exclude any computer or hardware modifications, additions or upgrades required to implement any Standard Software Upgrade and/or Interface or Feature Upgrade. Ordering Activity may separately purchase any such installation services, integration services, software customization services, and/or hardware upgrades. The Standard Software Upgrades also expressly exclude any Features, Interfaces, functions or applications, and upgrades or updates thereto, which are not separately purchased or licensed for the System(s) by Ordering Activity.
4. Responsibilities of Ordering Activity. Contractor through Convergys service personnel shall specify the time required for performing RCA Services, and Ordering Activity shall provide Convergys access to the System(s) during such specified time. Ordering Activity shall, at no charge to Convergys, provide Convergys access to and use of any equipment and peripheral devices in support thereof which, in the opinion of Convergys service personnel, are reasonably necessary to enable the performance of the remedial maintenance services described above. Ordering Activity must provide Convergys suitable remote access through high speed connections that will allow Convergys designated personnel to effectively maintain the System(s) in accordance with this Attachment A. Provided Ordering Activity is current under RCA Services for Ordering Activity's existing Systems, if Ordering Activity has a remote connection (such as a modem) already in place which allows RCA Services support, Convergys shall continue providing support for such Systems using the existing connection method until Ordering Activity either discontinues RCA or there is a change made to the System which requires a change in the connection method. For new Systems acquired by Ordering Activity after the effective date of the purchase order, Ordering Activity understands that Ordering Activity's failure to provide such connection will hinder or restrict Convergys's ability to provide support for such System(s). Ordering Activity shall be responsible for the procurement, installation and maintenance of all non-Convergys communications media, including but not limited to, telephone equipment used for the remote transmission of data and computer access. Expenses for such communications media used in connection with the performance of the maintenance services provided under this Attachment A shall be borne by Ordering Activity. Ordering Activity shall maintain diagnostic media supplied by Convergys and be responsible for providing diagnostic support of maintenance to the System(s) in accordance with the procedures and instructions provided to Ordering Activity by Convergys. Ordering Activity shall not perform, or attempt to perform or cause to be performed, any other maintenance or repair to the Systems during the term of this Attachment A unless specifically requested by Convergys. Ordering Activity shall, at Convergys' request, record such operating information and maintain such usage records as may be specified by Convergys.

Conditions of Service. Contractor through Convergys' obligation to provide the RCA Services hereunder for the applicable Charges does not cover maintenance services, repair or replacement caused by: (i) failure to provide a suitable environment prescribed by Convergys; (ii) neglect, accident, disaster (including water, wind and lightning), transportation or vandalism; (iii) alterations, applications, additions or modifications to or for the System(s) and Software which are not provided by Convergys; (iv) host computers, networks, telephone switches and other applications, attachments, machines, software or accessories, and modifications or additions thereto, not provided by Convergys; (v) failure to use and operate the System(s) in accordance with the functional specifications and published operating guidelines delivered to Ordering Activity (such as any site preparation guidelines and user manuals) pursuant to which the System(s) was installed and accepted; (vi) requests for remedial maintenance outside of the Period of Service; or (vii) maintenance or repair not performed or requested by Convergys. Ordering Activity acknowledges that Convergys has not made any representation or warranty (regarding the maintenance services which are the subject of this Addendum) that is not expressly set forth herein. EXCEPT AS SET FORTH HEREIN, CONTRACTOR DISCLAIMS ANY WARRANTY WITH RESPECT TO THE MERCHANTABILITY, DESIGN, CONDITION, DURABILITY, PERFORMANCE, QUALITY, CAPACITY OR FITNESS FOR A PARTICULAR PURPOSE OF SAID SERVICES OR PARTS AND PRODUCTS PROVIDED PURSUANT TO SUCH SERVICES.

Exhibit 1 to Addendum for RealCare Advantage Services

Remedial Maintenance

For questions, problems, or Outages in relation to the operation or performance of Ordering Activity's Convergys System(s), please call 800-955-4688. This number provides Ordering Activity with quick access to comprehensive technical support. The following section details how Ordering Activity's call to RealCare is handled.

Ordering Activity's initial call will be forwarded directly to a Support Desk Analyst. The Support Desk Analyst will ask Ordering Activity for the Convergys System(s) number, which should be found on a sticker affixed to Ordering Activity System(s), and a modem number for remote access to Ordering Activity's System(s).

The Support Desk Analyst will discuss the Outage, problem, or question with Ordering Activity. Upon mutual agreement of both parties, the Support Desk Analyst will assign the appropriate Severity Level classification, as provided below. The Support Desk Analyst will provide Ordering Activity with an Outage/ problem ticket number that will be used to track and reference the Outage, problem, or question throughout its resolution process. In event the parties can not mutually agree on the Severity Level classification, the final decision shall be Convergys'.

The Support Desk Analyst will also reference Ordering Activity's Convergys Systems(s) number in Convergys's RealCare Ordering Activity database to determine whether Ordering Activity is entitled to RealCare technical support.

The Support Desk Analyst will then determine a priority for Ordering Activity call based on the Severity Level classification of the Outage, problem, or question and the type of service coverage Ordering Activity has in place with Convergys. Ordering Activity system(s) covered under Warranty or by a RCA Addendum receive first priority.

RealCare Advantage Service

RealCare Advantage Service entitles Ordering Activity to toll-free telephone support, technical assistance, remote troubleshooting, and if required, on-site hardware repair services. This RCA Addendum also entitles Ordering Activity to applicable software patch releases and workarounds that are required to address reported problems based on the level of maintenance selected. Parts charges are covered per RCA Addendum.

RealCare Severity Classifications

The following Severity classifications will be used to categorize Outages reported by Ordering Activity:

Severity 1 - Business Critical Outage

An Outage that results in a critical System(s) failure, which severely impairs and/or disrupts one or more critical functions or features of the System(s), including the System's ability to accept and process calls, as outlined in the System's functional specifications. For example, the System experiences an Outage that disables more than 50% of the System's total available ports.

Severity 2 - Operational Outage

An Outage that negatively impacts one or more critical features or functions of the System, but for which a temporary workaround can be implemented while a more permanent solution is being implemented. For example, the Outage only impacts 25% of the System(s) total available ports.

Severity 3 - Discretionary Problem

A problem that has minimal impact on the System and does not impair the performance and functionality of the System. Necessary System features, functionality and available ports are still in operation.

Severity 4 - Information Request

Call regarding operational questions and general technical inquiries. There is no impact to the System's feature and functionality.

Response and Escalation

Contractor through Convergys employs various guidelines to resolve Ordering Activity's System Outages. If under Warranty or a RCA Plan, Convergys shall provide an initial response to the reported Outages, problems, or questions within the Targeted Response Times listed below. Convergys will respond to and address the reported Outage, problem, or question by one or more means at Convergys's discretion. These means may include, but are not limited to, telephone calls of all types, priority electronic mail messages, electronic pager notifications, and on-site presence. In this case, "on site presence" may include either Convergys personnel or authorized representatives reporting in person to Ordering Activity premises or Convergys staff interacting in a direct, electronic fashion with Ordering Activity's installed Convergys equipment via computer terminal or personal computer, over common carrier circuits.

TARGET RESPONSE BY SEVERITY:	UNDER BASIC PLAN	UNDER PREFERRED PLAN	UNDER PREMIER PLAN
Sev 1 – Business Critical	1 hr	30 min*	15 min*
Sev 2 – Operational Outage	4 hr	1 hr	30 min*
Sev 3 – Discretionary	24 hrs	24 hrs	24 hrs
Sev 4 – Information	Scheduled	Scheduled	Scheduled

* After hours – within 1 hour

After the cause of a reported Outage, problem, or question has been diagnosed and isolated via either remote or on-site means, Contractor through Convergys shall use commercially reasonable efforts to correct and resolve the reported Outage, problem or question.

Dataguise, Inc.
2201 Walnut Ave.
#260
Fremont, CA 94538

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Dataguise, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor’s assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor’s assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

DATAGUISE, INC.

DATAGUISE, INC. LICENSE, WARRANTY AND SUPPORT TERMS

1. **LICENSE GRANT.** Subject to the terms of this Attachment A, Contractor hereby grants Ordering Activity a limited, personal, non-sublicensable, non-transferable, royalty-free, nonexclusive license to use the software that Ordering Activity is about to download ("Software") only for its personal use and only in accordance with any documentation that accompanies it. Ordering Activity may download, install and use the Software only on a single computer. Some Software may be provided under a free trial or evaluation license and may be used for purposes of evaluation for a paid license only, and not for any productive use. ORDERING ACTIVITY ACKNOWLEDGES THAT THE SOFTWARE MAY INCLUDE FEATURES TO PREVENT USE OF SOME OR ALL OF THE FEATURES OF THE SOFTWARE AFTER THE APPLICABLE LICENSE PERIOD.
2. **LICENSE RESTRICTIONS.** Except as expressly and unambiguously permitted by this Attachment A, Ordering Activity shall not, nor permit anyone else to, directly or indirectly: (i) copy (except for a reasonable number of backup copies), modify, or distribute the Software; (ii) reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or structure, sequence and organization of the Software (except where the foregoing is required by applicable local law, and then only to the extent so permitted); (iii) rent, lease, or use the Software for timesharing or service bureau purposes; or, (iv) use the Software for performing comparisons or other "benchmarking" activities, either alone or in connection with any software (and Ordering Activity will not publish any such performance information or comparisons). Ordering Activity shall maintain and not remove or obscure any proprietary notices on the Software, and shall reproduce such notices exactly on all permitted copies of the Software. As between the parties, title, ownership rights, and intellectual property rights in and to the Software, and any copies or portions thereof, shall remain in Contractor and its suppliers or licensors. Ordering Activity understands that Contractor may modify or discontinue offering the Software at any time. The Software is protected by the copyright laws of the United States and international copyright treaties. This Attachment A does not give Ordering Activity any rights not expressly granted herein.
3. **ACTIVATION.** Ordering Activity will not be able to use the Software without first activating it. Activation associates the use of the software with a specific device. During activation, the Software will send information about the software and the device to. This information includes the version, the license version, language and the product ID of the software, Internet protocol address of the device and information derived from the hardware configuration. BY USING THE SOFTWARE, ORDERING ACTIVITY CONSENTS TO THE TRANSMISSION OF THIS INFORMATION. Provided it does not identify Ordering Activity, Contractor through dataguisse will be free to use for development, diagnostic and corrective purposes any data and information it so collects relating to diagnosis, problems, systems, performance, use or functionality.
4. **SUPPORT AND UPGRADES.** This Attachment A does not entitle Ordering Activity to any support, upgrades, patches, enhancements, or fixes for the Software (collectively, "Support") unless Ordering Activity makes separate arrangements for Support with Contractor and pays any fees associated with such Support. Any such Support for the Software that may be made available by Contractor shall become part of the Software and subject to this Attachment A.
5. **WARRANTY DISCLAIMER.** CONTRACTOR PROVIDES THE SOFTWARE "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, AND NON-INFRINGEMENT. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS ATTACHMENT A. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS SO THE FOREGOING LIMITATIONS MAY NOT APPLY TO ORDERING ACTIVITY.
6. **HIGH RISK USES.** Ordering Activity acknowledges that the Software is not intended for use in connection with any high risk or strict liability activity (including, without limitation, air travel, space travel, fire fighting, police operations, power plant operation, military operations, rescue operations, hospital and medical operations or the like) and Ordering Activity agrees not to use or allow the use of the Software or any portion thereof for, or in connection with, any such activity.

Decision Lens, Inc.
4250 North Fairfax Drive
Suite 1410
Arlington, VA 22203

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Decision Lens, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

DECISION LENS (“DL”)

DECISION LENS LICENSE, WARRANTY AND SUPPORT TERMS

MASTER LICENSE SUBSCRIPTION AND SERVICES AGREEMENT

Scope of Agreement Definitions. This Agreement covers the (i) license and permitted use of the DL Software, (ii) access to DL Hosting and (iii) access to Ordering Activity Support. Unless otherwise defined in this [Section 1](#), the capitalized terms used in this Agreement shall be defined in the context in which they are used. The following terms shall have the following meanings:

- 1.1. “[Authorized User](#)” means Your employee(s) (or other third-party consultants as authorized by You under [Section 5.2](#) of this Agreement) who is authorized by You to access or use the DL Software, the DL Hosting or access the Ordering Activity Support in the manner authorized in this Agreement and within the scope identified in an Order Form.
- 1.2. “[Basic Blueprint](#)” means the generic decision models for a given substantive area of interest (e.g., hiring, research and development, etc.) created by Us based on generally available information that are made available (whether online or in hard copy format) to Ordering Activity and are designated as a “Basic Blueprint” by Us.
- 1.3. “[Blueprints](#)” means Basic Blueprints, Enhanced Blueprints and Published Blueprints.
- 1.4. “[Confidential Information](#)” shall have the meaning set forth in [Section 10](#) of this Agreement.
- 1.5. “[Content](#)” means any presentations, photographs, illustrations, icons, articles, text, audio clips, video clips or Ordering Activity Data.
- 1.6. “[Ordering Activity Data](#)” means any and all proprietary business data relating to Your business, including, without limitation, any and all data and information furnished to Us in the course of or incident to performing hereunder.
- 1.7. “[Ordering Activity Downtime](#)” means downtime, failure, disruption or interruption in the DL Hosting caused by or attributable to You, including, without limitation, (x) failure, interruption or disruption attributable to the actual or attempted acts or omissions of Your (i) Authorized Users, (ii) employees or (iii) independent contractors or agents, or (y) technical failure of Your telephone, computer, connectivity or any other equipment needed to access and use the DL Software, Ordering Activity Support, documentation and DL Hosting, as applicable.
- 1.8. “[Ordering Activity Hosted](#)” means the right granted by Us during an Order Term for You to install and use the DL Software at Your location and the right to the technical support. An Order Form must designate that it is a Ordering Activity Hosted Subscription in order for You to have the right to install and use the DL Software. In the absence of a Ordering Activity Hosted Subscription designation on an Order Form, We will host the DL Software per [Section 7](#) of this Agreement.
- 1.9. “[Ordering Activity Support](#)” means access to Decision Lens technical support as identified in [Section 6](#) of this Agreement.
- 1.10. “[Decision Lens Hosted Subscription](#)” means an order where We will host the DL Software.
- 1.11. “[DL Hosting](#)” means the hosting services provided by Us under a Subscription. These services include the collection of managed services, including system administration, hardware management, software system management, network operations, public Internet bandwidth, backup and restoration activities, program management and crisis management activities, which are collectively used to make the DL Software available online via a Decision Lens provided login link. In cases where You host the DL Software at Your location, We do not have an obligation to provide DL Hosting.
- 1.12. “[DL Software](#)” means Our proprietary software and advanced framework in object code for group decision-making, and all updates, improvements, bug fixes, or other modifications.
- 1.13. “[Documentation](#)” means the user guides and training materials made available by Us (whether online or in hard copy format) that provide installation and/or operating instructions for use of the DL Software by You.
- 1.14. “[Enhanced Blueprint](#)” means a Basic Blueprint that has been further enhanced by Us based on (a) feedback from customers and experts, and (b) Anonymous Ordering Activity Blueprint Usage Data (as defined in [Section 8.2](#) below and collected with Ordering Activity consent) created by Us and

made available to You (whether online or in hard copy format) and is designated as an "Enhanced Blueprint" by Us in accordance with our then-current generally applicable practices and policies.

- 1.15. "Reserved."
- 1.16. "Implementation Services" means installation, configuration and/or training services as specified in an Order Form or Statement of Work.
- 1.17. "Order Form" means the document by which You order Subscriptions from Us and includes a description and fee schedule of the applicable services (including specific deliverables and estimated time schedule, if any) as well as payment terms.
- 1.18. "Order Term" means the period of time as identified on a fully executed Order Form during which You may use or access the DL Software, Ordering Activity Support and DL Hosting, as applicable.
- 1.19. "Professional Services" means the services that we will provide to You, pursuant to an Order Form, and may include, as applicable, Implementation Services, educational services, facilitation, advance analytics, training and other professional services.
- 1.20. "Published Blueprint" means a Basic Blueprint that has been further refined and modified by You and designated by You as a Published Blueprint through the DL Software in accordance with Section 8.3.
- 1.21. "Scheduled Maintenance" means downtime to the DL Hosting during which We perform upgrades, bug fixes or other systems servicing to the DL Software or data center environment.
- 1.22. "Statement of Work" (SOW) is the document that describes the activities and deliverables to be provided by Our professional services team, and Our responsibilities and Your responsibilities under that document. The Initial Statement of Work, if applicable, is attached as **Exhibit B** to this Agreement.
- 1.23. "Subscription" means the combination of a license to use the DL Software, access to Our Ordering Activity Support, and, as applicable, access to DL Hosting.
- 1.24. "Term" shall have the meaning set forth in Section 11.1 of this Agreement.

2. Reserved.

3. **License Grant.** 3.1. Subject to the terms and conditions of this Agreement and in consideration for the payment of the applicable fees included in the Order Form, as part of a Subscription, We hereby grant to You, solely during the Order Term, a limited, nonexclusive, non-transferable term license (the "**License**") to access and use the DL Software, as applicable, as well as any Documentation, solely for your internal business use, within the business or functional unit identified on an Order Form, limited to use within the scope defined on an Order Form and in accordance with the Documentation. If You elect to have Us provide DL Hosting, We will provide access to the DL Software to Authorized Users. Access means providing a way to use the DL Software where We operate and manage the DL Software on behalf of You via the DL Hosting. In the case of a Ordering Activity Hosted Subscription, Your installation of Our Software is subject to the technical requirements in Our then-current Technical and System Security Specifications document, a copy of which is attached as Exhibit A.

3.2. You acknowledge and agree that, as between the Parties, the DL Software (including any upgrades, updates or any modifications thereto and/or new versions thereof), the Documentation, and all computer programs, related documentation in whatever form, screen displays, images and other information contained therein or related thereto, and all patents, copyrights, trademarks and other intellectual property rights and other rights with respect thereto, are and shall remain the exclusive property of Decision Lens, and that no rights therein or thereto are granted or otherwise transferred under this Agreement except as expressly set forth herein. 3.3. If any of the DL Software is being licensed under the terms of a proposal or agreement with the U.S. Government or on the U.S. Government's behalf, the DL Software is commercial computer software and both the DL Software and the Documentation are developed exclusively at private expense, and (a) if acquired by or on behalf of a civilian agency, shall be subject to the commercial computer software license terms set forth in this Agreement as specified in 48 C.F.R 12.212 of the Federal Acquisition Regulation and its successors; or (b) if acquired by or on behalf of units of the Department of Defense ("**DOD**"), shall be subject to the commercial computer software license terms set forth in this Agreement as specified in 48 C.F.R 227.7202 of the Defense Federal Acquisition Regulation Supplement and its successors.

- 3.4. As specified on an Order Form, the Parties may agree during the Term that We will host the DL Software for the benefit of You and/or your Authorized Users within a managed data center environment. You shall provide all reasonable assistance to Us in provisioning the DL Hosting, including, without limitation, providing all information required for setup and any branding materials, if applicable.
- 3.5. We reserve the right to charge an additional fee for add-in modules and for new version releases or upgrades that contain substantial additional functionality or substantially improved performance. These types of major version releases that include an additional fee will not be mandatory and are optional for You and not considered bug fixes or other modifications or updates to other DL Software that may have been licensed by You.

4. Content; Data.

4.1. License for Ordering Activity Data. In the event We are hosting the DL Software on behalf of You, You grant to Us a limited, non-exclusive, non-transferable license to store and use the Content to the extent necessary for Us to perform our obligations and exercise our rights hereunder subject to the administrative, physical and technical safeguards described in Section 7.

4.2. Ordering Activity Content. If, in the process of using the DL Software (whether hosted by Us or not), You, or any Authorized User, uploads, records or otherwise transmits any Content to Us, then You represent and warrant to Us that You: (a) are the owner or authorized user of the Content; (b) are solely responsible for the Content; and (c) acknowledge and agree that We neither control nor guarantee the accuracy, integrity or quality of the Content. You further agree that You will not use the DL Software or upload, record or otherwise transmit any Content that: (i) infringes any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (ii) violates any law, statute, ordinance or regulation (the "**Law**"); (iii) is defamatory, trade libelous, threatening, harassing, obscene, harmful, or pornographic; or (iv) contains any viruses or other software that is intended to damage or interfere with (or surreptitiously intercept or capture) any system, data or personal information. Because You and any Authorized Users will be in control of the Content displayed online as a part of use of the DL Software, You understand that by utilizing the DL Software that users may be exposed to Content that is improper, offensive or a violation of the Law and therefore, under no circumstances will We be liable to any person or entity for any alleged damages sustained by the distribution of the Content to any user. Upon termination of this Agreement, Content will be removed from Our website and You may request at termination to receive Ordering Activity Content in XML file format. Should You or an Authorized User submit technical support questions, comments, feedback or suggestions to Us, then You agree that We may edit and post those questions, comments, feedback or suggestions with the response, (without revealing personal information), on Our support website and that all such questions, comments, feedback and suggestions shall remain Our property.

4.3. Anonymous Ordering Activity Blueprint Usage Data. If You elect to gain access to Enhanced Blueprints, and We create Anonymous Ordering Activity Blueprint Usage Data as contemplated by Section 8.2, then the Parties acknowledge and agree that We will own the Anonymous Ordering Activity Blueprint Usage Data (as defined in Section 8.2), but not any data that is identifiable uniquely or specifically to You ("**Ordering Activity Specific Data**"). You shall retain ownership of all Ordering Activity's Specific Data.

4.4. Usage Data. You acknowledge that We may monitor usage of Our Basic Blueprints and report such usage on a generic, aggregated and anonymous basis to other users of the Basic Blueprints.

5. Restrictions.

- 5.1. You can access and use the DL Software, DL Hosting, and Ordering Activity Support solely for Your internal use as permitted hereunder. You and each Authorized User may not access, distribute or use the DL Software, DL Hosting or Ordering Activity Support except as expressly permitted under this Agreement, or the terms of the Order Form, including the requirements provided by applicable U.S. intellectual property laws and U.S. copyright laws. Except as permitted by this Agreement, any distribution of any portion of the DL Software is expressly prohibited. Furthermore, You and any Authorized User shall not, nor shall You or they permit others to do any of the following: (a) sell, distribute, transmit or otherwise provide access or use of the DL Software, DL Hosting or Ordering Activity Support to any person not authorized by this Agreement; (b) unless agreed to in an Order Form, store any DL Software in any information storage and retrieval system which either (i) provides access to any person not authorized by this Agreement, or (ii) provides concurrent usage by more end users than those authorized by this Agreement; (c) rent, sublicense, lease, assign or grant any right to use DL Software, DL Hosting or Ordering Activity Support to any person other than You or an Authorized User; (d) copy, reproduce, create derivative works from, de-compile, disassemble or otherwise reverse-engineer the DL Software or DL Hosting or in any other way alter, translate, modify or adapt the DL Software or DL Hosting; (e) make use of the Internet or an Intranet to provide access to the DL Software, DL Hosting or Ordering Activity Support through any local or wide area networks, timesharing services, multiple site arrangements or other forums which permit multiple simultaneous access or distribution other than as permitted by this Agreement; or (f) use the DL Software or DL Hosting to process data or provide analytical services to any third party or for any purpose other than Your internal use. Any access to or use of the DL Software (or any part thereof), DL Hosting or Ordering Activity Support by persons or other users who are not an Authorized User and this Agreement is specifically prohibited.
- 5.2. You may allow your third-party consultants to access and use the DL Software, DL Hosting and Ordering Activity Support as Authorized Users solely for Your internal use permitted hereunder, provided that (a) such third-party consultant has signed an agreement with You protecting Our intellectual property rights with terms no less stringent than the terms and conditions contained in this Agreement; and (b) You ensure that such third-party consultant access to and use of the DL Software, DL Hosting and Ordering Activity Support complies with the terms of this Agreement.
6. **Ordering Activity Support.** During an Order Term, as part of a Subscription to the DL Software, We will provide You with access to Ordering Activity support for the DL Software in accordance with the Order Form and Our then-current Ordering Activity Support. Your access to Ordering Activity Support expires at the end of an Order Term. Ordering Activity Support is limited to technical support directly related to use of the DL Software included on the applicable Order Form. Ordering Activity Support may be provided remotely via telephone or web-based services or, at Your request, may be provided in person. In the event that Ordering Activity requests DL to travel to Customer's location, Ordering Activity agrees to pay any travel expenses in accordance with FTR/JTR, as applicable. Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and funded under the applicable ordering document.
7. **DL Hosting.** This section does not apply to You when you install the DL Software at Your location. During an Order Term, as part of a Subscription to the DL Software, We will provide You with access to DL Hosting to enable You to access and use the DL Software in accordance with this Agreement which shall be comprised of access to a web portal or the website with password protected access to our managed data center

environment. We will use commercially reasonable efforts to make the DL Software available to the Internet for access by You 99.0% of the available time, excluding any outages on account of or caused by Ordering Activity Downtime, any maintenance updates of the DL Software or any Force Majeure event. We reserve the right to modify the DL Software or DL Hosting at any time and agree to use commercially reasonable efforts to notify You of any such modifications to the extent that such modifications affect functionality in a materially adverse manner. We will use commercially reasonable efforts to coordinate Scheduled Maintenance during off-hours of the normal workweek. We will use reasonable commercial efforts to coordinate with You regarding the scheduling of any emergency maintenance. We will maintain appropriate administrative, physical and technical safeguards designed to protect the security, confidentiality and integrity of Ordering Activity Data. As part of the DL Hosting, we will, during the hours of 8:30 a.m. to 5:00 p.m. Eastern Time Zone (ET) on weekdays (exclusive of holidays), make reasonable telephone or email based technical support available to Your personnel. When Our staff is unavailable, we will provide voice mail and email access that will be checked periodically.

8. **Blueprints.** 8.1. During an Order Term, as part of a Subscription to the DL Software, We will provide You with free access to Basic Blueprints. Basic Blueprints are the property of Decision Lens and use of the Basic Blueprints is subject to the same terms and conditions as the DL Software (including without limitation Sections 5, 10, 11.5, and 12 as if it were DL Software). Basic Blueprints are provided as references to You and use of, or reliance on, Basic Blueprints is at Your sole discretion. The decision models in the Basic Blueprints are based on public domain sources, web searches, journal articles, texts and expert interviews. We do not guarantee that any Basic Blueprint will meet Your needs and the Basic Blueprints are only intended as a reference point for You to create Your own decision model. Basic Blueprints may only be used with the DL Software.
- 8.2. During an Order Term, as part of a Subscription to the DL Software, We will provide You with the **option** of accessing Enhanced Blueprints. If You elect the option to access the Enhanced Blueprints, that option will be noted on the Order Form and use of the Enhanced Blueprints will be subject to the same terms and conditions as the DL Software (including without limitation Sections 5, 10, 11.5, and 12 as if it were DL Software), unless otherwise provided on the Order Form. If access to the Enhanced Blueprints is not noted on the Order Form, this Section 8.2 will not apply to You. You do not need to access the Enhanced Blueprints and use of Enhanced Blueprints is not required to use the DL Software. Access to the Enhanced Blueprints is entirely at Your discretion. Enhanced Blueprints are developed and customized by Us based on the aggregation and analysis of Your use and customization (and other Ordering Activities' use and customization) of an Enhanced Blueprint or a Basic Blueprint on an anonymous basis (the "**Anonymous Ordering Activity Blueprint Usage Data**"). The Anonymous Ordering Activity Blueprint Usage Data used to create Enhanced Blueprints is aggregated with other Ordering Activities' data and neither the Anonymous Ordering Activity Blueprint Usage Data, nor the resulting Enhanced Blueprint, will identify You or Your decision modeling data, priorities or decisions. To view Enhanced Blueprints, You must make Your data available to Us to analyze to create the Anonymous Ordering Activity Blueprint Usage Data for use in Enhanced Blueprints.
- 8.3. From time-to-time, an officer of Decision Lens may inquire, through a letter or other written communication, about whether You want to make any of your decision models available as a "Published Blueprint." You will have the option to make Your own uniquely created decision model(s) available as a blueprint for all Our other current and future customers to use with the DL Software. For purposes of clarity, You and Decision Lens acknowledge that You are not required to make any of your own uniquely created decision models available as a Published Blueprint, and it is solely up to You as to whether you desire to make a decision model available as a Published Blueprint. To make a decision model available as a Published Blueprint, You must specifically elect to make your decision model a "Published Blueprint" in response to Our request. If You have made this election, We will review this election and then, if accepted for publication, We will publish this Published Blueprint in Our library of Published Blueprints. By uploading Published Blueprints to Us, You release all Your rights over the Published Blueprint and hereby grant a perpetual, irrevocable, royalty free, worldwide right and license to Us and all Our current and future customers to use, copy, modify, publicly display and otherwise commercially exploit the Published Blueprint. Published Blueprints may identify Your identity. We have the right to remove any Published Blueprint from Our library at any time. If You elect to use a Published Blueprint of one of our other clients, use of such Published Blueprint is subject to the same terms and conditions as the DL Software (including without limitation Sections 5 and 12 as if it were DL Software). However, You expressly acknowledge and agree that Section 13.1 does not apply to such Published Blueprints of Our other clients.
9. **Reserved.**
10. **Reserved.**
11. **Reserved.**
12. Licensor warrants that the DL Software will, for a period of sixty(60) days from the date of your receipt, perform substantially in accordance with DL Software written materials accompanying it. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, THAT ANY DATA, OUTPUT, SOLUTION OR RECOMMENDATION GENERATED OR IMPLIED FROM THE DL SOFTWARE, ORDERING ACTIVITY SUPPORT, DL HOSTING, OR PROFESSIONAL SERVICES (AS APPLICABLE) ARE ACCURATE, MEETS YOUR NEEDS, IS BETTER THAN ANY COMPETING PROPOSALS OR DECISIONS OR IS THE BEST SOLUTION AVAILABLE TO YOU OR WILL ACCURATELY PREDICT OR IDENTIFY ALL POSSIBLE OUTCOMES. YOU ACKNOWLEDGE AND AGREE THAT THE PROFESSIONAL SERVICES, ORDERING ACTIVITY SUPPORT, DL HOSTING, DL SOFTWARE, AND DOCUMENTATION, AS APPLICABLE, ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITH NO WARRANTY WHATSOEVER. WE DISCLAIM ANY AND ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, RELATING IN ANY WAY TO THE DL HOSTING, DL SOFTWARE, ORDERING ACTIVITY SUPPORT, PROFESSIONAL SERVICES AND DOCUMENTATION, AS APPLICABLE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

12.1. YOU ACKNOWLEDGE THAT YOU ARE RESPONSIBLE FOR OBTAINING AND MAINTAINING ALL TELEPHONE, COMPUTER AND OTHER EQUIPMENT NEEDED TO ACCESS AND USE THE DL SOFTWARE AND THE DL HOSTING, AS APPLICABLE. YOU ACKNOWLEDGE AND

AGREE THAT THE DL SOFTWARE AND ANY ORDERING ACTIVITY SUPPORT OR DL HOSTING ARE TOOLS TO ASSIST YOU IN EVALUATING DIFFERENT DECISION OUTCOMES BASED UPON THE SUBJECTIVE BELIEFS AND OPINIONS OF YOU AND YOUR AUTHORIZED USERS OF CRITERIA DEVELOPED AND CREATED BY SUCH AUTHORIZED USERS AND/OR YOU. YOU ARE SOLELY RESPONSIBLE AND LIABLE FOR VERIFYING THE ACCURACY AND ADEQUACY OF ANY OUTPUT FROM THE DL SOFTWARE OR THE INFORMATION CONTAINED IN ANY REPORT, AND FOR ANY RELIANCE OR DECISION THEREON.

13. Reserved.

14. Reserved.

Exhibit A

Technical & Security Specifications

Section 3 - INTRODUCTION

Decision Lens is a cloud-based portfolio prioritization and resource optimization software company that provides a solution to organizations' critical decision-making in R&D, capital planning, IT portfolio planning, and budget allocation. Decision Lens combines experts' judgments with data to establish priorities in an efficient, collaborative framework. Unlike static spreadsheets and unstructured boardroom table discussions, Decision Lens rapidly engages decision-makers to achieve better outcomes in a resource-constrained environment. Driven by sophisticated analytics, the software allows organizations to identify and prioritize criteria that tie directly to its strategic goals.

Decision Lens works with leading organizations to bring structure and quality to key decisions. Our comprehensive solutions manage the strategic alignment of goals, priorities, and investments. With each engagement, dedicated experts are assigned to ensure a successful implementation and decision outcome. The result is a more accurate, repeatable, and transparent process for decision making, even when the drivers and considerations are subjective and intangible.

Decision Lens Inc. is headquartered in Arlington, VA, and provides a family of desktop and Web-based software solutions designed to support group decision-making for planning, financial, IT and performance related decisions. By combining advanced decision-making techniques with world-class performance visualization capabilities, Decision Lens supports dynamic decision-making based on a well-structured, rational framework.

3.1 About This Document

This document summarizes technical information about the Decision Lens platform, including client hardware and software requirements, hosting infrastructure, and security. As Decision Lens improves the function, performance, and security of the Decision Lens platform, the information in this document is subject to change. This document will be revised as necessary to reflect such changes.

Section 4 - DECISION LENS ALGORITHMS

4.1 Analytic Hierarchy Process (AHP)

Decision-makers compare the relative importance of elements in a pairwise fashion, each one to each other one. These judgments are entered into a matrix of pairwise comparisons, where each entry of the matrix is a ratio of the relative importance of the row element to the column element.

The calculations under which AHP operates then derive the priorities for all of the elements, with some allowance for inevitable inconsistency.

If every judgment is consistent with every other judgment, it is easy to calculate the priorities for each element by simply adding across each row and normalizing. This vector of priorities is called the "Eigenvector".

However, most judgments will have a certain amount of inconsistency. The way to deal with this is to raise the matrix to powers until the priorities implied by adding across each row converge. The Decision Lens methodology raises the matrix to the 32nd power, which is sufficient to create a convergence of priorities. We then add across each row and normalize as before.

To calculate the inconsistency of the matrix, we first add down each column of the matrix, then multiply each element of that by the corresponding element of the priority vector gained from raising the matrix to powers, then finally sum those values. If we call the result y , the consistency ratio is then:

$$(y - \# \text{elements in matrix}) / (\# \text{elements in matrix} - 1).$$

The consistency index is this value divided by the consistency ratio of a perfectly random matrix of the same size, and provides a measure of the consistency or lack thereof in judgments. Perfect consistency is not realistic to expect in the Decision Lens process, but the inconsistency index value generally should not be above 10%.

4.2 Alignment Index

The alignment index shows how similar a group's thinking is when looking at their final priorities. If individuals' priorities differ widely from the overall group, the alignment score will be low; if everybody voted exactly the same, the alignment score would be as high as possible, in this case 100.

To calculate the alignment index, we take each individual's entire priority set and compare it to the group's priority set by multiplying the transpose of the individual's matrix (rows become columns, and vice versa) by the group's matrix.

Suppose that an individual and a group both voted 9 on the same comparison. The matrix multiplication of the individual's transpose matrix with the group's matrix would be $(1/9) \cdot 9 = 1$, because the individual's matrix has been flipped on its diagonal. Therefore, if an individual's judgment were in exact agreement with the group, the sum across each row would be $(N \cdot 1) \cdot N$, or N^2 . If any judgments are different, this will no longer be the case, and the total sum will be larger than N^2 .

To see this, consider that the multiplied matrix will contain two references to the same comparison, one with each element as the row element. The sum of these two references is: The group alignment index is calculated by taking all of the ratios between each matrix's row sum and N^2 , averaging them, and then normalizing that to a 0 to 100 scale, where 100 is perfect alignment and 0 is what alignment would be if all voters were as far from the average as possible.

4.3 Ratings

Decision Lens ratings scores for the alternatives are acquired by multiplying scores on individual criteria by the weights assigned to those criteria, and then summing the total. Ratings on individual criteria are placed on a 0 to 1 scale by using rating scales. In a verbal scale, a given verbal rating corresponds to a score between 0 and 1; that numeric score then enters the calculation. With a numeric scale, a user can input as many pairs of a numeric score and the corresponding score between 0 and 1 as is desired; for a given input, the score will be based on the linear relationship of those pairs. For example, consider a scale in which a score of 50 receives a 0 and a score of 100 receives a 1. To determine which DL score to assign to a 75, find 75 on the line between the points (50,0) and (100,1). That occurs at (75, 0.5), so the DL score is 0.5

For the overall score calculation, consider a simple example. Suppose there are 3 criteria, with weights of 50%, 30%, and 20% respectively. An alternative receives grades that correspond on the 0-1 scale to 1, 0.25, and 0.5 respectively. Therefore, this alternative's total score will be $.50 \cdot 1 + .30 \cdot .25 + .20 \cdot .5$, or .675. A score cannot be higher than 1 or lower than 0.

4.4 Genetic Algorithm

The optimization solution in Decision Lens has to account for the following challenges:

- Multiple alternatives requesting resources,

- Over multiple time periods,
- Where each alternative has the capability to “float” or move between time periods (the “sequencing”),
- Constrained by limiting factors such as:
 - Forced selection in specific time periods,
 - Logical dependencies,
 - Multiple types and pools of resources,
 - Matching rules between resource pools, and
 - Requirements to fully resource alternatives

For simple cases involving only one time period or not very many alternatives, a simple linear programming solution could be sufficient to find the optimal resource allocation. Linear programming on a larger scale is too slow to be useful - a portfolio involving 100 alternatives with funding over 5 years that allows alternatives to “float” between time periods can take hours to solve. Portfolios with 1000 alternatives take days, or even weeks.

The Genetic Algorithm (GA) solves this by mimicking evolutionary processes to create and evolve populations of solutions to find the best answer in a very short amount of time. Our GA has Chromosomes, Evolution, Fitness, Initial Population, and finally Termination that represents the best output.

Benefit-Cost Ratio: The simplest assessment of value that goes into the optimizer’s calculations is the Cost-Benefit Ratio, which is the alternative’s priority score divided into its cost. A higher benefit-cost ratio in general means that a project should have better “bang for the buck” and be more likely to be funded under an optimization scenario.

Section 5 - DECISION LENS – TECHNICAL SPECIFICATIONS

Client Usage The Decision Lens user interface is accessed via a user’s web browser. Decision Lens operates within all modern web browsers with the Flash Media Player plugin. The Decision Lens web service API may be accessed directly by any SOAP or REST capable software client provided the proper authentication credentials.

5.1 Client Software Requirements

Recommended:

- Operating System: Microsoft Windows 7, Mac OSX 10.5 or later
- Web Browser: Chrome (latest version), Firefox (latest version), Internet Explorer 11 or later
- Flash Media Player (latest version)

Minimum:

- Operating System: Microsoft Windows® XP SP2, Microsoft Vista®, Mac OSX Version 10.5
- Web Browser: Chrome, Firefox, Internet Explorer 10
- Flash Media Player Version 11.1

Client Hardware Requirements Recommended:

- Processor: Intel Pentium® 4, 2 GHz or better
- Memory: 2 GB RAM or more
- Screen Resolution: 1280 x 800 or higher

Minimum:

- Processor: Intel Pentium 4, 1.2 GHz or equivalent
- Memory: 1 GB RAM
- Screen Resolution: 1024 x 768

5.2 Client Networking Requirements

- High speed Internet connectivity
- Allow for HTTP and HTTPS web traffic over ports 80 and 443

5.3 File Formats

Decision Lens provides decision portfolio import, export, and reporting functionality that utilizes various file formats.

- Decision portfolio import: Decision Lens can import decision portfolios in the XML-based Decision Lens model format (.cmf).
- Decision model export: Decision Lens can export decision models in the XML-based Decision Lens model format (.cmf).
- Data import: Decision Lens can import data into decision models from Excel spreadsheets (.xls, .xlsx).
- Reporting: Decision Lens can export decision data reports as Excel spreadsheets (.xls).

5.4 Web Service API

Decision Lens provides services to deliver decision process technology via a web service API. All web services are available in SOAP (XML) and REST (JSON) formats, and provide full authentication and authorization functionality. The web service API may be used to create and update data, perform calculations, output results to external systems, etc. All Decision Lens user interfaces communicate with the web service API to provide the full application functionality and experience.

5.5 Application Architecture

Decision Lens exposes our decision technology via a web service API and provides user interfaces for delivering the decision process within a rich user experience.

The user interfaces consist of standard web technologies, such as HTML, Javascript, CSS, and Flash. The user interfaces communicate with the web service API over the Internet to provide functionality to the end user.

The web service API, and other related services, are implemented as Java web applications. These applications are deployed in Tomcat Application Server and are exposed to the Internet through an Apache HTTP Server proxy. The proxy enforces authentication and authorization logic for all web services based on user roles and data ownership rules.

All application data is stored in a MySQL database. Application data is only accessible to web service API code and Decision Lens administrators via a secure, private network. All Ordering Activity data is logically separated for data integrity and security.

5.6 Hosting Infrastructure

Decision Lens utilizes Amazon Web Services IaaS* to provide a stable, reliable, scalable, and secure cloud-based SaaS platform. The multi-tenant architecture of the platform allows for Ordering Activity organizations to get up and running with Decision Lens quickly and easily.

Additionally, Decision Lens supports Ordering Activity-hosted, on-premises installations of the platform. Decision Lens may be hosted in a single server environment, or in a multi-tiered, clustered environment, on virtual machines or dedicated hardware. Ordering Activity-hosted installations may be deployed with a custom architecture suitable for Ordering Activity needs. Please see the Technical Services section for more information regarding Ordering Activity-hosted installations.

*See Appendix A for technical documentation regarding Amazon Web Services.

5.7 Single Server Deployments

Decision Lens may be deployed in a single server environment. Under such a deployment, the single server contains and executes Apache HTTP Server, Tomcat Application Server, and MySQL. This is the simplest deployment infrastructure, but also provides the least amount of scalability and reliability, due to static resource levels and single points of failure (non-clustered server components). A single server deployment also makes inefficient use of resources compared to multi-tiered, clustered deployments, which can be tailored for resource efficiency at each tier.

5.8 Hardware Requirements for Single Server Deployments

- Processor: Intel 5000 Series CPU, 800 MHz FSB, 2 MB cache (or equivalent)
- Memory: 8 GB RAM minimum
- Disk Space: 20 GB minimum

5.9 Multi-tiered, Clustered Deployments

Decision Lens may be deployed in multi-tiered, clustered environments. This means that web, application, and database tiers can be separated and deployed across clustered servers. This type of deployment generally provides better scalability, reliability, and efficient use of resources than a single server deployment. The infrastructure details of this type of deployment are outside the scope of this document, but can be summarized as follows:

- A load balancer provides a single point of entry for all inbound application traffic. The load balancer distributes all web service requests to the web tier according to various load-balancing algorithms.
- The web tier serves up static application assets (HTML pages, Flash content, CSS, etc.) and proxies web service requests to the application tier. The web tier consists of one or more clustered web nodes (servers) running Apache HTTP Server. The web tier is deployed across multiple subnets attached to Internet gateways for public accessibility through restricted server ports (80 and 443).
- The application tier contains and executes the web service code, which interacts with the database tier for data access. The application tier consists of one or more clustered app nodes running Tomcat Application Server. The application tier is deployed across multiple private subnets (no Internet gateway), restricting access to web servers only.
- The database tier stores and replicates all application data. The database tier consists of a master database node and one or more slave database nodes for redundancy. The database tier is deployed across multiple private subnets (no Internet gateway), restricting access to application servers only.

5.10 Hardware Requirements for Multi-tier Deployments

- Web Tier: 1 GB RAM, 10 GB disk space per node
- Application Tier: 4 GB RAM, 10 GB disk space per node
- Database Tier: 4 GB RAM, 10 GB disk space per node

5.11 Identity Management

In a standard deployment, Decision Lens stores all application identities (users) in the Decision Lens internal database. Role-protected functionality is provided via the user interface and web service API for creating, editing, and deleting user accounts.

Decision Lens also has the capability to integrate with Ordering Activity-provided external identity management systems. Such integrations can allow a Ordering Activity organization to use existing and familiar user accounts to access the application, and also provide single-sign-on (SSO) capabilities. Custom identity management integration is a separate service outside of the scope of a typical Decision Lens license.

5.12 Application Security

Decision Lens employs numerous security best practices to protect Ordering Activity data and ensure application availability.

5.13 Authentication

Whether accessing the application through a user interface, or by making requests directly to the web service API, Decision Lens requires authentication credentials to perform all application functionality. Authentication credentials consist of a user name and password. Password creation rules require minimum password lengths and complexity (alphanumeric, symbols, capitalization). All passwords are hashed with the SHA-2 algorithm before being stored in the application database. Multi-factor authentication is also optionally available.

Decision Lens' internal identity management system and authentication mechanism can be replaced through custom integration with a Ordering Activity-provided external identity management system. Please see the Professional Services section for more information.

5.14 Authorization

Access to all Decision Lens application data is controlled through authorization logic based on user roles. All Ordering Activity data is logically separated from other customers, ensuring the security of sensitive data. User roles can be assigned at the application (system) level, and also at the individual decision level.

5.15 Application (System) Level Roles

- Group Admin: create/edit/delete user accounts, assign application level roles to users, create and
- participate in decision portfolios
- Portfolio Creator: create decision portfolios, participate in decision portfolios
- Participant: participate in decision portfolios only

5.16 Decision Level Roles

- Owner: create/edit/delete all decision data, export/copy/delete decision portfolio, input participant data (votes, comments) on behalf of all decision participants, does not participate in decision process as a voter.
- Voting Owner: same permissions as Owner, but also participates in the decision process as a voter
- Voter: submits votes and comments during the decision process, cannot modify other decision data
- Reviewer: may independently review all decision data in read-only mode.
- Voting Reviewer: same permissions as Reviewer, but also participates in the decision process as a voter

5.17 Data Transmission

All data transmitted between the Decision Lens user interface (or other web service client) and the web service API is secured using Secure Sockets Layer (SSL). If self-hosting, the Ordering Activity is required to provide their own signed SSL certificates.

5.18 Hosting Infrastructure Security

All Decision Lens hosted Decision Lens server resources are protected from unauthorized access via a number of security measures.

- Web, application, and database resources are all protected by firewall rules, restricting remote access to appropriate infrastructure clients only. The database tier is accessible via the application tier only, and the application tier is accessible via the web tier only.
- The web tier is deployed across multiple VPC subnets attached to Internet gateways for public accessibility through restricted server ports (80 and 443).
- Privileged access to the hosting infrastructure requires multi-factor authentication with a private VPN accessible only from Decision Lens' private network, a private cryptographic key, and is secured via SSH. Only Decision Lens administrators have accounts on the VPN and access to the private keys.
- The application tier is deployed across multiple private VPC subnets (no Internet gateway), restricting access to web servers only. Application server access requires a private key.
- The database tier is deployed across multiple private VPC subnets (no Internet gateway), restricting access to application servers only. Database access requires authentication credentials.
- Any IP addresses that are used in Denial of Service (DDoS) or brute force penetration attacks are permanently blacklisted at the external firewall level.

5.19 Backup and Disaster Recovery

All Decision Lens web, application, and database servers are deployed in server clusters distributed across multiple physical data centers for scalability and redundancy. All Ordering Activity data is backed up multiple times per day to separate, secure storage locations.

All database backups ("data at rest") are encrypted with asymmetric key pairs utilizing the RSA 4096 bit cryptosystem.

5.20 Application and Infrastructure Patching

Decision Lens has dedicated administrators who monitor Decision Lens server resources and are automatically alerted of any resource problems or operating system, firewall or application updates. All security updates are applied to Decision Lens servers within 24 hours, and critical patches are applied immediately after release from the vendor. Non-critical patches are not applied before they are thoroughly tested by Decision Lens. Critical application bugs are fixed and deployed within 48 hours through Decision Lens' emergency change request process. All other bugs are addressed during regular product release cycles.

5.21 Technical Services

Technical Services are available at additional cost to support custom needs regarding the deployment and utilization of Decision Lens within an organization's environment. Typical Technical Services efforts include:

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- Ordering Activity hosted deployments. If a Ordering Activity wishes to host Decision Lens themselves, Technical Services are available to assist the Ordering Activity with establishing an appropriate deployment architecture within their network environment, configuring and deploying all server components, testing the deployment, establishing appropriate data backups and disaster recovery procedures, etc.
- Single Sign-On (SSO). Decision Lens may be integrated with external identity providers, such as CAC/PKI or SAML enabled systems, to provide SSO. Such integrations allow Ordering Activity to utilize their existing identity management systems to control user authentication and authorization within the application. SSO solutions also provide ease of access to the application for end users. □ Data Integration. Decision Lens' web service API allows for powerful custom data integrations. Such integrations can allow a Ordering Activity to automatically push data from an existing data source into Decision Lens decision portfolios, or import decision results from Decision Lens to an external system for additional analysis or reporting.

**immixTechnology Rider to Product Specific License Terms and Conditions
(for U.S. Government End Users)**

1. **Scope.** This Rider and the attached **DS Government Solutions Corporation** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

DS GOVERNMENT SOLUTIONS CORP.

MASTER CUSTOMER LICENSE AND ONLINE SERVICES AGREEMENT

1. Definitions

Affiliate means (i) with respect to Ordering Activity, any entity which Controls, is Controlled by, or is under common Control with the Ordering Activity, and (ii) with respect to DS, any entity which Controls, is Controlled by, or is under common Control with DS. Such entity shall be deemed to be an "Affiliate" only so long as such Control exists. Upon request, Ordering Activity agrees to confirm in writing to DS the Affiliate status of a particular entity.

Agreement means these General Terms, the applicable OST(s), the Transaction Document(s), the underlying GSA Schedule Contract, and the Schedule Price List.

Control and/or **Controlled by** means (a) in the case of corporate entities, direct or indirect ownership of more than fifty percent (50%) of the stock or shares entitled to vote for the election of directors; or (b) in the case of non-corporate entities, direct or indirect ownership of more than fifty percent (50%) of the equity interest with the power to direct the management and policies of such non-corporate entities. **Ordering Activity or Customer** means the Ordering Activity, or an Affiliate of Ordering Activity.

Distributor means a third party authorized by DS to distribute DS Offering and Support Services.

Documentation means, at any time, the current user documentation in any form or media as delivered together with the DS Offering for use in connection with the DS Offering.

DS Group Company means Dassault Systèmes, a French "société européenne" or any entity in which Dassault Systèmes, directly or indirectly, (i) owns more than 50% of the outstanding equity or ownership interest, or (ii) has the power to designate the managing authority.

DS Offering means one or more Licensed Programs and/or Online Services and/or Packaged Offering.

Effective Date means (i) for a Licensed Program, the later of the following (x) the date on which such Licensed Program is shipped or made available electronically to Ordering Activity or, if applicable, (y) the date on which Ordering Activity is informed by DS that the associated license key can be requested or is available, or (ii) for Online Services, the date of delivery of the Online Services.

Licensed Program means (i) any data processing program for which a license is ordered by and provided to Ordering Activity pursuant to a Transaction Document and/or provided to Ordering Activity as part of the Online Services, consisting of a series of instructions or databases in machine readable form, (ii) associated Documentation, (iii) corrective patches and (iv) Releases to which Ordering Activity is entitled. A Licensed Program does not include new versions of a Licensed Program including any successor product which significantly differs in architecture, user interface or mode of delivery.

Online Services means online access to, and use of, Licensed Program and other related services, as may be updated by DS from time to time and ordered by Ordering Activity pursuant to a Transaction Document. Online Services may also include certain Licensed Program for which on-premise installation may be required.

OST means the Offering Specific Terms which are specific terms relating to a given Licensed Program or Online Services and attached hereto as Exhibit B.

Packaged Offering means a DS Offering composed of several Licensed Programs and/or Online Services. Each Licensed Program and Online Services specific use being governed by its applicable OST.

Release means a periodic update of the same version of a DS Offering if and when made generally available to the market.

Support Services means the maintenance, enhancement and other support services referred to in Section 3 herein and described in the support policy attached hereto as Exhibit A.

Transaction Document means the form (which may be online) referencing this Agreement, issued by Ordering Activity and accepted by DS that identifies the DS Offering and/or Support Services ordered by Ordering Activity, the quantities thereof, fees payable, duration, geographical scope, the DS Group Company serving as the licensor or service provider and Ordering Activity identification.

Defined terms can be used in a singular or plural form.

2. License and Use Rights

2.1 Grant. DS grants Ordering Activity, from the Effective Date, a non-exclusive and non-transferable (except as expressly permitted herein) right, for the duration identified in the Transaction Document and solely for its internal business use, to:

- Make and install the necessary number of copies of the applicable Licensed Program for which on-premise installation is required;
- Use the DS Offerings according to the terms and conditions of this Agreement and their applicable Documentation;
- Allow its authorized users (as defined in the OST) to access and use the DS Offering;
- Make one copy for back-up purposes of each Licensed Program for which on-premise installation is required.

2.2 Scope. Ordering Activity agrees to operate each DS Offering in accordance with the terms and provisions of this Agreement and the Documentation for such DS Offering and to ensure that its authorized users comply with such terms and provisions. License keys, license tokens or delivery of media do not by themselves grant the legal right to use any DS Offering. Except as expressly set forth in this Agreement, no other express or implied right or license is granted to Ordering Activity.

Except as specifically permitted in this Agreement, Ordering Activity agrees not to: (a) use any DS Offering to develop software applications for use by or distribution to any third party, whether in whole or part, whether as standalone products or as components, (b) rent, lease, sublicense, perform or offer any type of services to third parties relating to any DS Offering including but not limited to, consulting, training, assistance, outsourcing, service bureau, customization or development, (c) correct errors, defects and other operating anomalies of any DS Offering, (d) reverse engineer, decompile, disassemble, adapt or otherwise translate all or part of any DS Offering, (e) provide, disclose or transmit any results of tests or benchmarks related to any DS Offering to any third party, or (f) use any software that may be delivered with any DS Offering other than the DS Offerings ordered hereunder.

3. Support Services

Support Services for DS Offerings are detailed on the DS website and include support request management and, for Licensed Programs, Releases made available during the Support Services term. Support Services will be provided by DS or a DS authorized service provider as specified in the DS Support Services policies.

4. Delivery

4.1 Orders. Ordering Activity may order DS Offerings and related Support Services under this Agreement, by issuing a Transaction Document. Ordering Activity agrees that the terms and conditions of this Agreement, the underlying GSA Schedule contract, and the Schedule Price List shall apply to all such Transaction Documents, DS Offerings and Support Services ordered thereunder.

4.2 Delivery. DS Offerings will be delivered to Ordering Activity or made available electronically. Electronic delivery will be made by providing Ordering Activity with necessary information to access the Online Services and/or download the Licensed Program. Ordering Activity is responsible for accessing DS's website and downloading the Licensed Program.

4.3 Reserved.

5. Intellectual Property

5.1 Ownership. DS and/or its suppliers retain ownership in all intellectual property rights in all DS Offerings and all modifications, enhancements or other derivative works thereof. Licensed Programs are licensed, not sold. Ordering Activity shall preserve and reproduce all copyright, patent and trademark notices which appear in any DS Offering on all partial or integral copies thereof. Ordering Activity recognizes that the methodologies and techniques contained in or expressed within the DS Offerings are proprietary information or trade secrets of DS or its suppliers, whether or not marked as "confidential". Ordering Activity shall treat them as confidential information and not disclose them. DS recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by the vendor.

5.2 Reserved.

6. Warranty

6.1 Warranty. DS warrants for ninety (90) days from the initial delivery of each Licensed Program that such Licensed Program will materially conform to its Documentation when used in the specified operating environment. If the Licensed Program does not conform, and Ordering Activity has so notified DS within this warranty period, DS will attempt to make it conform as warranted. If DS has not corrected the non-conformity within ninety (90) days from the date of such notification, Ordering Activity may terminate the license to the non-conforming Licensed Program within thirty (30) days and receive a full refund of all fees paid for the non-conforming Licensed Program. This refund represents DS's sole liability and Ordering Activity's sole remedy for breach of warranty.

6.2 Disclaimers. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS FOR DS OFFERINGS, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON INFRINGEMENT.

DS disclaims all liability for any use or application of any DS Offering or the results or decisions made or obtained by users of the DS Offering. DS does not warrant that (i) the functions of any DS Offering will meet Ordering Activity's requirements or will enable it to attain the objectives Ordering Activity has set for itself, (ii) the DS Offering will operate in the combination or environment selected for use by Ordering Activity, or (iii) the operation of the DS Offering will be uninterrupted or free of errors. In all instances, Ordering Activity shall be solely responsible for ensuring that the results produced by DS Offering comply with quality and safety requirements of Ordering Activity's products or services. No employee or agent of DS is

authorized to give a greater or different warranty. Ordering Activity shall have exclusive responsibility for (a) selection of the DS Offering to achieve Ordering Activity's intended results, (b) installation of the Licensed Program, (c) taking adequate measures to properly test, operate and use each DS Offering, and (d) results obtained therefrom.

THIS AGREEMENT DOES NOT LIMIT OR DISCLAIM ANY OF THE WARRANTIES SPECIFIED IN THE GSA SCHEDULE 70 CONTRACT UNDER FAR 52.212-4(O). IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 U.S.C. 7101-7109.

7. Reserved.

8. Reserved.

9. Reserved.

10. Additional Terms for Online Services

10.1 Additional Definitions

Applicable Data Protection Legislation means any applicable data privacy law and all other regulations that may apply to the Processing of Ordering Activity's Personal Data.

Ordering Activity Data means the data provided by Ordering Activity to DS, whether posted by Ordering Activity or any authorized users, through Ordering Activity's use of the Online Services, including Personal Data.

Data Controller refers to any entity in the public or in the private sector that determines the purposes and the means of the Processing of its Personal Data and has the bulk of compliance with all Applicable Data Protection Legislation.

Data Subject means an individual about whom Personal Data is collected and used.

Personal Data means any kind of information relating to an individual about whom information is collected which can, individually or together with other information on the individual, lead to directly or indirectly identifying such individual.

Processing refers to any operation or set of operations (including, without limitation, collection, organization, adaptation, deletion, storage, use, recording, interconnection, consultation, disclosure and transfer) that is performed upon Personal Data.

Service Level Agreement means the service level terms for the Online Services as described in this Section 10.

10.2 DS Obligation. DS will provide Online Services in accordance with the applicable Service Level Agreement described herein.

10.3 Ordering Activity Data. All Ordering Activity Data will remain the sole property of Ordering Activity or the authorized users that posted such Ordering Activity Data. Ordering Activity shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness of and obtaining copyright permissions for all Ordering Activity Data. Subject to the terms and conditions of this Agreement, Ordering Activity grants to DS a non-exclusive license to use, copy, store and transmit Ordering Activity Data to the extent reasonably necessary to provide and maintain the Online Services. Ordering Activity acknowledges and agrees that DS Group Companies' employees and DS subcontractors may have access to Ordering Activity Data in connection with the performance of this Agreement. **Ordering Activity Data Storage.** As part of the Online Services and if available in the applicable OST, DS will provide storage of Ordering Activity Data for the duration of the Online Services and within the storage size limits defined in the applicable OST. Should Ordering Activity exceed such storage limits, Ordering Activity shall remedy this situation within fifteen (15) days of notice from DS by ordering the necessary additional storage capacity or by reducing the size of the stored Ordering Activity Data.

10.4 Data Privacy. Ordering Activity acknowledges and agrees that it is and shall at all times remain the sole Data Controller of its Personal Data, and therefore, shall be responsible for complying with all Applicable Data Protection Legislation including, but not limited to, (i) transfer of Personal Data, (ii) information of Data Subjects and (iii) access, modification and deletion rights of Data Subjects.

10.5 Security. DS will make commercially reasonable efforts to implement security processes for the Online Services and Ordering Activity Data consistent with industry standards for similar services.

10.6 Reserved.

10.7 Third Party Content. DS exercises no control over, and assumes no responsibility or liability for any Ordering Activity content or third party content provided or published via the Online Services. **10.8 Service Level Agreement for Online Services**

a. Online Services Availability

The target is to provide availability of the Online Services (i.e. the ability for Customer to be logged to the Online Services) for a minimum of ninety nine point five percent (99.5%) of the time under which the Online Services are not under (i) a Planned Service Interruption (as defined hereunder) or (ii) an interruption which is the result of a Customer's request. This percentage of availability is calculated by deducting from 100% the number, expressed as a percentage, calculated by applying the following formula: number of minutes during which the Online Services have not been available to Customer (only taking into account interruptions exceeding 5 minutes) during a calendar month due to reasons under

DS' exclusive control, divided by the total number of minutes of such calendar month. For the avoidance of doubt, shall not constitute reasons under DS' exclusive control, without the foregoing being limitative, any electrical, utility or telecommunication outages, or significant telecommunication performance degradation.

- A "Planned Service Interruption" time means the period of time necessary to interrupt the Online Services in order to perform scheduled preventive or corrective maintenance, as well as back-ups. Interruptions for i) preventive or corrective maintenance shall last a maximum of four (4) hours per month and planned one (1) week in advance, and ii) back-ups shall last a maximum of one (1) hour per day when performed during Customer's business hours.
- An "Emergency Service Interruption" may happen at any time without notice in order to fix a critical problem. Critical problems may include, without limitation i) attacks on the Online Services (including a denial of service attack), ii) Customer's use of Online Services disrupting Online Services or creating a security risk to DS or to any DS customer, iii) harming of DS systems or any DS customer's systems or iv) creating a likely risk of the foregoing, or v) using the Online Services for fraudulent or illegal activities.

b. Back-Up. DS shall ensure daily back-up of Customer Data. Such Customer Data shall be kept for a period of seven (7) days following related back-up and may be destroyed by DS after such period. **c. Online Services Upgrade.**

- DS may upgrade the Online Services during any Planned Service Interruption or Emergency Service Interruption.
- This upgrade may require the installation of upgrade(s) by Customer on its machine(s), in order for Customer to be able to use the Online Services. The installation of such upgrade(s) by Customer is under Customer's sole responsibility. **d. Customer Data Retrieval**
- Customer Data retrieval procedures available to retrieve Customer Data are defined in the Documentation.
- Customer shall be entitled to request Customer Data retrieval in accordance with the applicable procedures until fifteen (15) days after expiration of the corresponding Online Services.

11. Additional Terms for Academics

11.1 Additional Definitions

Academic Use means any use of the DS Offerings by authorized users solely for education, institutional, instruction and/or research purposes. Academic Use can only be granted to a Ordering Activity that is an institution of education and/or research and that grants academic degrees (diploma or certificate) at any primary, secondary or higher education level.

11.2 License and Use Rights. Notwithstanding anything to the contrary in Section 2, Academic Use licenses shall not be used, directly or indirectly, for any commercial purpose of Ordering Activity or any third party.

11.3 Content Watermarking. Content produced using any DS Offerings for Academic Use may automatically contain a watermark identifying the DS Offering used. Ordering Activity shall not remove any such watermarking.

12. Export

Export to Ordering Activity of DS Offering and Documentation is subject to all applicable countries' export and re-export laws and regulations. DS and its licensors shall have no liability towards Ordering Activity if necessary authorizations, licenses or approvals are not obtained. Ordering Activity shall not export or re-export, either directly or indirectly, DS Offering when such export or re-export requires an export license or other governmental approval without first obtaining such license or approval. Ordering Activity hereby warrants to DS that all DS Offerings ordered hereunder shall not be used in violation of any applicable export laws, including for proliferation of any nuclear, chemical or biological weapons or missile delivery systems and shall not be diverted to any country, company or individual if prohibited by the applicable export laws of any country. Ordering Activity recognizes that Ordering Activity Data may be transferred to or stored in any country. Ordering Activity undertakes to abstain from, and shall ensure all users abstain from, processing, storing or uploading on its data sharing environment any information or data, the export of which is controlled, regulated or subject to any permit or license under any applicable law or regulation. Ordering Activity shall be deemed to be the exporter of Ordering Activity Data.

Unless provided for in a separate agreement, the parties shall not disclose or exchange any information that (a) is subject to the United States Government's International Traffic in Arms Regulations (ITAR) or (b) requires a license from the United States government under the Export Administration Regulations (EAR) for the export or re-export of such information to citizens of countries designated under the EAR as being in Group B, such as France, or Group D, such as China.

13. Software Compliance

13.1 Security Mechanisms. DS Group Companies undertake legal measures to eliminate unauthorized use of their software products. In this context, Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of a Licensed Program, and that is able to collect and transmit data about illegal copies only. Data collected will not include any data created by Ordering Activity with the Licensed Program. By using the Licensed Program, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to, and use of, any DS Offering. Ordering Activity may not take any steps to tamper with, circumvent or disable any such measures. Use of any Licensed Program without any hardware lock device, license administration software and/or license authorization key provided by DS is prohibited.

14. Miscellaneous

14.1 Reserved.

14.2 Reserved.

14.3 Reserved.

14.4 **Third Party Hosting.** Ordering Activity is authorized to install and use the Licensed Programs remotely on computers operated by a well-established, reputable third party service provider, and to appoint such service provider to operate the hardware and manage the Licensed Programs solely for and on behalf of Ordering Activity; provided however, that (i) only duly authorized users shall have the right to use the Licensed Programs; (ii) Ordering Activity shall enter into a written agreement with such service provider under which the service provider agrees that its access to the Licensed Programs is solely for the purpose of providing the services mentioned above to Ordering Activity and is otherwise subject to all of the restrictions and limitations contained in this Agreement; and (iii) such service provider is not a

competitor of any DS Group Company. Ordering Activity acknowledges and agrees that the service provider shall be deemed an agent of Ordering Activity. If Ordering Activity becomes aware of any actual or suspected unauthorized access, use or disclosure of the Licensed Programs, Ordering Activity shall immediately terminate the service provider's access to the Licensed Programs.

14.5 Reserved.

14.6 Reserved.

14.7 Reserved.

14.8 Reserved.

14.9 Reserved.

14.10 **U.S. Government Restricted Rights Legend.** The DS Offerings, and any other technical data provided hereunder are commercial in nature and developed solely at private expense. The DS Offerings are delivered as "Commercial Computer Software" as defined in DFARS 252.227-7014 (June 1995) or as a "Commercial Item" as defined in FAR 2.101(a) and, consistent with FAR 12.212 and DFARS 227.7202, as applicable, are licensed to Licensee only with those rights as are granted pursuant to this Agreement. Technical data is provided with limited rights only as provided in DFAR 252.227-7015 (Nov. 1995) or FAR 52.227-14 (June 1987), whichever is applicable.

14.11 Reserved.

14.12 Reserved.

14.13 Reserved.

14.14 Reserved.

14.15 Reserved.

EXHIBIT B – LICENSED PROGRAM TERMS (“LPT”)

LICENSED PROGRAMS TERMS FOR SIMULIA® Isight 5.6 and SIMULIA Execution Engine 5.6

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms (“LPT”) and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity (“Agreement”), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio.

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)
- System License

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as “interactive tokens”) for each concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

SIMULIA is a registered trademark of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR SIMULIA Abaqus 6.11-AP (Ancillary Products)

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms (“LPT”) and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Licensee (“Agreement”), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio.

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- _ Concurrent Based (floating)
- _ Token Based
- _ System License

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Number of tokens. For analysis jobs, the number of required tokens (also called "analysis tokens") is determined by the type of analysis being performed and the number of CPUs or cores used in running the analysis job. Required token configurations may be changed for new or renewed licenses and with modifications of the covered products. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs. License keys include the agreed number and type of tokens for the Licensed Programs. The Licensed Programs, license tokens and applicable fees are specified in the Quote. For SIMULIA Abaqus models, the number of jobs in the product name is equivalent to the number of concurrent licenses.

Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as "interactive tokens") for each Concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

Additional Information for System License: SIMULIA Abaqus Models with "site" in the product name utilize a System License. Geographic locations where System Licenses may be used are specified in the applicable Agreement and Ordering Document.

SECURITY MECHANISMS

Contractor through DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

SIMULIA and Abaqus are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

Terms Applicable to SIMULIA Abaqus 6.11 only (hereinafter « Abaqus Program »)

Included on the media with the Abaqus Program and under license from third parties, as a convenience to Abaqus Program Licensees, are certain third party and open source programs that may be executed at the Licensee's option. These optional third party and open source programs are NOT part of the Abaqus Program and are NOT warranted or supported by Company:

Software Name	Release
HP-MPI (from Platform Computing Company)	1.1 through 2.3.0
Microsoft MPI (MS-MPI)	2.1
Microsoft Visual C++ 2005 Redistributable Packages	C++ 2005 SP0 through SP1
Microsoft Visual C++ 2008 Redistributable Packages	C++ 2008 SP1
Python for Windows Extensions	Build 213

LICENSED PROGRAMS TERMS FOR V6R2012x

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor through and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio.

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- _ Machine Based (node-lock)
- _ Concurrent Based (floating)
- _ Add-on Product
- _ Named User Based
- _ Token Based
- _ System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Except as otherwise provided for Licensed Programs for which remote access is allowed as specified below, Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

REMOTE ACCESS. If so specified in the Product Portfolio, Users and/or Extended Enterprise Users may access and use the Licensed Program remotely via the Internet from any country.

EXTENDED ENTERPRISE USERS. For certain Licensed Programs as identified in the Product Portfolio and subject to all terms and conditions of this Attachment A and Exhibits, Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of this Attachment A, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of this Attachment A.

SECURITY MECHANISMS. Contractor through DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Additional Terms Applicable to ENOVIA iPLM V6, ENOVIA SmarTeam and ENOVIA MatrixOne Licensed Programs only:

1. **Autonomy.** Licenses to Autonomy Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
2. **Endeca.** Licenses to Endeca Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
3. **Business Objects.** The following terms apply if Licensee purchases the Business Objects Crystal Enterprise/Crystal Reports Professional software product ("Business Objects Software") hereunder:

1. The Business Objects Software may only be used with the Licensed Programs under the ENOVIA Brand (except for ENOVIA VPLM and ENOVIA SmarTeam products), with data access limited to data created or used by the ENOVIA Licensed Program.
2. "Deployment" means a single installation of one of the following Business Objects Software modules: Repository, Security Domain, Central Management Server ("CMS") or CMS Cluster.
3. Ordering Activity may not combine licenses for different editions of Business Objects Enterprise or Crystal Enterprise in a single Deployment (for example, Premium licenses may not be combined with Professional licenses in the same Deployment). Ordering Activity may use Business Objects Enterprise Professional and Crystal Enterprise Professional to publish and distribute only one of Business Objects' proprietary report format types (Crystal Reports, OLAP Intelligence/Crystal Analysis, WebIntelligence or Business Objects). If Ordering Activity wishes to publish and distribute more than one report format type, Ordering Activity must acquire Business Objects Enterprise Premium or Crystal Enterprise Premium. Notwithstanding the foregoing, if Ordering Activity migrates from a combined Business Objects and Web Intelligence Deployment to Business Objects Enterprise Professional, Ordering Activity may use both Business Objects and WebIntelligence report types in that Deployment.
4. When the Business Objects Software is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Business Objects Software components(s) (except the Web Connector, SDK, Report Publishing Wizard and report viewers) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors.
5. When the Business Objects Software is licensed on a Concurrent Access basis, the aggregate number of Users accessing the Business Objects Software at any one time may not exceed the number of concurrent licenses Licensee has obtained. Concurrent licenses are

assigned to a particular Deployment, and may not be shared among different Deployments. When using Concurrent Access licenses, Licensee may not utilize a program or system to cache or queue report requests.

6. The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports Professional and Crystal Reports Developer includes one Named User license of the Designer Tools.
 7. Ordering Activity shall not: (i) use the Business Objects Software to develop a product which is competitive with any product offerings of Business Objects; (ii) use the Business Objects Software to develop a product that converts the report file (.RPT) 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 Business Objects; (iii) use unauthorized keycodes to access additional Business Objects Software functionality or performance; (iv) use unauthorized keycode(s) or distribute or publish keycode(s); (v) disclose any Business Objects Software benchmark results to any third party without the prior written approval of Business Objects.
 8. Ordering Activity shall abide by the terms of the Business Objects end user license which is part of the installation process, including any country unique terms.
 9. Business Objects and/or its suppliers reserve all rights not expressly granted to Ordering Activity. Business Objects' suppliers are the intended third party beneficiaries and have the express right to rely upon and directly enforce the terms set forth herein.
4. Oracle Software. The following terms also apply if Ordering Activity purchases licenses to Oracle software hereunder:
1. The Oracle software licenses shall be used only in conjunction with the Licensed Programs.
 2. Ordering Activity shall not publish the results of any benchmark tests run on the Oracle software.
 3. Ordering Activity shall comply with all applicable export and import laws to assure that the Oracle software and any direct product thereof, are not exported in violation of applicable laws.
 4. Oracle is a third party beneficiary.
 5. The parties agree to exclude the applicability of the Uniform Computer Information Transactions Act.
 6. Some Oracle software may include source code that Oracle may provide as part of its standard shipment of Oracle software and such source code shall be governed by the terms herein.
 7. Ordering Activity shall not assign the licenses to the Oracle software or rent or lease the Oracle software.
 8. Support for Oracle Software. Ordering Activity may not contact Oracle for support for Oracle products licensed through DS Company. Ordering Activity may not contact DS Company for support for Oracle products not licensed through DS Company.

Additional Terms Applicable to ENOVIA SmarTeam Licensed Products only

Oracle Software. The ENOVIA SmarTeam Program contains a database engine software component (the "Oracle Component") used under license from Oracle Software Systems Israel. In addition to the terms set forth above regarding Oracle Software, the following terms apply if Licensee purchases licenses to Oracle Component in conjunction with ENOVIA SmarTeam software: Licensee acknowledges that the Oracle Component is not specifically developed or sublicensed for use in any nuclear, mass transit, aviation or medical application or in any other inherently dangerous applications. Ordering Activity further acknowledge, that Oracle shall not be liable for any claims or damages arising from such use if they use it for such applications. Ordering Activity shall not transfer or duplicate the Oracle Components licensed with the ENOVIA SmarTeam products except for temporary transfer in the event of computer malfunctions and a single backup or archival copy.

LICENSED PROGRAMS TERMS FOR DYMOLA UP TO VERSION 7.4

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference (including terms referenced on a website), are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

For purposes of this LPT, all terms and conditions of the Agreement applicable to the Licensed Programs, shall apply mutatis mutandis to the Value Added Technology, Binary Output File, Source Code Output File, Ordering Activity Application and/or any Sample Code.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement for the following usage and authorized users:

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based, Machine Based mode, or Add-on Product and
- only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

As an exception to the Agreement, as long as the corresponding license for the License Programs is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to prepare Derivative Works of the Value Added Technology only. Ordering Activity may distribute such Derivative Works of the Value Added Technology to third parties exclusively in Object Code form. In addition, Ordering Activity is granted the right to modify, copy, and distribute those parts of the Value Added Technology expressly marked as "Sample Code," if applicable. However, Ordering Activity shall not use, and shall not permit any third party to use, any form or part of the Value Added Technology (including without limitation, such as included in a Source

Code Output File, a Binary Output File and/or Obfuscated Source Code) to develop a software program competing or intended to compete directly or indirectly with the Licensed Programs to which this LPT applies, for whatever purpose.

For the avoidance of doubt and without prejudice to the Agreement, distribution of any element of the Value Added Technology in whatever form (whether "as is" or included in a Derivative Work, Ordering Activity Model, Ordering Activity Application or Binary Output File, and/or "Sample Code"), as authorized pursuant hereto remains subject to the Export and Reexport laws and regulations provision of the Agreement.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In either any, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

ADDITIONAL TERMS APPLICABLE TO SOURCE CODE GENERATION OPTION.

As long as the Source Code Generation Option license is valid, DS grants Ordering Activity a non-exclusive, non transferable license to use, reproduce and modify (solely for the purpose of improving, adapting to Ordering Activity's needs and bug fixing of Source Code Output File) the Value Added Technology strictly as integrated in the Source Code Output File in order to enable Users to operate the Output File exclusively for Ordering Activity's internal use. In addition, and as long as the license on the Source Code Generation Option is valid, DS grants Ordering Activity a non-exclusive, non transferable license to distribute on a worldwide basis to any third parties the Value Added Technology exclusively as integrated in a Ordering Activity Application for such third party's internal use. For avoidance of doubt, the Source Code Output File may never be distributed to third parties.

ADDITIONAL TERMS APPLICABLE TO BINARY MODEL EXPORT OPTION

As long as the Binary Model Export Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use and reproduce the Value Added Technology strictly as integrated in the Binary Output File in order to enable Users to operate the Binary Output File exclusively for Ordering Activity's internal use. Contractor grants Ordering Activity a non-exclusive, non transferable, license to distribute on a worldwide basis to any third parties the Value Added Technology exclusively as integrated in the Binary Output File in order to enable such third parties to operate the Binary Output File exclusively for such third parties' internal use.

ADDITIONAL TERMS APPLICABLE TO REAL TIME SIMULATION OPTION

As long as the Real Time Simulation Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use, reproduce and modify (solely for the purpose of improving, adapting to Ordering Activity's needs and bug fixing of the Obfuscated Source Code) the Value Added Technology strictly as integrated in the Obfuscated Source Code in order to enable Users to operate the Obfuscated Source Code exclusively for Ordering Activity's internal use. In addition, and as long as the license on the Real Time Simulation Option is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to distribute on a worldwide basis to any third parties the Value Added Technology integrated in the Obfuscated Source Code exclusively as embedded in a Ordering Activity Application for such third parties' internal use.

LICENSED PROGRAMS TERMS FOR DYMOLA 2012 FD01

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

For purposes of this LPT, all terms and conditions of the Agreement applicable to the Licensed Programs, shall apply mutatis mutandis to the Value Added Technology, Binary Output File, Source Code Output File and Ordering Activity Application.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement for the following usage and authorized users:

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based, Machine Based mode, or Add-on Product and

· only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

As an exception to the Agreement, as long as the corresponding license for the License Programs is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to prepare Derivative Works of the Value Added Technology only. Ordering Activity may distribute such Derivative Works of the Value Added Technology to third parties exclusively in Object Code form. In addition, Ordering Activity is granted the right to modify, copy, and distribute those parts of the Value Added Technology expressly marked as "sample code," if applicable. However, Ordering Activity shall not use, and shall not permit any third party to use, any form or part of the Value Added Technology (including without limitation, such as included in a Source Code Output File, a Binary Output File and/or Obfuscated Source Code) to develop a software program competing or intended to compete directly or indirectly with the Licensed Programs to which this LPT applies, for whatever purpose. For the avoidance of doubt and without prejudice to the Agreement, distribution of any element of the Value Added Technology in whatever form (whether "as is" or included in a Derivative Work, Ordering Activity Model, Ordering Activity Application or Binary Output File, and/or "sample code"), as authorized pursuant hereto remains subject to the Export and Re-export laws and regulations provision of the Agreement.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In either any, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract

ADDITIONAL TERMS APPLICABLE TO SOURCE CODE GENERATION OPTION.

As long as the Source Code Generation Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use, reproduce and modify (solely for the purpose of improving, adapting to Ordering Activity's needs and bug fixing of Source Code Output File) the Value Added Technology strictly as integrated in the Source Code Output File in order to enable Users to operate the Output File exclusively for Ordering Activity's internal use. In addition, and as long as the license on the Source Code Generation Option is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to distribute on a worldwide basis to any third parties the Value Added Technology exclusively as integrated in a Ordering Activity Application for such third party's internal use. For avoidance of doubt, the Source Code Output File may never be distributed to third parties.

ADDITIONAL TERMS APPLICABLE TO BINARY MODEL EXPORT OPTION

As long as the Binary Model Export Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use and reproduce the Value Added Technology strictly as integrated in the Binary Output File in order to enable Users to operate the Binary Output File exclusively for Ordering Activity's internal use. Contractor grants Ordering Activity a non-exclusive, non transferable, license to distribute on a worldwide basis to any third parties the Value Added Technology exclusively as integrated in the Binary Output File in order to enable such third parties to operate the Binary Output File exclusively for such third parties' internal use.

ADDITIONAL TERMS APPLICABLE TO REAL TIME SIMULATION OPTION

As long as the Real Time Simulation Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use, reproduce and modify (solely for the purpose of improving, adapting to Ordering Activity's needs and bug fixing of the Obfuscated Source Code) the Value Added Technology strictly as integrated in the Obfuscated Source Code in order to enable Users to operate the Obfuscated Source Code exclusively for Ordering Activity's internal use. In addition, and as long as the license on the Real Time Simulation Option is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to distribute on a worldwide basis to any third parties the Value Added Technology integrated in the Obfuscated Source Code exclusively as embedded in a Ordering Activity Application for such third parties' internal use.

SECURITY MECHANISM

Dassault Systèmes and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. Dassault Systèmes also reserves the right to use a hardware lock device, license administration software and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by Dassault Systèmes is prohibited.

Dymola is a registered trademark of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR CATIA, ENOVIA VPLM, ENOVIA SmarTeam, DELMIA and SIMULIA V5 VERSION 5 RELEASE 21

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement for the following usage and authorized users, up to the number of Users for which licenses have been ordered:

- Concurrent Based (floating)
- Machine Based (node-locked)
- Add-on Products
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

Except as otherwise provided for Licensed Programs for which use on the Internet is allowed as specified below, Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

Licensed Programs identified in the Documentation as being designed for use on the Internet may be used worldwide, over the Internet, as long as the License Server(s) on which the Licensed Programs are installed are located in the Designated Country. Programs shall be used only at the particular office, building, physical location, or within a given department of Ordering Activity.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

UNIQUE TERMS FOR SPECIFIC PRODUCTS

a) The terms and conditions in this sub-section a) are applicable only to the SmarTeam Community Workspace Configuration:

(i) Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs, and (ii) In addition to all terms and conditions of this Attachment A and Exhibits herein, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of this Attachment A.

b) The terms and conditions in this sub-section (b) are applicable only to the SmarTeam Multi-site Administration Configuration and SmarTeam Multi-site Vault Administration Configuration:

As identified in the Documentation, these Configurations may be accessed and used by Users in different physical locations and in countries additional to the Designated Country.

SECURITY MECHANISMS

Contractor through DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks

CATIA, ENOVIA, DELMIA and SIMULIA are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Company, products and services names may be trademarks or service marks of related companies.

Additional Terms Applicable to ENOVIA iPLM V6, ENOVIA SmarTeam and ENOVIA MatrixOne Licensed Programs only:

1. **Autonomy.** Licenses to Autonomy Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
2. **Endeca.** Licenses to Endeca Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
3. **Business Objects.** The following terms apply if Licensee purchases the Business Objects Crystal Enterprise/Crystal Reports Professional software product ("Business Objects Software") hereunder:
 1. The Business Objects Software may only be used with the Licensed Programs under the ENOVIA Brand (except for ENOVIA VPLM and ENOVIA SmarTeam products), with data access limited to data created or used by the ENOVIA Licensed Program.
 2. "Deployment" means a single installation of one of the following Business Objects Software modules: Repository, Security Domain, Central Management Server ("CMS") or CMS Cluster.
 3. Ordering Activity may not combine licenses for different editions of Business Objects Enterprise or Crystal Enterprise in a single Deployment (for example, Premium licenses may not be combined with Professional licenses in the same Deployment). Ordering Activity may use Business Objects Enterprise Professional and Crystal Enterprise Professional to publish and distribute only one of Business Objects' proprietary report format types (Crystal Reports, OLAP Intelligence/Crystal Analysis, WebIntelligence or Business Objects). If Ordering Activity wishes to publish and distribute more than one report format type, Ordering Activity must acquire Business Objects Enterprise Premium or Crystal Enterprise Premium. Notwithstanding the foregoing, if Ordering Activity migrates from a combined Business Objects and Web Intelligence Deployment to Business Objects Enterprise Professional, Ordering Activity may use both Business Objects and WebIntelligence report types in that Deployment.
 4. When the Business Objects Software is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Business Objects Software components(s) (except the Web Connector, SDK, Report Publishing Wizard and report viewers) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors.
 5. When the Business Objects Software is licensed on a Concurrent Access basis, the aggregate number of Users accessing the Business Objects Software at any one time may not exceed the number of concurrent licenses Licensee has obtained. Concurrent licenses are assigned to a particular Deployment, and may not be shared among different Deployments. When using Concurrent Access licenses, Licensee may not utilize a program or system to cache or queue report requests.
 6. The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports Professional and Crystal Reports Developer includes one Named User license of the Designer Tools.
 7. Ordering Activity shall not: (i) use the Business Objects Software to develop a product which is competitive with any product offerings of Business Objects; (ii) use the Business Objects Software to develop a product that converts the report file (.RPT) 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 Business Objects; (iii) use unauthorized keycodes to access additional Business Objects Software functionality or performance; (iv) use unauthorized keycode(s) or distribute or publish keycode(s); (v) disclose any Business Objects Software benchmark results to any third party without the prior written approval of Business Objects.
 8. Ordering Activity shall abide by the terms of the Business Objects end user license which is part of the installation process, including any country unique terms.
 9. Business Objects and/or its suppliers reserve all rights not expressly granted to Ordering Activity. Business Objects' suppliers are the intended third party beneficiaries and have the express right to rely upon and directly enforce the terms set forth herein.
4. **Oracle Software.** The following terms also apply if Ordering Activity purchases licenses to Oracle software hereunder:
 1. The Oracle software licenses shall be used only in conjunction with the Licensed Programs.
 2. Ordering Activity shall not publish the results of any benchmark tests run on the Oracle software.
 3. Ordering Activity shall comply with all applicable export and import laws to assure that the Oracle software and any direct product thereof, are not exported in violation of applicable laws.
 4. Oracle is a third party beneficiary.
 5. The parties agree to exclude the applicability of the Uniform Computer Information Transactions Act.
 6. Some Oracle software may include source code that Oracle may provide as part of its standard shipment of Oracle software and such source code shall be governed by the terms herein.
 7. Ordering Activity shall not assign the licenses to the Oracle software or rent or lease the Oracle software.
 8. **Support for Oracle Software.** Ordering Activity may not contact Oracle for support for Oracle products licensed through DS Company. Ordering Activity may not contact DS Company for support for Oracle products not licensed through DS Company.

Additional Terms Applicable to ENOVIA SmarTeam Licensed Products only
Oracle Software. The ENOVIA SmarTeam Program contains a database engine software component (the "Oracle Component") used under license from Oracle Software Systems Israel. In addition to the terms set forth above regarding Oracle Software, the following terms apply if Licensee purchases licenses to Oracle Component in conjunction with ENOVIA SmarTeam software: Licensee acknowledges that the Oracle Component is not specifically developed or sublicensed for use in any nuclear, mass transit, aviation or medical application or in any other inherently dangerous applications. Ordering Activity further acknowledge, that Oracle shall not be liable for any claims or damages arising from such use if they use it for such applications. Ordering Activity shall not transfer or duplicate the Oracle Components licensed with the ENOVIA SmarTeam products except for temporary transfer in the event of computer malfunctions and a single backup or archival copy.

LICENSED PROGRAMS TERMS FOR SIMULIA Isight and SIMULIA Execution Engine 5.0

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as "interactive tokens") for each concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

SIMULIA is a registered trademark of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR SIMULIA® Isight and SIMULIA Execution Engine 5.5

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- TBL/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)
- System License

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided

and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as “interactive tokens”) for each concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

SIMULIA is a registered trademark of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR SIMULIA Abaqus 6.11 and SIMULIA Abaqus for CATIA V5R21

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms (“LPT”) and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity (“Agreement”), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)
- Token Based
- System License

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Number of tokens. For analysis jobs, the number of required tokens (also called “analysis tokens”) is determined by the type of analysis being performed and the number of CPUs or cores used in running the analysis job. Required token configurations may be changed for new or renewed licenses and with modifications of the covered products. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs. License keys include the agreed number and type of tokens for the Licensed Programs. The Licensed Programs, license tokens and applicable fees are specified in the Quote. For SIMULIA Abaqus Models, the number of jobs in the product name is equivalent to the number of concurrent licenses.

Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as “interactive tokens”) for each concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

Additional Information for System License: SIMULIA Abaqus Models with “site” in the product name utilize a System License. Geographic locations where System Licenses may be used are specified in the applicable Agreement and Ordering Document.

SIMULIA, Abaqus and CATIA are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

BTerms Applicable to SIMULIA Abaqus 6.11 only (hereinafter « Abaqus Program »)

Optional Third Party Software. Included on the media with the Abaqus Program and under license from third parties, as a convenience to Abaqus Program Licensees, are certain third party and open source programs that may be executed at the Licensee’s option. These optional third party and open source programs are NOT part of the Abaqus Program and are NOT warranted or supported by Company:

Software Name	Release
HP-MPI (from Platform Computing Company)	1.1 through 2.3.0
Microsoft MPI (MS-MPI)	2.1
Microsoft Visual C++ 2005 Redistributable Packages	C++ 2005 SP0 through SP1
Microsoft Visual C++ 2008 Redistributable Packages	C++ 2008 SP1
Python for Windows Extensions	Build 213

LICENSED PROGRAMS TERMS FOR SIMULIA Abaqus 6.10-EF and SIMULIA Abaqus for CATIA V5R20

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)
- Token Based
- System License

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Number of tokens. For analysis jobs, the number of required tokens (also called "analysis tokens") is determined by the type of analysis being performed and the number of CPUs or cores used in running the analysis job. Required token configurations may be changed for new or renewed licenses and with modifications of the covered products. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs. License keys include the agreed number and type of tokens for the Licensed Programs. The Licensed Programs, license tokens and applicable fees are specified in the Quote. For SIMULIA Abaqus Models, the number of jobs in the product name is equivalent to the number of concurrent licenses. Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as "interactive tokens") for each concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

Additional Information for System License: SIMULIA Abaqus Models with "site" in the product name utilize a System License. Geographic locations where System Licenses may be used are specified in the applicable Agreement and Ordering Document.

SIMULIA, Abaqus and CATIA are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR SIMULIA Abaqus 6.10 and SIMULIA Abaqus for CATIA V5R20

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)
- Token Based
- System License

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Number of tokens. For analysis jobs, the number of required tokens (also called "analysis tokens") is determined by the type of analysis being performed and the number of CPUs or cores used in running the analysis job. Required token configurations may be changed for new or renewed licenses and with modifications of the covered products. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs. License keys include the agreed number and type of tokens for the Licensed Programs. The Licensed Programs, license tokens and applicable fees are specified in the Quote. For SIMULIA Abaqus Models, the number of jobs in the product name is equivalent to the number of concurrent licenses.

Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as "interactive tokens") for each concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

Additional Information for System License: SIMULIA Abaqus Models with "site" in the product name utilize a System License. Geographic locations where System Licenses may be used are specified in the applicable Agreement and Ordering Document.

SIMULIA, Abaqus and CATIA are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR 3DVIA Virtools, DELMIA, ENOVIA VPLM, ICEM, SIMULIA V5, Complementary Products for CATIA V5 (HELIX, CCWAY) and Industry Solutions Business Process Accelerators (BPA) ALL VERSIONS AND RELEASES UP TO VERSION 5 RELEASE 20

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement for the following usage and authorized users:

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based mode, Machine Based mode or as Add-on Products,
- and only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

Trademarks

CATIA, 3DVIA, Virtools, DELMIA, ENOVIA, ICEM and SIMULIA are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Company, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR DYMOLA 2012

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

For purposes of this LPT, all terms and conditions of the Agreement applicable to the Licensed Programs, shall apply mutatis mutandis to the Value Added Technology, Binary Output File, Source Code Output File and Ordering Activity Application.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement for the following usage and authorized users:

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based, Machine Based mode, or Add-on Product and
- only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

As an exception to the Agreement, as long as the corresponding license for the License Programs is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to prepare Derivative Works of the Value Added Technology only. Ordering Activity may distribute such Derivative Works of the Value Added Technology to third parties exclusively in Object Code form. In addition, Ordering Activity is granted the right to modify, copy, and distribute those parts of the Value Added Technology expressly marked as "sample code," if applicable. However, Ordering Activity shall not use, and shall not permit any third party to use, any form or part of the Value Added Technology (including without limitation, such as included in a Source Code Output File, a Binary Output File and/or Obfuscated Source Code) to develop a software program competing or intended to compete directly or indirectly with the Licensed Programs to which this LPT applies, for whatever purpose.

For the avoidance of doubt and without prejudice to the Agreement, distribution of any element of the Value Added Technology in whatever form (whether "as is" or included in a Derivative Work, Ordering Activity Model, Ordering Activity Application or Binary Output File, and/or "sample code"), as authorized pursuant hereto remains subject to the Export and Re-export laws and regulations provision of the Agreement.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In either any, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

ADDITIONAL TERMS APPLICABLE TO SOURCE CODE GENERATION OPTION.

As long as the Source Code Generation Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use, reproduce and modify (solely for the purpose of improving, adapting to Ordering Activity's needs and bug fixing of Source Code Output File) the Value Added Technology strictly as integrated in the Source Code Output File in order to enable Users to operate the Output File exclusively for Ordering Activity's internal use. In addition, and as long as the license on the Source Code Generation Option is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to distribute on a worldwide basis to any third parties the Value Added Technology exclusively as integrated in a Ordering Activity Application for such third party's internal use. For avoidance of doubt, the Source Code Output File may never be distributed to third parties.

ADDITIONAL TERMS APPLICABLE TO BINARY MODEL EXPORT OPTION

As long as the Binary Model Export Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use and reproduce the Value Added Technology strictly as integrated in the Binary Output File in order to enable Users to operate the Binary Output File exclusively for Ordering Activity's internal use. Contractor grants Ordering Activity a non-exclusive, non transferable, license to distribute on a worldwide basis to any third parties the Value Added Technology exclusively as integrated in the Binary Output File in order to enable such third parties to operate the Binary Output File exclusively for such third parties' internal use.

ADDITIONAL TERMS APPLICABLE TO REAL TIME SIMULATION OPTION

As long as the Real Time Simulation Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use, reproduce and modify (solely for the purpose of improving, adapting to Ordering Activity's needs and bug fixing of the Obfuscated Source Code) the Value Added Technology strictly as integrated in the Obfuscated Source Code in order to enable Users to operate the Obfuscated Source Code exclusively for Ordering Activity's internal use. In addition, and as long as the license on the Real Time Simulation Option is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to distribute on a worldwide basis to any third parties the Value Added Technology integrated in the Obfuscated Source Code exclusively as embedded in a Ordering Activity Application for such third parties' internal use.

LICENSED PROGRAMS TERMS FOR V6R2012

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Machine Based (node-lock)
- Concurrent Based (floating)
- Add-on Product
- Named User Based
- Token Based
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Except as otherwise provided for Licensed Programs for which remote access is allowed as specified below, Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

REMOTE ACCESS. If so specified in the Product Portfolio, Users and/or Extended Enterprise Users may access and use the Licensed Program remotely via the Internet from any country.

EXTENDED ENTERPRISE USERS. For certain Licensed Programs as identified in the Product Portfolio and subject to all terms and conditions of this Attachment A and Exhibits herein, Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of the Agreement and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of the Agreement.

SECURITY MECHANISMS

Contractor through DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Additional Terms Applicable to ENOVIA iPLM V6, ENOVIA SmarTeam and ENOVIA MatrixOne Licensed Programs only:

1. **Autonomy.** Licenses to Autonomy Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
2. **Endeca.** Licenses to Endeca Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
3. **Business Objects.** The following terms apply if Licensee purchases the Business Objects Crystal Enterprise/Crystal Reports Professional software product ("Business Objects Software") hereunder:
 1. The Business Objects Software may only be used with the Licensed Programs under the ENOVIA Brand (except for ENOVIA VPLM and ENOVIA SmarTeam products), with data access limited to data created or used by the ENOVIA Licensed Program.
 2. "Deployment" means a single installation of one of the following Business Objects Software modules: Repository, Security Domain, Central Management Server ("CMS") or CMS Cluster.
 3. Ordering Activity may not combine licenses for different editions of Business Objects Enterprise or Crystal Enterprise in a single Deployment (for example, Premium licenses may not be combined with Professional licenses in the same Deployment). Ordering Activity may use Business Objects Enterprise Professional and Crystal Enterprise Professional to publish and distribute only one of Business Objects' proprietary report format types (Crystal Reports, OLAP Intelligence/Crystal Analysis, WebIntelligence or Business Objects). If Ordering Activity wishes to publish and distribute more than one report format type, Ordering Activity must acquire Business Objects Enterprise Premium or Crystal Enterprise Premium. Notwithstanding the foregoing, if Ordering Activity migrates from a combined Business Objects and Web Intelligence Deployment to Business Objects Enterprise Professional, Ordering Activity may use both Business Objects and WebIntelligence report types in that Deployment.
 4. When the Business Objects Software is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Business Objects Software components(s) (except the Web Connector, SDK, Report Publishing Wizard and report viewers) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors.
 5. When the Business Objects Software is licensed on a Concurrent Access basis, the aggregate number of Users accessing the Business Objects Software at any one time may not exceed the number of concurrent licenses Licensee has obtained. Concurrent licenses are assigned to a particular Deployment, and may not be shared among different Deployments. When using Concurrent Access licenses, Licensee may not utilize a program or system to cache or queue report requests.
 6. The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports Professional and Crystal Reports Developer includes one Named User license of the Designer Tools.
 7. Ordering Activity shall not: (i) use the Business Objects Software to develop a product which is competitive with any product offerings of Business Objects; (ii) use the Business Objects Software to develop a product that converts the report file (.RPT) 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 Business Objects; (iii) use unauthorized keycodes to access additional Business Objects Software functionality or performance; (iv) use unauthorized keycode(s) or distribute or publish keycode(s); (v) disclose any Business Objects Software benchmark results to any third party without the prior written approval of Business Objects.
 8. Ordering Activity shall abide by the terms of the Business Objects end user license which is part of the installation process, including any country unique terms.
 9. Business Objects and/or its suppliers reserve all rights not expressly granted to Ordering Activity. Business Objects' suppliers are the intended third party beneficiaries and have the express right to rely upon and directly enforce the terms set forth herein.
4. **Oracle Software.** The following terms also apply if Ordering Activity purchases licenses to Oracle software hereunder:
 1. The Oracle software licenses shall be used only in conjunction with the Licensed Programs.
 2. Ordering Activity shall not publish the results of any benchmark tests run on the Oracle software.
 3. Ordering Activity shall comply with all applicable export and import laws to assure that the Oracle software and any direct product thereof, are not exported in violation of applicable laws.
 4. Oracle is a third party beneficiary.
 5. The parties agree to exclude the applicability of the Uniform Computer Information Transactions Act.
 6. Some Oracle software may include source code that Oracle may provide as part of its standard shipment of Oracle software and such source code shall be governed by the terms herein.
 7. Ordering Activity shall not assign the licenses to the Oracle software or rent or lease the Oracle software.
 8. **Support for Oracle Software.** Ordering Activity may not contact Oracle for support for Oracle products licensed through DS Company. Ordering Activity may not contact DS Company for support for Oracle products not licensed through DS Company.

Additional Terms Applicable to ENOVIA SmarTeam Licensed Products only

Oracle Software. The ENOVIA SmarTeam Program contains a database engine software component (the "Oracle Component") used under license from Oracle Software Systems Israel. In addition to the terms set forth above regarding Oracle Software, the following terms apply if Licensee purchases licenses to Oracle Component in conjunction with ENOVIA SmarTeam software: Licensee acknowledges that the Oracle Component is not

specifically developed or sublicensed for use in any nuclear, mass transit, aviation or medical application or in any other inherently dangerous applications. Ordering Activity further acknowledge, that Oracle shall not be liable for any claims or damages arising from such use if they use it for such applications. Ordering Activity shall not transfer or duplicate the Oracle Components licensed with the ENOVIA SmarTeam products except for temporary transfer in the event of computer malfunctions and a single backup or archival copy.

LICENSED PROGRAMS TERMS FOR VERSION 6R2011x

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Machine Based (node-lock)
- Concurrent Based (floating)
- Add-on Product
- Named User Based
- Token Based
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Except as otherwise provided for Licensed Programs for which remote access is allowed as specified below, Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

REMOTE ACCESS. If so specified in the Product Portfolio, Users and/or Extended Enterprise Users may access and use the Licensed Program remotely via the Internet from any country.

EXTENDED ENTERPRISE USERS. For certain Licensed Programs as identified in the Product Portfolio and subject to all terms and conditions of this Attachment A and Exhibits herein, Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of this Attachment A and all other provisions of this Exhibit, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of this Attachment A.

SECURITY MECHANISMS

Contractor through DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit

data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Additional Terms Applicable to ENOVIA iPLM V6, ENOVIA SmarTeam and ENOVIA MatrixOne Licensed Programs only:

1. **Autonomy.** Licenses to Autonomy Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
2. **Endeca.** Licenses to Endeca Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
3. **Business Objects.** The following terms apply if Licensee purchases the Business Objects Crystal Enterprise/Crystal Reports Professional software product ("Business Objects Software") hereunder:
 1. The Business Objects Software may only be used with the Licensed Programs under the ENOVIA Brand (except for ENOVIA VPLM and ENOVIA SmarTeam products), with data access limited to data created or used by the ENOVIA Licensed Program.
 2. "Deployment" means a single installation of one of the following Business Objects Software modules: Repository, Security Domain, Central Management Server ("CMS") or CMS Cluster.
 3. Ordering Activity may not combine licenses for different editions of Business Objects Enterprise or Crystal Enterprise in a single Deployment (for example, Premium licenses may not be combined with Professional licenses in the same Deployment). Ordering Activity may use Business Objects Enterprise Professional and Crystal Enterprise Professional to publish and distribute only one of Business Objects' proprietary report format types (Crystal Reports, OLAP Intelligence/Crystal Analysis, WebIntelligence or Business Objects). If Ordering Activity wishes to publish and distribute more than one report format type, Ordering Activity must acquire Business Objects Enterprise Premium or Crystal Enterprise Premium. Notwithstanding the foregoing, if Ordering Activity migrates from a combined Business Objects and Web Intelligence Deployment to Business Objects Enterprise Professional, Ordering Activity may use both Business Objects and WebIntelligence report types in that Deployment.
 4. When the Business Objects Software is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Business Objects Software components(s) (except the Web Connector, SDK, Report Publishing Wizard and report viewers) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors.
 5. When the Business Objects Software is licensed on a Concurrent Access basis, the aggregate number of Users accessing the Business Objects Software at any one time may not exceed the number of concurrent licenses Licensee has obtained. Concurrent licenses are assigned to a particular Deployment, and may not be shared among different Deployments. When using Concurrent Access licenses, Licensee may not utilize a program or system to cache or queue report requests.
 6. The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports Professional and Crystal Reports Developer includes one Named User license of the Designer Tools.
 7. Ordering Activity shall not: (i) use the Business Objects Software to develop a product which is competitive with any product offerings of Business Objects; (ii) use the Business Objects Software to develop a product that converts the report file (.RPT) 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 Business Objects; (iii) use unauthorized keycodes to access additional Business Objects Software functionality or performance; (iv) use unauthorized keycode(s) or distribute or publish keycode(s); (v) disclose any Business Objects Software benchmark results to any third party without the prior written approval of Business Objects.
 8. Ordering Activity shall abide by the terms of the Business Objects end user license which is part of the installation process, including any country unique terms.
 9. Business Objects and/or its suppliers reserve all rights not expressly granted to Ordering Activity. Business Objects' suppliers are the intended third party beneficiaries and have the express right to rely upon and directly enforce the terms set forth herein.
4. **Oracle Software.** The following terms also apply if Ordering Activity purchases licenses to Oracle software hereunder:
 1. The Oracle software licenses shall be used only in conjunction with the Licensed Programs.
 2. Ordering Activity shall not publish the results of any benchmark tests run on the Oracle software.
 3. Ordering Activity shall comply with all applicable export and import laws to assure that the Oracle software and any direct product thereof, are not exported in violation of applicable laws.
 4. Oracle is a third party beneficiary.
 5. The parties agree to exclude the applicability of the Uniform Computer Information Transactions Act.
 6. Some Oracle software may include source code that Oracle may provide as part of its standard shipment of Oracle software and such source code shall be governed by the terms herein.
 7. Ordering Activity shall not assign the licenses to the Oracle software or rent or lease the Oracle software.
 8. Support for Oracle Software. Ordering Activity may not contact Oracle for support for Oracle products licensed through DS Company. Ordering Activity may not contact DS Company for support for Oracle products not licensed through DS Company.

Additional Terms Applicable to ENOVIA SmarTeam Licensed Products only

Oracle Software. The ENOVIA SmarTeam Program contains a database engine software component (the "Oracle Component") used under license from Oracle Software Systems Israel. In addition to the terms set forth above regarding Oracle Software, the following terms apply if Licensee purchases licenses to Oracle Component in conjunction with ENOVIA SmarTeam software: Licensee acknowledges that the Oracle Component is not specifically developed or sublicensed for use in any nuclear, mass transit, aviation or medical application or in any other inherently dangerous applications. Ordering Activity further acknowledge, that Oracle shall not be liable for any claims or damages arising from such use if they use it for

such applications. Ordering Activity shall not transfer or duplicate the Oracle Components licensed with the ENOVIA SmarTeam products except for temporary transfer in the event of computer malfunctions and a single backup or archival copy.

LICENSED PROGRAMS TERMS FOR VERSION 6R2011

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Machine Based (node-lock)
- Concurrent Based (floating)
- Add-on Product
- Named User Based
- Token Based
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Except as otherwise provided for Licensed Programs for which remote access is allowed as specified below, Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

REMOTE ACCESS. If so specified in the Product Portfolio, Users and/or Extended Enterprise Users may access and use the Licensed Program remotely via the Internet from any country.

EXTENDED ENTERPRISE USERS. For certain Licensed Programs as identified in the Product Portfolio and subject to all terms and conditions of this Attachment A and Exhibit herein, Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of this Attachment A and all other provisions of this Exhibit, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of the Attachment A.

SECURITY MECHANISMS

Contractor through DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is

detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Additional Terms Applicable to ENOVIA iPLM V6, ENOVIA SmarTeam and ENOVIA MatrixOne Licensed Programs only:

1. **Autonomy.** Licenses to Autonomy Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
2. **Endeca.** Licenses to Endeca Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
3. **Business Objects.** The following terms apply if Licensee purchases the Business Objects Crystal Enterprise/Crystal Reports Professional software product ("Business Objects Software") hereunder:
 1. The Business Objects Software may only be used with the Licensed Programs under the ENOVIA Brand (except for ENOVIA VPLM and ENOVIA SmarTeam products), with data access limited to data created or used by the ENOVIA Licensed Program.
 2. "Deployment" means a single installation of one of the following Business Objects Software modules: Repository, Security Domain, Central Management Server ("CMS") or CMS Cluster.
 3. Ordering Activity may not combine licenses for different editions of Business Objects Enterprise or Crystal Enterprise in a single Deployment (for example, Premium licenses may not be combined with Professional licenses in the same Deployment). Ordering Activity may use Business Objects Enterprise Professional and Crystal Enterprise Professional to publish and distribute only one of Business Objects' proprietary report format types (Crystal Reports, OLAP Intelligence/Crystal Analysis, WebIntelligence or Business Objects). If Ordering Activity wishes to publish and distribute more than one report format type, Ordering Activity must acquire Business Objects Enterprise Premium or Crystal Enterprise Premium. Notwithstanding the foregoing, if Ordering Activity migrates from a combined Business Objects and Web Intelligence Deployment to Business Objects Enterprise Professional, Ordering Activity may use both Business Objects and WebIntelligence report types in that Deployment.
 4. When the Business Objects Software is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Business Objects Software components(s) (except the Web Connector, SDK, Report Publishing Wizard and report viewers) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors.
 5. When the Business Objects Software is licensed on a Concurrent Access basis, the aggregate number of Users accessing the Business Objects Software at any one time may not exceed the number of concurrent licenses Licensee has obtained. Concurrent licenses are assigned to a particular Deployment, and may not be shared among different Deployments. When using Concurrent Access licenses, Licensee may not utilize a program or system to cache or queue report requests.
 6. The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports Professional and Crystal Reports Developer includes one Named User license of the Designer Tools.
 7. Ordering Activity shall not: (i) use the Business Objects Software to develop a product which is competitive with any product offerings of Business Objects; (ii) use the Business Objects Software to develop a product that converts the report file (.RPT) 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 Business Objects; (iii) use unauthorized keycodes to access additional Business Objects Software functionality or performance; (iv) use unauthorized keycode(s) or distribute or publish keycode(s); (v) disclose any Business Objects Software benchmark results to any third party without the prior written approval of Business Objects.
 8. Ordering Activity shall abide by the terms of the Business Objects end user license which is part of the installation process, including any country unique terms.
 9. Business Objects and/or its suppliers reserve all rights not expressly granted to Ordering Activity. Business Objects' suppliers are the intended third party beneficiaries and have the express right to rely upon and directly enforce the terms set forth herein.
4. **Oracle Software.** The following terms also apply if Ordering Activity purchases licenses to Oracle software hereunder:
 1. The Oracle software licenses shall be used only in conjunction with the Licensed Programs.
 2. Ordering Activity shall not publish the results of any benchmark tests run on the Oracle software.
 3. Ordering Activity shall comply with all applicable export and import laws to assure that the Oracle software and any direct product thereof, are not exported in violation of applicable laws.
 4. Oracle is a third party beneficiary.
 5. The parties agree to exclude the applicability of the Uniform Computer Information Transactions Act.
 6. Some Oracle software may include source code that Oracle may provide as part of its standard shipment of Oracle software and such source code shall be governed by the terms herein.
 7. Ordering Activity shall not assign the licenses to the Oracle software or rent or lease the Oracle software.
 8. **Support for Oracle Software.** Ordering Activity may not contact Oracle for support for Oracle products licensed through DS Company. Ordering Activity may not contact DS Company for support for Oracle products not licensed through DS Company.

Additional Terms Applicable to ENOVIA SmarTeam Licensed Products only

Oracle Software. The ENOVIA SmarTeam Program contains a database engine software component (the "Oracle Component") used under license from Oracle Software Systems Israel. In addition to the terms set forth above regarding Oracle Software, the following terms apply if Licensee purchases licenses to Oracle Component in conjunction with ENOVIA SmarTeam software: Licensee acknowledges that the Oracle Component is not specifically developed or sublicensed for use in any nuclear, mass transit, aviation or medical application or in any other inherently dangerous applications. Ordering Activity further acknowledge, that Oracle shall not be liable for any claims or damages arising from such use if they use it for such applications. Ordering Activity shall not transfer or duplicate the Oracle Components licensed with the ENOVIA SmarTeam products except for temporary transfer in the event of computer malfunctions and a single backup or archival copy.

LICENSED PROGRAMS TERMS FOR VERSION 6 – UP TO V6R2010x

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms (“LPT”) and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity (“Agreement”), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Machine Based (node-lock)
- Concurrent Based (floating)
- Add-on Product
- Named User Based
- Token Based
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Except as otherwise provided for Licensed Programs for which remote access is allowed as specified below, Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

REMOTE ACCESS. If so specified in the Product Portfolio, Users and/or Extended Enterprise Users may access and use the Licensed Program remotely via the Internet from any country.

EXTENDED ENTERPRISE USERS. For certain Licensed Programs as identified in the Product Portfolio and subject to all terms and conditions of this Attachment A and Exhibits herein, Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User’s performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User’s own or another’s account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

ORDERING ACTIVITY’S RESPONSIBILITY. In addition to all terms and conditions of this Attachment A and all other provisions of this Exhibit, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of the Attachment A.

SECURITY MECHANISMS

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to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Additional Terms Applicable to ENOVIA iPLM V6, ENOVIA SmarTeam and ENOVIA MatrixOne Licensed Programs only:

1. **Autonomy.** Licenses to Autonomy Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
2. **Endeca.** Licenses to Endeca Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
3. **Business Objects.** The following terms apply if Licensee purchases the Business Objects Crystal Enterprise/Crystal Reports Professional software product ("Business Objects Software") hereunder:
 1. The Business Objects Software may only be used with the Licensed Programs under the ENOVIA Brand (except for ENOVIA VPLM and ENOVIA SmarTeam products), with data access limited to data created or used by the ENOVIA Licensed Program.
 2. "Deployment" means a single installation of one of the following Business Objects Software modules: Repository, Security Domain, Central Management Server ("CMS") or CMS Cluster.
 3. Ordering Activity may not combine licenses for different editions of Business Objects Enterprise or Crystal Enterprise in a single Deployment (for example, Premium licenses may not be combined with Professional licenses in the same Deployment). Ordering Activity may use Business Objects Enterprise Professional and Crystal Enterprise Professional to publish and distribute only one of Business Objects' proprietary report format types (Crystal Reports, OLAP Intelligence/Crystal Analysis, WebIntelligence or Business Objects). If Ordering Activity wishes to publish and distribute more than one report format type, Ordering Activity must acquire Business Objects Enterprise Premium or Crystal Enterprise Premium. Notwithstanding the foregoing, if Ordering Activity migrates from a combined Business Objects and Web Intelligence Deployment to Business Objects Enterprise Professional, Ordering Activity may use both Business Objects and WebIntelligence report types in that Deployment.
 4. When the Business Objects Software is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Business Objects Software components(s) (except the Web Connector, SDK, Report Publishing Wizard and report viewers) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors.
 5. When the Business Objects Software is licensed on a Concurrent Access basis, the aggregate number of Users accessing the Business Objects Software at any one time may not exceed the number of concurrent licenses Licensee has obtained. Concurrent licenses are assigned to a particular Deployment, and may not be shared among different Deployments. When using Concurrent Access licenses, Licensee may not utilize a program or system to cache or queue report requests.
 6. The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports Professional and Crystal Reports Developer includes one Named User license of the Designer Tools.
 7. Ordering Activity shall not: (i) use the Business Objects Software to develop a product which is competitive with any product offerings of Business Objects; (ii) use the Business Objects Software to develop a product that converts the report file (.RPT) 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 Business Objects; (iii) use unauthorized keycodes to access additional Business Objects Software functionality or performance; (iv) use unauthorized keycode(s) or distribute or publish keycode(s); (v) disclose any Business Objects Software benchmark results to any third party without the prior written approval of Business Objects.
 8. Ordering Activity shall abide by the terms of the Business Objects end user license which is part of the installation process, including any country unique terms.
 9. Business Objects and/or its suppliers reserve all rights not expressly granted to Ordering Activity. Business Objects' suppliers are the intended third party beneficiaries and have the express right to rely upon and directly enforce the terms set forth herein.
4. **Oracle Software.** The following terms also apply if Ordering Activity purchases licenses to Oracle software hereunder:
 1. The Oracle software licenses shall be used only in conjunction with the Licensed Programs.
 2. Ordering Activity shall not publish the results of any benchmark tests run on the Oracle software.
 3. Ordering Activity shall comply with all applicable export and import laws to assure that the Oracle software and any direct product thereof, are not exported in violation of applicable laws.
 4. Oracle is a third party beneficiary.
 5. The parties agree to exclude the applicability of the Uniform Computer Information Transactions Act.
 6. Some Oracle software may include source code that Oracle may provide as part of its standard shipment of Oracle software and such source code shall be governed by the terms herein.
 7. Ordering Activity shall not assign the licenses to the Oracle software or rent or lease the Oracle software.
 8. **Support for Oracle Software.** Ordering Activity may not contact Oracle for support for Oracle products licensed through DS Company. Ordering Activity may not contact DS Company for support for Oracle products not licensed through DS Company.

Additional Terms Applicable to ENOVIA SmarTeam Licensed Products only

Oracle Software. The ENOVIA SmarTeam Program contains a database engine software component (the "Oracle Component") used under license from Oracle Software Systems Israel. In addition to the terms set forth above regarding Oracle Software, the following terms apply if Licensee purchases licenses to Oracle Component in conjunction with ENOVIA SmarTeam software: Licensee acknowledges that the Oracle Component is not specifically developed or sublicensed for use in any nuclear, mass transit, aviation or medical application or in any other inherently dangerous applications. Ordering Activity further acknowledge, that Oracle shall not be liable for any claims or damages arising from such use if they use it for such applications. Ordering Activity shall not transfer or duplicate the Oracle Components licensed with the ENOVIA SmarTeam products except for temporary transfer in the event of computer malfunctions and a single backup or archival copy.

LICENSED PROGRAMS TERMS FOR CATIA UP TO VERSION 5 RELEASE 20

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement for the following usage and authorized users:

- Up to the number of User for which licenses have been ordered
- In concurrent base mode or as add on products
- And only for use in the country for which the license is ordered

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

SECURITY MECHANISMS

Contractor through DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

LICENSED PROGRAMS TERMS FOR ENOVIA MATRIXONE 10.6-10.7 & ENOVIA 10.8 AND ENOVIA SYNCHRONICITY

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement for the following usage and authorized users:

- Up to the number of Named User licenses ordered, or
- the number of System Licenses ordered and paid by Ordering Activity

Licenses of the Licensed Programs to which this LPT applies and ordered for Named Users are granted for use worldwide and may be used only in connection with a specific Designated Machine or Designated License Server.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

REMOTE ACCESS. Named Users may access the applicable Designated Machine or Designated License Server remotely via the Internet for the sole and exclusive purpose of enabling the Named User to conduct business with Ordering Activity, or, if a User, solely to perform duties for and on behalf of the Ordering Activity, provided that any such Named User that is not a User shall be limited to use of the Licensed Programs (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Named User's or Named User's own employer's performance of services for and on behalf of Ordering Activity, and not for such Named User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of this Attachment A and all other provisions of this Exhibit, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of the Attachment A.

Additional Terms Applicable to ENOVIA iPLM V6, ENOVIA SmarTeam and ENOVIA MatrixOne Licensed Programs only:

1. **Autonomy.** Licenses to Autonomy Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
2. **Endeca.** Licenses to Endeca Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
3. **Business Objects.** The following terms apply if Licensee purchases the Business Objects Crystal Enterprise/Crystal Reports Professional software product ("Business Objects Software") hereunder:
 1. The Business Objects Software may only be used with the Licensed Programs under the ENOVIA Brand (except for ENOVIA VPLM and ENOVIA SmarTeam products), with data access limited to data created or used by the ENOVIA Licensed Program.
 2. "Deployment" means a single installation of one of the following Business Objects Software modules: Repository, Security Domain, Central Management Server ("CMS") or CMS Cluster.
 3. Ordering Activity may not combine licenses for different editions of Business Objects Enterprise or Crystal Enterprise in a single Deployment (for example, Premium licenses may not be combined with Professional licenses in the same Deployment). Ordering Activity may use Business Objects Enterprise Professional and Crystal Enterprise Professional to publish and distribute only one of Business Objects' proprietary report format types (Crystal Reports, OLAP Intelligence/Crystal Analysis, WebIntelligence or Business Objects). If Ordering Activity wishes to publish and distribute more than one report format type, Ordering Activity must acquire Business Objects Enterprise Premium or Crystal Enterprise Premium. Notwithstanding the foregoing, if Ordering Activity migrates from a combined Business Objects and Web Intelligence Deployment to Business Objects Enterprise Professional, Ordering Activity may use both Business Objects and WebIntelligence report types in that Deployment.
 4. When the Business Objects Software is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Business Objects Software components(s) (except the Web Connector, SDK, Report Publishing Wizard and report viewers) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors.
 5. When the Business Objects Software is licensed on a Concurrent Access basis, the aggregate number of Users accessing the Business Objects Software at any one time may not exceed the number of concurrent licenses Licensee has obtained. Concurrent licenses are assigned to a particular Deployment, and may not be shared among different Deployments. When using Concurrent Access licenses, Licensee may not utilize a program or system to cache or queue report requests.
 6. The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports Professional and Crystal Reports Developer includes one Named User license of the Designer Tools.
 7. Ordering Activity shall not: (i) use the Business Objects Software to develop a product which is competitive with any product offerings of Business Objects; (ii) use the Business Objects Software to develop a product that converts the report file (.RPT) 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 Business Objects; (iii) use unauthorized keycodes to access additional Business Objects Software functionality or performance; (iv) use unauthorized keycode(s) or distribute or publish keycode(s); (v) disclose any Business Objects Software benchmark results to any third party without the prior written approval of Business Objects.
 8. Ordering Activity shall abide by the terms of the Business Objects end user license which is part of the installation process, including any country unique terms.

9. Business Objects and/or its suppliers reserve all rights not expressly granted to Ordering Activity. Business Objects' suppliers are the intended third party beneficiaries and have the express right to rely upon and directly enforce the terms set forth herein.

4. Oracle Software. The following terms also apply if Ordering Activity purchases licenses to Oracle software hereunder:
 1. The Oracle software licenses shall be used only in conjunction with the Licensed Programs.
 2. Ordering Activity shall not publish the results of any benchmark tests run on the Oracle software.
 3. Ordering Activity shall comply with all applicable export and import laws to assure that the Oracle software and any direct product thereof, are not exported in violation of applicable laws.
 4. Oracle is a third party beneficiary.
 5. The parties agree to exclude the applicability of the Uniform Computer Information Transactions Act.
 6. Some Oracle software may include source code that Oracle may provide as part of its standard shipment of Oracle software and such source code shall be governed by the terms herein.
 7. Ordering Activity shall not assign the licenses to the Oracle software or rent or lease the Oracle software.
 8. Support for Oracle Software. Ordering Activity may not contact Oracle for support for Oracle products licensed through DS Company. Ordering Activity may not contact DS Company for support for Oracle products not licensed through DS Company.

Additional Terms Applicable to ENOVIA SmarTeam Licensed Products only

Oracle Software. The ENOVIA SmarTeam Program contains a database engine software component (the "Oracle Component") used under license from Oracle Software Systems Israel. In addition to the terms set forth above regarding Oracle Software, the following terms apply if Licensee purchases licenses to Oracle Component in conjunction with ENOVIA SmarTeam software: Licensee acknowledges that the Oracle Component is not specifically developed or sublicensed for use in any nuclear, mass transit, aviation or medical application or in any other inherently dangerous applications. Ordering Activity further acknowledge, that Oracle shall not be liable for any claims or damages arising from such use if they use it for such applications. Ordering Activity shall not transfer or duplicate the Oracle Components licensed with the ENOVIA SmarTeam products except for temporary transfer in the event of computer malfunctions and a single backup or archival copy.

LICENSED PROGRAMS TERMS FOR ENOVIA SMARTEAM UP TO VERSION 5 RELEASE 20

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures.

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, for the following usage and authorized users:

- For the maximum number of Users order by Ordering Activity, and
- In Concurrent mode or as Add-on Products
- And only for use in the Designated Country

Except as otherwise provided for Licensed Programs for which use on the Internet is allowed as specified below, Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

Licensed Programs identified in the Documentation as being designated for use on the Internet may be used worldwide, over the Internet, as long as the License Server(s) on which the Licensed Programs are installed are located in the Designated Country.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

UNIQUE TERMS FOR SPECIFIC PRODUCTS.

- a) The terms and conditions in this sub-section (a) are applicable only to the SmarTeam Community Workspace Configuration:
 - (i) Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, provided that use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs, and
 - (ii) In addition to all terms and conditions of the Agreement and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of the Agreement, and any breach by Extended Enterprise Users of the terms of this Agreement shall also be deemed a breach by Ordering Activity.
- b) The terms and conditions of this subsection (b) are applicable only to the SmarTeam Multi-site Administration Configuration and SmarTeam Multi-site Vault Administration Configuration:
 - (i) As identified in the Documentation, these Configurations may be accessed and used in different physical locations and in countries additional to the Designated Country.

Additional Terms Applicable to ENOVIA iPLM V6, ENOVIA SmarTeam and ENOVIA MatrixOne Licensed Programs only:

1. **Autonomy.** Licenses to Autonomy Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
2. **Endeca.** Licenses to Endeca Products purchased hereunder may only be used for Licensee's internal business purposes to index and search content that is created and managed by the Licensed Programs.
3. **Business Objects.** The following terms apply if Licensee purchases the Business Objects Crystal Enterprise/Crystal Reports Professional software product ("Business Objects Software") hereunder:
 1. The Business Objects Software may only be used with the Licensed Programs under the ENOVIA Brand (except for ENOVIA VPLM and ENOVIA SmarTeam products), with data access limited to data created or used by the ENOVIA Licensed Program.
 2. "Deployment" means a single installation of one of the following Business Objects Software modules: Repository, Security Domain, Central Management Server ("CMS") or CMS Cluster.
 3. Ordering Activity may not combine licenses for different editions of Business Objects Enterprise or Crystal Enterprise in a single Deployment (for example, Premium licenses may not be combined with Professional licenses in the same Deployment). Ordering Activity may use Business Objects Enterprise Professional and Crystal Enterprise Professional to publish and distribute only one of Business Objects' proprietary report format types (Crystal Reports, OLAP Intelligence/Crystal Analysis, WebIntelligence or Business Objects). If Ordering Activity wishes to publish and distribute more than one report format type, Ordering Activity must acquire Business Objects Enterprise Premium or Crystal Enterprise Premium. Notwithstanding the foregoing, if Ordering Activity migrates from a combined Business Objects and Web Intelligence Deployment to Business Objects Enterprise Professional, Ordering Activity may use both Business Objects and WebIntelligence report types in that Deployment.
 4. When the Business Objects Software is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Business Objects Software components(s) (except the Web Connector, SDK, Report Publishing Wizard and report viewers) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors.
 5. When the Business Objects Software is licensed on a Concurrent Access basis, the aggregate number of Users accessing the Business Objects Software at any one time may not exceed the number of concurrent licenses Licensee has obtained. Concurrent licenses are assigned to a particular Deployment, and may not be shared among different Deployments. When using Concurrent Access licenses, Licensee may not utilize a program or system to cache or queue report requests.
 6. The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports Professional and Crystal Reports Developer includes one Named User license of the Designer Tools.
 7. Ordering Activity shall not: (i) use the Business Objects Software to develop a product which is competitive with any product offerings of Business Objects; (ii) use the Business Objects Software to develop a product that converts the report file (.RPT) 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 Business Objects; (iii) use unauthorized keycodes to access additional Business Objects Software functionality or performance; (iv) use unauthorized keycode(s) or distribute or publish keycode(s); (v) disclose any Business Objects Software benchmark results to any third party without the prior written approval of Business Objects.
 8. Ordering Activity shall abide by the terms of the Business Objects end user license which is part of the installation process, including any country unique terms.
 9. Business Objects and/or its suppliers reserve all rights not expressly granted to Ordering Activity. Business Objects' suppliers are the intended third party beneficiaries and have the express right to rely upon and directly enforce the terms set forth herein.
4. **Oracle Software.** The following terms also apply if Ordering Activity purchases licenses to Oracle software hereunder:
 1. The Oracle software licenses shall be used only in conjunction with the Licensed Programs.
 2. Ordering Activity shall not publish the results of any benchmark tests run on the Oracle software.
 3. Ordering Activity shall comply with all applicable export and import laws to assure that the Oracle software and any direct product thereof, are not exported in violation of applicable laws.
 4. Oracle is a third party beneficiary.
 5. The parties agree to exclude the applicability of the Uniform Computer Information Transactions Act.

6. Some Oracle software may include source code that Oracle may provide as part of its standard shipment of Oracle software and such source code shall be governed by the terms herein.
7. Ordering Activity shall not assign the licenses to the Oracle software or rent or lease the Oracle software.
8. Support for Oracle Software. Ordering Activity may not contact Oracle for support for Oracle products licensed through DS Company. Ordering Activity may not contact DS Company for support for Oracle products not licensed through DS Company.

Additional Terms Applicable to ENOVIA SmarTeam Licensed Products only

Oracle Software. The ENOVIA SmarTeam Program contains a database engine software component (the "Oracle Component") used under license from Oracle Software Systems Israel. In addition to the terms set forth above regarding Oracle Software, the following terms apply if Licensee purchases licenses to Oracle Component in conjunction with ENOVIA SmarTeam software: Licensee acknowledges that the Oracle Component is not specifically developed or sublicensed for use in any nuclear, mass transit, aviation or medical application or in any other inherently dangerous applications. Ordering Activity further acknowledge, that Oracle shall not be liable for any claims or damages arising from such use if they use it for such applications. Ordering Activity shall not transfer or duplicate the Oracle Components licensed with the ENOVIA SmarTeam products except for temporary transfer in the event of computer malfunctions and a single backup or archival copy.

LICENSED PROGRAMS TERMS FOR INTERCIM PERTINENCE SUITE POWERED BY VELOCITY UP TO VERSION 2009.2

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity ("Agreement"), which refers to this LPT.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures.

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Agreement, and according to one the following licensing structures (specifying the authorized use and users, subject to the maximum quantities set forth in the order issued by Ordering Activity pursuant to a Quote), as specified in the Product Portfolio, the terms of which are incorporated herein by reference (or, if not so designated in the Product Portfolio, in the order issued by Ordering Activity pursuant to a Quote accepted by Contractor:

- Machine Based (node-lock)
- Concurrent Based (floating)
- Add-on Product
- Named User Based
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country for purposes of a business trip of a maximum of thirty (30) consecutive days.

However, the following license limitations apply:

- a) If so specified in an order issued by Ordering Activity pursuant to a Quote and accepted by Contractor, Licensed Programs shall be used only at a particular office, building, physical location, or within a given department of Ordering Activity.
- b) Licensed Programs shall be used only with the machine types or other hardware products, together with third party software and/or any other Licensed Programs necessary to operate such Licensed Programs, and hardware, that are identified in the Documentation and the order issued for such Licensed Programs by Ordering Activity pursuant to a Quote.
- c) Licensed Programs identified in order issued by Ordering Activity pursuant to a Quote, and accepted by Contractor, or in the Documentation for use on a "dev" development or test basis) or words of a similar effect) shall be used only in a separate test computer system environment for the purpose of testing such Licensed Programs and/or configurations thereof, and such use specifically excludes the right to use any such Licensed Program for manufacturing, manufacturing intelligence, manufacturing operations or any other production or business purposes.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the schedule contract.

LICENSED PROGRAMS TERMS FOR ALL PLM LICENSED PROGRAMS IN V6R2013 (excluding EXALEAD V6R2013)

Terms that are initially capitalized are defined in the Glossary - Release 1, attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these

terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio, available at www.3ds.com/terms/product-portfolio:

- PLC/ALC, or
- TBL/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one of the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Machine Based (node-lock)
- Concurrent Based (floating)
- Add-on Product
- Named User Based
- Token Based
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Except as otherwise provided for Licensed Programs for which remote access is allowed as specified below, Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Reexport laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

Number of Tokens for SIMULIA. For SIMULIA Token Based Licensed Programs, the number of required tokens (also called "SIMULIA Tokens") is determined by the type of analysis being performed and the number of CPUs or cores used in running the solver. Required token configurations may be changed for new or renewed licenses and with modifications of the covered products. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs. License keys include the agreed number and type of tokens for the Licensed Programs. The Licensed Programs, license tokens and applicable fees are specified in the Quote.

Ordering Activity shall promptly provide Contractor through Dassault Systèmes with usage reports when requested.

ENOVIA Live Collaboration (CPF):

The Usage of the Autonomy search server optional functionality named "ENOVIA Full-text Search Server with Autonomy IDOL" is not allowed together with ENOVIA Live Collaboration (CPF) Licensed Program licensed under this LPT"

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

REMOTE ACCESS. If so specified in the Product Portfolio, Users and/or Extended Enterprise Users may access and use the Licensed Program remotely via the Internet from any country (subject *inter alia* to the Export and Reexport laws and regulations provision of the general terms of Attachment A).

EXTENDED ENTERPRISE USERS. For certain Licensed Programs as identified in the Product Portfolio and subject to all terms and conditions of Attachment A and this LPT, Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users, Named Users and/or Extended Enterprise Users if applicable, shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks

Company, products and services names may be trademarks or service marks of related companies. CATIA, ENOVIA, DELMIA, SIMULIA, 3D VIA, 3DSwYm, EXALEAD and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR DYMOLA® 2013

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

For purposes of this LPT, all terms and conditions of Attachment A applicable to the Licensed Programs, shall apply mutatis mutandis to the Value Added Technology, Binary Output File, Source Code Output File and Licensee Application.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A for the following usage and authorized users:

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based, Machine Based mode, or Add-on Product and
- only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

As an exception to Attachment A, as long as the corresponding license for the License Programs is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to prepare Derivative Works of the Value Added Technology only. Ordering Activity may distribute such Derivative Works of the Value Added Technology to third parties exclusively in Object Code form. In addition, Ordering Activity is granted the right to modify, copy, and distribute those parts of the Value Added Technology expressly marked as "sample code," if applicable. However, Ordering Activity shall not use, and shall not permit any third party to use, any form or part of the Value Added Technology (including without limitation, such as included in a Source Code Output File, a Binary Output File and/or Obfuscated Source Code) to develop a software program competing or intended to compete directly or indirectly with the Licensed Programs to which this LPT applies, for whatever purpose.

For the avoidance of doubt and without prejudice to Attachment A, distribution of any element of the Value Added Technology in whatever form (whether "as is" or included in a Derivative Work, Licensee Model, Licensee Application or Binary Output File, and/or "sample code"), as authorized pursuant hereto remains subject to the Export and Re-export laws and regulations provision of Attachment A.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In either any, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering

Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ADDITIONAL TERMS APPLICABLE TO SOURCE CODE GENERATION OPTION.

As long as the Source Code Generation Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use, reproduce and modify (solely for the purpose of improving, adapting to Ordering Activity's needs and bug fixing of Source Code Output File) the Value Added Technology strictly as integrated in the Source Code Output File in order to enable Users to operate the Output File exclusively for Ordering Activity's internal use. In addition, and as long as the license on the Source Code Generation Option is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to distribute on a worldwide basis to any third parties the Value Added Technology exclusively as integrated in a Licensee Application for such third party's internal use. For avoidance of doubt, the Source Code Output File may never be distributed to third parties.

ADDITIONAL TERMS APPLICABLE TO BINARY MODEL EXPORT OPTION

As long as the Binary Model Export Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use and reproduce the Value Added Technology strictly as integrated in the Binary Output File in order to enable Users to operate the Binary Output File exclusively for Ordering Activity's internal use. Contractor grants Ordering Activity a non-exclusive, non transferable, license to distribute on a worldwide basis to any third parties the Value Added Technology exclusively as integrated in the Binary Output File in order to enable such third parties to operate the Binary Output File exclusively for such third parties' internal use.

ADDITIONAL TERMS APPLICABLE TO REAL TIME SIMULATION OPTION

As long as the Real Time Simulation Option license is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to use, reproduce and modify (solely for the purpose of improving, adapting to Ordering Activity's needs and bug fixing of the Obfuscated Source Code) the Value Added Technology strictly as integrated in the Obfuscated Source Code in order to enable Users to operate the Obfuscated Source Code exclusively for Ordering Activity's internal use. In addition, and as long as the license on the Real Time Simulation Option is valid, Contractor grants Ordering Activity a non-exclusive, non transferable license to distribute on a worldwide basis to any third parties the Value Added Technology integrated in the Obfuscated Source Code exclusively as embedded in a Licensee Application for such third parties' internal use.

SECURITY MECHANISM

Dassault Systèmes and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. Dassault Systèmes also reserves the right to use a hardware lock device, license administration software and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by Dassault Systèmes is prohibited.

Dymola and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR Rectify®, ControlBuild®, AUTOSAR Builder® and RT Builder™ **Release 2012-1**

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSE & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing structures (specifying the authorized use and users, subject to the maximum quantities set forth in the Ordering Document as specified in the Product Portfolio, available at www.3ds.com/terms/product-portfolio, the terms of which are incorporated herein by reference (or, if not so designated in the Product Portfolio, in the Ordering Document).

- Machine Based (node-lock)
- Concurrent Based (floating)
- Named User Based
- Token Based (the number of tokens required per Licensed Program is described in the Product Portfolio)

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

Additional terms for Token Based licenses and Concurrent Based licenses

Token Based and Concurrent Based licenses may be licensed for either a Single Site or Multi-Site usage. Subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A and applicable provisions governing the above licensing structures:

- A **Single Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies only on Machines within **Ordering Activity's Site** as identified in the Ordering Document and in the country for which the license is ordered. The term Ordering Activity's Site means the specific physical address of Ordering Activity's own facility identified in the Ordering Document that may consist of one or more buildings within a radius of one kilometer of where the Licensed Program is first installed and put into use.

- A **Multi Site License** as specified in the Product Portfolio, authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies on Machines in several of the Ordering Activity's own facilities located in the same geographic region only (i.e. APAC or EMEA or Americas).

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Licensee is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users, Named Users and Extended Enterprise Users if applicable, shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks

Company, Licensed Programs, products and services names may be trademarks or service marks of related companies. Reqtify, ControlBuild, AUTOSAR Builder, RT Builder and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR Reqtify® 2011-2, ControlBuild® 2011-2

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A which refers to this LPT. In the event of discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSE & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing structures (specifying the authorized use and users, subject to the maximum quantities set forth in the Ordering Document as specified in the Product Portfolio, the terms of which are incorporated herein by reference (or, if not so designated in the Product Portfolio, in the Ordering Document).

- Machine Based (node-lock)
- Concurrent Based (floating)
- Named User Based

Concurrent Based licensing may be licensed for Single Site or Multi-Site usage. Subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A and applicable provisions governing the above licensing structures:

- A **Single Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies only on Machines within Ordering Activity's Site and in the country for which the license is ordered. The term Ordering Activity's Site means the specific physical address of Ordering Activity's own facility that may consist of one or more buildings within a radius of one kilometer of where the Licensed Program is first installed and put into use.

- A **Multi Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies on Machines in several facilities of the Ordering Activity located in the same geographic region only (i.e. APAC or EMEA or Americas).

Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Reqtify and ControlBuild are registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Company, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR AUTOSAR Builder® 2011-1 and RT Builder™ 2011-1

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to the Attachment A, and according to one the following licensing structures (specifying the authorized use and Users, subject to the maximum quantities set forth in the Ordering Document as specified in the Product Portfolio, the terms of which are incorporated herein by reference (or, if not so designated in the Product Portfolio, in the Ordering Document).

- Concurrent Based (floating)
- Token Based (the number of tokens required per Licensed Program is described in the Product Portfolio)

Token Based and Concurrent Based licensing may be licensed for Single Site or Multi-Site usage. Subject *inter alia* to the Export and Re-export laws

and regulations provision of Attachment A and applicable provisions governing the above licensing structures:

- A **Single Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies only on Machines within Ordering Activity's Site and in the country for which the license is ordered. The term Ordering Activity's Site means the specific physical address of Ordering Activity's own facility that may consist of one or more buildings within a radius of one kilometer of where the Licensed Program is first installed and put into use.

- A **Multi Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies on Machines in several facilities of the Ordering Activity located in the same geographic region only (i.e. APAC or EMEA or Americas).

Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users (if applicable) shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks AUTOSAR Builder and RT Builder are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Company, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR Reqtify® 2011-1

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSE & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing structures (specifying the authorized use and users, subject to the maximum quantities set forth in the Ordering Document as specified in the Product Portfolio, the terms of which are incorporated herein by reference or, if not so designated in the Product Portfolio, in the Ordering Document).

- Concurrent Based (floating)

Concurrent Based licensing may be licensed for Single Site or Multi-Site usage. Subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A and applicable provisions governing the above licensing structures:

- A **Single Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies only on Machines within Ordering Activity's Site and in the country for which the license is ordered. The term Ordering Activity's Site means the specific physical address of Ordering Activity's own facility that may consist of one or more buildings within a radius of one kilometer of where the Licensed Program is first installed and put into use.

- A **Multi Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies on Machines in several facilities of the Ordering Activity located in the same geographic region only (i.e. APAC or EMEA or Americas).

Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In either any, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks

Reqtify is a registered trademark of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Company, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR Reqtify® 2010-1, ControlBuild® 2010-3, AUTOSAR Builder® 2010-2

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSE & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing structures (specifying the authorized use and users, subject to the maximum quantities set forth in the Ordering Document as specified in the Product Portfolio, the terms of which are incorporated herein by reference (or, if not so designated in the Product Portfolio, in the Ordering Document).

- Machine Based (node-lock)
- Concurrent Based (floating)
- Token Based (the number of tokens required per Licensed Program is described in the Product Portfolio)

Token Based and Concurrent Based licensing may be licensed for Single Site or Multi-Site usage. Subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A and applicable provisions governing the above licensing structures:

- A **Single Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies only on Machines within Ordering Activity's Site and in the country for which the license is ordered. The term Ordering Activity's Site means the specific physical address of Ordering Activity's own facility that may consist of one or more buildings within a radius of one kilometer of where the Licensed Program is first installed and put into use.

- A **Multi Site License** authorizes the Ordering Activity to install and use the Licensed Program to which this LPT applies on Machines in several facilities of the Ordering Activity located in the same geographic region only (i.e. APAC or EMEA or Americas).

Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Reqtify, ControlBuild and AUTOSAR Builder are registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Company, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR ICEM Surf 4.11

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Program to which this LPT applies are granted pursuant to Attachment A and according to the following licensing scheme (specifying the authorized use and end-users):

- Concurrent Based (floating)

Licenses of the Licensed Program to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a

maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Licensee is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Company, Licensed Programs, products and services names may be trademarks or service marks of related companies. ICEM and the Dassault Systèmes logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR Complementary Product for CATIA® V5-6R2012 Highway for CATIA® and CADD5 (CCWAY) Release V2.22

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A for the following usage and authorized users:

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based mode,
- and only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Reexport laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

LICENSEE'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees

that it is responsible for ensuring that any use of the Licensed Programs by all Users and if applicable, all Named Users and/or Extended Enterprise Users, shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

Trademarks

CCWAY, CATIA and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries, in the US and/or other countries. Company, Licensed Program, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR Complementary Products for CATIA® V5-6R2012 Helix eXtended Interface Version 1 Release 14

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference (including terms referenced on a website), are an integral part of the Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing schemes (specifying the authorized use and end-users),

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based mode, Machine Based (node-lock) mode,
- and only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract..

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users, and if applicable, all Named Users and/or Extended Enterprise Users, shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Company, Licensed Programs, products and services names may be trademarks or service marks of related companies. CATIA, Helix eXtended Interface and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR Complementary Products for CATIA® V5 (HELIX, CCWAY) VERSION 5 RELEASE 21

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A for the following usage and authorized users:

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based mode, Machine Based (node-lock) mode,
- and only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Reexport laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Company, Licensed Programs, products and services names may be trademarks or service marks of related companies. CATIA and Dassault Systèmes logo are registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries. HELIX and CCWAY are trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR Elsys products licensed by Elsys International

Terms that are initially capitalized are defined in the Glossary - Release 1, attached hereto as Exhibit C. These Licensed Programs Terms (“LPT”) and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A for the following usage and authorized users, up to the number of Users for which licenses have been ordered:

- Concurrent Based (floating)

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

SECURITY MECHANISMS DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Company, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR Gehry Technologies Digital Project V1R4

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C. These Licensed Programs Terms (“LPT”) and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A for the following usage and authorized users:

- up to the number of Users for which licenses have been ordered,
- in Concurrent Based or Machine Based mode,
- and only for use in the country for which the license is ordered.

Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Reexport laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. DS reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

LICENSED PROGRAMS TERMS FOR ENOVIA Enginuity 4.9

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing schemes (specifying the authorized use and end-users), the terms of which are incorporated herein by reference:

- Named User Based
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

Additional information for Named User Based License: "ENOVIA Enginuity Client" (EGY) Licensed Program constitutes a prerequisite of each of the ENOVIA Enginuity Licensed Programs listed below (Option Modules). The number of each Option Module licenses purchased by Ordering Activity must equal the total number of "Enovia Enginuity Client" licenses (EGY) acquired by Ordering Activity.

Option Modules list: Licensed Program Name (Option Modules)	Trigram
ENOVIA Engenuity Multi-Region Ingredient Labeling	EML
ENOVIA Engenuity Advanced Regulatory and 7th Amendment	EAD
ENOVIA Engenuity International Product Registration	EIR
ENOVIA Engenuity Raw Material and Formula Bar Coding	EBC
ENOVIA Engenuity Dye Calculator	EDY
ENOVIA Engenuity Resin Neutralization Calculator	ERN
ENOVIA Engenuity Live Specifications	ESP
ENOVIA Engenuity Product Performance Database	EPF
ENOVIA Engenuity Product Dossier	EIF

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

LICENSEE'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users, Named Users and/or Extended Enterprise Users if applicable, shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks

Company, products and services names may be trademarks or service marks of related companies. ENOVIA, Engenuity and Dassault Systemes logo are trademarks or registered trademarks of Dassault Systemes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR EXALEAD® V6R2014

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C. These terms may be supplemented, as necessary, by other initially capitalized terms which are directly defined in these Licensed Programs Terms. These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio, available at www.3ds.com/terms/product-portfolio

- PLC/ALC, or
- TBL/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

Each Licensed Program to which this LPT applies, regardless of the licensing scheme under which it is licensed, shall be used by the Ordering Activity for one specific "Production Instance" as defined herein after. An "Instance" is a deployment of Licensed Programs on one server, or on several

servers as long as they share the same index structure (with the same data model), and for the purpose of information processing, indexing and retrieval.

The Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to the following licensing schemes (specifying the authorized use and the authorized users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- System License
- Token Based
- Named User Based

System License:

For the purpose of and within the scope of this LPT, all definitions of "System License" provided for in the above referenced Glossary - Release 1 attached hereto, are cancelled and replaced by the following definition: A System License means a license to use certain Licensed Program(s) for authorized Instance(s). A minimum number of Named User Based licenses or Token Based licenses for Query Calls may also be required in order to operate a System License.

Token Based licenses:

There are two different types of Token Based license, as specified in the Product Portfolio and as defined hereinafter:

Token Based license for Document: A Token Based license for Document grants the Ordering Activity the right to index a limited number of Documents, as indicated in the Product Portfolio, according to their different types (Log, External Document, Internal Document or Business Item) as defined below.

A **Log** is a structured record logging a single event in a system with no rich attribute. *Example: an HTTP server log line, a single SAP transaction, a single line of a purchase receipt, an email (excluding attachments).*

An **External Document** is an unstructured document crawled from websites which do not belong to the Ordering Activity. *Example: an HTML web page, a PDF document crawled from websites not belonging to the Licensee.*

An **Internal Document** is an unstructured document that was created by the Ordering Activity. *Example: an internal wiki page, a page of an internal knowledge base portal (even if retrieved using the web crawler), an office document*

A **Business Item** is a business document, work product or commodity that is used in business operations by the Ordering Activity. *Example: - An article in ERP with quantities, price, sourcing - A customer record in CRM with inventory, contracts - A manufactured product, processed or sold by the company: part, assembly with requirements, material, weight...*

Token Based license for Query Calls: A Token Based license for Query Calls grants the Ordering Activity the right to allow End-Users to a query capacity (a limited number of queries for a given period) of a specific type of Query Calls to authorized Instances.

An **End-User** is an individual (not necessarily a Ordering Activity's employee or agent) that may be authorized to use services provided by Ordering Activity through an authorized Instance(s).

A **Query Call** is a single search for information using the Licensed Program.

Applicable types of Query Calls and End-Users are defined hereinafter.

LICENSING SCHEMES FOR EXALEAD CLOUDVIEW

The following licensing schemes are applicable to all Licensed Programs whose name contains "CloudView" as determined in the Product Portfolio.

CloudView Licensed Programs are licensed under the following licensing schemes:

- System License
- Token-Based license for Documents
- Token-Based license for Query Calls (CloudView Find Query Calls or CloudView Decide Query Calls)
- Named User Based license (CloudView Find Users or CloudView Decide Users)

A **CloudView Find Query Call** means a Query Call sent by an End-User to authorized Instance(s) in order to locate Documents and retrieve search results as a list of Document pointers with a short extract or summary and the associated navigation facets.

A **CloudView Decide Query Call** means a Query Call sent by an End-User to authorized Instance(s) in order to obtain an aggregated view of an exhaustive list of Documents resulting from one or more search queries.

A **CloudView Find User** means a Named User that uses the Licensed Program to locate a Document from a simple search form and to retrieve search results as a list of Document pointers with a short extract or summary and the associated navigation facets.

A **CloudView Decide User** means a Named User that uses the Licensed Program to obtain an aggregated view of an exhaustive list of Documents resulting from one or more search queries.

CloudView Licensed Programs are eligible for Multiple Instances (as defined below in "Other Permitted Uses" section), as long as the cumulative total of Document Tokens (i.e. available under "Token Based license for Document" scheme) of all Instances does not exceed 2.500.000 Tokens.

LICENSING SCHEMES FOR EXALEAD ONECALL:

The following licensing schemes are applicable to all Licensed Programs whose name contains "OneCall" as determined in the Product Portfolio:

EXALEAD OneCall Licensed Programs are licensed under the following Licensing Schemes:

- System License;
- Named User Based.

The maximum number of Documents that can be indexed on an Instance of EXALEAD OneCall Licensed Program is limited to 2,500,000 Tokens (as described above in the "Token Based license for Document" definition).

Authorized use of EXALEAD OneCall Licensed Programs is exclusively limited to a customer relationship application, for front-line customer service or sales representative usage in call centers, stores or points of sales, and sourcing data principally in one or several CRMs (customer relationship management systems) and secondarily in other customer data repositories. Use of EXALEAD OneCall Licensed Programs, in whole or in part for any other purpose or application is strictly prohibited.

LICENSING SCHEMES FOR EXALEAD ONEPART:

The following licensing schemes are applicable to all Licensed Programs whose name contains "OnePart", as determined in the Product Portfolio:

EXALEAD OnePart Licensed Programs are licensed under the following Licensing Schemes:

- System License;
- Named User Based.

The maximum number of Documents that can be indexed on an Instance of EXALEAD OnePart Licensed Program is limited to 2,500,000 Tokens (as described above in the "Token Based license for Document" definition).

Authorized use of EXALEAD OnePart Licensed Programs is exclusively limited to an engineering parts discovery application, sourcing data principally in 2D/3D CAD (computer aided design) content, and secondary in part-related textual or media documents. Use of EXALEAD OnePart Licensed Programs, in whole or in part, for any other purpose or application is strictly prohibited.

LICENSING SCHEMES FOR EXALEAD DIRECTORY CONTENT ENHANCER:

The following licensing schemes are applicable to all Licensed Programs whose name contains "Directory Content Enhancer", as determined in the Product Portfolio:

EXALEAD Directory Content Enhancer Licensed Programs are licensed under the following Licensing Schemes:

- System License.

The maximum number of Documents that can be indexed on an Instance of EXALEAD Directory Content Enhancer Licensed Program is limited to 200,000 Tokens (as described above in the "Token Based license for Document" definition).

Authorized use of EXALEAD Directory Content Enhancer Licensed Programs is exclusively limited to a directory enhancement application, sourcing data from Internet websites for the purpose of enriching directory entries with collected information. Use of EXALEAD Directory Content Enhancer Licensed Programs, in whole or in part, for any other purpose or application is strictly prohibited.

GEOGRAPHIC SCOPE

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Except as otherwise provided for Licensed Programs for which remote access is allowed as specified below, Named Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

ACCESS BY END-USERS. For certain Licensed Programs which are licensed under the Token Based license for Query Calls, as identified in the Product Portfolio, and subject to all terms and conditions of Attachment A and this LPT, Ordering Activity is authorized to allow End-Users to send Query Calls to authorized Instance(s). Except the limited authorized use explicitly granted under this LPT to the Ordering Activity in relation to the End-Users, no other express or implied right or license is granted hereunder to End-Users.

PRODUCTION AND NON PRODUCTION INSTANCE

Upon request, the Ordering Activity can be granted twice the capacity of the purchased Production Instance(s) for the purpose of running Non-Production Instance(s). This additional capacity is counted and limited by two additional License Server(s), each of them having a capacity equivalent to the overall capacity of the Production Instance(s).

A **Production Instance** is an Instance used for the actual processing and/or throughput of data, including redundancy, as opposed to "Non-Production Instance".

A **Non-Production Instance** is an Instance dedicated to development, testing, pre-production, quality assurance or backup, as opposed to "Production Instance".

MULTIPLE INSTANCES. If so specified in the Product Specific Terms and upon Ordering Activity's request, Ordering Activity may install multiple "Production Instances". Usage limitations defined in the Agreement, including both the authorized use and authorized users, are always counted and limited by one centralized EXALEAD License Server tied to its hardware configuration (node-locked), and are split between all Instances.

REMOTE ACCESS. If so specified in the Product Portfolio, Users and/or Extended Enterprise Users may access and use the Licensed Program remotely via the Internet from any country (subject *inter alia* to the Export and Re-export laws and regulations provision of the general terms of Attachment A).

EXTENDED ENTERPRISE USERS. For certain Licensed Programs as identified in the Product Portfolio and subject to all terms and conditions of Attachment A and this LPT, Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in

connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contractor.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users, and if applicable all Named Users, End-Users, and/or Extended Enterprise Users shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Company, Licensed Programs, products and services names may be trademarks or service marks of related companies. EXALEAD, CloudView and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR EXALEAD® V6R2013x

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C. These terms may be supplemented, as necessary, by other initially capitalized terms which are directly defined in these Licensed Programs Terms. These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio, available at www.3ds.com/terms/product-portfolio

- PLC/ALC, or
- TBL/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

An EXALEAD CloudView environment ("Environment") is comprised of a group of CloudView servers forming a single computational network through which a CloudView Instance is built and accessed. An Environment is constituted of one server acting as the coordinator and an unlimited number of slave servers, all dedicated to the creation, maintenance and search services of a single CloudView Instance. A "CloudView Instance" means a virtual document storage built on top of one or more physical indexes ("Physical Indexes") sharing a common data model. A Physical Index represents a part of the indexed content. A Physical Index can be split over several servers in the given environment ("Environment"). Each Licensed Program to which this LPT applies, regardless of the licensing scheme according to which it is licensed, shall be used by the Licensee for one specific "Production CloudView Instance" only as defined herein after.

Upon request, the Licensee shall be granted the right to install multiple "Production CloudView Instances" as long as their cumulative total of Document Tokens (i.e. available under "Token Based license for Document" scheme) does not exceed 2.500.000.

Usage limitations defined in the Agreement, including both the authorized use and authorized users, are always counted and limited by one centralized EXALEAD License Server tied to its hardware configuration (node-locked), and are split between all CloudView Instances.

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to the following licensing schemes (specifying the authorized use and the authorized users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- System License
- Token Based
- Named User Based
- System License Per Application

System License:

For the purpose of and within the scope of this LPT, all definitions of "System License" provided for in the above referenced Glossary - Release 1 attached hereto, are cancelled and replaced by the following definition: A System License means a license to use certain Licensed Program(s) for authorized CloudView Instance(s). A minimum number of Named User Based licenses or Token Based licenses for Query Calls may also be required in order to operate a System License.

System License per Application:

A System License per Application means a System License to use the Licensed Program exclusively for a specific application (i) developed by Ordering Activity for a specific business purpose and (ii) as described and identified in the Description of Application Form (i.e. a questionnaire completed by Ordering Activity and accepted by DS, attached to the Quote).

Token Based licenses:

There are two different types of Token Based license, as specified in the Product Portfolio and as defined hereinafter:

Token Based license for Document: A Token Based license for Document grants the Ordering Activity the right to index a limited number of Documents, as indicated in the Product Portfolio, according to their different types (Log, External Document, Internal Document or Business Item) as defined below.

A **Log** is a structured record logging a single event in a system with no rich attribute. *Example: an HTTP server log line, a single SAP transaction, a single line of a purchase receipt, an email (excluding attachments).*

An **External Document** is an unstructured document crawled from websites which do not belong to the Ordering Activity. *Example: an HTML web page, a PDF document crawled from websites not belonging to the Licensee.*

An **Internal Document** is an unstructured document that was created by the Ordering Activity. *Example: an internal wiki page, a page of an internal knowledge base portal (even if retrieved using the web crawler), an office document*

A **Business Item** is a business document, work product or commodity that is used in business operations by the Ordering Activity. *Example: - An article in ERP with quantities, price, sourcing - A customer record in CRM with inventory, contracts - A manufactured product, processed or sold by the company: part, assembly with requirements, material, weight...*

Token Based license for Query Calls: A Token Based license for Query Calls grants the Ordering Activity the right to allow End-Users to a query capacity (a limited number of queries for a given period) of a specific type of Query Calls (Find Query Calls or Decide Query Calls as defined below) to a CloudView Instance.

An **End-User** is an individual (not necessarily a Ordering Activity's employee or agent) that may be authorized to use services provided by authorized CloudView Instance(s) if Ordering Activity has ordered the Token-Based Licenses for Find Query Calls or Decide Query Calls.

A **Query Call** is a single search for information using the Licensed Program.

A **Find Query Call** is a Query Call sent by an End-User to authorized CloudView Instance in order to locate Documents and retrieve search results as a list of Document pointers with a short extract or summary and the associated navigation facets.

A **Decide Query Call** is a Query Call sent by an End-User to authorized CloudView Instance in order to obtain an aggregated view of an exhaustive list of Documents resulting from one or more search queries.

Named User Based licenses:

As specified in the Product Portfolio, a Named User Based license is either for Find User, Publish User or Decide User as defined hereinafter:

Find User is a Named User that uses the Licensed Program to locate a Document from a simple search form and to retrieve search results as a list of Document pointers with a short extract or summary and the associated navigation facets.

Decide User is a Named User that uses the Licensed Program to obtain an aggregated view of an exhaustive list of Documents resulting from one or more search queries.

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Except as otherwise provided for Licensed Programs for which remote access is allowed as specified below, Named Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

ACCESS BY END-USERS. For certain Licensed Programs which are licensed under the Token Based license for Query Calls, as identified in the Product Portfolio, and subject to all terms and conditions of Attachment A and this LPT, Ordering Activity is authorized to allow End-Users to send Query Calls to authorized CloudView Instance(s). Except the limited authorized use explicitly granted under this LPT to the Ordering Activity in relation to the End-Users, no other express or implied right or license is granted hereunder to End-Users.

PRODUCTION AND NON PRODUCTION INSTANCE

Upon request, the Ordering Activity can be granted twice the capacity of the purchased Production CloudView Instance(s) for the purpose of running Non-Production CloudView Instance(s). This additional capacity is counted and limited by two additional License Server(s), each of them having a capacity equivalent to the overall capacity of the Production CloudView Instance(s).

A **Production Instance** is a CloudView Instance used for the actual processing and/or throughput of data, including redundancy, as opposed to "Non-Production CloudView Instance".

A **Non-Production Instance** is a CloudView Instance dedicated to development, testing, pre-production, quality assurance or backup, as opposed to "Production CloudView Instance".

REMOTE ACCESS. If so specified in the Product Portfolio, Users and/or Extended Enterprise Users may access and use the Licensed Program remotely via the Internet from any country (subject *inter alia* to the Export and Re-export laws and regulations provision of the general terms of Attachment A).

EXTENDED ENTERPRISE USERS. For certain Licensed Programs as identified in the Product Portfolio and subject to all terms and conditions of

Attachment A and this LPT, Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, *provided that* use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contractor.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users, and if applicable all Named Users, End-Users, and/or Extended Enterprise Users shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Company, Licensed Programs, products and services names may be trademarks or service marks of related companies. EXALEAD, CloudView and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR EXALEAD® 5.1

Terms that are initially capitalized and are not defined herein below are defined in the Glossary - Release 1, attached hereto as Exhibit C. These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the Attachment A, which refers to this LPT. In the event of discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures:

- PLC/ALC
- YLC
- TBL/ALC

Other pricing structures may be made available on a case by case basis

LICENSE & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing structures (specifying the authorized use and users, subject to the maximum quantities set forth in the Ordering Document, as specified in the Product Portfolio, the terms of which are incorporated herein by reference (or, if not so designated in the Product Portfolio, in the Ordering Document):

- System License – Per Server
- System License – Per Document
- System License – Per Application

Definitions: In this LPT, the following terms that are initially capitalized shall have the meaning set forth below:

Application – means the Licensed Program, when such program is used for a specific business purpose as specifically identified in the Description of Application Form. The Application may include Ordering Activity's Modifications.

Description of Application Form – means a questionnaire completed by Ordering Activity and accepted by DS, attached to the Quote describing name of the Application, its business purpose, intended End Users and such other information identifying the scope of the Application.

Document – means a single entry or record in the index generated and managed by the Licensed Program. A Document is any file created in electronic format such as a Microsoft Office document, webpage, paragraph in a webpage, an entry in a database, etc.

End User(s) – means the individuals that use the Application.

Licensee's Modifications - means additions and/or modifications to the Licensed Program made by Ordering Activity to create the Application as described herein.

Query - means a single search for information using the Licensed Program.

Reference Server – means a server containing a maximum of 4 cores. If a server contains more cores, it counts as multiple Reference Servers. For example, a bi 8-core server (totaling 16 cores) counts as 4 Reference Servers. While defining the number of Reference Servers when Licensed Program is run in a virtual machine (VM), the number of cores dedicated to the virtual machines is used. The number of cores is always rounded up to a multiple of 4. For example, a 6-core virtual machine counts as 2 Reference Servers.

SDK – means a software development kit provided as part of the Licensed Program, allowing Users to manage and develop the Application. The SDK Licensed Program includes Application Programming Interfaces (APIs).

System License - Per Application - means a System License to use the Licensed Program exclusively for the specific Application described in the Description of Application Form.

System License - Per Server - means a System License to use the Licensed Program per Reference Server and exclusively for the specific Application described in the Description of Application Form.

System License - Per document - means a System License to use the Licensed Program for a limited number of Documents (as indicated in the name of the Licensed Program in the Product Portfolio) and exclusively for the specific Application described in the Description of Application Form. This license is restricted as follows:

- Number of Documents as mentioned above and less than 2,500 End Users, or
- Number of Documents as mentioned above and less than 3 million Queries per month.

Redundancy Server – means a secondary server on which the Licensed Program is installed that contains replicated indexes continuously synchronized with the primary server on which the Licensed Program is installed.

Licenses of the Licensed Programs to which this LPT applies are granted for installation and use on Machines only in the country for which the license is ordered. Users and/or Named Users, if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

Ordering Activity may not distribute or sublicense the Licensed Programs including without limitations by making the Licensed Program available as an application service provider. Ordering Activity is not authorized to allow End Users to access and use the Application, except within the limitations specified herein and the scope specified in the Description of Application Form. Ordering Activity is authorized to use Licensed Programs to create Licensee Modifications. Except as expressly permitted herein and in the Description of Application Form, Ordering Activity may not (A) use the Licensed Programs to develop software code for general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

Redundancy and Pre-production Limitations: When the Licensed Program is installed or used for redundancy or for pre-production purpose, as reflected in the Description of Application Form, the following applies:

- In **Active Redundancy** mode (Search Front High Availability), the Redundancy Server can continuously receive Queries, whereas in **Passive Redundancy** mode (Search Front High Availability - Standby), the Redundancy Server can only receive Queries when the primary server is down.
- **Pre-production Environment** – In this mode, the server on which the Licensed Program is installed should be exclusively dedicated to development, testing and quality control of the Application and cannot be accessible to End Users.

SDK Limitations: The SDK and APIs included in the Licensed Program may be accessed and/or used only by Users exclusively for Ordering Activity's internal management, development, test and support of the Application as permitted in the Documentation.

OTHER PERMITTED USES

USE OF THE APPLICATION.

Ordering Activity shall have exclusive responsibility for (i) the Application and for taking adequate measures to properly test, operate and use the Application and (ii) End User's use of the Application. DS shall have no liability or responsibility for the Application (except as expressly set forth in Attachment A), End Users' use thereof as well as any damage that any party, including third parties, may bear in connection with the use of the Application.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users and Extended Enterprise Users, as applicable, shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. DS reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key

provided by DS is prohibited.

Trademarks EXALEAD and CloudView are registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Other products and services names may be trademarks or service marks owned by their respective owners.

LICENSED PROGRAMS TERMS FOR Industry Solutions Business Process Accelerators (BPA) Delivery 10 for V5-6R2012

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A for the following usage and authorized users, up to the number of Users for which licenses have been ordered:

- Concurrent Based (floating)

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Industry Solutions Business Process Accelerators and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Company, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR Industry Solutions Business Process Accelerators (BPA) Delivery 9 for Version 5 Release 21

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A for the following usage and authorized users, up to the number of Users for which licenses have been ordered:

- Concurrent Based (floating)

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Industry Solutions Business Process Accelerators is a trademark of Dassault Systèmes or its subsidiaries in the USA and/or other countries. Company, products and services names may be trademarks or service marks of related companies.

LICENSED PROGRAMS TERMS FOR Simulayt for V6 Release 6.13

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A and according to one of the following licensing schemes (specifying the authorized use and authorized users):

- Concurrent Based (floating)

- Machine Based (node-lock)

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Licensee is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users, and if applicable, all Named Users and/or Extended Enterprise Users, shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks

Company, Licensed Programs, products and services names may be trademarks or service marks of related companies. Simulayt and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries.

LICENSED PROGRAMS TERMS FOR Simulayt V5 Release 5.22 and Simulayt V6 Release 6.12

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing schemes (specifying the authorized use and authorized users):

- Concurrent Based (floating)
- Machine Based (node-lock)

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Company, Licensed Programs, products and services names may be trademarks or service marks of related companies. The Dassault Systèmes logo and Simulayt are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the USA and/or other countries.

LICENSED PROGRAMS TERMS FOR SIMULIA® Isight 5.7 and SIMULIA® Execution Engine 5.7

Terms that are initially capitalized are defined in the Glossary - Release 1, attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of the license agreement between Contractor and Ordering Activity, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio, available at: www.3ds.com/terms/product-portfolio:

- PLC/ALC, or
- TBL/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to this Attachment A, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)
- System License
- Token Based

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Number of tokens. For execution of Isight simulation workflows, the number of required tokens (referred to as "Isight Tokens") is determined by the number and type of components in the simulation workflow and the number of CPUs or cores used in running the simulation workflow. Required token configurations may be changed for new or renewed licenses and with modifications of the covered products. Ordering Activity will receive one or more

license keys, each for a specific License Server which will permit access to the Licensed Programs. License keys include the agreed number and type of tokens for the Licensed Programs. The Licensed Programs, license tokens and applicable fees are specified in the Quote.

Additional Information for Concurrent Based license: Each Licensed Program licensed in Concurrent Based mode requires a unique license feature for each concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Program(s).

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of this Schedule Contract

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Programs by all Users, Named Users if applicable and Extended Enterprise Users if applicable, shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

Contractor through DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Licensee data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks

Company, products and services names may be trademarks or service marks of related companies. SIMULIA, Isight and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR SIMULIA® Abaqus 6.12

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio, available at www.3ds.com/terms/product-portfolio:

- PLC/ALC, or
- TBL/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing schemes (specifying the authorized use and end-users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)
- Token Based
- System License

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to

the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Number of tokens. For analysis jobs, the number of required tokens (also called "analysis tokens") is determined by the type of analysis being performed and the number of CPUs or cores used in running the analysis job. For execution of simulation workflows, the number of required tokens is determined by the number and type of components in the simulation workflow and the number of CPUs or cores used in running the simulation workflow. Required token configurations may be changed for new or renewed licenses and with modifications of the covered products. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs. License keys include the agreed number and type of tokens for the Licensed Programs. The Licensed Programs, license tokens and applicable fees are specified in the Quote.

For SIMULIA Abaqus models, the number of jobs in the Product name is equivalent to the number of concurrent licenses.

Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as "interactive tokens") for each Concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

Additional Information for System License: SIMULIA Abaqus Models with "site" in the Product name utilize a System License. Geographic locations where System Licenses may be used are specified in Attachment A and Ordering Document.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ORDERING ACTIVITY'S RESPONSIBILITY. In addition to all terms and conditions of Attachment A and all other provisions of this LPT, Ordering Activity agrees that it is responsible for ensuring that any use of the Licensed Program by all Users, Named Users and/or Extended Enterprise Users if applicable shall at all times be in compliance with the terms and conditions of Attachment A.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks

Company, products and services names may be trademarks or service marks of related companies. SIMULIA, Abaqus and the 3DS logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

LICENSED PROGRAMS TERMS FOR SIMULIA Abaqus for CATIA V5 Release V5-6R2012

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of this Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures, as specified in the Product Portfolio, available at www.3ds.com/terms/product-portfolio:

- PLC/ALC, or
- TBL/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing schemes (specifying the authorized use and the authorized users), as specified in the Product Portfolio, the terms of which are incorporated herein by reference:

- Concurrent Based (floating)
- Token Based

The Licensed Programs may be accessed and executed by Users whose usual workplace is at the same facility as the License Server or on the Machines for which license keys have been provided, as applicable (1) on the License Server itself, and (2) on other Machines that are networked to the License Server at the same site as the License Server or are located in the same country as the License Server, as identified in the Quote.

Within the parameters of the Quote, Ordering Activity may from time to time designate the License Server(s) for which license keys shall be provided and from which tokens shall be available to other Machine(s) subject to the restrictions described in this LPT.

Ordering Activity shall promptly provide Contractor through DS with usage reports when requested.

Number of tokens. For analysis jobs, the number of required tokens (also called "analysis tokens") is determined by the type of analysis being performed and the number of CPUs or cores used in running the analysis job. Required token configurations may be changed for new or renewed licenses and with modifications of the covered products. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs. License keys include the agreed number and type of tokens for the Licensed Programs. The Licensed Programs, license tokens and applicable fees are specified in the Quote.

Additional Information for Concurrent Based License: Each Licensed Program in Concurrent Based mode requires a unique license feature (sometimes referred to as "interactive tokens") for each concurrent User. Ordering Activity will receive one or more license keys, each for a specific License Server which will permit access to the Licensed Programs.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Licensee is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Licensee of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

SECURITY MECHANISMS

DS and its affiliated companies take all legal steps to eliminate piracy of their software products. In this context, the Licensed Programs may include a security mechanism that can detect the installation or use of illegal copies of the Licensed Programs, and collect and transmit data about those illegal copies only. Data collected will not include any Ordering Activity data created with the Licensed Programs. By using the Licensed Programs, Ordering Activity consents to such detection and collection of data, as well as its transmission and use if an illegal copy is detected. DS also reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Licensed Programs. Ordering Activity may not take any steps to avoid or defeat the purpose of any such measures. Use of any Licensed Programs without any required lock device or authorization key provided by DS is prohibited.

Trademarks Company, products and services names may be trademarks or service marks of related companies. SIMULIA, Abaqus, CATIA as well as Dassault Systemes' logo are trademarks or registered trademarks of Dassault Systemes or its subsidiaries in the US and/or in other countries.

[LICENSED PROGRAMS TERMS FOR CATIA, ENOVIA VPLM, ENOVIA SmarTeam, DELMIA and SIMULIA Version 5 Release V5-6R2012 and Version 5 Release D5/E5-6R2012](#)

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference are an integral part of Attachment A, which refers to this LPT. In the event of a discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these

terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Services on the Licensed Programs to which this LPT applies may be ordered according to one of the following pricing structures:

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSING SCHEMES & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A for the following usage and authorized users, up to the number of Users for which licenses have been ordered:

- Concurrent Based (floating)
- Machine Based (node-locked)
- Add-on Products
- System License

Except as otherwise provided for Licensed Programs to which use on the Internet is allowed as specified below, Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

Licensed Programs identified in the Documentation as being designed for use on the Internet may be used worldwide, over the Internet, as long as the License Server(s) on which the Licensed Programs are installed are located in the Designated Country.

OTHER PERMITTED USES

USE FOR CERTAIN SERVICES. Except for Development Tool Kits, Ordering Activity is authorized to use such Licensed Programs for added-value engineering and/or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Ordering Activity of the Licensed Programs. In any event, Ordering Activity may not (A) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an applications service provider, or (B) install and/or operate the Licensed Programs on any hardware and/or software environment owned by or under control of any third party, or (C) represent or imply to any party that it is an authorized or certified provider of services for DS.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

ADDITIONAL TERMS FOR SPECIFIC ENOVIA SmartTeam LICENSED PROGRAMS

a) The terms and conditions in this sub-section a) are applicable only to the Licensed Program ENOVIA SmartTeam Community Workspace Configuration:

Ordering Activity is authorized to give access to its licenses of such Licensed Programs to Extended Enterprise Users for the sole and exclusive purpose of enabling the Extended Enterprise User to conduct business with Ordering Activity, provided that use of the Licensed Program by any such Extended Enterprise User shall be limited to use (a) solely as configured and deployed by Ordering Activity and (b) solely in connection with the Extended Enterprise User's performance of services for and on behalf of Ordering Activity, and not for such Extended Enterprise User's own or another's account or for the purpose of hosting, modifying, or otherwise using or maintaining the Licensed Programs.

b) The terms and conditions in this sub-section (b) are applicable only to the Licensed Program ENOVIA SmartTeam Multi-site Administration Configuration and ENOVIA SmartTeam Multi-site Vault Administration Configuration:

As identified in the Documentation, these Configurations may be accessed and used by Users in different physical locations and in countries additional to the Designated Country.

LICENSED PROGRAMS TERMS FOR INTERCIM PERTINENCE® SUITE POWERED BY VELOCITY® VERSION 2010.2

Terms that are initially capitalized are defined in the Glossary - Release 1 attached hereto as Exhibit C.

These Licensed Programs Terms ("LPT") and the terms incorporated herein by reference, are an integral part of the agreement between Contractor and Ordering Activity, which refers to this LPT. In the event of discrepancy, inconsistency or contradiction between this LPT and the other terms of Attachment A, the provisions of this LPT shall prevail, but only with respect to the Licensed Programs to which this LPT applies. Ordering Activity acknowledges that it has full knowledge of all these terms and those incorporated herein by reference.

AVAILABLE PRICING STRUCTURES

Licenses and Support Service on the Licensed Programs to which this applies may be ordered according to one of the following pricing structures,

- PLC/ALC, or
- YLC

Other pricing structures may be made available on a case by case basis.

LICENSE & GEOGRAPHIC SCOPE

The licenses on the Licensed Programs to which this LPT applies are granted pursuant to Attachment A, and according to one the following licensing structures (specifying the authorized use and users, subject to the maximum quantities set forth in the order issued by Ordering Activity pursuant to a Quote), as specified in the Product Portfolio, the terms of which are incorporated herein by reference (or, if not so designated in the Product Portfolio, in the order issued by Ordering Activity pursuant to a Quote accepted by Contractor):

- Machine Based (node-lock)
- Concurrent Based (floating)
- Named User Based
- Add-on Product
- System License

Licenses of the Licensed Programs to which this LPT applies are granted for use only in the country for which the license is ordered. Users and/or Named Users if applicable, whose usual workplace is located in the same country as the country where such use of the Licensed Program has been authorized, may use the Licensed Program in any other country (subject *inter alia* to the Export and Re-export laws and regulations provision of Attachment A) for purposes of a business trip of a maximum of thirty (30) consecutive days.

However, the following license limitations apply:

- If so specified in an order issued by Ordering Activity pursuant to a Quote, and accepted by Contractor, Licensed Programs shall be used only at the particular office, building, physical location, or within a given department of Ordering Activity.
- Licensed Programs shall be used only with the machine types and other hardware products, together with third party software and/ or any other Licensed Programs necessary to operate such Licensed Programs, and hardware, that are identified in the Documentation and the order issued for such Licensed Programs by Ordering Activity pursuant to a Quote.
- Licensed Programs identified in order issued by Ordering Activity pursuant to a Quote, and accepted by Contractor, or in the Documentation for use on a "dev," development or test basis (or words of similar effect) shall be used only in a separate test computer system environment for the purpose of testing such Licensed Program(s) and/or configurations thereof, and such use specifically excludes the right to use any such Licensed Program for manufacturing, manufacturing intelligence, manufacturing operations or any other production or business purposes.

OUTSOURCING TO A THIRD PARTY. Ordering Activity is authorized to execute the Licensed Programs remotely on computers operated by third parties, provided that only duly authorized Users, and/or Extended Enterprise Users if applicable, shall have access to the Licensed Programs. Ordering Activity may appoint a third party, such as an outsourcer, to operate the hardware on which the Licensed Programs are installed, on behalf of Ordering Activity, only if (i) the third party and Ordering Activity enter into a written Agreement under which the third party agrees that its access to and use of the Licensed Programs is subject to all of the grant of license, confidentiality, restrictions, and limitations on use provisions of the Schedule Contract.

THIRD PARTY SOFTWARE

In addition to Attachment A, including without limitation the Specific Terms for Third Party Software, Ordering Activity acknowledges and agrees that, in order to be able to run the PAS, it must also purchase, unless it already has, an appropriate Oracle or SQL Server data base license from the legal providers of such data base products.

Pertinence and Velocity are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries, in the US and/or other countries.

Additional Terms For CATIA® (Version 5 and Version 6), DELMIA® (Version 5 and Version 6), ICEM ISD, Virtools 4.1, ENOVIA Engenuity 4.9, 3D VIA® Composer, 3DLive, 3DSwYm®, Industry Solutions Business Process Accelerators, Synchronicity, Dymola®, Q-Checker for V6, Q-PLM for V6 and Q-Monitor for V6 Version 1.11 for use with V6R2011, V6R2011x, V6R2012, V6R2012x and V6R2013

The Licensed Programs may include open source software components. Whenever notices (such as acknowledgment, copies of licenses or attribution notice) are required by the original licensor, such notices are included in the Documentation of the Licensed Programs. The warranty and Support Services provided by Contractor under Attachment A apply to all such open source software components and shall be provided by Contractor through DS and not by the original licensor, but only for the use of the Licensed Programs that is in compliance with the terms of Attachment A, and in conjunction with the Licensed Programs. The original licensors of said open source software components provide them on an "as is" basis and without any liability whatsoever to Ordering Activity.

For 3DSwYm® only:

ExtJS from Sencha :

Ordering Activity is not authorized to use the component ExtJS (from Sencha) in any other application other than the Licensed Program with which it is distributed.

For Reqtify® and ControlBuild® 2011-2 only:

The Licensed Programs may include open source software components. Whenever an attribution notice is required by the licensor, such open source software is identified in the Documentation and notices in the Licensed Programs themselves. Except for the packages identified below, the warranty and Support Services provided by Contractor under Attachment A apply to all such open source software and are provided by Contractor through DS

and not by the original licensor. The original licensor of the open source software provides it on an "as is" basis and without any liability whatsoever to Ordering Activity.

Whenever distributed, the following packages are distributed and licensed under the terms of the GNU General Public License (or under the MIT license for some portions of the Cygwin tool) set forth in the documentation of the relevant Geensoft product. Source code for these components is available upon request.

CygwinTM 2.0 beta (Portions, see <http://cygwin.com/license.html>)

Mingw (Portions, see <http://www.mingw.org/license>)

For Reqtify® 2010, ControlBuild® 2010, AUTOSAR Builder® 2010 only:

The Licensed Programs may include open source software components. Whenever an attribution notice is required by the licensor, such open source software is identified in the Documentation and notices in the Licensed Programs themselves. Except for the packages identified below, the warranty and Support Services provided by Contractor under Attachment A apply to all such open source software and are provided by Contractor through DS and not by the original licensor. The original licensor of the open source software provides it on an "as is" basis and without any liability whatsoever to Ordering Activity.

Whenever distributed, the following packages are distributed and licensed under the terms of the GNU General Public License (or under the MIT license for some portions of the Cygwin tool) set forth in the documentation of the relevant Geensoft product (ControlBuild and/or AUTOSAR Builder). Source code for these components is available upon request.

CygwinTM 2.0 beta (Portions, see <http://cygwin.com/license.html>)

Mingw (Portions, see <http://www.mingw.org/license>)

AUTOSAR Builder contains Eclipse components and Artop (AUTOSAR Tool Platform). These packages are licensed by the Contractor but the contributors of these packages disclaim any and all warranties and may not be held liable for damages arising from the use of such packages. The source code of these packages is available upon request.

EXHIBIT C – GLOSSARY (RELEASE 1)

Agreement means the license agreement between Licensee and Contractor pursuant to which Licensee places orders for licenses of Licensed Programs.

Anniversary Date of the License means the anniversary date of (i) the date which DS, has chosen pursuant to the Agreement, or, absent such choice (ii) the corresponding Effective Date of the License.

Binary Model Export Option means an option of the Licensed Program that will allow Ordering Activity to generate Binary Output Files.

Binary Output File means output generated by the Binary Model Export Option in the form of an application which may operate independently from any other application and based on the Licensee Model. A Binary Output File (i) contains Value Added Technology and (ii) has a structure dictated by Value Added Technology integrated in the Licensed Program.

Configuration means a standard set of Licensed Programs which are bundled together. Licensed Programs within such Configuration may be operated only together, and may not be operated separately.

Derivative Work means work that Ordering Activity has derived from a Licensed Program including Value Added Technology (including without limitation by incorporating, translating, or modifying, in whole or in part, any such Licensed Program), and which, if made without DS's authorization, would constitute copyright infringement. For the avoidance of doubt, (i) a library incorporating in whole or in part one or more libraries provided with a Licensed Program shall be considered as a Derivative Work of said one or more libraries but (ii) a Licensee Model merely referencing Value Added Technology is not considered as a Derivative Work.

Designated Machine means a server or workstation designated by Ordering Activity to execute a Licensed Program associated with a unique database instance.

Designated Country means the country where the Designated Machine or License Server is located as identified in the Quote. Development Tool Kit means a Licensed Program specifically designed for application or content development. A Development Tool Kit is either identified with "CAA" or "ENOVIA Studio" in the Licensed Program reference, or as a development tool kit in the Product Portfolio available at <http://www.3ds.com/terms/product-portfolio>.

Documentation means, at any time, the current user documentation in any form or media as delivered together with the Licensed Program by DS for use in connection with such Licensed Program.

DS (or Company) means the DS Group Company.

DS Group Company means Dassault Systemes, a French "société anonyme" or any entity in which Dassault Systèmes, directly or indirectly, (i) owns more than fifty per cent (50%) of the outstanding equity or ownership interest, or (ii) has the power to designate the managing authority.

Effective Date of the License means, for any license for a Licensed Program, the latest of the following (i) the date on which such Licensed Program is shipped or made available electronically to VAR or Ordering Activity by DS or, if applicable (ii) the date on which Ordering Activity or VAR is informed by DS that the associated license key can be requested or is available.

Error (or Defect) means a material malfunction in the performance of a Licensed Program, as performance is described in its Documentation, and which is reported in accordance with the applicable support policy and reproducible by DS.

Extended Enterprise User means an individual employee of Ordering Activity's supplier(s), customer(s) and/or majority owned affiliate(s), i.e. legal entity(ies) in which Ordering Activity directly owns more than fifty per cent (50%) of the capital stock or shares entitled to vote for the election of directors.

License Server means the Machine for which license keys are authenticated, and from which tokens shall be available to other Machines, if applicable.

Licensed Program means (i) any data processing program, whether a Product or a Configuration, for which a license is ordered by and provided to Ordering Activity pursuant to a Quote, consisting of a series of instructions or databases in machine readable form, (ii) associated Documentation, (iii) corrective patch(es) and (iv) Release(s) to which Ordering Activity is entitled to the extent it has paid the applicable fees. Licensed Program does not include new versions of a Licensed Program, including any successor product which significantly differs in architecture, user interface or mode of delivery.

Ordering Activity means the legal entity who is party to the Agreement.

Ordering Activity Application means a software program in Object Code format that Ordering Activity has created and which integrates, in whole or in part, Value Added Technology, a Source Code Output File and/or a Binary Output File.

Ordering Activity Model means the model used as input in the Licensed Program and whose purpose is to model, simulate and/or control systems.

LPT (or Licensed Programs Terms) are a set of terms of this Attachment A, specific to a Release of a Licensed Program, available at Exhibit B.

Machine means computer equipment i) belonging to Ordering Activity or under its sole control or supervision, ii) located on Ordering Activity's premises (provided when applicable that employees of Ordering Activity may occasionally use laptop computers outside Ordering Activity's premises) and iii) on which a Licensed Program is executed.

Maintenance Delivery means a periodic delivery of a Licensed Program which mainly includes the correction of Error(s) for a given Release, if and when made generally available to the market.

Master Site means the single site designated by Ordering Activity, which may be changed by written notification to DS or VAR as applicable, through which all deliveries and Support Service will be provided.

Modelica Library means a model library of reusable component(s) for the modeling of physical and/or technical system(s) largely but not exclusively written in any version of the Modelica language i.e. the language as defined by the language specification of the Modelica Association.

Object Code means computer-programming code, substantially or entirely in binary form, which is directly executable by a computer.

Obfuscated Source Code means a version of the Source Code generated by the Real Time Simulation Option preventing usual viewing and understanding by a qualified programmer of the said Source Code.

Product means a set of functionalities. Some Products may operate only provided one or more other pre requisite Products are licensed simultaneously with such Products, as set forth in the Product Portfolio.

Product Portfolio means a set of information related to the Licensed Programs available at <http://www.3ds.com/terms/product-portfolio>.

Quote means a commercial proposal containing a quote for Licensed Program(s) made to Ordering Activity by Contractor (in which case only with respect to Licensed Program identification, quantities thereof, and geographical scope of the license), as applicable.

Real Time Simulation Option means an option of the Licensed Program that will allow Ordering Activity to generate Obfuscated Source Code for the primary purpose of real-time simulation.

Release means a periodic update of the same version of a Licensed Program if and when made generally available to the market.

Shareable Product means a Licensed Program licensed in Concurrent Based or Token Based mode.

Source Code means computer-programming code and related comment(s) and procedural and/or declarative code, which is not directly executable by a computer and may be printed out or displayed in a readable form and understandable by a qualified programmer. Source Code also includes header files and other human readable files necessary for a Ordering Activity Application to be compiled.

Source Code Generation Option means an option of the Licensed Program that will allow the Ordering Activity to process the Ordering Activity Model through value added processing and to generate a Source Code Output File based on said Ordering Activity Model.

Source Code Output File means output generated in the form of Source Code by the Source Code Generation option and based on the Ordering Activity Model. A Source Code Output File (i) contains Value Added Technology and (ii) has a structure dictated by the Value Added Technology integrated in the Licensed Program.

Support Services means the maintenance, enhancement and other support services related to a Licensed Program as described at Exhibit A.

System License means a license to use certain Licensed Program(s) for a specific database instance. A minimum number of Named User Based licenses of identified prerequisite Licensed Program(s) is required in order to access a System License.

User means any (a) Ordering Activity's employee, or (b) individual employee of Ordering Activity's consultant(s) or subcontractor(s) who accesses a Licensed Program on a Machine and works for the exclusive internal needs of Ordering Activity.

Value Added Technology means any portion or file of the Licensed Program, in any form or format that may be provided therewith, or any method used during the processing of the Ordering Activity Model by the Licensed Program, which is integrated in the Source Code Output File, the Binary Output File and/or the Ordering Activity Application. Without limitation, libraries (including Modelica Libraries and their templates) of DS or its licensors and know-how or trade secrets of DS included in the Licensed Program shall be deemed Value Added Technology. For purpose of clarity, the method used by the Licensed Program to handle equations during Source Code Output File and Binary Output File generation shall be deemed to be DS's knowhow and trade-secret.

PRICING STRUCTURES

Primary License Charge (or PLC) The Primary License Charge is applicable for each license of each Licensed Program ordered under the PLC/ALC pricing structure. The PLC is a onetime, non-refundable charge. Payment of the PLC for a Licensed Program provides Ordering Activity with a perpetual license (subject to the conditions set forth in this Attachment A) to use the Release of such Licensed Program made available by DS on the Effective Date of the License.

Term Based License (or TBL) The Term Based License charge is the primary charge applicable for each license of each Licensed Program ordered under the Term Based License pricing structure. The TBL is a one-time, nonrefundable charge. Payment of the TBL for a Licensed Program provides Ordering Activity with a license for a period as described in the Product Portfolio and set forth in the Quote (subject to the conditions set forth this Attachment A) to use the Release of such Licensed Program made available by DS on the Effective Date of the License. "TBLx" is a TBL for a period of "x" years. As an example, "TBL2" is a TBL for a period of two (2) years.

Annual License Charge (or ALC) The Annual License Charge is a yearly charge. For the first year of each license of each Licensed Program, ALC is due together with the PLC or TBL, as applicable. Payment of the ALC for a Licensed Program entitles Ordering Activity to i) Support Service for the Licensed Program for one (1) year and ii) a license (subject to the conditions set forth in this Attachment A) to use the Release(s) of such Licensed Program made available by DS during such year, in lieu of the license(s) on the previous Release(s) of the Licensed Program delivered to Ordering Activity.

Yearly License Charge (or YLC) The Yearly License Charge for a Licensed Program is the charge for i) a one (1) year license (subject to the conditions set forth in this Attachment A) to use the Release(s) of such Licensed Program made available by DS during such year, and ii) Support Service for the Licensed Program for one (1) year.

LICENSING SCHEMES

Add-on Product A Licensed Program licensed as an Add-on Product is licensed to be bundled with another Configuration or Concurrent Based Licensed Program. The Addon Product may be operated only with such other Configuration or Concurrent Based Licensed Program, and may not be operated separately.

Concurrent (floating) Based Use of a Concurrent Licensed Program is authorized for a maximum number of simultaneous Users and/or Extended Enterprise Users, if applicable.

Machine Based Use of a Licensed Program in Machine Based mode (also called "node-lock") is authorized on the number of Machines for which the Licensed Program has been ordered.

Named User Based Use of a Licensed Program in Named User Based mode is authorized for a maximum number of Named Users and/or Extended Enterprise Named Users, if applicable. Name User and Extended Enterprise Named User shall mean, respectively, a User and an Extended Enterprise User who are a single individual authorized by Ordering Activity to whom the licenses have been granted under the Agreement, with a unique username and password to use the Licensed Program(s), accessed from a single User Machine at any given time. Notwithstanding the foregoing restriction, if so authorized in the licensing features specified in the Product Portfolio, certain Licensed Program(s) used in Named User and/or Extended Enterprise Named User Based mode can be run on several Machines at the same time, within the limit of the consumption capacity of the Token Based license(s). For the purpose of clarification, (i) Named User or Extended Enterprise Named User shall never be interpreted to mean a corporation, partnership, nonincorporated entity, or any other type of organization or group of individuals as a whole, (ii) Ordering Activity shall not use automated program(s) or "user agent" program(s) or utility(ies) to be used on behalf of multiple users to circumvent the purchase of Named User or Extended Enterprise Named User license(s) and (iii) Named User(s) and Extended Enterprise Named User(s) shall not share or use the same username and password. Ordering Activity may replace Named User(s) or Extended Enterprise Named User(s) if applicable, as necessary to reflect permanent personnel change(s), provided that the number of individuals authorized to use the Licensed Program does not exceed the maximum number of licenses of the applicable Licensed Program(s) held by Ordering Activity at such time. At DS' request, Ordering Activity shall provide DS with a document signed by Ordering Activity's authorized representative listing (i) the number of Named Users, Extended Enterprise Named Users, if applicable, and license(s) of the Licensed Program(s), and (ii) the location(s) and type(s) of the systems on which it operates or has installed the Licensed Program(s). DS may provide Ordering Activity with one or more utilities, either included within the Licensed Program(s) or separately, for the purpose of analyzing access right(s) and utilization, to establish usage by Ordering Activity. In such case, Ordering Activity shall provide, if applicable, the unedited and unmodified output file(s) and/or report(s) resulting from the operation(s) of such utility(ies), along with a signed declaration that the file(s) is(are) representative of actual Licensed Program(s) usage. Ordering Activity is responsible for implementing all reasonable means to monitor its compliance with the terms of this Attachment A.

Token Based Certain Licensed Program(s) contain a token based network license management system that regulates authorized use of the Licensed Program(s). Such system controls the type and number of computation jobs, interactive sessions, and/or interface products that may be run simultaneously. The number of required tokens may be determined by the type of computation being performed and the number of computer processing units or cores used in running the computation job, as described in the Product Portfolio. The required number of tokens may be changed for new or renewed license(s) and with modifications of the covered Licensed Program(s).

System License System License means a license to use certain Licensed Program(s) for a specific database instance and/or as may be otherwise indicated in the Product Portfolio. A minimum number of Named User Licenses of identified prerequisite Licensed Program(s) may be required in order to access a System License. If the name of the Licensed Program includes a specific reference to "Departmental Site License", authorized use of the System License for such Licensed Program shall be limited within a particular department of Ordering Activity at a particular office, building or physical location which shall be identified in the order issued by Ordering Activity pursuant to a Quote and accepted by Contractor.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Egenera, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

Egenera, Inc.

EGENERA LICENSE, WARRANTY AND SUPPORT TERMS

DEFINITIONS

"Affiliate" means, with respect to a party, any entity that is controlled by, is under common control with or controls such party (with "control" meaning ownership of more than fifty percent (50%) of the outstanding voting equity interest).

"Order" means a document (e.g., Ordering Activity's purchase order) issued by Ordering Activity to Contractor that specifies the Products and Services that Ordering Activity wishes to purchase from Contractor.

"Products" means the products described in an Order accepted by Egenera.

"Services" means Egenera's generally available support services described in an Order accepted by Egenera.

"Egenera Hardware" means the Egenera-labeled hardware, including spares, parts and hardware components, acquired by Ordering Activity from Egenera or one of its authorized distributors.

"Egenera Software" means the Egenera-owned software, in object code form, including certain of the firmware that is embedded in the Egenera Hardware and improvements, enhancements, revisions, updates or upgrades provided by Egenera or one of its authorized distributors, and certain related documentation (including CD-ROM duplicates), accompanying the Egenera Hardware or licensed to Ordering Activity from Egenera or one of its authorized distributors for use on Egenera Hardware.

"Egenera Products" means Egenera Hardware and Egenera Software.

"Licensed Software" means any Egenera Software and Third Party Software, including user and other related documentation (including user manuals and any technical and training related documentation) and improvements, enhancements, revisions, and updates, and any Software Upgrades and Maintenance Updates that may be provided by directly or indirectly Egenera from time to time.

"Maintenance Update" means a generally available software patch, bug fix, and update provided by Egenera that is intended to correct errors in the Egenera Software.

"Products" means Egenera Hardware, Egenera Software and unless differentiated, Third Party Software.

"Open Source Software" means Third Party Software that is licensed under the terms of various published open source software license agreements (such as the GNU Public License) or copyright notices accompanying such software.

"Services" means Egenera's installation, support and training services generally available from time to time from Egenera or its authorized service providers, excluding any services Egenera may provide as part of its limited warranty coverage.

"Software Upgrade" means either (i) a generally available "Major Release", which is intended to provide significant functionality enhancements as well as incorporate cumulative Maintenance Updates since the most recent release of the Egenera Software, or (ii) a generally available "Minor Release", which is intended to provide incremental functionality enhancements as well as incorporate cumulative Maintenance Updates since the most recent release.

"Third Party Software" means software provided by Egenera or one of its authorized distributors or service providers that is labeled as being provided by a third party and/or is owned other than by Egenera. Linux™ software is an example of both Third Party Software and Open Source Software.

Limited License. Contractor own and shall retain all title to, ownership of and all applicable rights in patents, copyrights, trade secrets, trademarks, trade names and all other intellectual property and proprietary rights in and to the Licensed Software. Subject to Attachment A, Ordering Activity is hereby granted a non-exclusive, non-transferable, non-sublicensable, limited license to use, in object code form only, the Licensed Software solely for Ordering Activity's own internal use and only on, and the associated documentation only with, the Egenera Hardware for which it was supplied. This license is not a sale of any rights in the Licensed Software.

Copies. Ordering Activity may make a reasonable number of copies of software included in the Licensed Software (exclusive of the documentation supplied therewith) solely for backup or archival purposes or when copying is an essential step in the authorized use of the associated Products.

Additional Restrictions. Except to the extent expressly permitted in this Attachment A or applicable law, Ordering Activity may not: (a) modify, translate, reverse engineer, decompile, disassemble, otherwise attempt to obtain the source code of, or create derivative works based on or otherwise tamper with, any Licensed Software or any firmware, circuit board, or integrated circuit; (b) copy (including copying onto a bulletin board or similar system) the Licensed Software (c) rent, lease, time share, grant a security interest in, or otherwise transfer or sublicense rights to, any Licensed Software; (d) modify, disable, attempt to circumvent or otherwise interfere with any software procedures or other mechanisms that enforce use restrictions and/or that may disable the functionality of such software upon violation of the terms of this license (and Ordering Activity acknowledges that any attempt to do so may be a violation of applicable law); (e) remove, alter or fail to retain any proprietary notices or labels on any Licensed Software or any copies thereof; or (f) disclose or otherwise make available any Licensed Software in any form to any third party.

SERVICES

Ordering Activity's Obligations. Ordering Activity is responsible for supplying and maintaining an appropriate environment (including power, network and telephone connections, etc.) for the Products, providing Contractor with remote access to each system you purchase from Contractor and providing an IP address, login and password for Contractor to establish access to such system. Failure to provide remote access may affect Contractor's response and resolution time. If such remote access is not provided and as a result a Contractor support engineer is required on site, Contractor shall invoice Ordering Activity and Ordering Activity shall pay Contractor's prevailing time and material charges, inclusive of all travel related expenses, for the on-site service. Contractor may require your assistance in recreating a Product problem. Contractor agree's to provide sufficient, free and safe access to Ordering Activity's facilities and systems to enable Contractor to fulfill its obligations. Ordering Activity agree to allow Contractor to install mandatory engineering changes (such as those required for safety) on a Product. The inability to recreate the problem and to provide such assistance as may be necessary may prevent Contractor from resolving the problem.

Upgrades and Updates. Contractor's limited warranty coverage includes Maintenance Updates but does not include Software Upgrades. During or after the applicable Egenera Software limited warranty period, Ordering Activity may purchase Contractor's standard support Services in order to obtain Contractor's most current Software Upgrades. Contractor provides support Services for only the two most recent Major Releases of Egenera Software (i.e., the then-current Release and one Major Release back).

Professional Services. Any unique or nonstandard custom software design, development, and related support and/or integration, project management, and consulting services that Ordering Activity may Order hereunder shall be more fully described in a mutually agreed upon written "Professional Services Work Order."

LIMITED WARRANTY

Contractor Product Limited Warranty. Contractor warrants that the Egenera Products will, for a period of one (1) year after the date on which the Egenera Products are first delivered to Ordering Activity, substantially and materially perform in accordance with Contractor's publicly available written specifications in effect at the time of such delivery. The limited warranty period for non-standard custom software provided as part of a Professional Services Work Order is sixty (60) days from the date of acceptance. Egenera Hardware upgrades are warranted until the end of the original warranty period of the Egenera Hardware to which they are added. Any replacement Egenera Hardware part provided as part of Contractor's limited warranty coverage will be warranted for the greater of the remainder of the replaced original part's limited warranty period and ninety (90) days. All replaced parts shall be returned to and become the property of Contractor. If a replaced part is not received by Contractor within thirty (30) calendar days of Ordering Activity's receipt of its corresponding replacement part, Contractor will invoice Ordering Activity and Ordering Activity shall pay the list price of the replacement part. Contractor is responsible for the shipping and insurance charges on replacement and replaced parts shipped to and from Ordering Activity as part of Contractor's limited warranty coverage. Contractor's liability and obligation under this limited warranty shall be as follows: if, during an applicable limited warranty period, Ordering Activity report in reasonable detail in writing and Contractor subsequently verifies that an Egenera Product does not conform to its limited warranty described in this Attachment A, then Contractor shall at its option (a) provide replacement parts and service necessary to repair the Egenera Hardware and use reasonable efforts to modify the Egenera Software to make it conform to its limited warranty, (b) replace the nonconforming Egenera Product with Egenera Product that conforms to this limited warranty, or (c) if unable to make such repair or replacement after a reasonable number of attempts, refund the net amount Contractor was paid for the nonconforming Product in exchange for its return.

Contractor Services Limited Warranty. Services shall be provided in a professional, workmanlike manner and in accordance with generally accepted industry standards. Contractor's liability and obligation under this limited warranty shall be as follows: if Ordering Activity notify Contractor in writing within thirty (30) days after the date a Service was rendered, and Contractor subsequently determines, that Contractor has failed to provide the Service or a component thereof in accordance with this limited warranty, then Contractor shall at its option (a) re-perform the Service, or (b) if after a reasonable number attempts, Contractor is unable to provide the Service so that it conforms to this limited warranty, refund to Ordering Activity the net amount Contractor was paid for the non-conforming portion of the Service.

Exclusions. The limited warranties set forth in this Attachment A do not apply to problems that arise from accident or abuse, interoperation with other non-Contractor-labeled products, improper installation or modification other than by Contractor, use in an environment or in a manner or for a purpose for which a Product was not designed, third party software not supplied by Contractor or Ordering Activity's failure to implement all previously supplied Maintenance Updates or Software Upgrades. Contractor does not warrant that the operation of the Products will be uninterrupted or error free, or that all defects can be corrected. Third Party Software is provided by Contractor "AS-IS". With respect to Egenera's BladeFrame® product lines, Contractor shall not be responsible for (and its limited warranty coverage and support Services shall not apply to) any problems or errors that arise or result from or relate to Ordering Activity's running or having run any software on the Control Blades™ of such products other than (a) software provided as part of Egenera's base BladeFrame software package (including upgrades thereof or updates thereto provided by Contractor) or (b) other software specifically approved by Contractor in writing for running on such Control Blades.

Contractor makes the warranties described in this Attachment A solely to the first Ordering Activity to which Contractor or its authorized distributor delivers the Products; these warranties are not for the benefit of any other party; and no Ordering Activity rights under this Attachment A are assignable or transferable, directly or indirectly, by operation of law or otherwise.

EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN THIS ATTACHMENT A, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CONTRACTOR (a) PROVIDES THE PRODUCTS OR SERVICES WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, AND (b) ON BEHALF OF ITSELF AND ITS THIRD PARTY SUPPLIERS EXPRESSLY EXCLUDES AND DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR NON-INFRINGEMENT AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE. Ordering Activity acknowledge that the Products are not designed, licensed or intended for use in the operation or maintenance of any nuclear facility, mass transit system, aviation system, life support or monitoring system or other inherently dangerous application. Contractor and its licensors disclaim any express

immixTechnology, Inc.

a subsidiary of  immixGroup

or implied warranty of fitness for such uses, and neither Contractor nor its licensors shall be liable to Ordering Activity, in whole or part, for any claims arising from any such use.

FireMon, LLC
8400 W. 110th Street
Suite 400
Overland Park, KS 66210

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. Scope. This Rider and the attached **FireMon, LLC** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.

2. Applicability. Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:

- a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
- b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
- c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
- d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
- e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
- f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
- g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
- h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- i) **Assignment.** All clauses regarding the Contractor’s assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor’s assignment in the Manufacturer Specific Terms are hereby superseded.

- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
- v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute,

3. Order of Precedence/Conflict. To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

FIREMON, LLC

FIREMON, LLC LICENSE, WARRANTY AND SUPPORT TERMS

The term "US Government" in this Attachment A means the Ordering Activity entity that purchased, installs, copies or uses the Software furnished with this Attachment A as well as any individual user of the Software. The term "Your Software Supplier" means the Contractor from which You purchased the Software.

1. **GRANT OF RIGHTS:** The FireMon® software programs, tools and related documentation furnished under this Attachment A (together with any updates, enhancements, modifications, revisions or derivative works thereof, the "Software") are licensed, not sold, to the US Government. Contractor grants the US Government a limited, non-exclusive and non-transferable right and license to install and use the Software, subject to the terms and restrictions of this Attachment A. The US Government may only install and use the Software at the designated site and/or in conjunction with the same number and type of computers, servers and/or devices as identified in the US Government's valid purchase order for the Software from its Software Supplier, if any. Unless otherwise expressly set forth in that purchase order, the US Government may only install and use one (1) copy of the Software in conjunction with a single device at a single designated site. The US Government shall use the Software solely for its own internal purposes

The US Government agrees (i) to use its best efforts to see that any user of the Software licensed hereunder complies with the terms and conditions of this Attachment A; (ii) to refrain from taking any steps, including, without limitation, copying, decompiling, reverse engineering, reverse assembly or reverse compilation, to derive or to seek to derive a source code equivalent of the Software provided by FireMon in object code format; and (iii) to reproduce, and not remove or obscure, all identifying marks, copyright, trademark and other proprietary notices, if any, on all permitted copies that the US Government makes of the Software.

Unless otherwise agreed to by Contractor through FireMon in a separate written agreement executed by it, FireMon has no additional obligation to support the Software provided under this Attachment A. FireMon has no obligation to support any Extensions (defined below) that the US Government may develop, license or utilize in conjunction with the US Government's permitted use of the Software.

2. **OWNERSHIP:** As between the US Government and FireMon, FireMon shall have and retain all right, title and interest in and to all Intellectual Property (defined below) comprising the Software as well as any modifications or enhancements made thereto whether permitted or not under this Attachment A (collectively, the "FireMon Intellectual Property"). For purposes of this Attachment A, "Intellectual Property" includes, without limitation, all intangible legal rights or interests evidenced by or embodied in (i) any idea, design, concept, technique, invention, discovery or improvement, regardless of patentability, but including patents, patent applications, trade secrets, and know-how; (ii) any work of authorship, regardless of copyright ability, but including copyrights and any moral rights recognized by law; (iii) any trademark, trade name or service mark; and (iv) any other intellectual property, proprietary or similar rights, including all goodwill pertaining thereto and in each case, on a worldwide basis. The US Government shall not, by virtue of this Attachment A or otherwise, acquire any rights whatsoever in the Software aside from the limited licenses granted herein. Any rights not expressly granted to the US Government by this Attachment A are hereby expressly reserved by FireMon.

3. **LIMITATIONS ON USE:** Except as expressly provided in this Attachment A, the US Government agrees not to copy, modify, translate, transfer, adapt or otherwise create derivative works based upon the Software. Unless otherwise set forth in the US Government's valid purchase order for the Software from the US Government's Software Supplier or agreed to by FireMon in writing, You may only create a single copy of the Software solely for archival or disaster recovery purposes. The US Government agree to use its best efforts to prevent and protect the contents of the Software from unauthorized disclosure or use. The US Government may not sublicense, assign, delegate, rent, lease or otherwise transfer this license or any of the related rights or obligations with relation to the Software to any third party for any reason, whether by operation of law or otherwise, without the prior written consent of FireMon.

The copy of the Software provided to the US Government may include access to the Software API for the US Government to utilize to develop extensions, checks, audits and/or custom reports for certain features of the Software (collectively, "Extensions"). The US Government may utilize the API solely to develop Extensions for the Software for its internal use and in conjunction with its licensed use of the Software. The US Government may not utilize the API for any other purposes. Additionally, the US Government may have access to certain Extensions developed by FireMon or other parties that may have been distributed with the Software or separately from the Software.

4. **WARRANTIES; DISCLAIMER:** Contractor warrants that: (i) it owns or otherwise has the right to license the Software (excluding any Extensions) as described in this Attachment A, (ii) for a period of thirty (30) days following the delivery date (the "Warranty Period"), the operation of the Software (excluding any Extensions) shall be free from defects in material and workmanship under normal use and materially perform in accordance with the written documentation provided by FireMon with the Software, provided that no party has altered any portion of the Software without the prior written

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approval of Contractor through FireMon and that any non-conformities in the Software as compared with the written documentation are not caused by the products or services of any third party, and (iii) the Software as delivered by Contractor through FireMon (excluding any Extensions) does not contain any type of software routine or other element which is intentionally designed to permit unauthorized: (a) access to or intrusion upon, (b) disabling of, or (c) erasure of any hardware, software, data or peripheral equipment. Contractor's sole obligation or liability under this warranty shall be to use reasonable efforts to correct the Software, in a reasonable time, to perform in accordance with the written documentation, upon receipt of written notice of its failure to so perform from the US Government. In the event Contractor fails to remedy material defects in the Software under this warranty, the US Government's remedy (and Contractor's liability) shall be to receive a refund of any fees paid for the portion of the Software, if any, which does not conform to the written documentation.

THE FOREGOING WARRANTIES ARE LIMITED WARRANTIES AND ARE THE ONLY WARRANTIES MADE BY CONTRACTOR. WITH THE EXCEPTION OF THE FOREGOING WARRANTIES, THE SOFTWARE IS PROVIDED "AS IS." CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CONTRACTOR DOES NOT WARRANT AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS THAT THE SOFTWARE WILL MEET US GOVERNMENT REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE AND/OR ITS USE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE SOFTWARE, IF ANY, WILL BE CORRECTED.

NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, THE SOFTWARE API IS PROVIDED "AS IS" WITH NO WARRANTY, EXPRESS OR IMPLIED, OR ANY KIND. THE US GOVERNMENT'S USE OF THE SOFTWARE API AND ANY EXTENSIONS THAT THE US GOVERNMENT MAY DEVELOP USING THE API IS AT US GOVERNMENT DISCRETION AND RISK, AND THE US GOVERNMENT IS SOLELY RESPONSIBLE FOR ANY DAMAGE THAT RESULTS FROM ITS USE OF THE SOFTWARE API. CONTRACTOR MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE QUALITY, CAPABILITIES, OPERATIONS, PERFORMANCE OR SUITABILITY OF ANY THIRD PARTY HARDWARE OR SOFTWARE. ANY THIRD PARTY HARDWARE OR SOFTWARE PROVIDED BY CONTRACTOR IS EXPRESSLY PROVIDED "AS IS."

5. U.S. GOVERNMENT END USERS: The Software is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software with only those rights set forth in this Attachment A and applicable federal law.

Flexera Software, Inc.
1000 E. Woodfield Road
Suite 400
Schaumburg, IL 60173

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Flexera Software, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

FLEXERA SOFTWARE

FLEXERA SOFTWARE LICENSE, WARRANTY AND SUPPORT TERMS

FLEXNET MANAGER AND ENTERPRISE DEPLOYMENT SUITE:

1. **Grant of License.** Upon Ordering Activity's payment of the fees shown on the invoice and acceptance of this Attachment A, Contractor grants Ordering Activity a limited, personal, non-exclusive license to install and use the Software on the terms and conditions outlined below.
2. **Scope of License.** Ordering Activity may use the elements of the Software licensed on or for the number of Managed Devices, as further specified on the quote or license certificate for the Software. Ordering Activity's license will continue for so long as Ordering Activity remains in compliance with the terms of this Attachment A. Ordering Activity may transfer the license from one device to another only upon retirement of the first device. As used herein, "Managed Device" means any physical or virtual device for which any Management Function is performed, including but not limited to virtual machines, standalone computers, networked computers, computer servers, and handheld computing devices that Software operates with or executes on. A "Management Function" is any function performed by the Software for a device, including but not limited to any of (i) delivering, installing, migrating, updating or repairing any computer program or data file; or (ii) monitoring, tracking, or reporting on the status or history of any software or hardware components; or (iii) license entitlement tracking, license re-harvesting, license optimization, and license retirement.
3. **Restrictions on Use of Software.** Ordering Activity may not (a) make the Software available for use by others in any service bureau or similar arrangement; (b) distribute, sublicense, transfer, or lend the Software to any third party; or (c) disassemble or reverse engineer (except in European Union countries, to the extent allowed by law) the Software. Ordering Activity may copy the Software solely for backup/archival purposes, provided that Ordering Activity includes all copyright and similar rights notices. Contractor (or its Contractor) retains all right, title, and interest in the Software (and in all copies). Unauthorized copying and modification of the Software is not permitted.

Ordering Activity acknowledges that the Software may contain license management functionality, including but not limited to node-locking, user counting, expiring licenses, silent activations (with or without user intervention) and the like. Contractor asserts that its use of such license management functionality is generally limited to ensuring adherence to its license agreements/models and not generally for purposes of "self-help."

The Enterprise Deployment Suite contains the User State Migration Tool ("USMT"). USMT is a copyrighted component licensed from Microsoft. Ordering Activity's use of this component requires Ordering Activity to have a validly licensed copy of the underlying Windows operating system.

4. **IBM Cognos.** Ordering Activity has the rights to use the following IBM Cognos programs embedded within the Software solely in conjunction with FlexNet Manager Platform, FlexNet Manager for Microsoft, FlexNet Manager for Adobe, FlexNet Manager for Symantec, or FlexNet Manager for IBM: Business Intelligence Advanced Business Author, Business Intelligence Professional Author, Business Intelligence Web Administrator, and Business Intelligence Enhanced Consumer. In addition to Ordering Activity's obligations hereunder, Ordering Activity shall also comply with the terms and conditions contained in Exhibit A herein.
5. **Limited Warranty and Disclaimer of Warranty.** Contractor warrants that the Software, as provided, will substantially perform the functions described in the documentation when operated in the intended environment for a period of ninety (90) days from the date of delivery (the "Warranty Period").

THE WARRANTIES ABOVE ARE EXCLUSVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. CONTRACTOR EXPRESSLY DISCLAIMS ANY WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CONTRACTOR DOES NOT WARRANT THAT THE SOFTWARE WILL (A) ACHIEVE SPECIFIC RESULTS, (B) OPERATE WITHOUT INTERRUPTION, OR (C) BE ERROR FREE. ORDERING ACTIVITY ACKNOWLEDGES THAT THE SOFTWARE IS NOT FAULT TOLERANT. THE SOFTWARE IS NEITHER DESIGNED NOR INTENDED FOR USE IN A SITUATION WHERE THE SOFTWARE'S FAILURE COULD LEAD TO DEATH OR SERIOUS BODILY INJURY OF ANY PERSON, OR TO SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE ("HIGH RISK USE"). ORDERING ACTIVITY IS NOT LICENSED TO USE THE SOFTWARE IN, OR IN CONJUNCTION WITH, HIGH RISK USE. HIGH RISK USE INCLUDES, FOR EXAMPLE: AIRCRAFT OR OTHER METHODS OF HUMAN MASS TRANSPORTATION, NUCLEAR OR CHEMICAL FACILITIES, AND CLASS III MEDICAL DEVICES UNDER THE U.S. FOOD, DRUG, AND COSMETIC ACT.

6. **Limitation of Remedy.** During the Warranty Period, in the event of any breach of the warranty outlined in Section 5b above, Contractor's (and its suppliers), liability and Ordering Activity's remedy will be, at Contractor's option, to either repair or replace the defective Software.
7. **Maintenance Services.** If ordered by Ordering Activity and upon payment of the applicable fee, Ordering Activity will be entitled to receive technical support services, including corrections, fixes, and enhancements to the Software that may be made generally available (the "maintenance services") from Contractor through Flexera in accordance with Contractor's then-current maintenance terms (as defined herein) for the applicable maintenance level purchased by Ordering Activity.

Maintenance services will not include any releases of the Software which Contractor determines to be a separate product or for which Contractor charges its customers extra or separately.

8. U.S. Government Restricted Rights. The Software and documentation are provided as "Commercial Computer Software" or "restricted computer software". Use, duplication, or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in 48.C.F.R. Section 12.212 or 48 C.F.R 227.2702, as applicable or successor provisions. The manufacturer is Flexera Software LLC, 1000 East Woodfield Road, Suite 400, Schaumburg, IL 60173 USA.
9. Relationship of Parties. Ordering Activity and Contractor are independent parties. Nothing in this Attachment A shall be construed as making Ordering Activity an employee, agent or legal representative of Contractor.
10. Verification. On Contractor's reasonable request, Ordering Activity will furnish Contractor with a signed statement confirming whether the Software is being used by Ordering Activity in accordance with this Attachment A.
11. Usage Data. Ordering Activity understands that Contractor may utilize technology which gathers information about Managed Devices and Ordering Activity's computer systems, however, such data is used solely for the purpose of Management Functions, understanding machine types and other system-oriented information.

INSTALLSHIELD:

LIMITED EDITION SOFTWARE FOR VISUAL STUDIO

The use of the Limited Edition Software for Visual Studio will be governed by the terms set forth below. Ordering Activity may only register for a single copy of the Limited Edition Software.

1. Grant of License. The Limited Edition Software for Visual Studio is a functionally limited version of the InstallShield software and is intended specifically for use with Visual Studio, Contractor grants Ordering Activity a limited, personal, non-exclusive, non-transferable license to use the Software solely for Ordering Activity's internal business requirements. Contractor grants Ordering Activity the right to install and use the software on a single computer to be used exclusively with Visual Studio and up to two (2) additional copies for use within a Team Foundation Server environment.
2. Disclaimer of Warranty. THE SOFTWARE IS PROVIDED ONLY ON AN "AS IS" BASIS. CONTRACTOR EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

ALL OTHER EDITIONS OF SOFTWARE

The use of all other editions of the Software will be governed by the terms set forth below.

1. Grant of License. Upon Ordering Activity's payment of the fees shown on the invoice and acceptance of this Attachment A, Contractor grants you a limited, personal, non-exclusive license to install and use the Software on the terms and conditions set forth herein.
 - a. Node-Locked Licenses: If Ordering Activity has licensed under the node-locked model, Ordering Activity's license grant is as follows. Ordering Activity may install and use one copy of the Software on a single computer either physically installed or on a virtual image on that computer only for Ordering Activity's internal business purposes. A node-locked license is limited to use by a single individual on a single computer or virtual image; sharing of node-locked licenses between individuals sharing a computer is not allowed, unless each individual accessing or using the Software has acquired a license for the Software. For the avoidance of doubt, a license is required for each individual user of the Software on a computer, even if such user is logging into a common or shared account. Copying a virtual image for the purposes of using the image either simultaneously or as a replacement on another machine is not allowed; however, Ordering Activity may make a reasonable number of backup and/or archival copies.
 - b. Concurrent Licenses: If Ordering Activity has licensed under the concurrent licensing model, Ordering Activity may install the Software on any machine for Ordering Activity's internal business purposes only. The number of machines that may use the Software concurrently at any time will be governed by the number of concurrent licenses specified on the original invoice. All machines using the Software must have the ability to communicate with a license server to be authorized to use the Software. The InstallShield IDE shall not be used in automated build processes on a separate machine.
 - c. Add On Tools. Contingent on the edition of the Software Ordering Activity has purchased, InstallShield will include the following add on tools. For avoidance of doubt, the "Standalone Build Component of the Software" shall mean the copy of the Software on the "build server" used by automated processes, rather than by an individual user.
 - i. If Ordering Activity has licensed InstallShield Professional Node-Locked License, the InstallShield Standalone Build component of the Software may be installed and used on one (1) computer residing on Ordering Activity's premises.
 - ii. If Ordering Activity has licensed InstallShield Premier Node-Locked License, the InstallShield Standalone Build component of the Software and the InstallShield Collaboration Developer Installation Manifest Editor may be installed and used on up to five (5) computers residing on Ordering Activity's premises. In addition to the above, the InstallShield MSI Tools (InstallShield MSI Grep, InstallShield MSI Diff, InstallShield MSI Query, and InstallShield MSI Sleuth) shipped as part of the InstallShield Premier Edition may be installed, reproduced and used on up to five (5) computers residing on Ordering Activity's premises, and a copy of the MSI tools may be shared on a common build/test machine on Ordering Activity's premises.

- iii. If Ordering Activity has licensed InstallShield Professional Concurrent Licenses, InstallShield Premier Concurrent Licenses or InstallShield Standalone Build Concurrent Licenses, the standalone build component of the Software may be installed and used on any machines residing on Ordering Activity's premises. The number of machines that may use the Software concurrently at any time will be governed by the number of concurrent licenses specified on the original invoice. All machines using the standalone build component of the Software must have the ability to communicate with a license server to be authorized to use the Software.
- iv. If Ordering Activity licensed InstallShield Premier Concurrent Licenses, the InstallShield Collaboration Developer Installation Manifest Editor may be installed and used on up to five (5) computers residing on Ordering Activity's premises. In addition to the above, the InstallShield MSI Tools (InstallShield MSI Grep, InstallShield MSI Diff, InstallShield MSI Query, and InstallShield MSI Sleuth) shipped as part of the InstallShield Premier Edition may be installed, reproduced and used on up to five (5) computers residing on Ordering Activity's premises, and a copy of the MSI tools may be shared on a common build/test machine on Ordering Activity's premises.
- v. If Ordering Activity has licensed the InstallShield Standalone Build Developer or Team Node-Lock Software, Ordering Activity may install and use one copy of the Software on a single computer for Ordering Activity's internal business purposes residing on Ordering Activity's premises.
- vi. If Ordering Activity has licensed the InstallShield Collaboration Developer Installation Manifest Editor Node-Locked License, Ordering Activity may install and use one copy of the Software on a single computer for Ordering Activity's internal business purposes residing on Ordering Activity's premises.

For the avoidance of doubt, if the Software is installed or accessed through a network, in any form, Ordering Activity must purchase additional licenses for each user that accesses the Software through the network.

Ordering Activity may make one back up and/or archival copy of the Software.

2. Restrictions on Use of Software. Ordering Activity may not (a) make the Software available for use by others in any service bureau or similar arrangement; (b) use or apply the Try and Die or Try and Buy functionality for the benefit of any software products which are not owned by Ordering Activity; (c) distribute, sublicense, transfer, or lend the Software to any third party; or (d) disassemble or reverse engineer (except in European Union countries, to the extent allowed by law) the Software. Ordering Activity may copy the Software solely for backup/archival purposes, provided that you include all copyright and similar rights notices. Contractor (or its Contractor) retains all right, title, and interest in the Software (and in all copies). Unauthorized copying and modification of the Software is not permitted.

Ordering Activity acknowledges that the Software does or will contain license management functionality, including but not limited to node-locking, user counting, expiring licenses, silent activations (with or without user intervention) and the like. Contractor asserts that its use of such license management functionality is generally limited to ensuring adherence to its license agreements/models and not generally for purposes of "self-help."

3. Upgrades. If the Software is an upgrade or update to a previous version of the Software, Ordering Activity must possess a valid license to such previous version in order to use such upgrade or update. After Ordering Activity install such update or upgrade, Ordering Activity may continue to use any such previous version in (and the upgrade or update) accordance with this Attachment A, (a) the previous versions or copies thereof are not transferred to another party or machine unless all copies of the update or upgrade are also transferred to such party or machine and (b) Ordering Activity acknowledges that any obligation Contractor may have to support the previous version(s) may be ended upon the availability of the upgrade or update.
4. Redistributable Files. The Software component parts may not be separated for use on more than one computer, except as set forth in this Agreement. You may copy the files specifically identified in the documentation as "redistributables" and redistribute such files to Ordering Activity's end users of Ordering Activity's products, provided that: (a) such products add primary and substantial functionality to the redistributables, (b) all copies of the redistributables must be exact and unmodified; and (c) you grant Ordering Activity's end users a limited, personal, non-exclusive and non-transferable license to use the redistributables only to the extent required for the permitted operation of Ordering Activity's products and not to distribute them further. You will reproduce with the redistributables all applicable trademarks and copyright notices that accompany the Software, but you may not use Contractor's name, logos or trademarks to market Ordering Activity's products.
5. Limited Warranty and Disclaimer of Warranty. Contractor warrants that:
 - a. it has the right and authority to grant the rights described in this Attachment A, and;
 - b. the Software, as provided, will substantially perform the functions described in the documentation when operated in the intended environment for a period of ninety (90) days from the date of delivery (the "Warranty Period").

THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. CONTRACTOR EXPRESSLY DISCLAIMS ANY WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Contractor does not warrant that the Software will (a) achieve specific results, (b) operate without interruption, or (c) be error free.

6. Ownership. This Attachment A does not convey to Ordering Activity any rights of ownership in the Software. All right, title, and interest in the Software and in any ideas, know-how, and programs which are developed by Contractor in the course of providing any technical services, including any enhancements or modifications made to the Software, shall at all times remain the property of Contractor or its Contractor. Ordering

Activity acknowledge and agree that the Software is licensed, not sold. Ordering Activity shall not permit the Software to be accessed or used by anyone other than Ordering Activity's employees whose duties require such access or use.

Ordering Activity will not remove, modify or alter any of Contractor's copyright, trademark or proprietary rights notices from any part of the Software, including but not limited to any such notices contained in the physical and/or electronic media or documentation, in the Setup Wizard dialogue or 'about' boxes, in any of the runtime resources and/or in any web-presence or web-enabled notices, code or other embodiments originally contained in or otherwise created by the Software, or in any archival or back-up copies, if applicable.

7. Transfer of Software. Ordering Activity may not, by operation of law or otherwise, transfer any license rights or other interests in Evaluation Software, or Software labeled "Not for Resale" or "NFR." Ordering Activity may not, by operation of law or otherwise, transfer any license rights or other interests in any other Software, unless (a) Ordering Activity permanently and wholly transfer all Ordering Activity's rights under this Attachment A; (b) Ordering Activity retain no copies (whole or partial); (c) Ordering Activity permanently and wholly transfer all of the Software (including component parts, media, printed materials, upgrades, prior versions, and authenticity certificates); and (d) the transferee agrees to abide by all the terms of this Attachment A. Any purported transfer not in accordance with this Attachment A will be void.

For the avoidance of doubt, transfers which are the result of employee turnover or reassignment are allowed, provided that such transfers do not occur more than frequently than annually.

8. Limitation of Remedy. During the Warranty Period, in the event of any breach of the warranty outlined in Section 5b above, Contractor's (and its suppliers), liability and Ordering Activity's remedy will be, at Contractor's option, to either, repair or replace the defective Software.
9. Maintenance Services. If ordered by Ordering Activity and upon payment of the applicable fee, Ordering Activity is entitled to receive technical support services, including corrections, fixes and enhancements to the Software as such are made generally available (the "maintenance services") from Contractor in accordance with Contractor's then-current maintenance terms (as defined herein) for the applicable maintenance level purchased by Ordering Activity.

Maintenance services will not include any releases of the Software which Contractor determines to be a separate product or for which Contractor charges its customers extra or separately.

10. Dual-Media Software. Ordering Activity may receive the Software in more than one medium (electronic and on a CD, for example). Receipt of the Software in more than a single manner (electronic or on a CD, for example) does not expand the license rights granted to Ordering Activity hereunder. Ordering Activity's use of the Software is limited to the number of licenses that Ordering Activity has acquired overall, regardless of number or type of media on which it has been provided.
11. U.S. Government Restricted Rights. The Software and Documentation are provided as "Commercial Computer Software" or "restricted computer software". Use, duplication, or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in 48.C.F.R. Section 12.212 or 48 C.F.R 227.2702, as applicable or successor provisions. The manufacturer is Flexera Software LLC, 1000 East Woodfield Road, Suite 400, Schaumburg, Illinois 60173.
12. Relationship of Parties. Ordering Activity and Contractor are independent parties. Nothing in this Attachment A shall be construed as making Ordering Activity an employee, agent or legal representative of Contractor.
13. Verification. On Contractor's reasonable request, Ordering Activity will furnish Contractor with a signed statement confirming whether the Software is being used by Ordering Activity in accordance with this Attachment A.
14. Usage Data. Ordering Activity understands that Contractor may utilize technology which gathers information about Ordering Activity's computer system, however, such data is used solely for the purpose of understanding machine types and other system-oriented information and does not contain any personally identifiable information of Ordering Activity.

ADMINSTUDIO:

1. Grant of License. Upon Ordering Activity's payment of the fees shown on the invoice and acceptance of this Attachment A, Contractor grants Ordering Activity a limited, personal, non-exclusive license to install and use the Software on the terms and conditions set forth herein.

Ordering Activity may install and use one copy of the Software on a single computer only for your internal business purposes. Ordering Activity may use the Software only in the language(s) which Ordering Activity selects during installation or for which Ordering Activity acquire rights pursuant to a Language Pack. Ordering Activity may not share the Software, except as set forth below.

2. Restrictions on Use of Software. Ordering Activity may not (a) use or make the Software available for use by others in any service bureau or similar arrangement; (b) distribute, sublicense, transfer, or lend the Software to any third party; or (c) disassemble or reverse engineer (except in European Union countries, to the extent allowed by law) the Software. Ordering Activity may copy the Software for backup/archival purposes, provided that Ordering Activity includes all copyright and similar rights notices. Contractor retains all right, title, and interest in the Software (and in all copies). Unauthorized copying and modification of the Software is not permitted.
3. Shared Use on a Single Computer. Subject to the exceptions set forth herein, a copy of the Software installed on a single common machine may be shared for internal use by employees and contractors of Ordering Activity's business only, provided that a license has been purchased for each individual user.

4. Redistributable Files. The Software component parts may not be separated for use on more than one computer, except as set forth in this Attachment A. Ordering Activity may copy the files specifically identified in the printed or electronic documentation as “redistributables” and redistribute such files to Ordering Activity’s end users (“End Users”) of your Works, provided that: (a) such Works add primary and substantial functionality to the redistributables, (b) all copies of the redistributables must be exact and unmodified; and (c) Ordering Activity grants your End Users a limited, personal, non-exclusive and non-transferable license to use the Redistributables only to the extent required for the permitted operation of the Works and not to distribute them further. Ordering Activity will reproduce with the redistributables all applicable trademarks and copyright notices that accompany the Software, but Ordering Activity may not use Contractor’s name, logos or trademarks to market the Works.
5. Limited Warranty and Disclaimer of Warranty. Contractor warrants that the Software, as provided, will substantially perform the functions described in the documentation when operated in the intended environment for a period of ninety (90) days from the date of delivery (the “Warranty Period”).

THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. CONTRACTOR EXPRESSLY DISCLAIMS ANY WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Contractor does not warrant that the Software will (a) achieve specific results, (b) operate without interruption, or (c) be error free.

6. Ownership. This Attachment A does not convey to Ordering Activity any rights of ownership in the Software. All right, title, and interest in the Software and in any ideas, know-how, and programs which are developed by Contractor in the course of providing any technical services, including any enhancements or modifications made to the Software, shall at all times remain the property of Contractor or its licensor. Ordering Activity acknowledge and agree that the Software is licensed, not sold. Ordering Activity shall not permit the Software to be accessed or used by anyone other than Ordering Activity’s employees whose duties require such access or use.

Ordering Activity may not remove, modify or alter any Contractor copyright or trademark notice from any part of the Software, including but not limited to any such notices contained in the physical and/or electronic media or documentation or ‘about’ boxes, in any of the runtime resources and/or in any web-presence or web-enabled notices, code or other embodiments originally contained in or otherwise created by the Software. Ordering Activity will not remove or modify Contractor’s proprietary rights notices from any copies of the Software, including archival and back-up copies, if applicable.

7. Transfer of Software. Ordering Activity may not, by operation of law or otherwise, transfer any license rights or other interests in Evaluation Software, or Software labeled “Not for Resale” or “NFR.” Ordering Activity may not, by operation of law or otherwise, transfer any license rights or other interests in any other Software, unless (a) Ordering Activity permanently and wholly transfer all Ordering Activity’s rights under this Attachment A; (b) Ordering Activity retains no copies (whole or partial); (c) Ordering Activity permanently and wholly transfer all of the Software (including component parts, media, printed materials, upgrades, prior versions, and authenticity certificates); and (d) the transferee agrees to abide by all the terms of this Attachment A. Any purported transfer not in accordance with this Attachment A will be void.
8. Limitation of Remedy. In the event of any breach of the warranty outlined herein or any other duty owed by Contractor, the liability of Contractor and its suppliers, and Ordering Activity’s remedy shall be, at Contractor’s option, either, (a) repair or replacement of the defective Software, (b) re-performance of the Maintenance Services or (c) return of the license fees paid for the Software, less depreciation calculated on a straight-line basis over five years.
9. Maintenance Services. If ordered by Ordering Activity and upon payment of the applicable fee, Ordering Activity is entitled to receive technical support services, including corrections, fixes and enhancements to the Software as such are made generally available (the “Maintenance Services”) from Contractor through Flexera Software LLC (“Flexera”) in accordance with Flexera’s then-current maintenance terms (as defined herein) for the applicable maintenance level purchased by Ordering Activity. Maintenance Services will not include any releases of the Software which Contractor through Flexera determines to be a separate product or for which Contractor charges its customers extra or separately.
10. Upgrades and Subscription. If the Software is labeled or otherwise identified by Contractor as an “upgrade” or “subscription,” Ordering Activity must be properly licensed to use a product identified by Contractor as being eligible for the upgrade in order to use the Software. Any Software labeled or otherwise identified by Contractor as an upgrade replaces and/or supplements the product that formed the basis for Ordering Activity’s eligibility for such upgrade. Ordering Activity may use the resulting upgraded product only in accordance with the terms of this Attachment A. If the Software is an upgrade of a component of a package of software programs that Ordering Activity licensed as a single product, the Software may be used and transferred only as part of that single product package and may not be separated for use on more than one computer.
11. Dual-Media Software. Ordering Activity may receive the Software in more than one medium. Regardless of the type or size of the medium Ordering Activity receives, Ordering Activity may use only that one medium that is appropriate for Ordering Activity’s single computer. Ordering Activity may not use or install from the other medium on another computer, including but not limited to portable computers under the exclusive control of the registered developer. Ordering Activity may not loan, rent, lease, or otherwise transfer the other medium to another user, except as part of the permanent transfer (as provided above) of the Software.
12. U.S. Government Restricted Rights. The Software and Documentation are provided as “Commercial Computer Software” or “restricted computer software”. Use, duplication, or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in 48.C.F.R. Section 12.212 or 48 C.F.R 227.2702, as applicable or successor provisions. The manufacturer is Flexera Software LLC, 1000 E Woodfield Road, Suite 400, Schaumburg, IL 60173 USA.
13. Relationship of Parties. Ordering Activity and Contractor are independent parties. Nothing in this Attachment A shall be construed as making Ordering Activity an employee, agent or legal representative of Contractor.

FLEXNET MANAGER FOR ENGINEERING APPLICATIONS AND FLEXWRAP:

A. SOFTWARE DESCRIPTION

1. **Software License.** Contractor hereby grants to Ordering Activity a nonexclusive, nontransferable license to use the FlexNet Manager for Engineering Applications, and/or the FlexWrap software (and related documentation) indicated on the license certificate (the "Software") for Ordering Activity's own internal purposes. Ordering Activity is acquiring either an Annual License or a Perpetual License for the Software. The license type will also be indicated on the license certificate. Ordering Activity may copy the Software for backup/archival purposes, provided that Ordering Activity include all copyright and similar rights notices. Contractor (or its licensor) retains all right, title, and interest in the Software (and in all copies).

THE SUBSECTIONS BELOW APPLY ONLY TO THOSE PORTIONS OF THE SOFTWARE FOR WHICH ORDERING ACTIVITY HAS ACQUIRED A LICENSE.

1. **FlexNet Manager Administration Module.** Each license for the FlexNet Manager Administration Module permits the management and administration of license servers associated with the licensed number of end users within Ordering Activity's organization who access the software application identified by a distinct vendor daemon name(s) ("Vendor Daemon"). The FlexNet Manager Server software may be installed on a single named server identified by a distinct processor number ("HostID"). A set of redundant servers is considered a "single named server" for purposes of this license. The FlexNet Agent software may be installed and used on an unlimited number of processors within Ordering Activity's organization.
2. **FlexNet Manager Reporting Module.** Each license for the FlexNet Manager Reporting Module permits the processing of reports associated the licensed number of end users within Ordering Activity's organization who access the software applications identified by a distinct vendor daemon name(s) ("Vendor Daemon"). The software may be installed on a single named server identified by a distinct processor number ("HostID"). A set of redundant servers is considered a "single named server" for purposes of this license. The FlexNet Agent software may be installed and used on an unlimited number of processors within Ordering Activity's organization.
3. **FlexNet Manager Investment Planner.** Each license for the FlexNet Manager Investment Planner Module permits the administration and processing of reports associated the licensed number of end users within Ordering Activity's organization who access the software applications identified by additional product, chargeback, contract reporting, and planning analysis capability. The FlexNet Manager Investment Planner Module is deployed within FlexNet Manager and enabled with new license increment lines when purchased.
4. **FlexNet Manager ReportLog Reader.** Each license for the FlexNet Manager LUM Reporting and Common ReportLog Reader modules permits the processing of reports associated non-FlexEnabled Report log reading and reporting associated with the licensed number of end users within Ordering Activity's organization who access the software application identified by a distinct vendor daemon name(s) ("Vendor Daemon"). The FlexNet Manager LUM Reporting and Common ReportLog Reader Modules are deployed within FlexNet Manager and enabled with new license increment lines when purchased.
5. **FlexWrap.** Each license for FlexWrap permits the "wrapping" of an unlimited number of internally used applications to provide FlexNet licensing capabilities for such applications and a license server to manage license check-in and check-out of these applications. FlexWrap provides application usage management and optional enforcement of concurrent limits on application usage. The license server may be installed on a single named server identified by a distinct server identification ("HostID"). A set of redundant servers is considered a "single named server" for purposes of this license. This license does not permit applications to be wrapped and distributed externally to any other parties. FlexWrap may be used by the total number of FlexWrap Authors within Ordering Activity's organization, and only if that total number of FlexWrap Authors does not exceed the License Level set forth in the applicable Order Schedule. For purposes of clarity, a FlexWrap Author license may not be used by more than one individual. For purposes of this Attachment A, a FlexWrap Author means an individual within Ordering Activity's organization who accesses the FlexWrap application for preparing internal software applications to have FlexNet licensing capabilities that includes, but is not limited to optional enforcement of concurrent limits on application usage. For purposes of certification as set forth in this Attachment A, the number of FlexWrap Authors includes all FlexWrap Authors who accessed FlexWrap at any point during the previous year.
6. **LMScan Tool.** The "lmscan" tool is provided with the FlexNet Manager for Engineering Applications software product at no additional charge. The tool allows Ordering Activity to scan and discover Flex license server(s) and Vendor Daemons on Ordering Activity's network; Ordering Activity may only use the tool to discover information for FlexNet Manager for Engineering Applications and may not be used with any other third party reporting products in any manner whatsoever.
7. **IBM Cognos.** Ordering Activity have the rights to use the following IBM Cognos programs embedded within the Software solely in conjunction with FlexNet Manager for Engineering Applications: Business Intelligence Advanced Business Author, Business Intelligence Professional Author, Business Intelligence Web Administrator, and Business Intelligence Enhanced Consumer. In addition to Ordering Activity's obligations hereunder, Ordering Activity shall also comply with the terms and conditions contained in Exhibit A.
8. **Order Schedule.** An order document specifying the Software to be purchased by Ordering Activity pursuant to this Attachment A. A purchase order referencing a quote is considered an Order Schedule for purposes of this Attachment A.
9. **Subscription Period.** A fixed period of time applicable to a subscription license set forth in an applicable Order Schedule for which Ordering Activity is licensed to use the Software.
10. **Grace Period.** The period applicable for Ordering Activity's certification of its compliance with its License Level, which shall be within thirty (30) days (i) for perpetual licenses, before or after the end of Ordering Activity's fiscal year or (ii) for subscription licenses, of the anniversary date of the applicable license.

B. LICENSE TYPES

Ordering Activity is acquiring either a limited term license for the Software, which can be renewed on an annual basis as described in B.1. below (the "Annual License"); or a license for the Software with an unlimited term as described in B.2. below (the "Perpetual License").

1. **Annual License.** If Ordering Activity has an Annual License, Contractor grants you the right to use the Software for a period of twelve (12) months from the date indicated on the license certificate (the "Annual Term"). At or prior to the end of the Annual Term, Ordering Activity will notify Contractor of Ordering Activity's intent to (a) renew the Annual License, or (b) discontinue use of the Software. The designated HostID may be changed only once during the Annual Term without additional cost to Ordering Activity. The Vendor Daemon(s) may be changed only at the time of Annual License renewal.
 - a. Renewal. Upon payment of a renewal fee for the Annual License, Ordering Activity's right to use of the Software will be extended for an additional Annual Term.
 - b. Termination of Annual License. If you notify Contractor that you wish to discontinue use of the Software, or if you fail to notify Contractor regarding renewal, the Annual License will expire and will terminate thirty (30) days after the end of the Annual Term.
2. **Perpetual License.** If Ordering Activity has a Perpetual License, Contractor grants you the right to use the Software, provided that you adhere to the terms of this Attachment A up to the quantities shown on Ordering Activity's license certificate. If you exceed usage on the license certificate you will be required to pay an upgrade fee in accordance with the GSA price list. Upon Ordering Activity's payment of the applicable maintenance fee outlined on the quote or invoice, Contractor will provide maintenance and support services for each Perpetual License for a period of twelve (12) months from the date indicated on the license certificate (the "Support Period"). The purchase of maintenance services for one Support Period for each Perpetual License is required for the first year. For the next Support Period, Ordering Activity may renew the maintenance service by paying a fee equal to the maintenance charged for the initial Support Period.

The designated HostID may be changed only once during the Support Period without additional cost to Ordering Activity. The Vendor Daemon(s) may not be changed under a Perpetual License, unless the underlying vendor changes the Vendor Daemon.

3. **Subscription License.** Ordering Activity may use Software licensed on a subscription basis for the applicable Subscription Period. Subscription license fees include Support and Maintenance for the duration of the Subscription Period. For multi-year Subscription Periods, Ordering Activity must provide, within the Grace Period, a written certification of Ordering Activity's compliance with the applicable License Level (including usage of affiliates and contractors) for the previous year. If your usage of the Software exceeded the License Level, you must upgrade your license by paying to Licensor a supplemental fee in accordance with the GSA price list. Ordering Activity may renew subscription licenses at Contractor's then-current GSA license fees for additional subscription periods by providing written notice of renewal together with a written certification of Ordering Activity's level of usage of the Software during the Subscription Period to Contractor at least thirty (30) days prior to the end of the then-current Subscription Period. If your usage of the Software exceeded the applicable License Level, the license renewal shall be subject to a supplemental fee based on your usage in accordance with the GSA price list. If you notify Contractor that Ordering Activity wishes to discontinue use of the Software, do not provide written notice to Contractor of renewal, fail to certify Ordering Activity's usage or intentionally misrepresent Ordering Activity's usage, the license will expire and will automatically terminate at the end of the then-current Subscription Period.

C. GENERAL TERMS

THE FOLLOWING PROVISIONS APPLY TO ALL SOFTWARE LICENSES:

1. **License Restrictions.** Ordering Activity may not (a) make the Software available for use by others in any service bureau or similar arrangement; (b) distribute, sublicense, transfer, or lend the Software to any third party; or (c) disassemble or reverse engineer (except in European Union countries, to the extent allowed by law) the Software or (d) download or use Vendor Daemons for which Ordering Activity has not paid a license fee. Unauthorized copying and modification of the Software is not permitted.
2. **Maintenance Services.** Upon payment of each Annual License fee (or upon payment of the maintenance fee for a Perpetual License, if applicable), Ordering Activity is entitled to receive the following maintenance services for a designated support contact: (a) remote inquiry (telephone, fax, e-mail) support, and (b) any new release of the Software which Contractor makes generally available to its Ordering Activities during the Annual Term (or during the Support Period, if applicable).
3. **Limited Warranty and Disclaimer of Warranty.** Contractor warrants that it has the right and authority to grant the rights described in this Attachment A. Contractor further warrants that the Software, as provided, will substantially perform the functions described in the documentation when operated in the intended environment for a period of ninety (90) days from the date of delivery (the "Warranty Period").

THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. CONTRACTOR EXPRESSLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Contractor does not warrant that the Software will (a) achieve specific results, (b) operate without interruption, or (c) be error free.

4. Limitation of Remedy. During the Warranty Period, in the event of any breach of the warranty outlined in Section 5b above, Contractor's (and its suppliers), liability and Ordering Activity's remedy will be, at Contractor's option, to either repair or replace the defective Software.
5. **Verification.** On Contractor's reasonable request, Ordering Activity will furnish Contractor with a signed statement confirming whether the Software is being used by Ordering Activity in accordance with this Attachment A.
6. U.S. Government Restricted Rights. The Software is provided as "Commercial Computer Software" or "restricted computer software". Use,

duplication, or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in 48.C.F.R. Section 12.212 or 48 C.F.R 227.2702, as applicable or successor provisions. The manufacturer is Flexera Software LLC, 1000 East Woodfield Road, Ste 400, Schaumburg, IL 60173.

Exhibit A - IBM Cognos Additional Terms and Conditions

These additional terms and conditions supplement this Attachment A that governs Ordering Activity's use of the Software (as defined in this Attachment A, as applicable).

Ordering Activity has the rights to use the following IBM Cognos programs ("Programs", or individually a "Program") embedded within the Software solely in conjunction with the Software: Business Intelligence Advanced Business Author, Business Intelligence Professional Author, Business Intelligence Web Administrator, and Business Intelligence Enhanced Consumer. Such Programs are licensed under the following terms and conditions.

1. **No Independent Use.** Ordering Activity may not use the Programs independently or for any purpose other than the purposes of the Software.
2. **Usage Limitation.** Only one (1) individual within Ordering Activity's organization may be entitled to utilize the functionality provided by the Business Intelligence Web Administrator Program at any one time and such entitlement may not be shared, nor may it be reassigned other than for the permanent transfer of the entitlement to another person. For Business Intelligence Advanced Business Author, Business Intelligence Professional Author, and Business Intelligence Enhanced Consumer, Ordering Activity may utilize the functionality without a limitation on number of Authorized Users.
3. **Subscriptions.** If Ordering Activity license the Software on a subscription basis for less than a one (1) year term, Ordering Activity may not access or use the Programs.
4. **Supporting Programs.** The Program is licensed as a multi-product package and may include one or more of the Supporting Programs identified below. Ordering Activity is authorized to install and use such Supporting Programs only to support Ordering Activity's use of the Program under this Exhibit A and within the limits of the Proofs of Entitlement for the Program (unless broader rights are provided elsewhere herein). The phrase "to support your use" would include only those uses that are necessary or otherwise directly related to a licensed use of the Program or another Supporting Program. The Supporting Programs may not be used for any other purpose. Ordering Activity is not authorized to transfer or remarket the Supporting Programs separate from the Program. When Ordering Activity's rights to use the Program expires or terminates, Ordering Activity must discontinue use, destroy or promptly return all copies of the Supporting Programs to the party from whom Ordering Activity acquired the Program. If Ordering Activity downloaded the Supporting Programs, Ordering Activity should contact the party from whom Ordering Activity acquired the Program. If Ordering Activity wish to license the Supporting Programs for any use beyond the limits set forth above, please contact an IBM Sales Representative or the party from whom you acquired the Program to obtain the appropriate license.

The following are Supporting Programs that may be licensed with the Program:

IBM Cognos Business Intelligence Samples
IBM Cognos Business Intelligence Transformer
IBM Cognos for Microsoft Office
IBM Cognos Framework Manager
IBM Cognos Lifecycle Manager
IBM Cognos Metrics Manager
IBM Cognos Mobile
IBM Cognos Supplementary Languages Documentation
IBM Cognos Virtual View Manager
IBM Connections
IBM DB2 Workgroup Server Edition
IBM Tivoli Directory Integrator
IBM WebSphere Application Server

5. **Source Components and Sample Materials.** The Program may include some components in source code form ("Source Components") and other materials identified as Sample Materials. Ordering Activity may copy and modify Source Components and Sample Materials for internal use only provided such use is within the limits of the license rights under this Attachment A, provided however that Ordering Activity may not alter or delete any copyright information or notices contained in the Source Components or Sample Materials. Source Components and Sample Materials are provided without obligation of support and "AS IS", WITH NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF TITLE, NON-INFRINGEMENT OR NON-INTERFERENCE AND THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
6. **Restrictions on Use for the Benefit of a Third Party.** Ordering Activity may not use the Program or any component thereof to provide service bureau, hosting services, or any sort of commercial information technology services to third parties, or transfer the Program to a third party, unless otherwise agreed to in writing by Contractor.
7. **Authorized User.** Authorized User is a unit of measure by which the Program can be licensed. An Authorized User is a unique person who is given access to the Program. The Program may be installed on any number of computers or servers and each Authorized User may have simultaneous access to any number of instances of the Program at one time. Ordering Activity must obtain separate, dedicated entitlements for each Authorized User given access to the Program in any manner directly or indirectly (for example: via a multiplexing program, device, or application server) through any means. An entitlement for an Authorized User is unique to that Authorized User and may not be shared, nor may it be reassigned other than for the permanent transfer of the Authorized User entitlement to another person.

8. Processor Value Unit (PVU). Processor Value Unit (PVU) is a unit of measure by which the Program can be licensed. The number of PVU entitlements required is based on the processor technology (defined within the PVU Table by Processor Vendor, Brand, Type and Model Number at http://www.ibm.com/software/lotus/passportadvantage/pvu_licensing_for_customers.html) and the number of processors made available to the Program. IBM continues to define a processor, for the purpose of PVU-based licensing, to be each processor core on a chip. A dual-core processor chip, for example, has two processor cores.

Ordering Activity can deploy the Program using either Full Capacity licensing or Virtualization Capacity (Sub-Capacity) licensing. If using Full Capacity licensing, Ordering Activity must obtain PVU entitlements sufficient to cover all activated processor cores* in the physical hardware environment made available to or managed by the Program, except for those servers from which the Program has been permanently removed. If using Virtualization Capacity licensing, Ordering Activity must obtain entitlements sufficient to cover all activated processor cores made available to or managed by the Program, as defined according to the Virtualization Capacity License Counting Rules at http://www.ibm.com/software/lotus/passportadvantage/Counting_Software_licenses_using_specific_virtualization_technologies.html.

*An Activated processor core is a processor core that is available for use in a physical or virtual server, regardless of whether the capacity of the processor core can be or is limited through virtualization technologies, operating system commands, BIOS settings, or similar restrictions.

9. General Charge Terms. Processor (not available to new licensees or under the IBM International Passport Advantage or Passport Advantage Express Agreements)

Processor is a unit of measure by which the Program can be licensed. Processor (commonly called a processor core or CPU) is a functional unit within a computing device that interprets and executes instructions. A processor consists of at least an instruction control unit and one or more arithmetic or logic units. With multi-core technology, each core is considered a processor. With full capacity licensing, an entitlement must be acquired for all activated processor cores available for use on the server.

10. Program-unique Terms. Each person who is provided Active Report outputs or personalized reports is a user of the Program and must be covered by an entitlement to an appropriate user role.

11. User Roles. Web Administrators are not authorized to use any of the following components or functions of the Program or Supporting Program:

- IBM Cognos Analysis Studio
- IBM Cognos Business Insight
- IBM Cognos Business Insight Advanced
- IBM Cognos Business Intelligence Transformer
- IBM Cognos Event Studio
- IBM Cognos for Microsoft Office
- IBM Cognos Framework Manager
- IBM Cognos Metrics Designer
- IBM Cognos Metrics Studio
- IBM Cognos Mobile
- IBM Cognos Query Studio
- IBM Cognos Report Studio
- IBM Cognos Virtual View Manager
- IBM Connections
- Receive Reports

Professional Authors are not authorized to use any of the following components or functions of the Program or Supporting Program:

- IBM Cognos Administration
- IBM Cognos Analysis Studio
- IBM Cognos Business Intelligence Transformer
- IBM Cognos Event Studio
- IBM Cognos Framework Manager
- IBM Cognos Metric Designer
- IBM Cognos Metric Studio
- IBM Cognos Virtual View Manager

Advanced Business Authors are not authorized to use any of the following components or functions of the Program or Supporting Program:

- IBM Cognos Administration
- IBM Cognos Business Intelligence Transformer
- IBM Cognos Event Studio
- IBM Cognos Framework Manager
- IBM Cognos Metric Designer
- IBM Cognos Metric Studio
- IBM Cognos Report Studio
- IBM Cognos Virtual View Manager

Enhanced Consumers are not authorized to use any of the following components or functions of the Program or Supporting Program:

- IBM Cognos Administration
- IBM Cognos Analysis Studio
- IBM Cognos Business Insight Advanced
- IBM Cognos Business Intelligence Transformer
- IBM Cognos Event Studio
- IBM Cognos Framework Manager
- IBM Cognos Metric Designer
- IBM Cognos Metric Studio
- IBM Cognos Query Studio
- IBM Cognos Report Studio
- IBM Cognos Virtual View Manager

Professional Authors, Advanced Business Authors, and Enhanced Consumers are also permitted to use the following component if Ordering Activity has licensed IBM Cognos Real-time Monitoring:

- IBM Cognos Real-time Monitoring Dashboard

12. Supporting Program Details.

IBM Connections

- Use Limitations: Unrestricted

IBM DB2 Workgroup Server Edition

- Entitlement: Ratio 1/1
- Use Limitations: Use by Principal Program

"Ratio n/m" means that Ordering Activity receives some number ('n') entitlements for the Supporting Program for every specified number ('m') entitlements of the Program as a whole. Unless otherwise specified, the number of entitlements for the Supporting Program is rounded up to a multiple of 'n'. For example, if a Program includes 100 PVUs for a Supporting Program for every 500 PVUs obtained of the Program and you acquire 1,200 PVUs of the Program, Ordering Activity may install the Supporting Program and have processor cores available to or managed by it of up to 300 PVUs. Those PVUs would not need to be counted as part of the total PVU requirement for Ordering Activity's installation of the Program on account of the installation of the Supporting Program (although those PVUs might need to be counted for other reasons, such as the processor cores being made available to the Program, as well).

"Use by Program" means that the Supporting Program is provided exclusively for use by the Program. Neither Ordering Activity nor any application, program or device is authorized to directly use or access the services of the Supporting Program except Ordering Activity may access the Supporting Program to perform administrative functions for the Supporting Program such as backup, recovery and authorized configuration

"Unrestricted" means that, notwithstanding the language above, Ordering Activity's right to use the Supporting Program is not limited to use only in support of Ordering Activity's use of the Program. While the other restrictions on Ordering Activity's use of the Supporting Program continue to apply, Ordering Activity may use the Supporting Program for purposes independent of the licensed use of the Program.

EXHIBIT B – FLEXERA MAINTENANCE & SUPPORT

Under the Bronze Support Program, Contractor through Flexera Software will provide the Ordering Activity with the following services for a period of 12-months from the date of the order.

Web-based Support	Contractor through Flexera Software will provide Ordering Activity's registered support contacts with access to its web-based customer interface for its CRM system, which enables its customers to create, track and update support incidents and access its knowledge base.
Support Contacts	Contractor through Flexera Software will provide support to the Ordering Activity employee(s) who are registered as support contacts in Flexera Software's system. Each product listed below allows one contact.

Product	Contacts Allowed
FlexNet Publisher	One
FlexNet Manager	
FlexNet Connect	
FlexNet Delivery	
AdminStudio (Desktop Model)	
Workflow Manager (WFM)	
InstallShield Express, Premier and Professional	

Incident Number	Upon Ordering Activity's logging of a support request on Flexera Software's support website, Ordering Activity will be provided an incident number.
Product Updates	Contractor through Flexera Software will provide all product updates (maintenance releases, additions, and modifications, and new versions of the software). Product updates will not include maintenance releases, additions, or modifications that Flexera Software considers to be a separate product.
Obligations	In order for Contractor through Flexera Software to resolve a software issue, the Ordering Activity must provide Flexera Software's technical personnel with enough information regarding the issue in order to allow Technical Support to replicate the incident at Flexera Software's site. In the event that a software issue cannot be replicated at Flexera Software's site, the Ordering Activity must provide Flexera Software's technical personnel with a virtual image of their machine to allow replication at Flexera Software's site. For some products, Ordering Activity may be required to provide Flexera Software with sample code that demonstrates the reported behavior. NOTE: Contractor through Flexera Software will not accept any Ordering Activity actual source code. Flexera Software will provide a resolution to the software issue or a temporary work around for the software issue as appropriate. For the FlexNet Publisher and InstallShield products, Ordering Activity is responsible for providing technical support to its end-users.
End-of-Life	Contractor through Flexera Software's support obligations are subject to its end of life policy found at http://www.flexerasoftware.com/support/end-of-life.htm

Under the Silver Support Program, Contractor through Flexera Software will provide the Ordering Activity with the following services for a period of 12-months from the date of the order.

Telephone Support	Contractor through Flexera Software will provide technical support via telephone Monday through Friday, during the office hours from the support center closest to the Ordering Activity (except on those days designated as Flexera Software's holidays). Flexera Software currently provides support from San Jose, California, Schaumburg, Illinois and Cheshire, United Kingdom.
Web-based Support	Contractor through Flexera Software will provide Ordering Activity's registered support contacts with access to its web-based customer interface for its CRM system, which enables its customers to create, track and update support incidents and access its knowledge base.
Support Contacts	Contractor through Flexera Software will provide support to the Ordering Activity's employee(s) who are registered as support contacts in Flexera Software's system. Each product allows for the number of contacts outlined below.

Product	Contacts Allowed
FlexNet Publisher, FlexNet Operations and FlexNet Embedded	One primary and one backup
FlexNet Manager	
FlexNet Connect	
AdminStudio (Desktop Model)	
Workflow Manager (WFM)	
InstallShield Express, Premier and Professional InstallAnywhere - Enterprise and Standard	One

Incident Number	Upon receipt of a support request (and provided that the contact is a registered support contact), Contractor through Flexera Software's Technical Support will create an incident and provide the incident number to the Ordering Activity within eight (8) business hours.
Product Updates	Contractor through Flexera Software will provide all product updates (maintenance releases, additions, and modifications, and new versions of the software). Product updates will not include maintenance releases, additions, or modifications that Flexera Software considers to be a separate product.
Response Times	Contractor through Flexera Software will provide a response to the Ordering Activity's request for support services within sixteen (16) business hours (the "Initial Response"). As used herein, Initial Response will mean Flexera Software's confirming receipt of an error from the Ordering Activity verifying the details of such error, and delivering to the Ordering Activity, if applicable, (a) a list of additional information reasonably required by Flexera Software, and (b) a description of the assistance reasonably required by Flexera Software from the Ordering Activity to assist in the evaluation of the report and diagnose the error or symptoms.

Obligations	In order for Contractor through Flexera Software to resolve a software issue, the Ordering Activity must provide Flexera Software's technical personnel with enough information regarding the issue in order to allow Technical Support to replicate the incident at Flexera Software's site. For some products, the Ordering Activity may be required to provide Flexera Software with sample code that demonstrates the reported behavior. Flexera Software will provide a resolution to the software issue or a temporary work around for the software issue as possible and appropriate. For the FlexNet Publisher, InstallShield, and InstallAnywhere products, the Ordering Activity is responsible for providing technical support to its end-users. Note: Flexera Software will not accept any Ordering Activity actual source code unless specifically requested by your technical support engineer.
	Contractor through Flexera Software will provide all product updates (maintenance releases, additions, and modifications, and new versions of the software). Product updates will not include maintenance releases, additions, or modifications that Flexera Software considers to be a separate product.
Escalation	Escalation: Should an Ordering Activity determine in good faith that the resolution or other service provided by Contractor through Flexera Software is not reasonably satisfactory to Ordering Activity, Ordering Activity may escalate any concerns or issues directly to Flexera Software's Support Manager for the region.
End of Life	Contractor through Flexera Software's support obligations are subject to its end of life policy found at http://www.flexerasoftware.com/support/end-of-life.htm .
Optional Services	Ordering Activity may, for an additional fee, as found in the GSA price list, elect to add the following services: Technical Account Manager: Technical Account Manager: Ordering Activity will be assigned a dedicated Technical Account Manager (the "TAM") who will be the primary interface for Ordering Activity's Technical Contacts. Ordering Activity may also request to speak to a preferred technical support agent when calling in for support assistance, or may elect to speak to the first available technical support representative. Ordering Activity will designate one Technical Contact to participate in weekly conference calls with the assigned TAM. The TAM will provide periodic reports and status updates on all open support incidents and bugs.

Under the Gold Maintenance Services Program, Contractor through Flexera Software will provide the Ordering Activity with the following services for a period of 12-months from the date of the order.

Telephone Support	Contractor through Flexera Software will provide technical support via telephone Monday through Friday, during the office hours from the support center closest to the Ordering Activity (except on those days designated as Flexera Software's holidays). Flexera Software currently provides technical support from San Jose, California, Schaumburg, Illinois and Cheshire, United Kingdom.
Web-based Support	Contractor through Flexera Software will provide Ordering Activity's registered support contacts with access to its web-based customer interface for its CRM system, which enables its customers to create, track and update support incidents and access its knowledge base.
Support Contacts	Contractor through Flexera Software will provide technical support to the Ordering Activity employee(s) who reregistered as support contacts in Flexera Software's system. Each product allows for one primary and one backup named contact, with the exception of the InstallShield and InstallAnywhere product lines in which only one named contacts allowed. If using concurrent licenses, one primary and one backup is allowed.

Product	Contacts Allowed
FlexNet Publisher, FlexNet Operations and FlexNet Embedded	One primary and one backup
FlexNet Manager	
FlexNet Connect	
AdminStudio (Desktop Model)	
Workflow Manager (WFM)	One
InstallShield Express, Premier and Professional	
InstallAnywhere Enterprise and Standard	

Incident Number	Upon receipt of a support request (and provided that the contact is a registered support contact), Contractor through Flexera Software's Technical Support will create an incident and provide the incident number to Ordering Activity within two (2) business hours.
Response Times	Contractor through Flexera Software will provide a response to Ordering Activity's request for support services (the "Initial Response") per the applicable severity level. As used herein, Initial Response will mean Flexera Software's confirming receipt of an error from Ordering Activity verifying the details of such error, and delivering to Ordering Activity, if applicable, (a) a list of additional information reasonably required by Flexera Software, and (b) a description of the assistance reasonably required by Flexera Software from Ordering Activity to assist in the evaluation of the report and diagnose the error symptoms.

Severity Levels	<p>Contractor through Flexera Software's Technical Support, in accordance with the terms defined in this section, will assign a problems report to Flexera Software under a severity level classification system. As used herein, the following definitions will apply:</p> <p>A "Bug" shall be defined as a non-conformity of the Software which causes it to not perform substantially in accordance to the published documentation and which has been documented and reproduced by Ordering Activity, and which has been reproduced by Contractor through Flexera Software and, with Ordering Activity's end-user's assistance and additional information supplied by Ordering Activity (if reasonably requested by Flexera Software), determined to be a Bug.</p> <p>The "InitialResponse" will mean Contractor through Flexera Software's confirming receipt of an error from Ordering Activity, verifying the details of such error, and delivering to Ordering Activity, if applicable, (a) a list of additional information reasonably required by Flexera Software, and (b) a description of the assistance reasonably required by Flexera Software from Ordering Activity to assist in the evaluation of the report and to determine if it is classified as a Severity level as defined below, and diagnose the error symptoms.</p> <p>An "ActionPlan" will mean the initial diagnosis by Contractor through Flexera Software of the errors or symptoms and identification of the schedule that Flexera Software expects to work towards in pursuit of resolving the identified problem.</p> <p>NOTE: All Severity issues must be reported via telephone only.</p> <ul style="list-style-type: none"> Severity 1 Problem-Critical: A Severity 1 problem will be defined as a problem, which causes an urgent, critical impact that impairs the performance of substantially all major functions of the Software or a Ordering Activity Product. Upon receipt of a Severity 1 problem, Contractor through Flexera Software will provide an Initial Response within four (4) business hours and provide an update on the status every subsequent business day until an Action Plan is established. Severity 2 Problem-Severe: A Severity 2 Problem will be defined as a problem, which causes an important or significant impact that impairs the performance of a major function of the Software or a Ordering Activity Product. Upon receipt of a Severity 2 problem, Contractor through Flexera Software will provide an Initial Response within four(4) business hours and provide an update on the status every business day until an Action Plan is established. Severity 3 Problem-System is up and running and the problem cause only limited or insignificant impact. Important to long-term productivity, but is not causing an immediate work stoppage. Upon receipt of a Severity 3 problem, Contractor through Flexera Software will provide an Initial Response within eight (8) business hours and provide an update on the status every five (5) business days until an Action Plan is established. Severity 4 Problem-Problem does not have significant impact to the Ordering Activity or functionality that is not important and infrequently used. Upon receipt of a Severity 4 problem, Contractor through Flexera Software will provide an Initial Response within sixteen (16) business hours and provide an update on the status every five (5) business days until an Action Plan is established.
Product Updates	<p>Contractor through Flexera Software will provide all product updates (maintenance releases, additions, and modifications, and new versions of the software). Product updates will not include maintenance releases, additions, or modifications that Flexera Software considers to be a separate product or for which Flexera Software charges its Ordering Activity's extra or separately.</p>
Obligations	<p>In order for Contractor through Flexera Software to resolve a software issue, the Ordering Activity must provide Flexera Software's technical personnel with enough information regarding the issue in order to allow Technical Support to replicate the incident at Flexera Software's site.</p> <p>In the event that a software issue cannot be replicated at Contractor through Flexera Software's site, the Ordering Activity must provide Flexera Software's technical personnel with a virtual image of their machine to allow replication at Flexera Software's site. For some products, Ordering Activity may be required to provide Flexera Software with sample code that demonstrates the reported behavior. NOTE: Flexera Software will not accept any actual Ordering Activity source code. Flexera Software will endeavor to provide a resolution to the software issue or a temporary work around for the software issue as appropriate.</p>
Escalation	<p>Should a Ordering Activity determine in good faith that the resolution or other service provided by Contractor through Flexera Software is not reasonably satisfactory to Ordering Activity, Ordering Activity may escalate any concerns or issues directly to Flexera Software's Support Manager for the region.</p>

immixTechnology, Inc.

a subsidiary of  immixGroup

Beta Program	Ordering Activity will be eligible to participate in Flexera Software's BETA Program(s), if applicable.
End of Life	Contractor through Flexera Software's support obligations are subject to its end of life policy found at http://www.flexerasoftware.com/support/end-of-life.htm .
Optional Services	Ordering Activity may, for an additional fee, as found in the GSA price list, elect to add the following services: Technical Account Manager: Technical Account Manager: Ordering Activity will be assigned a dedicated Technical Account Manager (the "TAM") who will be the primary interface for Ordering Activity's Technical Contacts. Ordering Activity may also request to speak to a preferred technical support agent when calling in for support assistance, or may elect to speak to the first available technical support representative. Ordering Activity will designate one Technical Contact to participate in weekly conference calls with the assigned TAM. The TAM will provide periodic reports and status updates on all open support incidents and bugs.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **ForeScout Technologies, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.

- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
- v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.

- 3. Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS
FORESCOUT TECHNOLOGIES**

END USER LICENSE AGREEMENT
TERMS AND CONDITIONS

NOTE REGARDING EVALUATION PRODUCTS AND BETA PRODUCTS:
THIS END USER LICENSE AGREEMENT APPLIES ONLY TO GENERAL AVAILABILITY PRODUCTS

This End User License Agreement (“Agreement”) is a legal agreement between you (“Customer”), the entity authorized to order under GSA Schedule contracts as defined in GSA Order OIGP 4800.21, as may be revised from time to time, and all of Customer’s Affiliates that may use the Products, and the GSA Multiple Award Schedule (MAS) Contractor acting on behalf of ForeScout Technologies, Inc. and each of its subsidiaries, including ForeScout Technologies BV (formerly SecurityMatters BV) and ForeScout Technologies Americas Inc. (formerly SecurityMatters Americas Inc.) (collectively “ForeScout”). If Customer does not agree to the terms and conditions of this Agreement, Customer must promptly return the Products and any accompanying items (including printed materials and binders or other containers) to the place from which Customer obtained them. If Customer purchases the Products for use by any of its Affiliate(s), Customer will ensure that such Affiliate complies with the terms and conditions of this Agreement. This Agreement is binding on the GSA MAS Contractor and the Customer to the extent Products are ordered by Customer pursuant to the GSA Schedule contracts.

1. DEFINITIONS.

“ActiveCare” means ForeScout’s support and maintenance services offerings as described in Exhibit A.

“Affiliate” means an entity that controls (i.e., parent), is controlled by (i.e., subsidiary), or is under common control with (i.e., sister) a Party to this Agreement. The term “control” as used in this definition shall mean possession, directly or indirectly of at least fifty percent (50%) of the voting securities of another entity (or other comparable interest for an entity other than a corporation), or the power to direct or cause the direction of the management or policies of an entity whether through ownership of securities, by contract or otherwise.

“Deployment Right” means the receipt of one (1) master copy of the Software and the right to deploy instances of the Software, whether via copy, download or otherwise, subject to the restrictions set forth in the applicable Order, including, without limitation, the designated Endpoint Count.

“Documentation” means the technical documentation and specifications applicable to any given Product created and published by ForeScout such as datasheets and solution briefs. “Documentation” does not include marketing collateral.

“Endpoints” include, but are not limited to, each of the MAC and IP addresses located on a user device (e.g., laptops, tablets and smartphones), network infrastructure devices (e.g., switches, routers and access points), non-user devices (e.g., printers, IP phones, security/medical/manufacturing/consumer equipment), virtual machines (in data center or cloud) and cloud infrastructure components (e.g., AWS IAM Users, AWS VPCs, Azure Subscriptions, Azure VNets). For purposes of clarity, a network-enabled piece of hardware or virtual machine may have multiple MAC addresses and/or IP addresses associated with it, and each of those addresses will constitute an Endpoint. Endpoint information is retained by the Products, whether the Endpoint is online, offline, onsite, or detected by the Products via third-party integrations, from initial detection until the information is purged, based on policies defined by Customer. The terms “endpoint” or “device”, or any derivative thereof as used in any documentation provided by ForeScout shall mean an Endpoint for the purposes of the Endpoint Count.

“Endpoint Count” is the maximum number of Endpoints monitored by the Products and licensed to Customer, as specified in the Order.

“Graphical User Interface” or “GUI” means the software program which provides the interface for Customer to operate the Products.

“Hardware” means the hardware appliance on which the Software is installed.

“License” means the type of Software license grant specified on the Order. The License may be term-based or perpetual.

“Order” means the applicable ordering document issued by (as applicable) Customer, authorized ForeScout reseller, or authorized ForeScout distributor that

refers to this Agreement, and that describes in greater detail Customer’s order-specific information, including, quantity, charges, billing information, pricing, payment, shipping information and the Products, License, Professional Services and ActiveCare services ordered.

“Product” means the Hardware and the Software that Customer has ordered as indicated on the applicable Order including without limitation any Affiliate Products as defined in Section 19.1.

“Professional Services” means the ForeScout implementation, configuration, consulting, or training services to be provided to Customer under any applicable SOW or Datasheet as defined in Section 17.2.

“Software” means the proprietary software programs developed by, or licensed to, ForeScout, made available in object code form, as more fully described within the Documentation, as well as any modifications, error corrections, bug fixes, or other updates thereto. “Software” also includes the proprietary GUI, and associated Documentation developed by ForeScout.

2. GRANT OF LICENSE; DEPLOYMENT RIGHTS; RESERVATION OF RIGHTS.

2.1. License. ForeScout hereby grants Customer a worldwide, nonexclusive, non-transferable, non-sublicensable (except as expressly permitted hereunder) limited license, solely for Customer’s internal business operations and solely to support the Endpoint Count and the license functionality specified in the applicable Order including, without limitation, the Endpoint Count.

2.2. Deployment Right; Back Up Copies. If Customer purchases a Software license designated as Flexi (or CL-Lite) the license is inclusive of a Deployment Right in which case Customer will receive one (1) master copy of each category of Software listed in the applicable Order and shall have the right to (i) freely deploy such licenses within its network in conformance with, the Endpoint Count and (ii) download and use as many copies of the GUI and the Documentation as necessary to support Customer’s internal use of the Products. To the extent Customer purchases Software without a Deployment Right, Customer may only (x) use one (1) copy of the Software as installed on Hardware provided hereunder, (y) download electronically a reasonable number of copies of the Software for use with virtual appliances, and (z) download and use as many copies of the GUI and the Documentation as necessary to support Customer’s internal use of the Products. Customer may make a reasonable number of copies of the Software for backup purposes, provided that ForeScout’s proprietary notices are contained in such copies.

2.3. Reservation of Rights. Except for the limited license(s) set forth herein, ForeScout, and/or its licensors, own all title and proprietary rights, including without restriction all intellectual property rights, in and to the Software and Documentation, all copies thereof, and any modifications or derivatives all of which contain valuable trade secrets of ForeScout and/or its licensors. The use license described herein is not a sale of the Software or any copy of it, nor is it a waiver of the rights of ForeScout under U.S. copyright laws or any international, federal, state, or other applicable laws.

3. LICENSE RESTRICTIONS. Any license granted hereunder is for Customer’s internal use only. Except as expressly provided in this Agreement, Customer may not, and may not permit any third party to, use the Software for rental, timesharing, subscription service, hosting or outsourcing, or sublicense, lend, rent, lease or make the Software available to any third party. Customer acknowledges that the Software in source code form remains a confidential trade secret of ForeScout and/or its licensors, and Customer may not, and may not permit any third party to (i) reverse engineer, decipher, decompile, modify or disassemble the Software or the Hardware or otherwise attempt to derive the source code of the Software (except as authorized by law), (ii) extract the Software from the Hardware, (iii) incorporate the Software in whole or in part in any other software or product, (iv) modify the Software, develop derivative works of the Software or allow others to do so, or (v) attempt to do any of the foregoing, without the express prior written consent of ForeScout. If Customer makes any modifications to the Software, including any derivative works, ForeScout

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shall own such modifications. Except as expressly provided herein, Customer may not, and may not permit any third party to, reproduce the Software or remove any copyright, trademark, proprietary rights, disclaimer or warning notices placed on, included in or embedded in any part of the Hardware or the Software. Customer will not, and will not permit any third party to, disclose the results of any benchmark, functionality or performance tests run on the Software to any competitors of Forescout. Customer represents and warrants that its use of the Products, as well as its execution (if applicable), delivery and performance of this Agreement, does not conflict with any agreement or understanding to which Customer may be bound including, without limitation, any third party intellectual property rights if Customer purchases any Products designated for a specified limited use as set forth in an Order, including without limitation, evaluation, beta, high availability, disaster recovery or lab testing ("Limited Use Products"). Customer may only use such Limited Use Products for the limited purpose for which they were purchased and may not use such Limited Use Products to exceed Customer's total authorized Endpoint Count on its network. Separate terms and conditions will apply to Limited Use Products. If Customer uses the Limited Use Products in violation of this Section, Forescout reserves the right to charge Customer applicable fees as provided in Section 13 (Audit) below.

4. SERVICE PROVIDERS. If Customer has arranged for a service provider (other than Forescout) to manage the Products on behalf of Customer ("Service Provider"). Customer may sublicense the Products to the Service Provider only for the purposes contemplated by this Agreement, provided that Service Provider complies with the terms and conditions hereof and Customer shall be responsible for such compliance.

5. THIRD PARTY VENDOR PRODUCTS AND APPLICATIONS. Customer acknowledges that it may be able to use the Products to interoperate with products and applications developed and sold independently by third party vendors. Forescout does not warrant, and this Agreement does not cover, any third party vendor products or applications, even if they are designated by Forescout as "certified," "approved," "recommended" or are otherwise provided by a third party that is a member of a Forescout partner program. Any purchase or use by Customer of any third party vendor product is solely between Customer and such vendor, and Customer agrees that Forescout has no liability or obligation to Customer for those products or applications, the results or use thereof, or the effect that the use thereof has on the operation of the Products.

6. INTELLECTUAL PROPERTY OWNERSHIP.

6.1. Customer Material. Customer shall retain all rights, title and interest in any and all Customer products, data, plans, specifications, reports, designs, network architecture, documentation and other similar information, or any derivatives thereof, developed, used or disclosed by Customer in its receipt of Professional Services under this Agreement and any applicable SOW (collectively "Customer Materials"). Except as explicitly set forth herein, no rights, title and interest in any Customer Materials are transferred to Forescout.

6.2. Forescout Material. Forescout shall retain all rights, title and interest in all Products, updates, data, plans, processes, methods, specifications, reports, designs, templates, scripts, code, technological "know how," technology, documentation and other similar information, and any derivatives thereof, developed, used or disclosed by Forescout (or a third party service provider acting on Forescout's behalf) in the performance of this Agreement including, without limitation, the provision of Professional Services and any applicable SOW as contemplated hereunder (collectively "Forescout Materials"). All Software updates and other changes, improvements, fixes or other modifications to the Software provided under ActiveCare shall be deemed "Software" for purposes of this Agreement. Except as explicitly set forth herein, no rights, title or interest in any Forescout Materials is transferred to Customer under this Agreement.

6.3. Work Product. To the extent Forescout Materials are incorporated into the Professional Services or deliverables provided under this Agreement (collectively, "Work Product"), such Work Product is provided to Customer in a non-transferable, non-exclusive, world-wide and royalty free license to use the Work Product solely for Customer's internal business purposes upon payment in full of all fees and expenses due to Forescout for the applicable Professional Services and deliverables and subject to the Product license use restrictions, provided that (i) Customer may modify and enhance deliverables consisting of scripts and code solely for its own internal business purposes, and (ii) Customer will own the portion of the deliverables delivered to

Customer in tangible form consisting of written reports, analyses, architecture diagrams, projects plans and similar working documents. Customer agrees not to reverse engineer any software included in the Work Product.

6.4. Feedback. In the course of the Parties' performance of their obligations under this Agreement each Party may provide to the other Party comments, suggestions or other feedback on Forescout Materials or Customer Materials, as applicable (collectively, "Feedback"). Such Feedback is provided on an "as is" basis with no warranties of any kind and the receiving Party will have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use, modify, and distribute such Feedback in any manner without compensation, or attribution of any kind, to the providing Party.

6.5. Reservation of Rights. Each Party reserves all intellectual property rights not expressly granted to the other Party under this Agreement. Customer acknowledges and agrees that, subject to its confidentiality obligations in Section 10 (Confidentiality), Forescout is not restricted from developing, implementing, marketing or selling Products, ActiveCare or Professional Services or deliverables for other customers or projects that are similar to the Products, ActiveCare, Professional Services or deliverables provided under this Agreement.

7. LIMITED WARRANTIES.

7.1. Software Warranty. Forescout warrants to Customer that for a period of ninety (90) days from the date the Product is shipped or for a virtual Product, the date on which it is first made available electronically the Software will perform substantially in accordance with the accompanying Documentation, provided that such Software is used by Customer in accordance with such Documentation and this Agreement. Forescout further represents and warrants that as of the date a Product is shipped or for a virtual Product, the date on which it is first made available electronically, the Software will not contain any viruses, software traps, worms, trap doors, back doors, Trojan horses, or other similar malicious, disruptive or corrupting program code, programming instruction, or software, or similar items. This warranty shall not apply if the failure of the Software is attributed to Customer's failure to apply any updates, upgrades, or any other action or instruction recommended in writing by Forescout.

7.2. Hardware Warranty. Forescout warrants to Customer that for a period of ninety (90) days from the date of the Product is shipped, the Hardware (i) will be free from material defects in materials and workmanship and (ii) will perform in material conformity with the functions described in the accompanying Documentation, provided that such Hardware is used by Customer in accordance with such Documentation and this Agreement. Forescout further warrants that Customer will receive good and clear title to the Hardware, free and clear of all liens and encumbrances (excluding any Software licensed to Customer pursuant to Section 2 (Grant of License; Reservation of Rights) above).

7.3. Professional Service Warranties. Forescout represents and warrants that the Professional Services provided hereunder shall be provided in a professional and workmanlike manner.

7.4. ActiveCare Warranty. Forescout represents and warrants that it will provide the ActiveCare services in a professional and workmanlike manner.

7.5. Warranty Remedies. Forescout's sole and exclusive obligation and Customer's sole and exclusive remedy under the limited warranties provided in this Section 7 shall be as follows, (i) with respect to Sections 7.1 and 7.2, at Forescout's election, either: (a) replace the Hardware, or (b) use commercially reasonable efforts to make the Software perform substantially in accordance with the accompanying Documentation; and (ii) with respect to Sections 7.3 and 7.4, Forescout shall re-perform the applicable Professional Services within a reasonable time.

The above remedies are available only if Customer promptly notifies Forescout in writing within the applicable warranty period, or with regard to ActiveCare and Professional Services, within thirty (30) days following the date of completion of the applicable ActiveCare and Professional Services. If Customer discovers within the applicable warranty period of Sections 7.1 or 7.2 that the Hardware or the Software fails to substantially conform to the Documentation, Customer must promptly notify Forescout in writing and obtain a Return Material Authorization ("RMA") and an RMA number from Forescout prior to returning the Hardware or Software. Shipping costs for RMAs will be covered by Forescout. Any replacement Hardware or Software will

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be warranted for the remainder of the original warranty period, or for ninety (90) days, whichever is longer.

7.6. **Warranty Exclusions.** The warranties set forth in this Section 7 are void if failure of the Products is a result of (i) Customer exceeding the licensed Endpoint Count (ii) any alteration or modifications to the Products, except by Forescout or a third party acting on Forescout's behalf; (iii) installation, operation, repair, or maintenance of the Products not in accordance with the Documentation; and (iv) abnormal physical or electrical or abnormal environmental conditions, accident, abuse, or misuse. In addition, the warranties are void if Customer is using the Products for beta, evaluation or demonstration purposes for which separate terms and conditions apply.

7.7. **Exclusive Warranties.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE WARRANTIES STATED ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, LOSS OF USE, LOST DATA OR QUALITY OF SERVICE. NO WARRANTIES SHALL ARISE UNDER THIS AGREEMENT FROM COURSE OF DEALING OR USAGE OF TRADE. Forescout does not warrant that Customer's use of the Hardware or the Software will be uninterrupted or error-free. Customer agrees that Customer has not relied on the future availability of any products or services in entering into this Agreement. Any ActiveCare services and/or Professional Services provided by Forescout to Customer represent a services arrangement and not a product warranty.

7.8. **No Returns, Exchanges, Refunds or Credits.** Except for returns permitted in accordance with Section 7.5 (*Warranty Remedies*), Forescout shall not accept any returns or exchanges of Products once the Products have been shipped or, for a virtual product, made available electronically. Further, other than as explicitly set forth herein, Forescout shall have no obligation to provide Customer any refund or credit with regard to an Order.

8. INDEMNITY.

8.1. **Indemnification.** Forescout agrees to, and shall, indemnify, defend to the extent permitted by 28 U.S.C. § 516 and hold Customer harmless from the associated costs and fees (including reasonable attorneys' fees and expenses) finally awarded by a court of competent jurisdiction or agreed to in settlement or compromise, to the extent that such fees and costs arise from a third party claim, proceeding or suit alleging that the Software provided to Customer pursuant to this Agreement infringes a third party patent, copyright or trade secret that is protected under the applicable jurisdiction in which the Products are being used (a "Claim").

8.2. **IP Indemnification.** Forescout agrees to, and shall, indemnify, defend and hold Customer harmless from the associated costs and fees (including reasonable attorneys' fees and expenses) finally awarded by a court of competent jurisdiction or agreed to in settlement or compromise, to the extent that such fees and costs arise from a third party claim, proceeding or suit alleging that the Software, Professional Services, or portion thereof, provided to Customer pursuant to this Agreement infringes a third party patent, copyright or trade secret that is protected under the applicable jurisdiction in which the Products are being used or where the Professional Services are performed, as applicable.

8.3. **Procedure.** Forescout's obligations hereunder shall be conditioned on Customer promptly notifying Forescout of any such Claim and permitting Forescout to intervene in the claim through counsel of Forescout's choosing expense, and to assume control over the defense and settlement of such Claim to the extent permitted by 28 USC 516; provided however, that: (i) Forescout shall keep Customer informed of, and consult with Customer in connection with the progress of such litigation or settlement; and (ii) Forescout shall not have any right, without Customer's written consent (which shall not be unreasonably withheld), to settle any such Claim if such settlement contains a stipulation to or admission or acknowledgment of any liability or wrongdoing (whether in contract, tort or otherwise) on Customer's part, or requires any specific performance or non-pecuniary remedy by Customer.

8.4. **Exceptions.** Notwithstanding the foregoing, Forescout will have no indemnification obligation to Customer under this Section 8 to the extent that any such Claim arises or results from (i) Customer's failure to use the Products, ActiveCare

services or Professional Services in conformance with the Documentation; (ii) the combination of the Products, ActiveCare services or Professional Services provided by Forescout under this Agreement with other products or services not provided by Forescout, to the extent that such Claim would not have resulted except for such combination; or (iii) the alteration or modification of the Products, ActiveCare services or Professional Services by or for Customer without Forescout's written consent, if such Claim would have been avoided in the absence of such alteration or modification. Furthermore, Forescout will have no indemnification obligations hereunder if the Claim could be avoided by Customer's use of alternative products or services provided or offered to Customer by Forescout at no additional cost that perform in a substantially similar fashion as the Product, ActiveCare services or Professional Services at issue.

8.5. **IP Remedies.** Should Software or Professional Services provided under this Agreement become, or in Forescout's reasonable opinion be likely to become, the subject of an infringement Claim, Forescout may, at its sole discretion and expense, either: (i) procure for Customer the right to exercise its rights under this Agreement; or (ii) in the case of Software, replace or modify the Software to make it non-infringing, provided that the same functions are performed by the replaced or modified Software, or, in the case of Professional Services, re-perform the Professional Services in a manner that is non-infringing, provided that Customer receives the material benefits of the Professional Services. If Forescout determines in its sole discretion that (i) or (ii) are not commercially reasonable, Forescout shall so notify Customer in writing and as applicable, terminate Customer's licenses to such affected Software or suspend or cancel the Professional Services under this Agreement. Upon Forescout's written notice of such termination, Customer shall return to Forescout all affected Software, or deliverables provided in connection with the affected Professional Services, in Customer's possession for a pro-rata refund of those fees paid by Customer to Forescout for (i) the affected Software calculated over a 36 month period on a straight line basis or (ii) the affected Professional Services calculated on a straight line basis over the duration of the Professional Services purchased.

8.6. **Entire Obligation.** Subject to Sections 8.3 and 8.4, Sections 8.1 and 8.2 state the entire liability of Forescout and Customer's exclusive remedy with respect to any Claim.

9. LIMITATION OF LIABILITY.

9.1. EXCEPT FOR FORESCOUT'S INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 8.2 (IP INDEMNIFICATION) OR A PARTY'S BREACH OF SECTION 10 (CONFIDENTIALITY), TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY, ITS LICENSORS, AFFILIATES, AGENTS, SUPPLIERS, DISTRIBUTORS AND RESELLERS SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, LOST DATA OR LOSS OF USE, OR PROCUREMENT OF REPLACEMENT GOODS, HOWEVER INCURRED BY A PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2. EXCEPT FOR FORESCOUT'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8.2 (IP INDEMNIFICATION) OR A PARTY'S BREACH OF SECTION 10 (CONFIDENTIALITY), IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY FOR DIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL FEES PAID BY CUSTOMER DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE ACT OR OMISSION GIVING RISE TO THE CLAIM. This limitation of liability is cumulative and not per incident (i.e., the existence of two or more claims will not enlarge this limit).

9.3. The Parties acknowledge and agree that the disclaimers of warranty and the limitations of liability set forth herein reflect a reasonable allocation of risk between the Parties (including the risk that a contract remedy may fail of its essential purpose and result in consequential loss) and form an essential basis of the bargain between the Parties. THE LIMITATIONS OF THIS SECTION 9 SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE.

10. CONFIDENTIALITY.

10.1. **Confidential Information.** "Confidential Information" means any information which is disclosed by a Party (the "Discloser") in connection with this Agreement, directly or indirectly, in writing, orally or by drawings or inspection of equipment or

software, to the other Party (the "Recipient") or any of its employees or agents and that is designated or marked as "confidential" or "proprietary" at the time of disclosure or that, based on the circumstances surrounding the disclosure, the Recipient knows or reasonably should know is considered confidential. Confidential Information shall also include the Software and all documents provided with the Hardware that contain Forescout's confidential or trade secret information. The restrictions on disclosure set forth in this Section 10 shall not apply to Confidential Information which: (i) becomes publicly known without breach of this Agreement; or

(ii) the Recipient can show by written records was rightfully in its possession prior to the disclosure by the Discloser or becomes rightfully known to the Recipient without confidential or proprietary restriction from a source other than the Discloser; (iii) is approved for disclosure without restriction in a written document which is signed by a duly authorized officer of the Discloser, or (iv) is independently developed by the Recipient prior to the disclosure without reference to the Discloser's Confidential Information.

10.2. Obligations. Recipient may use the Discloser's Confidential Information solely for the purpose of exercising its rights and performing its obligations under this Agreement. Recipient agrees to take the same care with the Discloser's Confidential Information as it does with its own information of a similar nature, but in no event with less than a reasonable degree of care. Recipient shall limit access to the Confidential Information to those persons having a need to know such information, provided that each such employee and consultant is subject to a written agreement containing confidentiality obligations no less protective than those contained in this Agreement. Recipient may disclose Confidential Information: (i) insofar as disclosure is reasonably necessary to carry out and effectuate the terms of this Agreement; (ii) insofar as the Recipient is required by law or legal proceedings to disclose such information provided that the Recipient provides the Discloser with prompt written notice of such requirement to enable the Discloser to seek a protective order; (iii) insofar as disclosure is necessary to be made to the Recipient's independent accountants for tax or audit purposes; and (iv) insofar as the Parties mutually agree in writing upon language to be contained in one or more press releases.

11. COMPLIANCE WITH LAWS.

11.1. General. Each Party will comply fully with all international and national laws and regulations that apply to the Products and to Customer's use thereof.

11.2. Export Controls. Customer represents that it is not a "Restricted Person," which shall be deemed to include any person or entity: (i) located in or a national of Cuba, Iran, Libya, North Korea, Sudan, Syria, or any other countries that may, from time to time, become subject to U.S. export controls for anti-terrorism reasons or with which U.S. persons are generally prohibited from engaging in financial transactions; or (ii) on any restricted person or entity list maintained by any U.S. governmental agency. Unless authorized by U.S. regulation or license, neither Party will, in connection with the activities contemplated by this Agreement, export or re-export, directly or indirectly, any Products, including without limitation, any technical data, computer software, or any product (or any part thereof), process, or service that is the direct product of any such technical data or computer software that has been received from the other Party in connection with the activities contemplated by this Agreement (hereinafter referred to collectively or individually, "Controlled Products") to any country (or nationals thereof) in Country Group E of the Export Administration Regulations of the United States ("EAR") or any other country subject to sanctions administered by the Office of Foreign Assets Controls (the then-current list can be found at <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>). The Parties understand that countries other than the U.S. may restrict the import or use of strong encryption products or other items and may restrict such exports. The Parties agree to comply with any such import or other restrictions. Each Party represents and warrants that it is not currently debarred, suspended, or otherwise prohibited or restricted from exporting, re-exporting, receiving, purchasing, or otherwise obtaining any item, product, article, commodity, software or technology regulated by any agency of the U.S., and will immediately notify the other Party in the event that any of the foregoing occurs.

12. DATA PROTECTION. Unless necessary to use the Products, ActiveCare, or Professional Services, Customer agrees to not submit to Forescout: (i) any personally identifiable information; (ii) any protected health information regulated by the U.S.

Health Insurance Portability and Accountability Act ("HIPAA") or any similar federal, state, or local laws, rules, or regulations; or (iii) any information subject to regulation or protection under the Gramm-Leach-Bliley Act. Customer acknowledges that Forescout is not a Business Associate as defined by HIPAA and any submission to Forescout contrary to the foregoing statement is at Customer's own risk. Customer further acknowledges that Forescout is not acting as Customer's Business Associate or subcontractor as defined in HIPAA. Nonetheless, each Party will use commercially reasonable efforts to comply with applicable personal data protection and privacy laws where the Products are used.

13. INSURANCE.

13.1. During the term of the Agreement, Forescout agrees to maintain the following insurance coverage:

- (i) Commercial general liability insurance for a combined single limit of USD \$1,000,000 per occurrence and an aggregate limit of USD \$2,000,000 for bodily injury and property damage;
- (ii) Auto liability insurance for a combined single limit of USD \$1,000,000 for bodily injury and property damage for owned, non-owned and hired automobiles;
- (iii) Error & omissions liability insurance for a combined single limit of USD \$1,000,000 per claim and an aggregate limit of USD \$2,000,000;
- (iv) Statutory worker's compensation in accordance with applicable law; and
- (v) Employer's liability insurance with a maximum limit USD \$1,000,000.

13.2. Upon Customer's written request, Forescout will provide a certificate of Insurance evidencing the above policies with A.M. Best rated carriers with at least an A-VII rating.

14. SUPPORT AND PROFESSIONAL SERVICES.

14.1. ActiveCare Support. If Customer has separately ordered maintenance and support services through Forescout's ActiveCare program, the terms of such program are set forth at Exhibit A. Support is not included in the purchase price of the Products and must be purchased separately.

14.2. Professional Services. If purchased by Customer, Forescout will provide Customer certain Professional Services as described in a Statement of Work, referencing this Agreement ("SOW") between Customer and Forescout (or an authorized reseller) or in a Forescout datasheet ("Datasheet"), as applicable. Customer shall be invoiced for approved expenses incurred as a result of performing Professional Services in accordance with a SOW or Datasheet, as applicable. In the event that a SOW or Datasheet does not state that expenses are included in the Professional Services fees, then the GSA MAS Contractor shall invoice Customer for allowable expenses reasonably incurred in the performance of the Professional Services, provided that copies of valid receipts are submitted to Customer.

15. AUDIT AND DEPLOYMENT REPORT.

15.1. Audit. During the term of this Agreement, and for one (1) year following termination of this Agreement, Forescout (including its independent auditor) shall have the right to inspect and audit Customer's records and use of the Products to verify Customer's compliance with the terms of this Agreement, including without limitation, continuous monitoring of the number of Endpoints monitored by the Products in relation to the authorized Endpoint Count. In the event of an onsite audit, Forescout shall provide Customer with at least five (5) business days' prior written notice of such audit and shall conduct the audit during regular business hours in a manner so as not to unreasonably interfere with Customer's business. Customer shall provide Forescout reasonable assistance and access to relevant information in relation to the audit. To the extent an audit is performed remotely, Forescout shall adhere to Customer's authorization, access and enablement of policies. If an audit reveals a breach of this Agreement, (a) the GSA MAS Contractor shall invoice Customer the applicable fees (at Forescout's or the GSA MAS Contractor's then-current rates, as applicable) attributed to such non-compliance, including, but not limited to, pro-rated fees for Unauthorized Use and ActiveCare with respect to such Unauthorized Use, plus interest at the rate of 1.5% per month, and (b) the GSA MAS Contractor shall invoice Customer for the reasonable costs incurred by Forescout to perform the audit.

15.2. Deployment Report. Within the thirty (30) day period prior to completing the first twelve (12) months of the Agreement's Initial Term, and annually thereafter,

Customer shall provide written notice to Forescout indicating the number of Software licenses put into production use and the total Endpoint Count in all of Customer's and its Affiliates environments (the "Deployment Report"). To the extent Customer has exceeded the Endpoint Count (or Estimated Endpoint Count), the GSA MAS Contractor shall invoice Customer for (i) the number of licensing units in excess of the Endpoint Count (or Estimated Endpoint Count) at the same rates as set forth in the most recent and applicable Order for Software unless otherwise agreed to by the Parties in writing, and (ii) pro-rated fees for ActiveCare for the Endpoints in excess of the Endpoint Count (or Estimated Endpoint Count) based upon the fees set forth in the most recent and applicable Order for ActiveCare (the "Endpoint Count True-Up"). In addition, Forescout shall have the right to inspect and audit Customer's records at the end of the Initial Term and any Renewal Term pursuant to this Section 18, as applicable, to verify Customer's compliance with the terms of this Agreement, the information contained in any Deployment Report(s) and any Endpoint Count True-Up.

16. U.S. GOVERNMENT RESTRICTED RIGHTS. This Section 19 applies only if Customer is an agency or other part of the U.S. Government ("Government End User"). Forescout licenses its Software and Documentation to users within the U.S. Government and any contractor thereof only under the terms of Forescout's standard federal licensing agreement for commercial end use. If Customer is a Government End User, Forescout hereby identifies the Software and Documentation, and, to the extent applicable, Customer will identify the Software and Documentation in all proposals and agreements with any Government End User or any contractor thereof, as follows: (i) For acquisition by or on behalf of civilian agencies, as necessary to obtain protection as "commercial computer software" and related documentation in accordance with the terms of the Party's standard software license agreement, as specified in 48 C.F.R. 12.212 of the Federal Acquisition Regulations ("FAR") and its successors; (ii) For acquisition by or on behalf of units of the U.S. Department of Defense, as necessary to obtain protection as "commercial computer software" and "commercial computer software documentation" in accordance with the terms of the Party's standard software license agreement, as specified in 48 C.F.R. 227.7202. To the extent applicable and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporated, Customer may provide to a Government End User or, if Customer is a Government End User, such Government End User will acquire, the Software and Documentation with only those rights set forth in this Agreement.

17. TERM AND TERMINATION.

17.1. Term. This Agreement (excluding any Orders or SOWs hereunder) is effective upon the Customer's award of an Order and will remain in full force and effect unless otherwise terminated in accordance with the termination provisions of Section 17.2 (Termination). The initial term of ActiveCare and/or any term-based License will commence on the effective date identified in an Order as applicable ("Initial Term") unless terminated earlier as set forth below.

17.2. Termination. Termination shall be governed by General Services Administration Acquisition Regulation 352.212-4(d) Disputes, GSAR 352.212-4(i) Termination for the Ordering Activity's Convenience, and GSAR 352.212-4(m) Termination for Cause. The GSA MAS Contractor and Forescout shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Customer's Contracting Officer.

17.3. Effect of Termination. Customer shall immediately cease using the Software, destroy the Software (and its accompanying Documentation) and Forescout Confidential Information or return the Software (and its accompanying Documentation) and Forescout Confidential Information to Forescout. Upon Forescout's request, Customer shall provide Forescout a certificate of destruction evidencing compliance with the foregoing.

ActiveCare and/or Term Based License Reinstatement. In no event shall Forescout be responsible for extending a term-based License or providing ActiveCare support for any Products if ActiveCare has been terminated pursuant to the terms of this Agreement. In order for Customer to resume lapsed ActiveCare as the result of termination, (i) Forescout must approve the Order, as determined in its sole discretion, and (ii) Customer must renew ActiveCare for a minimum of a one (1) year term at the then-current GSA MAS Contract's ActiveCare rates. After Customer pays

the foregoing amounts in full, the effective date of the reinstated ActiveCare Term shall be the date following the termination date of the previous ActiveCare Term.

17.4. Survival. The following Sections shall survive any expiration or termination of this Agreement, in whole or in part, in accordance with their respective terms: 2 (Grant of License; Deployment Rights; Reservation of Rights), 3 (License Restrictions), 4 (Service Providers); 5 (Third Party Vendor Products and Applications), 6 (Intellectual Property Ownership), 8 (Indemnity), 9 (Limitation of Liability), 10 (Confidentiality), 11 (Compliance with Laws), 13 (Publicity), 16 (Audit and Deployment Report), 17 (U.S. Government Restricted Rights); 18 (Term and Termination), and 19 (General).

18. GENERAL.

18.1 Supplemental Terms. From time to time, Forescout may offer Affiliate Products under this Agreement and as identified within the Forescout proposal or quote. The Affiliate Product Schedule is set forth in Exhibit B herein. The Affiliate Product Schedule applies to the Products described therein and sets forth different or supplemental terms related thereto including, without limitations applicable licensing, support, and warranty terms. "Affiliate Products" means the hardware, software, maintenance and professional services offered by a Forescout Affiliate subject to the terms of this Agreement as supplemented by the Affiliate Product Schedule.

18.2 Independent Contractors. The relationship of Forescout and Customer is that of independent contractors. There is no relationship of agency, partnership, joint venture, employment or franchise between the Parties. Neither Party has the authority to bind the other or to incur any obligation on the other's behalf or to represent itself as the other's agent or in any way that might result in confusion as to the fact that the Parties are separate and distinct entities.

18.3 Governing Law. This Agreement will be governed and construed under the federal laws of the United States.

18.4 Notices. All notices under this Agreement are required to be sent either via electronic delivery or by commercial overnight courier with written verification of delivery. All notices so given will be deemed received upon the date of receipt if by electronic delivery or two (2) days after dispatch for courier deliveries. If to Partner, all notices shall be sent to the address indicated in the most recent Order. If to Forescout, all notices shall be sent to generalcounsel@forescout.com or to 190 West Tasman Drive, San Jose, CA 95134, USA; Attention: GeneralCounsel.

18.5 Severability. If any provision of this Agreement is held invalid by the final determination of any court or other tribunal of competent jurisdiction, such provision shall be reformed only to the extent necessary to make it enforceable, and shall not affect the enforceability of (i) such provision under other circumstances or jurisdictions, or (ii) any other provision under all circumstances or jurisdictions. The invalid or unenforceable provision will be construed by such judicial body so as to be enforceable to the maximum extent compatible with applicable law.

18.6 Headings; Language. The headings used in this Agreement are for ease of reference only and will not be used to interpret any aspect of this Agreement. Regardless of any language into which this Agreement may be translated, the official, controlling and governing version of this Agreement shall be exclusively the English language version.

18.7 Assignment. Neither party may assign or transfer this Agreement, nor any rights or obligations under this Agreement without the prior written consent of the other party. Any attempted assignment in violation of the foregoing shall be void and of no effect. However, notwithstanding the foregoing, either party may assign this Agreement with approval in accordance with FAR 42.12, FAR 32.212-4(b) and GSAR 352.212-4(w)(1)(vi). This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the parties.

18.8 Counterparts. If applicable, this Agreement may be executed in two (2) counterparts, both of which taken together shall constitute one (1) single agreement between the parties. The parties may execute this Agreement by electronic signature which shall be deemed an original signature for all purposes. The parties agree that a version of this Agreement transmitted by means of electronic message or electronic record (electronic mail, electronic data interchange), once duly signed by the authorized representatives of each party, shall constitute a binding agreement and shall have the same force and effect as a document bearing the original signatures.

18.9 Order of Precedence. In the event of a conflict between this EULA, the terms

< FORESCOUT.

Approved by GSA 11 FEB 2020

and conditions of the GSA Multiple Award Schedule Contract, and any Order, the conflict shall be resolved in accordance with GSAR 332.212-4(s) Order of Precedence.

19.10 Entire Agreement. This Agreement constitutes the entire agreement between the GSA MAS Contractor acting on behalf of Forescout and Customer with respect to the subject matter hereof, and supersedes all prior agreements, understandings and negotiations, both written and oral, between the Parties with respect to such subject matter. No waiver, amendment or modification of any

provision of this Agreement shall be enforceable against the Parties unless it is in writing and signed by the GSA MAS Contractor and the GSA Contracting Officer. Except for the exclusive remedies specified herein, each Party will have all rights and remedies available to it at law or in equity for the protection of its rights hereunder, including an injunction enjoining the breach or threatened breach of this Agreement. This Agreement is not governed by the United Nations Convention of Contracts for the International Sale of Goods or the Uniform Computer Information Transactions Act, the application of each of which is hereby expressly excluded.

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EXHIBIT A

**ACTIVECARE™
TECHNICAL SUPPORT AND ESCALATION PROCESS**

FORESCOUT SUPPORT IS AVAILABLE:

- Via the Support Portal: <https://support.forescout.com/>
- By phone: 1-866-377-8773 (U.S.) or +1-708-237-6391 (International)
- By email: support@forescout.com

RESPONSE TIMES ARE AS FOLLOWS:

SEVERITY OF ISSUE	DEFINITION	RESPONSE TIMES	
		ActiveCare Basic	ActiveCare Advanced
Sev 1 Critical	Product functionality severely impacted. One or more production CounterACT® appliances are in a down state. CounterAct appliance is completely inaccessible and, as a result, Customer is unable to manage mission critical elements of its infrastructure.	<1 Hour 8am – 5pm local time	<1 Hour 24 x 7 x 365
Sev 2 High	Product functionality is impacted. Major functionality of the CounterAct appliance is running in a diminished state that does not result in an outage, or a circumstance, in Forescout's sole reasonable discretion, if not corrected, could result in an outage impacting Customer.	<3 Hours 8am – 5pm local time	<3 Hours 24 x 7 x 365
Sev 3 Medium	Product functionality is impeded, but functioning. An important function, in the CounterAct appliance is experiencing an intermittent problem or a non-essential operation is failing consistently, however the appliance remains operable with little or no impact to functionality.	<8 Hours 8am – 5pm local time	<8 Hours 24 x 7 x 365
Sev 4 Low	Product functionality is not affected, but symptoms exist. Nominal impact request. For example, a request to install software, assistance with configurations, feature requests, and other non-critical questions.	Next Business Day	Next Business Day

SUPPORT PROCESS:

- Once a ticket is generated for an Error, the Technical Support Engineer (“TSE”) will update Customer as needed, per severity level, or as agreed until the ticket is closed.
- When a WebEx or equivalent troubleshooting session is held between Forescout and Customer, verbal communication is supplemented by a “chat box” where the dialog that is taking place is typed by the speaking party into the chat box. This is required to minimize any verbal language barriers.
- Once a ticket is entered for an Error, a severity level is assigned by the TSE in consultation with Customer. If Customer and the TSE cannot agree on the severity level, then Customer may immediately escalate the issue to Forescout Support management and, if necessary, to the VP of Customer Care.

FORESCOUT SUPPORT MANAGEMENT VISIBILITY:

- Severity 1 Issues are immediately reported to the Manager of Customer Support, Director of Support, and the VP of Customer Care.
- Severity 2 Issues are promptly reported to the Manager of Customer Support.
- Severity 3 and Severity 4 Issues that do not meet the applicable response times are promptly reported to the Manager of Customer Support.
- Support issues that are escalated to Engineering are also reported to the Manager of Customer Support, Director of Support, VP of Customer Care, and VP of Sustaining Engineering.

DEFECT FIXES AND FEATURE REQUESTS:

- Forescout will make commercially reasonable efforts to resolve Support Issues in accordance with this Support Policy. Customer acknowledges that the timeline for resolution depends on the Severity level, Error complexity, availability of a workaround, and the availability of the information and systems required to determine the cause of the issue.
- Feature requests can be submitted to Forescout Support or the Forescout Sales Team. Forescout will evaluate such requests based on Forescout's business needs.

ACTIVECARE MAINTENANCE AND SUPPORT POLICY:

1. DEFINITIONS.

Capitalized terms used in the ActiveCare Maintenance and Support Policy (the "Policy") and not otherwise defined shall have the meanings given them in the applicable Forescout End User License Agreement.

"ActiveCare" means Forescout's support and maintenance services as described herein that are either ActiveCare Basic or ActiveCare Advanced.

"Defective Product" means any Product, as determined by Forescout, whereby a characteristic of the Product hinders its usability for the purpose for which it was designed and manufactured.

"Issue" means any of the four (4) severity level issues in the table above.

"Fix" means the repair or replacement of Product(s), including the Hardware, or the repair or replacement of the object or executable code of the Software, to remedy an Issue.

"Premier Hours" means twenty-four (24) hours a day, seven (7) days a week, and three hundred and sixty-five (365) days a year during the Term.

"Regular Hours" means 8:00AM to 5:00PM in Customer's local time zone during the Term. If the Products are in multiple locations with different time zones, Customer shall designate the controlling time zone for determining Regular Hours.

"Service Packs" means a single installable package of minor updates, fixes and enhancements for the CounterACT® software.

"ActiveCare Term" means the duration of the initial ActiveCare term, as specified in the ActiveCare Certificate provided by Forescout to Customer, and any renewal ActiveCare terms of the applicable ActiveCare services.

"Workaround" means a change in the procedures or instructions provided by Forescout to Customer in writing to avoid an Issue without substantially impairing Customer's use of the Products.

2. SCOPE OF ACTIVECARE.

2.1. Forescout will provide ongoing maintenance and support services for Products as detailed below and address any Issue in accordance with the Escalation Policy, above. In order to ensure consistent administration of support across its operations, Customer must elect either (i) ActiveCare Basic, or (ii) ActiveCare Advanced for all of its Products, whether existing or newly acquired. Any modification or amendment necessary to harmonize Customer's ActiveCare service level across all of Customer's Products shall be evidenced in writing and executed by an authorized representative for both parties. The GSA MAS Contractor will invoice Customer for any additional ActiveCare fees to increase the ActiveCare service level for its Products. For purposes of clarity, Customer may not simultaneously receive ActiveCare Basic for certain Products and ActiveCare Advanced for other Products. All services provided under ActiveCare shall be conducted in the English language. Forescout shall use commercially reasonable efforts to provide the services set forth in this Section 2 during Regular Hours for ActiveCare Basic or Premier Hours for ActiveCare Advanced, as applicable.

3. FORESCOUT SUPPORT.

3.1. Customer may contact Forescout's support team ("Forescout Support") through a list of persons designated by Customer in writing ("Authorized Contact Persons"). If Customer needs to add additional names to its Authorized Contact Persons list, Customer must notify Forescout in advance, and the parties shall mutually determine an arrangement. Such Authorized Contact Persons must have adequate technical expertise or otherwise be trained in administering or managing the Products to assist Forescout Support in troubleshooting Issues. All inquiries to Forescout Support must be made by an Authorized Contact Person and Forescout will have no obligation to accept calls directly from, or otherwise interact directly with personnel other than an Authorized Contact Person.

3.2. For ActiveCare Basic, Forescout Support will respond to Customer during Regular Hours within the Severity Level Response Times. For ActiveCare Advanced, Forescout Support will respond within the Severity Level Response Times. Severity Level Response Times and contact methods are provided above.

3.3. Software Updates.

(i) Customer shall receive software releases or updates that Forescout, in its discretion, makes generally available without additional charge.

(ii) In the event that Customer's ActiveCare Term has expired or is otherwise no longer valid, and Customer downloads and uses Modules, Service Packs, or other Software releases or updates that Forescout makes generally available under ActiveCare, the GSA MAS Contractor will invoice Customer the then-current authorized Schedule Contract price for one (1) year of ActiveCare fees.

3.4. Advanced Hardware Replacement.

(i) Forescout will provide Hardware replacement for a Defective Product in advance of Customer's return of the defective Product, provided that Customer immediately notifies Forescout in writing of such defect and requests a Return Material Authorization ("RMA"). If Forescout Operations approves the return request and issues the RMA, (a) for shipments to U.S. locations under ActiveCare Basic, Forescout will deliver the replacement Hardware within five (5) business days from Forescout Operation's issuance of the RMA; (b) for shipments to U.S. locations under ActiveCare Advanced, Forescout will deliver the replacement Hardware within two (2) business days from Forescout Operation's issuance of the RMA. In order to ensure the foregoing delivery times, Forescout Operations must have issued the RMA to Customer by 12pm PT. Forescout does not guarantee delivery times for shipments outside the U.S. as transportation issues, alternative routing, and customs clearance may delay delivery.

(ii) Customer shall repack the defective Hardware in a Forescout carton (provided with the advance replacement unit) to protect it from damage while in transit. Customer shall ship the defective Hardware to Forescout, with the RMA number clearly displayed on the exterior of the package.

(iii) If, after attempting to repair the Hardware, Forescout finds no Issue in the Hardware, the GSA MAS Contractor, acting on behalf of Forescout, reserves the right to invoice Customer a reasonable replacement charge.

(iv) If Forescout does not receive the defective Hardware incorporating all original components delivered by Forescout, including, without limitation, hard drives, power supply and small form factor pluggable (SFPs), within thirty (30) days of Forescout's issuance of the RMA, the GSA MAS Contractor, acting on behalf of Forescout, may invoice Customer a replacement fee equal to the then-current list price of the applicable Product or components.

4. SUPPORT ISSUE SEVERITY LEVELS.

4.1. Forescout will exercise commercially reasonable efforts to correct any Issue reported to Forescout by Customer in the Products. Upon Forescout's receipt of notice of an Issue, Forescout will assign the Issue one of the severity levels and may escalate the Issues in accordance with the Escalation Policy, above.

4.2. Customer is responsible for providing sufficient information and data as reasonably requested to allow Forescout to correct the Issue. Customer acknowledges that Forescout will not be responsible for any loss or damages resulting from a failure by Customer to provide such information or data, or otherwise assist Forescout as and when reasonably requested. If Forescout believes that any Issue reported by Customer is not an Issue caused by the Products, Forescout will so notify Customer and will not be under any further obligation whatsoever to remedy the Issue.

4.3. If Forescout fixes an Issue in the most current Software release, then Forescout shall have no obligation to fix the same Issue in any prior Software release. Customer acknowledges that it will need to upgrade to the current Software release in order to obtain the benefit of such Fix.

5. CUSTOMER RESPONSIBILITIES.

5.1. Customer agrees to: (i) ensure that its environment complies with all applicable Forescout published system specifications; (ii) follow Forescout's procedures, including those specified herein, when contacting Forescout Support; (iii) provide Forescout reasonable access to all necessary information, systems, and personnel to resolve Issues; (iv) promptly implement all Software updates and Fixes provided by Forescout under this Agreement; (v) update Software to its supported versions; and (vi) use reasonable efforts to internally resolve any support questions prior to contacting Forescout Support.

5.2. During the ActiveCare Term, Forescout may collect information regarding Customer's support inquiries and communications. Customer agrees that, as a condition to entering into this Agreement and Forescout's commitment to providing ActiveCare, Forescout may use such information to generate aggregate data so long as the source or content of the communications are not disclosed.

5.3. If Customer moves or re-locates Hardware to a location in a country that is different from the country of its previous or original location, Customer must promptly notify Forescout in writing or by emailing Forescout at HWTransfer@forescout.com, and include the following minimum information: (i) the customer name, (ii) the appliance serial number, and (iii) the address and country of the appliance's new location.

5.4. Customer acknowledges and agrees that failure to provide the notice may diminish Forescout's ability to provide ActiveCare under this Agreement, including meeting any timescales specified herein.

6. EXCLUSIONS.

Forescout shall have no obligation to support the Products in the following events: (i) Product(s) is altered or damaged by acts not attributed to Forescout; (ii) the installation of or use of the Products (or any portion thereof) with other hardware or software not provided by Forescout; (iii) the Software is not supported in accordance with Forescout's End of Life Policy; (iv) any errors caused by Customer's negligence, abuse, misapplication, or use contrary to the written instructions specified by Forescout or as expressly specified in the applicable Documentation; (v) any errors caused by circumstances that are beyond Forescout's reasonable control; (vi) any issues related to unauthorized access or any security breach to Customer's network; (vii) the Hardware is no longer supported by Forescout in accordance with Forescout's then-current End of Life Policy; (viii) Customer is not current on its ActiveCare payments; (ix) Customer has exceeded the applicable Endpoint Count; (x) Customer's failure to implement all updates to the Software made available under this Agreement; (xi) any Issue that is not reproducible by Forescout; or (xii) any issues with the Products caused by a third party service provider. In addition, Forescout shall have no obligation to support any third party software or hardware, whether or not such third party software or hardware is provided by Forescout.

EXHIBIT B

FORESCOUT TECHNOLOGIES, INC. AFFILIATE PRODUCT SCHEDULE FOR SILENTDEFENSE

This Affiliate Product Schedule for SilentDefense ("Product Schedule"), is incorporated by reference into the Forescout End User License Agreement (the "EULA" or "Agreement") between the Customer and the GSA MAS Contractor acting on behalf of Forescout. Terms not defined herein are defined in the Agreement. This Product Schedule applies only if the Order includes SilentDefense, and if the Products, Maintenance and Professional Services purchases are specifically intended for use of and with SilentDefense. In the event of a conflict as between this Product Schedule and the Agreement, the term of the Product Schedule shall govern.

1. Definitions

"Command Center License" means an individual license key associated with a single physical or virtual machine installed with an operating system and the SilentDefense Command Center for purposes of managing the number of SilentDefense sensors set forth within the Documentation specifications or the Forescout proposal or quote.

"Individual Sensor License" means an individual license key associated with a single physical or virtual machine installed with an operating system and the SilentDefense sensor software component limited by the throughput capacity per sensor and/or a different licensing restriction identified within the Documentation specifications or the Forescout proposal quote.

"Sensor Site License" means a SilentDefense sensor license associated with a specified individual location, and which may not be used at any other locations. Each Sensor Site License allows for the installation of an unlimited number of sensors across the associated site but limited by the throughput capacity per sensor and/or a different licensing restriction as identified within the Documentation specifications or the Forescout proposal or quote.

"SilentDefense" means Software that provides a nonintrusive network monitoring and situational awareness platform for in-depth visibility and cyber resilience for industrial control systems (ICS) and SCADA networks.

"SilentDefense Products" means the Software purchased by Customer associated with an Individual Sensor License, Command Center License or Sensor Site License.

2. License

The term "Software" in the Agreement includes "SilentDefense." Forescout hereby grants Customer the rights to use SilentDefense limited to the SilentDefense Products purchased by Customer under the terms of the Agreement and limited by the terms of the Order and this Product Schedule. In

addition to the restrictions set forth in the Agreement, Customer shall not, without Forescout's prior written consent (i) install, access or use SilentDefense on hardware and/or an operating system other than the hardware and operating system for which the Software was originally licensed to Customer and other than provided by, or certified by, Forescout, or (ii) remove or relocate the Software to another location than the location where Forescout has given its consent. For the avoidance of doubt, a SilentDefense license shall not be licensed based upon, or subject to, an Endpoint Count.

3. Maintenance. ActiveCare does not apply to SilentDefense. Forescout's obligation to provide maintenance for SilentDefense will be set forth in the Order and in accordance with the Technical Support Policy set forth at Exhibit C ("Technical Support Policy"). Forescout is not obliged to provide Maintenance under the Technical Support Policy with regards to a version of the Software that is not supported according to the Technical Support Policy. "Maintenance" means service Levels 1, 2 and 3, which may include Updates and Upgrades of SilentDefense, offered during Forescout's normal business hours as described in the Technical Support Policy. "Update" means a bug fix, update, patch, module replacement or improved version of the whole or any part of SilentDefense, provided as part of the Maintenance. "Upgrade" means a new version of SilentDefense consisting of a major release to be implemented on the hardware as a result of a hardware update or change.

4. Hardware Warranty

4.1 Pass-through Warranties and Rights. If Customer purchases any hardware from Forescout as set forth in the Order, Customer understands that Forescout is facilitating the sale of such hardware between the manufacturer or vendor of the hardware ("Manufacturer") and Customer, and Forescout is not a contractual party to the transaction. Forescout, as its sole obligation to Customer, shall pass through or assign to Customer the rights Forescout obtains from the Manufacturer of such hardware, including warranty, representations, covenants and indemnification rights, all to the extent that such rights are assignable. Customer agrees to coordinate any hardware returns due to a breach of warranty directly with the Manufacturer.

4.2 Professional Services. Customer acknowledges and agrees that Professional Services are sold separately from the Product. If Customer purchases Professional Services from Forescout, Customer hereby grants Forescout access to the Product for the purposes of allowing Forescout to perform the services stated in the SOW or Datasheet.

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1. Definitions

"Command Center License" means an individual license key associated with a single physical or virtual machine installed with an operating system and the SilentDefense Command Center for purposes of managing the number of SilentDefense sensors set forth within the Documentation specifications or the Forescout proposal or quote.

"Individual Sensor License" means an individual license key associated with a single physical or virtual machine installed with an operating system and the SilentDefense sensor software component limited by the throughput capacity per sensor and/or a different licensing restriction identified within the Documentation specifications or the Forescout proposal quote.

"Sensor Site License" means a SilentDefense sensor license associated with a specified individual location, and which may not be used at any other locations. Each Sensor Site License allows for the installation of an unlimited number of sensors across the associated site but limited by the throughput capacity per sensor and/or a different licensing restriction as identified within the Documentation specifications or the Forescout proposal or quote.

"SilentDefense" means Software that provides a nonintrusive network monitoring and situational awareness platform for in-depth visibility and cyber resilience for industrial control systems (ICS) and SCADA networks.

"SilentDefense Products" means the Software purchased by Customer associated with an Individual Sensor License, Command Center License or Sensor Site License.

2. License

The term "Software" in the Agreement includes "SilentDefense." Forescout hereby grants Customer the rights to use SilentDefense limited to the SilentDefense Products purchased by Customer under the terms of the Agreement and limited by the terms of the Order and this Product Schedule. In

addition to the restrictions set forth in the Agreement, Customer shall not, without Forescout's prior written consent (i) install, access or use SilentDefense on hardware and/or an operating system other than the hardware and operating system for which the Software was originally licensed to Customer and other than provided by, or certified by, Forescout, or (ii) remove or relocate the Software to another location than the location where Forescout has given its consent. For the avoidance of doubt, a SilentDefense license shall not be licensed based upon, or subject to, an Endpoint Count.

3. Maintenance. ActiveCare does not apply to SilentDefense. Forescout's obligation to provide maintenance for SilentDefense will be set forth in the Order and in accordance with the Technical Support Policy set forth at Exhibit C ("Technical Support Policy"). Forescout is not obliged to provide Maintenance under the Technical Support Policy with regards to a version of the Software that is not supported according to the Technical Support Policy. "Maintenance" means service Levels 1, 2 and 3, which may include Updates and Upgrades of SilentDefense, offered during Forescout's normal business hours as described in the Technical Support Policy. "Update" means a bug fix, update, patch, module replacement or improved version of the whole or any part of SilentDefense, provided as part of the Maintenance. "Upgrade" means a new version of SilentDefense consisting of a major release to be implemented on the hardware as a result of a hardware update or change.

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4.2 Professional Services. Customer acknowledges and agrees that Professional Services are sold separately from the Product. If Customer purchases Professional Services from Forescout, Customer hereby grants Forescout access to the Product for the purposes of allowing Forescout to perform the services stated in the SOW or Datasheet.

EXHIBIT C

SecurityMatters Technical Support Policy

In November 2018, Forescout acquired SecurityMatters. References to SecurityMatters below will mean Forescout.

1 Software releases

In general, SecurityMatters releases updates and upgrades in accordance with its published release cycle. A new version includes improvements and new functionalities. It may also include updates such as patches or security patches. New product versions and updates are distributed via the SecurityMatters Portal. These can be installed with remote assistance or, if agreed with reseller, on-site assistance of the support team (see Appendix Support Systems and Documentation).

2 Technical Support Levels

The product technical support follows a multi-level support model of three levels:

1. Level 1 handles the majority of basic questions.
2. Level 2 supports customer during deployment and maintenance activities, such as installations and upgrades, and can troubleshoot product misbehaviors.
3. Level 3 is a specialized group of subject matter experts that perform complex event analysis on misbehaviors of the product able to provide quick workaround and hot fixes if necessary.

The support levels are described in more detail below.

Additional support levels and procedures can be agreed in writing as part of a service level agreement to suit customer requirements.

2.1 SecurityMatters Support Services

2.2 Level 1

The goal of Level 1 support is to assist with common issues and answer general questions related to the Software. The Level 1 support team shall be available via email during service hours or as agreed otherwise with the customer.

Level 1 support representatives shall have a general and broad understanding of the product. Level 1 support staff are not required to understand the inner workings of the product or how to interpret the monitoring information.

Level 1 support representatives shall gather information from the customer to determine the customer's issue. The information could be installation type (e.g. physical, virtual, bundled), system components affected (e.g. Command Center), Error messages, log files, screenshots and possibility data (e.g. PCAP files), as well as, the action the customer tried to achieve or the steps that were taken. Once the issue has been identified, the support representative shall examine the possible solutions available. Solutions can be found in the Documentation and the SecurityMatters Knowledge Base. The Knowledge Base provides answers to reoccurring questions and issues. Some issues may be straightforward to solve, while others may require more interaction with the customer.

If no solution can be found, the Level 1 support representatives shall escalate the issue to Level 2 support representatives. Before escalating, Level 1 representatives must have gathered all relevant deployment information and they shall document the (unsuccessful) steps taken as well as what has already been accomplished.

Examples of potential problems addressed by Level 1:

- User got locked out of the SilentDefense Command Center
- User cannot find how to change the time zone settings
- Questions regarding the deployment of a virtual machine of SilentDefense (e.g. common problems when deploying on different hypervisors)
- Questions about which protocols are recognized or parsed
- Questions about how to configure widgets/syslog forwarding/LDAP integration/etc.

2.2.1. Level 2

Level 2 support tackles more complex issues that may not always have a straightforward, documented solution available. Level 2 support representatives shall be

able to actively troubleshoot the product with customer.

When an issue is escalated to Level 2 support, a Level 2 support specialist shall first study the actions taken at Level 1 support. If the cause of the customer's issue is unclear, the Level 2 support specialist shall start the troubleshooting process, by running tests, diagnostics and considering the monitored environment to understand the problem. When a documented solution is available, the Level 2 support representative shall offer the solution to the customer and may guide the customer through the process (for example, via remote web conference with screen sharing and take-control functions). The Level 2 specialist shall use best efforts to come up with a solution or workaround. If the issue is an open Error, the support specialist shall report it to a Level 3 expert.

Examples of potential problems addressed by Level 2:

- Verifying a system Error
- Give suggestions on sensor placement points
- Diagnosis of hardware issues
- Basic suggestions on profile tuning
- Assistance during event analysis
- Support during installations and upgrades

2.2.2. Level 3

Level 3 support concerns in-depth troubleshooting related to errors and product mishbehaviors. Errors are also analyzed by Level 3 support to determine the impact and urgency.

Examples of potential problems addressed by Level 3 support:

- A software Error that needs to be fixed
- Customer finds strange network behavior and asks for analysis. This could involve PCAP analysis and Software event analysis

Outcomes of the Level 3 support are workaround instructions and procedure or hot fixes.

3 Support Terms

3.1 Fixing of Errors

After receipt of a request for Level 2 or 3 support, SecurityMatters shall do the best of its ability attempt to fix any Errors in the Software and/or make corrections in any later Updates or releases of the product in accordance with and subject to this Technical Support Policy and the terms of the main body of the Agreement.

3.2 Pre-requisites

Customer shall lend any reasonable cooperation required by SecurityMatters for the purpose of performing the support, including but not limited to (i) the temporary suspension of use of the Software if SecurityMatters deems this to be necessary and (ii) allowing SecurityMatters access to the customer's site(s) or (online) to the System, e.g. to test patches (see also the Appendix Support Systems and Documentation).

If customer fails to lend the cooperation requested, SecurityMatters may suspend or limit the support. If SecurityMatters is providing support on the basis of information to be provided by customer, this information shall be prepared in accordance with the conditions to be imposed by SecurityMatters and provided at the risk and expense of customer.

Customer guarantees that all materials, information, software, procedures and instructions that it and/or the customers make available to SecurityMatters for the purpose of providing SecurityMatters Support Services is accurate and complete and that all data carriers issued to SecurityMatters meet SecurityMatters' specifications.

3.3 Reinstatement of Support Services

If customer has not paid a Maintenance Fee for a Product in any year(s), SecurityMatters will perform the support services in any subsequent year only if Customer renews support for a minimum of a one (1) year term at the then-current GSA MAS Contract's applicable rate.

3.4 Service hours

Requests for support may be done anytime by means of electronic submission during Service Hours. Service Hours are from 9:00am – 3:00am (CET/CEST) on working days of SecurityMatters, according to the laws of the Netherlands, unless otherwise agreed upon.

3.5 Response times

SecurityMatters shall make every effort to ensure that the support is provided with due care and in accordance with this Technical Support Policy and any other arrangements and procedures agreed in writing with customer. SecurityMatters shall respond to a request of support as soon as possible, provided that SecurityMatters shall only respond on requests during Service Hours.

SecurityMatters shall be entitled to provide the Software with temporary solutions, or with software bypasses or problem-avoiding restrictions.

Priority	Meaning	Description	Response Time	Resolution time
Urgent	Blocking Error	Error has a far-reaching and immediate effect on the normal use of the product. No alternative solution with similar options and performance is available.	4 hours	2 calendar days
High	Misbehavior	Error has a significant effect on the normal use of the product. An alternative solution is available (with some limitations).	8 hours	5 calendar days
Normal	Misbehavior	Error has a limited effect on the normal use of the Software.	2 working days	15 calendar days
Low	Misbehavior	Error has no negative effect on the normal use of the Software.	3 working days	20 calendar days

Response Time is intended to be the elapsed time beginning when Customer creates a service request until SecurityMatters first responds during Service Hours. Resolution Time is intended to be the elapsed time beginning when a support request is submitted by Customer until when the issue is resolved.

3.6 End of life support

SecurityMatters shall never be obliged to provide support services to any version that customer obtained from SecurityMatters more than 2 (two) years ago. However security patches to mitigate or fix product vulnerabilities are distributed only for last version and the version before the last one.

3.7 Use of third parties

SecurityMatters is entitled to use third parties to fulfil its obligations, provided it remains solely responsible and liable towards the Customer for any breach of the agreements with customer committed by such third parties in accordance with the provisions of the agreements.

3.8 Exclusions

Support services shall not include the fixing of Errors arising from or related to:

- a) usage errors or the improper use of the product, including errors that occur during the data input process or in the data itself;
- b) changes to the product other than those carried out by or on behalf of SecurityMatters;
- c) use of the product contrary to the applicable conditions or contrary to the instructions in the Documentation;
- d) changes to or errors, defects or shortcomings in the hardware or Software that is not included within the scope of the SecurityMatters Support Services to be carried out by SecurityMatters pursuant to this Agreement;
- e) failure by Reseller or the customer to have SecurityMatters Support Services carried out on the Software in a timely manner;
- f) the use of an older version of the Software that is no longer maintained by SecurityMatters;
- g) the recovery of scrambled or lost data;
- h) other causes that are not attributable to SecurityMatters.

If SecurityMatters carries out any services in connection with the above mentioned provisions, SecurityMatters shall be entitled to invoice these services in accordance with its standard rates. This shall not affect the other fees payable by the customer in respect of support of the Software.

SecurityMatters shall under no circumstances be obliged to recover data that has been scrambled or lost as a result of breakdowns and/or any third party T-178

services.

Appendix – Support systems & documentation

Email

The support teams of SecurityMatters can be reached with the dedicated email address support@forescout.com with usage questions, feedback and Error reports. The support team analyzes each request and opens a ticket in the internal ticketing system if necessary. In most cases the support team can directly respond with a solution or will offer a remote assistance call. For other cases, additional information, such as SilentDefense logs, screenshots or PCAPs may be requested.

Web portal

The SecurityMatters Portal is used to provide standard product documentation, software packages, product updates and security patches.

Remote access

By default, SecurityMatters has no remote access to the product. For the performance of the support, the support team may require temporary access to the Software or System. Remote access can be granted via a web conference tool, such as Webex or GoToMeeting. A web conference allows Reseller or the customer to watch and interact with the support team. For on-site assistance SecurityMatters requires networking access to the Systems. In some cases physical access may be required.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Freedom Scientific** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
 - l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
 - m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
 - n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
 - o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
 - p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
 - q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

FREEDOM SCIENTIFIC

FREEDOM SCIENTIFIC LICENSE, WARRANTY AND SUPPORT TERMS

LICENSE

Contractor provides Ordering Activity with the software program ordered under this contract (the Program) and grants Ordering Activity a license to use this Program. The license granted to Ordering Activity is nonexclusive and does not grant ownership rights. As a licensed user (Licensee), Ordering Activity understands that it does not own the Program and the instructional materials that accompany the Program; Ordering Activity is only licensed to use the Program and instructional materials in accordance with the terms stated in this contract.

Ordering Activity assumes sole responsibility for determining the appropriateness of the Program for achieving its intended results. Ordering Activity further assumes sole responsibility for the installation, use, and results obtained from the Program, and complete responsibility for the selection, installation, use, and placement of hardware with which you use the Program.

COPYING THE PROGRAM

Ordering Activity may not copy, transfer, decompile, disassemble, or reverse engineer the Program or create a derivative work, or allow the Program to be copied or transferred, in part or in whole, except as specifically indicated within this contract. In the event Ordering Activity copies, transfers, decompiles, disassembles, or reverse engineers the Program or creates a derivative work for another person in any form, except as is specifically authorized, then the Ordering Activity's license to use the Program shall be automatically terminated. The Ordering Activity may install and use the Program on more than one machine, but only one machine may be used at a time.

In the case of an Ordering Activity who has purchased a Site, District, or Enterprise License, the Ordering Activity may install the Program on the specified number of machines as defined in the Site, District, or Enterprise License. The Ordering Activity may install a Site, District, or Enterprise License on a Local Area Network (LAN) server, however, the concurrent number of users of the software cannot exceed the number of machines as defined in the Site, District or Enterprise License. This product is not intended, nor warranted to be installed or supported on a Wide Area Network (WAN) except to allow the use of a WAN for Enterprise-wide license authorization. The Ordering Activity may copy the Program for back-up purposes to preserve the Program. These copies and the original Program may be stored in the possession of another person, so long as the storage does not result in the Program being used in violation of the terms set forth above in this section.

Whenever the Program or instructional materials are reproduced, then the copyright notice must also be reproduced and displayed in its original form.

LIMITED SOFTWARE WARRANTY

The Program provided to the Ordering Activity is being provided "as is" without warranty of any kind, either expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. The entire risk as to the quality and performance of the Program is with the Ordering Activity.

Contractor does not warrant that the functions contained in the Program will meet the Ordering Activity's requirements or that the operation of the Program will be uninterrupted or error free. However, Contractor warrants the media on which the Program is furnished, to be free from defects in materials and workmanship, when in normal use, for a period of ninety (90) days from the date of delivery as evidenced by a copy of your receipt. The limited warranty will be honored by Contractor provided that the media is properly stored in an area free of magnets and/or magnetic fields and provided that defects in the materials and workmanship of the media do not result from an act of God or other cause beyond the control of Contractor or the media manufacturer.

LIMITATION OF REMEDIES

Contractor's liability and Ordering Activity's remedy shall be the replacement of any media not meeting Contractor's limited warranty.

LIMITED HARDWARE WARRANTY

All hardware units come with a 12-month warranty against manufacturing defects, unless stated otherwise. Please contact Contractor or call Freedom Scientific at (727) 803-8600 for assistance in troubleshooting any problems. If necessary, the Technical Support Specialist will issue a Return Materials Authorization (RMA) number that must be referenced on the outside of the package containing your returned unit. Your unit will then be exchanged or repaired as needed.

Hardware devices have no user-serviceable components. Any unauthorized attempt to service or replace internal components by opening units or cases will void the product warranty.

Return your unit to:

Freedom Scientific
Blind/Low Vision Group
13000 Automobile Blvd

PMA ASA AND SMA INFORMATION

A Hardware Product Maintenance Agreement (PMA) is an annual contract that entitles the owner to receive unit repairs on a covered hardware product, including parts and labor, for 12 months. The customer pays only for shipping their unit to Freedom Scientific in Florida. The PMA service contract does not cover repairs resulting from the misuse or abuse of the covered unit. PMA prices and services vary per hardware unit. **An Annual Software Agreement (ASA)** for the PAC Mate BX and QX is an affordable way to stay current with the latest versions of Freedom Scientific PAC Mate software. ASA holders can download software upgrades to their PAC Mate BX and QX units from our Web site at no charge during the 12-month agreement period. ASA holders also may request software upgrades on CD-ROM for a small shipping charge. An ASA is specifically covers Freedom Scientific PAC Mate BX and QX software. It does **not** cover upgrades to any third party software, including but not limited to Microsoft products that are loaded on the PAC Mate. ASAs are not available for BNS and TNS PAC Mate models. ASAs for current shipping versions of PAC Mate software are available from Freedom Scientific or your local authorized dealer. U.S. customers only.

An Annual Software Agreement (ASA) for the PAC Mate BX and QX is an affordable way to stay current with the latest versions of Freedom Scientific PAC Mate software. ASA holders can download software upgrades to their PAC Mate BX and QX units from our Web site at no charge during the 12-month agreement period. ASA holders also may request software upgrades on CD-ROM for a small shipping charge. An ASA is specifically covers Freedom Scientific PAC Mate BX and QX software. It does **not** cover upgrades to any third party software, including but not limited to Microsoft products that are loaded on the PAC Mate. ASAs are not available for BNS and TNS PAC Mate models. ASAs for current shipping versions of PAC Mate software are available from Freedom Scientific or your local authorized dealer. U.S. customers only.

A Freedom Scientific Software Maintenance Agreement (SMA) is the most economical way to keep current with the latest versions of Freedom Scientific software. SMA holders receive two consecutive upgrades on CD-ROM at up to 50 percent off the regular upgrade price*. Additionally, they can download the upgrade directly from our Web site. SMAs are available from Freedom Scientific or your local authorized dealer and are available for currently shipping versions of software.

**Additional costs apply if an SMA is bought after the original software purchase.*

Gigamon Terms and Conditions

[FOR FEDERAL GOVERNMENT CUSTOMERS; SEPTEMBER 1, 2020]

These Gigamon Terms and Conditions (the “Agreement”) are a master agreement that covers all Gigamon products, but provisions regarding specific products apply only to the extent the Customer has purchased or used such products.

1. Definitions.

- a. **“Affiliate”** means a direct or indirect wholly-owned subsidiary of Customer.
- b. **“Authorized Channel Partner”** means any channel partner authorized by Gigamon.
- c. **“Authorized Contractor”** means any individual or entity (other than a Gigamon competitor) that has a written agreement to provide Customer services and is subject to confidentiality obligations covering Gigamon’s Confidential Information and that Customer authorizes to have access or use of a Product solely on behalf of and for Customer’s Internal Use.
- d. **“Customer”** or **“Ordering Activity”** means the Ordering Activity (as defined in FAR 8.401) under GSA Schedule contracts identified in the Purchase Order, Statement of Work, or similar document.
- e. **“Documentation”** means the technical end-user documentation published by Gigamon for the applicable Product.
- f. **“Gigamon Hardware”** means any Gigamon-branded hardware product that is purchased by Customer directly from Gigamon or through an Authorized Channel Partner. For clarity, Software may be included with or embedded in Gigamon Hardware (but is not included within the scope of Gigamon Hardware).
- g. **“Perpetual License”** means a license (other than a Term License) granted by Gigamon to Customer for commercially released Software under a purchase order accepted by Gigamon.
- h. **“Pre-Release Software”** means any Software that is designated by Gigamon as any pre-commercial release Software (indicated by terms such as “alpha,” “beta,” “trial,” “draft” or the like).
- i. **“Products”** means, collectively, Software, Gigamon Hardware, and/or any combination thereof.
- j. **“Software”** means any object or binary code or firmware, any accompanying Documentation, and any upgrades or updates therefor, that are provided by Gigamon or an Authorized Channel Partner on Gigamon’s behalf and that are either (i) included with or embedded in the Gigamon Hardware, or (ii) provided as a separate software product.
- k. **“Supported Virtualization Environment”** means any virtual computing environment supported by the applicable Software, as specifically set forth in the applicable Documentation.
- l. **“Term License”** means a license granted by Gigamon to Customer for Software in which the license is limited in duration. The duration of the Term License will be the time period set forth in the applicable purchase order accepted by Gigamon. If any Software is licensed under a Term License, then the limited license granted in Section 2(a) will commence on the date the license key associated with the Software is issued (or as otherwise set forth on the purchase order) and will expire on the last day of the Term License. When a Term License expires, the corresponding Software may no longer function and in any event Customer shall not continue to access or use the Software (and underlying Hardware, if applicable) unless a new Term License is purchased and a new license key is installed, if applicable).

2. **License Grant.** Software is made available by Gigamon as Pre-Release Software or commercially released Software (either with a Term License or Perpetual License). Subject to and conditioned upon Customer's compliance with the restrictions and terms set forth in this Agreement and full payment of applicable fees to Gigamon, the following license terms apply. Except as set forth in this Section 2, no other licenses are granted by implication, estoppel or otherwise.
- a. **Commercial Software License.** Gigamon hereby grants Customer a non-exclusive, worldwide, non-sublicensable (except as expressly set forth in Section 2(b)), non-transferable (except as specified in Section 3(d)) worldwide Perpetual License or Term License, as applicable, to use the Software in object code format only for Customer's internal information security purposes ("**Internal Use**") solely with Gigamon Hardware, and/or a Supported Virtualization Environment.
 - b. **Sublicense Rights.** Gigamon further grants Customer the right to sublicense Customer's rights under Section 2(a) to Customer's Authorized Contractors without further sublicense rights; provided that: (i) such sublicensed rights are for the sole purpose of providing services to Customer for its Internal Use and are subject to all of the limitations set forth in this Agreement; (ii) Customer's Authorized Contractors are subject to the terms and conditions herein, and (iii) Customer will be liable for any actions of, or failure to act by, the Authorized Contractors as if such actions or inactions were Customer's, and any breach by any such Authorized Contractor of the terms or conditions herein is a breach by Customer.
- Gigamon Terms and Conditions (2020-02) - 1 -
- c. **Pre-Release Software.** If the Software provided under this Agreement is Pre-Release Software, Gigamon hereby grants Customer a limited, non-exclusive, worldwide, non-sublicensable, non-transferable, worldwide license to download and install such Pre-Release Software for its internal, non-production use and evaluation. Customer acknowledges that the PreRelease Software is Gigamon confidential information and may not operate correctly, may be substantially modified prior to first commercial shipment, or may be withdrawn completely. Customer's use of the Pre-Release Software is at Customer's sole risk and expense, and Gigamon will have no liability in connection with any Pre-Release Software. The limited license granted in this Section 2(c) expires 30 days after download unless mutually agreed upon in writing by the parties.
 - d. **Affiliates.** Any Affiliate may purchase Products hereunder provided that it shall be bound by and comply with all the terms and conditions of this Agreement applicable to Customer, and Customer shall remain responsible for Affiliate's acts and omissions unless Affiliate and Gigamon have entered into separate terms and conditions.
3. **Restrictions.** Customer is not licensed to and Customer will not, nor will it allow or authorize or permit any third party to:
- a. license, copy, duplicate, disclose, distribute, modify, exploit or create derivative works of the Products;
 - b. sublicense the Software (except as expressly in accordance Section 2(b));
 - c. use, transfer, or distribute the Software in competition with Gigamon;
 - d. otherwise transfer any Software, unless such Software (i) is licensed under Section 2(a); (ii) is incorporated in Gigamon Hardware; and (iii) is being transferred in connection with the sale of such Gigamon Hardware, and such sale is in compliance with Gigamon's then-current hardware transfer policy.
 - e. decompile, reverse translate, disassemble, or reverse engineer any Software (except and only to the extent permissible by applicable law despite this prohibition) or cause any Software to be subject to any open source obligations;

- f. remove any proprietary markings or copyright notices from any Gigamon Hardware or Software, or translate any Software into any other format or language without Gigamon's prior written consent;
 - g. publicly display, transmit or use Documentation for any other purpose other than to support Customer's authorized use of the Products for its internal business purposes; or
 - h. reproduce, modify, disclose, distribute, sublicense, license or otherwise transfer any implementation of Gigamon's application programming interfaces (APIs) except to support Customer's Internal Use.
4. **Ownership; Hardware Title.** The license(s) granted in this Agreement is/are not a transfer or sale of Gigamon's or its licensors' ownership rights in the Software (including any copies) or in any of their respective intellectual property. Except for the license(s) specifically granted in this Agreement, Gigamon and its licensors retain all right, title, and interest in and to the Software, the related source code and intellectual property therein, and any and all modifications thereof. If Customer is purchasing Hardware directly from Gigamon (and not from Authorized Channel Partner), Gigamon shall deliver all purchased Hardware to Customer FCA (carrier) (Incoterms 2020) via Gigamon's designated carrier. Title and risk of loss for the Hardware shall pass from Gigamon to Customer upon delivery of the Hardware to Gigamon's designated carrier. As between Gigamon and Customer, Customer shall be responsible for all shipping-related expenses associated with purchases of Products. Nothing in this Agreement modifies any terms and conditions between the Customer and any prime contractor under which the Gigamon Products were ordered.
5. **Open Source Software.** The Software may include components subject to the terms and conditions of open source software licenses as set forth at <https://www.gigamon.com/content/dam/legal/gigamon-5.9-open-source.pdf> (such components, the "**Open Source Code**"). To the extent applicable, Gigamon will identify Open Source Code included with Software in or through the applicable Product itself. Some of these licenses require Gigamon to provide the Open Source Code on the terms of the open source license instead of the terms of this Agreement. In that case, the terms of the open source license will apply, and Customer will have the rights granted in such licenses to the open source software itself, such as access to source code, right to make modifications, and right to reverse engineer. Notwithstanding the foregoing, if Customer is using the Software in the form provided, in accordance with Customer's permitted scope of use, with no distribution to third parties, then none of these open source licenses impose any obligations on Customer beyond what is stated in the Agreement. If, and to the extent required by the applicable open source license, Gigamon will make available the required source code for the Open Source Code in response to Customer's request emailed to legal@gigamon.com.
6. **Technical Support, Limited Warranty.** Gigamon offers a Limited Hardware and Software Warranty for its Products as set forth on Exhibit A. All other Product maintenance and support is provided to Customer separately and for a fee, subject to the terms set forth on Exhibit B.
7. **Customer Use of Products.** Customer has the sole obligation to manage, secure, and oversee its network and tools in compliance with applicable law, and to provide notices and obtain consents, as necessary, to its users that their use of Customer's computers, electronic appliances, and devices (and those of users on Customer's network) may be monitored, inspected, or decrypted by Customer.
8. **Confidentiality.**
 - a. **Definition.** "Confidential Information" means non-public information provided by one party ("Discloser") to the other ("Recipient") that is designated as confidential or reasonably should be considered as such, excluding information that is (i) in or becomes part of the public domain (other than by disclosure by Recipient in violation of this Agreement); (ii) previously known to Recipient without an obligation of confidentiality and demonstrable by the Recipient; (iii) independently developed by Recipient without use of Discloser's Confidential Information; or (iv) rightfully obtained by Recipient from third parties without an obligation of confidentiality.

- b. **Restrictions on Use.** Recipient shall (i) only use Discloser's Confidential Information to exercise its rights and/or to perform under this Agreement, (ii) use the same degree of care to prevent unauthorized use and disclosure of Discloser's

Confidential Information as it does for its own confidential information, but in no event less than reasonable care, and (iii) with respect to Recipient's employees and Authorized Contractors, limit access only to those employees and Authorized Contractors who have a need to access such Confidential Information and who are subject to confidentiality obligations at least as restrictive as those specified herein.

- c. **Exceptions.** Recipient may disclose Discloser's Confidential Information to the extent required by any court, governmental or regulatory body, or law or regulation, provided that, if legally permissible, Recipient shall provide prompt written notice to Discloser of such disclosure. Gigamon recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552 ("FOIA"), which may require that certain information be released, despite being characterized as "confidential" by the vendor and the Government Customer recognizes that confidential information that is "trade secrets and commercial or financial information obtained from a person and privileged or confidential" is exempt from release under FOIA at (b)(4).
- d. **Destruction.** Upon written request of Discloser, Recipient shall return or destroy Discloser's Confidential Information, provided that Recipient may retain Discloser's Confidential Information that (A) it is required to keep for compliance purposes under applicable law, professional standards, a court or regulatory agency, or (B) was created electronically pursuant to automatic or ordinary course archiving, back-up, security or disaster recovery systems or procedures, provided that any such retained information shall remain subject to this Agreement. Upon Discloser's request, Recipient will provide Discloser with written confirmation of destruction in compliance with this provision.

9. Warranty Disclaimers and Exclusions

- a. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE

PRODUCTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND GIGAMON AND ITS LICENSORS DISCLAIM

ALL WARRANTIES RELATING TO THE PRODUCTS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED

WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. THE

PRODUCTS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HAZARDOUS

ENVIRONMENT REQUIRING FAIL-SAFE PERFORMANCE OR OPERATION. THE PRODUCTS ARE NOT FOR USE IN THE

OPERATION OF AIRCRAFT NAVIGATION, NUCLEAR FACILITIES, CRITICAL COMMUNICATION SYSTEMS, WEAPONS

SYSTEMS, DIRECT OR INDIRECT LIFE-SUPPORT SYSTEMS, AIR TRAFFIC CONTROL, OR ANY OTHER APPLICATION OR INSTALLATION WHERE FAILURE COULD RESULT IN DEATH, SEVERE PHYSICAL INJURY, OR PROPERTY DAMAGE.

- b. THESE LIMITATIONS APPLY EVEN IF GIGAMON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

10. **Term and Termination.** This Agreement is effective as of the date of delivery of Products under the Purchase Order via FCA Origin (Incoterms 2020) and shall continue until terminated. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Gigamon shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Customer may transfer to a third party the Gigamon Hardware containing the Software. Any such transfers or sales must be in compliance with Gigamon's then-current applicable relicensing/transfer policy. For any "Term License", the Ordering Activity will receive a refund for the pro rata portion of funds

paid that were not used as a result of any such termination for cause. Except as expressly set forth in this Agreement, all fees are non-refundable by Gigamon. Without limiting the foregoing, Gigamon does not provide refunds for terminations for convenience; any termination for convenience will be settled between the End User and the prime contractor under the prime contract. Nothing in this Agreement modifies any terms and conditions between the Customer and any prime contractor under which the Gigamon Products were ordered. Upon the termination of this Agreement, all definitions and Sections 1 (Definitions), 3 (Restrictions), 4 (Ownership; Hardware Title), 8 (Confidentiality), 9 (Warranty Disclaimer and Exclusions), 10 (Term and Termination), 11 (Limitation of Liability), 13 (Intellectual Property), 14 (Intellectual Property Indemnification), 15 (Compliance with Laws and Export Restrictions), 17 (U.S. Government Rights), 18 (Equitable Relief) and 19 (General) shall survive termination for any reason and all other licenses and obligations shall terminate. Nothing contained herein shall limit any other remedies that either party may have for the default of the other party under this Agreement nor relieve either party of any of its obligations incurred prior to any expiration or termination of this Agreement. Upon termination of this Agreement, Customer will stop using equipment with embedded Software and destroy or delete all copies of downloaded Software from any of its devices or storage devices.

Section 6 - LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR: (A) PERSONAL INJURY, DEATH OR TANGIBLE PROPERTY DAMAGE; (B) MISUSE OR VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS BY THE OTHER

PARTY; (C) PAYMENT OBLIGATIONS FOR PRODUCTS; (D) GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD BY A PARTY, ITS EMPLOYEES OR AGENTS AND/OR (E) AMOUNTS PAYABLE TO THIRD PARTIES UNDER SECTION 14 ("INTELLECTUAL PROPERTY INDEMNIFICATION"):

- (I): UNDER NO CIRCUMSTANCES WILL GIGAMON OR ITS LICENSORS OR CUSTOMER BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT

LIMITATION, LOSS OF PROFITS, DATA OR INFORMATION, OR BUSINESS INTERRUPTION) ARISING OUT OF OR RELATED TO

THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND

(II): IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT

EXCEED THE FEES PAID BY CUSTOMER FOR GIGAMON PRODUCTS ON THE RELEVANT PURCHASE ORDER ISSUED UNDER THE IMMIX GSA MAS CONTRACT IN THE TWELVE (12) MONTHS PERIOD BEFORE THE EVENT GIVING RISE TO SUCH LIABILITY. Nothing in this Agreement modifies any terms and conditions between the Customer and any prime contractor under which the Gigamon Products were ordered.

THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SPECIFIED IN THIS AGREEMENT. MULTIPLE CLAIMS SHALL NOT EXPAND THE LIMITATIONS SPECIFIED IN THIS SECTION 11.

12. **Usage Reporting.** Customer will provide information regarding Product usage and/or licenses activated or deployed to Gigamon within five business days of any written request, so long as Gigamon does not make more than one request during any 12month period. If Customer has used the Software in excess of the number of devices permitted on the applicable purchase order, Customer will (i) promptly comply with this Agreement, and (ii) pay the additional fees (at Gigamon's then-current list price in accordance with the GSA Schedule Pricelist) due within thirty (30) days of the invoice receipt date.
13. **Intellectual Property.** Gigamon, its logo, and all other names, logos, or icons identifying Gigamon and its programs, products, and services are proprietary, without Gigamon's express written permission is strictly prohibited. If Customer in its discretion provides any feedback to Gigamon concerning the functionality and performance of the Products (e.g., identifying potential errors, enhancements and improvements) ("Feedback"), Gigamon shall be entitled to use Feedback for any purpose without restriction or remuneration of any kind with respect to Customer and/or its representatives. Vendor acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-

71.

14. **Intellectual Property Indemnification.**

Gigamon will, at its cost and expense, (i) have the right to intervene to defend or settle any claim brought against Customer by an unaffiliated third party alleging that the Product infringes such third party's copyright, patent or trademark rights, and (ii) pay any settlement of such claim or any damages finally awarded to such third party by a court of competent jurisdiction as a result of such claim. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516. Gigamon's obligations above are conditioned on Customer notifying Gigamon promptly in writing of the claim or threat thereof and giving Gigamon control and authority over, and information for and assistance with, the defense and settlement thereof. Gigamon will have no liability for any claim based upon (1) the combination, operation or use of any Product supplied hereunder with equipment, devices or software not supplied by Gigamon; (2) alteration or modification of any Products; (3) the failure to install any update or revision made available by Gigamon; or (4) Gigamon's compliance with Customer's specifications, designs, or

instructions. Customer may participate in the defense or settlement of any claim at its cost. If an injunction or order is obtained against Customer's use of any Product by reason of such allegations of infringement, Gigamon will, (or if in Gigamon's reasonable opinion the Product is likely to become the subject of a claim of infringement, Gigamon may), at its expense: (i) procure the right to allow Customer to continue to use the applicable Product; (ii) replace the applicable Product with non-infringing functionally equivalent product at no cost to Customer, (iii) modify the applicable Product or take other action so that the applicable Product becomes noninfringing; or (iii) if none of the foregoing remedies are commercially practical, terminate this Agreement, and refund the applicable fees for such Product received by Gigamon subject to straight-line depreciation over a five (5) year period from purchase. THE FOREGOING STATES THE ENTIRE OBLIGATION OF GIGAMON WITH RESPECT TO INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

15. **Compliance with Laws and Export Restrictions.** Each party shall comply with all laws and regulations that apply to its performance of the Agreement or use of the Products. The Products and Documentation may be subject to U.S. and foreign import and export control laws and regulations. Customer acknowledges and agrees the Products and Documentation shall not be used, transferred, or otherwise exported or re-exported to countries as to which the United States maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "Designated Nationals"). Customer represents and warrants that Customer is not located in, or is under the control of, or a national or resident of, an Embargoed Country or Designated National.

16. **Third Party Agreements.** Customer is responsible for obtaining and maintaining all telecommunications, broadband, computer equipment, and services needed to access and use the Products and for paying all charges related thereto. Products may contain features designed to interface with applications or services provided or made available by third parties ("**Third-Party Services**"). In order to use a feature in connection with a Third-Party Service or the Third-Party Service, Customer must have an agreement with the provider of the relevant Third-Party Service. Nothing herein shall bind the Ordering Activity to any ThirdParty Service terms unless the terms are provided for review and agreed to in writing by all parties. If the Third-Party Services are no longer available or if the applicable third-party provider no longer allows the Third-Party Services to interface with a Product, then such features will no longer be available or function with a Product. Gigamon and the provider of the applicable Third-Party Service disclaim all warranties, indemnities, obligations, and other liabilities in connection with any interface or integration with the Third-Party Service. Further, Gigamon disclaims all warranties, indemnities, obligations, and other liabilities in connection with any Third-Party Service.

17. **US Government Rights.** The Products and Documentation are "commercial items," as that term is defined in FAR (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in FAR 12.211 and 12.212. Consistent with FAR 12.211 and 12.212, the Products and Documentation are being licensed to U.S. government end users under the license(s) customarily provided to the public as forth in this Agreement. If this Agreement fails to meet the Government's needs or is inconsistent in any way with Federal law, and the parties cannot reach a mutual agreement on terms for this Agreement, the Government agrees to terminate its use of the Products and return such Products and any other software or technical data delivered as part of the Products, unused, to Gigamon. In addition, DFARS 252.2277015 {Technical Data - Commercial Items} applies to technical data acquired by Department of Defense agencies. This U.S.

Government Rights clause in this Section is in lieu of, and supersedes, any other FAR, DFARS, or other clause, provision, or supplemental regulation that addresses Government rights in computer software or technical data under this Agreement.

18. **Reserved.**

19. **General.** This Agreement is governed by the Federal laws of the United States. The United Nations Convention on the

International Sale of Goods shall not apply. Notwithstanding the foregoing, each party reserves the right to file a suit or action in any court of competent jurisdiction as such party deems necessary to protect its intellectual property rights and, in Gigamon's case, to recoup any payments due. This Agreement is the entire agreement between Customer and Gigamon and supersedes any other communications with respect to the subject matter of this Agreement. Additional or conflicting terms on any purchase order or other document issued by Customer or any Authorized Channel Partner will have no force or effect on the commitments of Gigamon to the Customer. . Nothing in this Agreement modifies any terms and conditions between the Customer and any prime contractor under which the Gigamon Products were ordered. If any provision of this Agreement is held invalid or unenforceable, such provision will be deemed replaced by the provision permitted by law that most closely effectuates the parties' original intent as documented hereunder, and the remainder of this Agreement will continue in full. No waiver by either party of any rights under the Agreement will be effective unless such waiver is in a writing signed by the party against whom enforcement is sought. Neither party shall be liable for, nor shall either party be considered in breach of this Agreement due to any failure to perform its obligations under this Agreement (other than its payment obligations) as a result of a cause beyond its control, including but not limited to, act of God or public enemy, act of terrorism, act of any military, civil or regulatory authority, change in any law or regulations, fire, flood, earthquake, storm or other like event, disruption or outage of communications, power, utility, labor problem or any other cause, whether similar or dissimilar to any of the foregoing, that could not have been prevented with reasonable care. Any notices relating to this Agreement should be sent via receipted delivery to Gigamon Inc., Attention: Legal Department, 3300 Olcott Street, Santa Clara, CA 95054 or by email to legal@gigamon.com.

EXHIBIT A

6.1 LIMITED WARRANTY - HARDWARE AND SOFTWARE EFFECTIVE SEPTEMBER 1, 2020

This Limited Warranty for Gigamon Hardware and Software Products (this "**Limited Warranty**") is available only to the original end customer entity (the "**Customer**") and solely covers Products purchased by Customer from Gigamon or its authorized channel partners.

Definitions

- **“Defect”** means any verifiable and reproducible failure of the Product to materially conform to the Specifications that is validated by Gigamon, unless such failure is caused by (a) Customer’s failure to implement in a timely manner Software updates, improvements, or modifications to the Product made available to Customer by Gigamon; (b) a Force Majeure Event, (c) acts of government; (d) misuse or abuse, (e) Customer instructions, installation, or set up adjustments; (f) modifications of or to any part of the Product by any party other than Gigamon; (g) accident or damage; or (h) use of the Software other than as permitted in the Gigamon Terms and Conditions to which this Limited Warranty is attached as Exhibit A (the **“Gigamon Terms”**).
- **“Hardware”** means any Gigamon-branded hardware product that is purchased by Customer directly from Gigamon or through an authorized channel partner. For clarity, Software may be included with or embedded in Hardware, but is not included within the scope of Hardware.
- **“Products”** means, collectively, Software, Hardware, and/or any combination thereof.
- **“Software”** means any object or binary code or firmware, and any upgrades or updates therefor, that are provided by Gigamon or an authorized channel partner on Gigamon’s behalf and that are either (i) included with or embedded in the Hardware, or (ii) provided as a separate Gigamon-branded software product.
- **“Specifications”** means the applicable Gigamon-published technical Product specifications
- **“Warranty Period”** (1) for Hardware, means one year from the initial date Hardware is shipped by Gigamon or its designee and (2) for Software, means 90 days from the date the Software is delivered or initially made available to the Customer or its designee.

Limited Warranty for Hardware

During the Warranty Period for Hardware, Gigamon will, at its option, use reasonable efforts to repair or replace such

Hardware determined to have a Defect, provided that: (a) the Hardware has been used within normal operating conditions;

(b) the Customer notifies the Gigamon technical support team (**“Technical Support”**) of the suspected Defect during the Hardware Warranty Period; (c) Technical Support validates the Defect; and (d) Customer complies with this Limited Warranty. Gigamon may, at its option, repair or replace any such Hardware with a validated Defect with new or equivalent to-new components or hardware with equivalent fit, form, and function (each a **“Replacement Unit”**). Any Hardware without a validated Defect will be returned to Customer at Customer’s expense. If Gigamon determines that it is not commercially practical to repair or replace Hardware with a validated Defect, it will refund the purchase price received by Gigamon for such Hardware. This Limited Warranty is Gigamon’s sole liability and Customer’s sole and exclusive remedy for any failure of the Product to operate in accordance with the Specifications.

Process: Customer must first contact Technical Support to obtain approval to return Hardware that Customer suspects has a Defect. Following Technical Support’s approval of Customer’s return of such Hardware, Technical Support will provide Customer with a Gigamon Return Materials Approval (**“RMA”**) number that Customer must include when shipping the suspect Hardware back to the location designated by Technical Support. Customer is responsible for shipping the suspect Hardware, in either its original packaging or packaging affording a reasonably equivalent degree of protection, to Gigamon’s designated location. Gigamon will pay the freight related to the return of the suspect Hardware to Gigamon’s designated location. Any Hardware returned to Gigamon will become Gigamon property upon shipment of a Replacement Unit to Customer or its designee.

Within 10 business days of Gigamon's receipt of the Hardware with the suspected Defect, Gigamon will ship a Replacement Unit to Customer. Each Replacement Unit is covered by this Limited Warranty for the longer of (a) the remainder of the original Hardware Warranty Period; or (b) ninety days from the Replacement Unit shipment date. Gigamon will pay the freight associated with the Replacement Unit shipment, but Customer will be responsible for any corresponding customs, taxes, duties, or related fees.

Limited Warranty for Software

During the Software Warranty Period, Gigamon will use reasonable efforts to provide the Customer a correction or workaround for any Defects in the Software provided that: (a) the Defect occurs when the Software is used within normal operating conditions and as permitted in the Gigamon Terms and subject to the other limitations therein and herein; (b) the Customer notifies Technical Support of the suspected Defect during the Software Warranty Period; (c) Technical Support reproduces and validates the Defect; and (d) the Customer complies with this Limited Warranty. If Gigamon determines that it is not commercially practical to repair or replace the Software with a confirmed Defect, it will refund the purchase price received by Gigamon for such Software. This limited warranty is Gigamon's sole liability and Customer's sole and exclusive remedy for any failure of the Product to operate in accordance with the Specifications.

Additional Information

Technical Support Contact Information: For contact details, please visit <http://www.gigamon.com/support/support-and-services/contact-support.html>. This Limited Warranty is non-transferable and only covers Defects. Further, this Limited Warranty is invalid if the factory-applied serial number has been altered or removed from the Product. Gigamon may require Customer to provide proof of purchase by Customer and the applicable shipment date.

DISCLAIMER: EXCEPT AS EXPRESSLY SET FORTH HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND GIGAMON AND ITS LICENSORS DISCLAIM ALL WARRANTIES RELATING TO THE PRODUCTS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE APPLICABLE WARRANTY PERIOD. THE PRODUCTS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HAZARDOUS ENVIRONMENT REQUIRING FAIL-SAFE PERFORMANCE OR OPERATION. THE PRODUCTS ARE NOT FOR USE IN THE OPERATION OF AIRCRAFT NAVIGATION, NUCLEAR

FACILITIES, CRITICAL COMMUNICATION SYSTEMS, WEAPONS SYSTEMS, DIRECT OR INDIRECT LIFE-SUPPORT SYSTEMS, AIR TRAFFIC CONTROL, OR ANY OTHER APPLICATION OR INSTALLATION WHERE FAILURE COULD RESULT IN DEATH, SEVERE PHYSICAL INJURY, OR PROPERTY DAMAGE.

LIMIT OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR: (A) PERSONAL INJURY, DEATH OR

TANGIBLE PROPERTY DAMAGE; (B) MISUSE OR VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS BY THE OTHER PARTY;

(C) PAYMENT OBLIGATIONS FOR PRODUCTS; (D) GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD BY A PARTY, ITS EMPLOYEES OR AGENTS AND/OR (E) AMOUNTS PAYABLE TO THIRD PARTIES UNDER SECTION 14 ("INTELLECTUAL PROPERTY INDEMNIFICATION") OF THE GIGAMON TERMS:

- (I) UNDER NO CIRCUMSTANCES WILL GIGAMON OR ITS LICENSORS OR CUSTOMER BE LIABLE FOR ANY CONSEQUENTIAL,

SPECIAL, INDIRECT, INCIDENTAL, OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, DATA OR INFORMATION, OR BUSINESS INTERRUPTION) ARISING OUT OF OR RELATED TO THIS LIMITED WARRANTY, EVEN IF

SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND

- (II) IN NO EVENT WILL GIGAMON'S OR ITS LICENSOR'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS

LIMITED WARRANTY EXCEED THE FEES PAID BY CUSTOMER FOR THE PURCHASED PRODUCT UNDER THE RELEVANT PURCHASE ORDER(S). Nothing in this Agreement modifies any terms and conditions between the Customer and any prime contractor under which the Gigamon Products were ordered.

Force Majeure. Neither party shall be liable for, nor shall either party be considered in breach of this Limited Warranty due to any failure to perform its obligations under this Agreement (other than its payment obligations) as a result of a cause beyond its control (a "**Force Majeure Event**"), including but not limited to, act of God or public enemy, act of terrorism, act of any military, civil or regulatory authority, change in any law or regulations, fire, flood, earthquake, storm or other like event, disruption or outage of communications, power, utility, labor problem or any other cause, whether similar or dissimilar to any of the foregoing, that could not have been prevented with reasonable care.

Choice of Law: This Limited Warranty is governed by the Federal Laws of the United States.

GIGAMON SUPPORT AND MAINTENANCE AGREEMENT

This Gigamon Support and Maintenance Agreement (“**Support Agreement**”) is between Gigamon Inc. (“**Gigamon**”) and the company or other legal entity (“**Customer**”) that is purchasing support and maintenance services from Gigamon (“**Support Services**”), directly or through an authorized channel partner, for the Products and for the subscription term listed on the applicable purchase order.

1. Support Services.

- a. Generally. If Customer believes a Product is experiencing a Defect, Customer may contact the Gigamon Technical Support team (“**Support Team**”) as specified in <https://www.gigamon.com/support-and-services/contact-support>. After the Support Team has confirmed that the Product is covered by an active Support Agreement, they will use reasonable efforts to address the Defect. The response times for the different levels of Support Services are set forth on Addendum 1.

- b. Hardware. If a Support Team engineer confirms the Customer-reported Defect in a Hardware Product (each such Product, “**Suspect Hardware**”), and approves the RMA before the local cut-off time, then the following process will apply:
 - (i) Return and Replacement (R&R). Unless Customer has purchased a Support Level that includes advance Hardware Replacement, the Suspect Hardware must be returned to Gigamon at the Customer’s cost and expense prior to Gigamon providing a Replacement Product. For all return shipments of Suspect Hardware to Gigamon, Gigamon will pay for freight to the Return Location.. Within 10 business days of receipt of the Suspect Hardware at the Return Location, Gigamon will ship a Replacement Product. Gigamon may ship a Replacement Product with a minimum shipping version of Software and Customer will be responsible for upgrading to the then-current version of the Software for the Replacement Product.

 - (ii) Advance Hardware Replacement (AHR). If Customer purchases a Support Level that includes advance Hardware replacement, Gigamon will send a Replacement Product to Customer prior to receiving the Suspect Hardware. Gigamon will provide (a) next business day delivery of the Advanced Replacement Unit (ARU) to Customer locations in the U.S. and Select Countries; or (b) same-day

shipment of the ARU to Customer for Customer locations in all other countries. For all ARU shipments, Gigamon will pay for freight to Customer's location. Gigamon may ship ARUs with a minimum shipping version of Software and Customer will be responsible for upgrading to the then-current version of the Software for the ARU. Customer must return the Suspect Hardware to the Return Location within thirty (30) days of receiving the ARU unless Gigamon waives this requirement in advance and in writing. Regarding the return shipment of the Suspect Hardware to the Return Location: (i) Gigamon will provide a pre-paid return label if Customer is shipping the Suspect Product from the US, any Select Countries, or an IOR/EOR Countries. Customer will be billed for the then-current published list price of the ARU if Customer fails to return the Suspect Hardware to Gigamon within the specified time frame, or if Gigamon reasonably determines, after receipt of the Suspect Hardware, that the Customer-reported Defect is not covered under this Support Agreement.

- c. Software. Subject to Gigamon's End of Sale/End of Life Policy as summarized in Addendum 2, Customer will be entitled to receive General Availability (GA) Releases, and any updates to GA Releases, such as Maintenance Releases during the subscription term of the Support Services for which Customer has paid. If a Support Team engineer confirms a Customer-reported Defect in Software, Gigamon will use reasonable efforts to make available to Customer a correction or workaround for the Defect, provided that the Defect occurs when the Software is used within normal operating conditions and as permitted in the Gigamon Terms and subject to the other provisions herein.

- d. Exclusions. Gigamon has no obligation under this Support Agreement to provide support or troubleshooting services, and will have no liability, for:
 - (i) any hardware or software purchased from Gigamon or its authorized channel partners for which Support Services has not been purchased;
 - (ii) design, staging, or configuration validation;
 - (iii) support, troubleshooting or configuration assistance for hardware and/or software products not provided by Gigamon; or
 - (iv) support or troubleshooting services in connection with use of the Product or for any Defect in the Product caused by: (A) the improper use, alteration, or damage of the Product by Customer or any third party; (B) modifications to the Product; or (C) third party hardware or software.

- e. Additional Services. If Gigamon performs services at Customer's request beyond the scope of the Support Services, Customer will be billed at Gigamon's then-current charges for such services in accordance with the GSA Schedule Pricelist. Gigamon will be under no obligation to provide any such services.

- 2. No Gaps in Support Services Allowed.** Gaps in coverage of Support Services for Products are not allowed. Therefore, Customers that purchase Support Services after the initial Product purchase or an expiration of prior Support Services will be charged a reinstatement fee equal to the fees to cover all gaps in coverage, in addition to

the renewal of or new Support Services purchased. Fees for gaps in Support Services will be calculated starting (a) for initial Product purchase, on the date of initial Product purchase; or (b) for renewals, on the date the previous Support Agreement expired.

3. No Warranty. EXCEPT AS EXPRESSLY SET FORTH HEREIN THE SUPPORT SERVICES AND REPLACEMENT PRODUCTS ARE PROVIDED “AS-IS” WITHOUT ANY REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESSED, IMPLIED, OR STATUTORY. TO THE EXTENT PERMITTED BY LAW, GIGAMON EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NONINFRINGEMENT. TO THE

EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE APPLICABLE COVERAGE PERIOD.

Limitations of Liability: TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR: (A) PERSONAL INJURY, DEATH OR

TANGIBLE PROPERTY DAMAGE; (B) MISUSE OR VIOLATION OF A PARTY’S INTELLECTUAL PROPERTY RIGHTS BY THE OTHER PARTY;

(C) PAYMENT OBLIGATIONS FOR PRODUCTS; (D) GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD BY A PARTY, ITS EMPLOYEES OR AGENTS AND/OR (E) AMOUNTS PAYABLE TO THIRD PARTIES UNDER SECTION 14 (“INTELLECTUAL PROPERTY INDEMNIFICATION”) OF THE GIGAMON TERMS:

(I) UNDER NO CIRCUMSTANCES WILL GIGAMON OR ITS LICENSORS OR CUSTOMER BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL,

INDIRECT, INCIDENTAL, OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, DATA OR

INFORMATION, OR BUSINESS INTERRUPTION) ARISING OUT OF OR RELATED TO THIS SUPPORT AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND

(II) IN NO EVENT WILL GIGAMON’S OR ITS LICENSOR’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS SUPPORT

AGREEMENT EXCEED THE FEES PAID BY CUSTOMER FOR GIGAMON SUPPORT SERVICES ON THE RELEVANT PURCHASE

ORDER ISSUED UNDER THE IMMIX GSA MAS CONTRACT IN THE TWELVE (12) MONTHS PERIOD BEFORE THE EVENT GIVING RISE TO SUCH LIABILITY Nothing in this Agreement modifies any terms and conditions between the Customer and any prime contractor under which the Gigamon Products were ordered.

4. **Force Majeure.** Neither party shall be liable for, nor shall either party be considered in breach of this Limited Warranty due to any failure to perform its obligations under this Agreement (other than its payment obligations) as a result of a cause beyond its control (a “**Force Majeure Event**”), including but not limited to, act of God or public enemy, act of terrorism, act of any military, civil or regulatory authority, change in any law or regulations, fire, flood, earthquake, storm or other like event, disruption or outage of communications, power, utility, labor problem or any other cause, whether similar or dissimilar to any of the foregoing, that could not have been prevented with reasonable care.

5. **General.** This Support Agreement is governed by the Federal Laws of the United States. This Support Agreement is the entire agreement between Customer and Gigamon and supersedes any other communications with respect to the subject matter of this Support Agreement. Additional or conflicting terms on any purchase order or other document issued by Customer or any authorized channel partner will have no force or effect. Customer’s access and use of the Products is governed by the Gigamon Terms.

6. **Definitions.**
 - a. “**AHR**” means advance Hardware replacement.

 - b. “**ARU**” means an advanced Replacement Product, which is sent to the Customer prior to Gigamon receiving the Suspect Hardware.

 - c. “**CVSS**” means the Common Vulnerability Scoring System published by the Forum of Incident Response and Security Teams (FIRST). Gigamon uses CVSS for guidance on determining the urgency of a response and to assign a Defect priority level.

 - d. “**Defect**” means any verifiable and reproducible failure of the Product to materially conform to the Specifications that is validated by Gigamon, unless such failure is caused by (a) Customer’s failure to implement in a timely manner Software upgrades or updates to the Product made available to Customer by

Gigamon; (b) a Force Majeure Event, (c) acts of government; (d) misuse or abuse, (e) Customer instructions, installation, or set up adjustments; (f) modifications of or to any part of the Product by any party other than Gigamon; (g) accident or damage; or (h) use of the Software other than as permitted in the Gigamon Terms.

- e. **“General Availability Release”** or **“GA Release”** means generally available Software issued concurrently to all Gigamon customers with an active Support Agreement.
- f. **“Gigamon Terms”** means the end user terms and conditions for Gigamon Products to which this Support Agreement is attached as Exhibit B.
- g. **“Hardware”** means the Gigamon-branded hardware products, purchased from Gigamon or its authorized channel partners. For clarity, Software may be included with or embedded in Gigamon Hardware (but is not included within the scope of Gigamon Hardware).
- h. **“Hot Patch”** means corrections provided outside the Maintenance Release update cycle to address Defects in existing Software.
- i. **“IOR/EOR Countries”** means the countries listed at <https://www.gigamon.com/support/warranty/local-service-depotcountries.html>.
- j. **“Maintenance Release”** means Software issued to address a Defect and/or to introduce feature additions.
- k. **“Priority 1 Defect”** means any Defect in the Product that, in a production environment, (a) causes Customer’s network or environment to go down, (b) causes a critical impact to Customer’s business operations, or (c) has a CVSS v3 base score of

8.5 – 10 for any reported security vulnerability.
- l. **“Priority 2 Defect”** means any Defect in the Product that (a) causes Customer’s network or environment to be severely degraded, (b) causes significant aspects of Customer’s business operation to be negatively affected, or (b) has a CVSS v3 score of 4 – 8.4 for any reported security vulnerability.
- m. **“Priority 3 Defect”** means any Defect in the Product that (a) causes operational performance of Customer’s network or environment to be impaired while most business operations remain functional or (b) has a CVSS v3 score of 0 – 3.9 for any reported security vulnerability.

- n. **“Product”** means the Hardware, the Software, or any combination thereof.

- o. **“Replacement Product”** means, at Gigamon’s sole discretion, the same Product model or a product of equivalent fit, form, and function, which is sent to the Customer.

- p. **“Return Location”** means the location specified by Gigamon for Suspect Hardware returns.

- q. **“RMA”** means a Gigamon-authorized return material authorization.

- r. **“Select Countries”** means the countries listed at <https://www.gigamon.com/support/warranty/local-service-depotcountries.html> that are main global stocking reverse logistic depots.

- s. **“Software”** means any object or binary code or firmware, any accompanying Documentation, and any upgrades or updates therefor, that are provided by Gigamon or an authorized channel partner on Gigamon’s behalf and that are either (i) included with or embedded in the Gigamon Hardware, or (ii) provided as a separate Gigamon-branded software product.

- t. **“Specifications”** means the applicable Gigamon-published Product specifications.

- u. **“Support Level”** is the level of Support Services purchased under this Support Addendum as set forth in the applicable purchase order.

ADDENDUM 1

Support Response Times by Support Level

ELITE			
	Priority 1	Priority 2	Priority 3
Initial Response	1 Hour	2 Hours	8 Hours

Status Update Time*	Live on phone until resolved	Daily	Daily
Communication Method	Phone Only	Phone/Email <u>After Hours: Phone only</u>	Phone/Email <u>After hours: Phone only</u>

BASIC or ENHANCED			
	Priority 1	Priority 2	Priority 3
Initial Response	2 Hour	4 Hours	2 Days
Status Update Time*	Live on phone until resolved	Daily	Twice Weekly
Communication Method	Phone Only	Phone/Email	Phone/Email

ADDENDUM 2

6.2 HARDWARE END OF SALE/END OF LIFE SUMMARY FOR CUSTOMERS

Notice that Product will become an End of Sale (EOS) Product. Gigamon will make commercially reasonable efforts to provide a minimum of six (6) months advance notice (by posting on the customer and/or channel partner portals) of the date after which orders for a particular hardware Product (the “**EOS Product**”), will no longer be accepted (“**Last Sale Date**”). During that six month period, Gigamon will continue to accept orders for the EOS Product, as well as for support and maintenance for such EOS Product. Gigamon may, at its discretion, agree to ship EOS Products after the Last Sale Date, but only if the order is accepted by Gigamon prior to the Last Sale Date. The EOS Product will have hardware support available for up to five (5) years following the Last Sale Date.

Support and Maintenance after Last Sale Date. If a customer has an active support and maintenance agreement for the EOS Product as of the Last Sale Date, it will be honored for the duration of the applicable term, subject to the Software Release Policy notes below.

Renewal of Support and Maintenance after Last Sale Date. After the Last Sale Date, customers may renew existing support and maintenance agreements, but the term of those renewals shall not extend beyond the End of Life Date (5 years after Last Sale Date) and are subject to the Software Release Policy notes below.

End of Life/End of Support Date. The date that is 5 years after the Last Sale Date is the End of Life Date (the “**EOL Date**” or “**End of**

Life Date”). On the EOL Date, no support or maintenance of any kind (even for security vulnerabilities) will be available for the Product.

Warranty after Last Sale Date. If a customer has an active warranty applicable to the EOS Product as of the Last Sale Date, it will be honored for the duration of the applicable warranty term, subject to the Software Release Policy notes below.

Software Release Policy Notes.

Subject to the customer having an active support and maintenance agreement as of the Last Sale Date, the customer receives the benefit of all operating system software updates and upgrades for 12 months after the Last Sale Date and must upgrade to the last GA Release provided within that 12 month period (“**Final Release**”). The customer will receive additional Maintenance Releases and support during the lifecycle of the Final Release, for either 12 months from the Final Release general availability date (if the version was a feature release) or 24 months from the Final Release general availability date (if the version was a “Long-Term Support Release” for which Gigamon offers a prolonged engineering and technical support life-cycle). At the expiration of this period, the customer may receive only Hot Patches for P1 defects on the Final Release software on the EOS Product until the earlier of the expiration of the customer’s support contract or the End of Life Date.

No Lapse and Reinstatement of Support and Maintenance Allowed. If a customer’s support and maintenance agreement applicable to the EOS Product has lapsed prior to the Last Sale Date without renewal, it may not be reinstated, and no support or maintenance of any kind will be offered for such product after the Last Sale Date.

EXHIBIT C OPEN SOURCE LICENSES

6.3 <https://www.gigamon.com/content/dam/legal/gigamon-5.9-open-source.pdf>

Hewlett-Packard Company
13600 EDS Drive
Herndon, VA 20171

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Hewlett-Packard Company** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor’s assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor’s assignment in the Manufacturer Specific Terms are hereby superseded.

- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
- v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.

3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

HEWLETT-PACKARD ("HP")

HP LICENSE, WARRANTY AND SUPPORT TERMS

A. HP BASE TERMS

1. DEFINITIONS

- a. *Deliverable* means the tangible work product resulting from the performance of Support, excluding Products and Custom Products.
- b. *Hardware* means computer and related devices and equipment, related documentation, accessories, parts, and upgrades.
- c. *HP Branded* means Products and Support bearing a trademark or service mark of Hewlett-Packard Company or any Hewlett-Packard Company Affiliate.
- d. *Product* means the HP Branded version of Hardware and Software available and including products that are modified, altered, or customized, by HP, to meet Ordering Activity requirements ("Custom Products").
- e. *Software* means machine-readable instructions and data (and copies thereof), and related updates and upgrades, licensed materials, user documentation, user manuals, and operating procedures.
- f. *Software License Information ("SLI")* is license information that is specific to a Software Product. SLI may be found in a file in the Software Product's directory or as information that accompanies the Software Product or in quotations. SLI is available upon request.
- g. *Specification* means technical information about Products published in HP Product manuals, user documentation, and technical data sheets in effect on the date HP or HP Business Partner delivers Products to Ordering Activity.
- h. *Statement of Work* means an executed document so titled that describes the Custom Support to be performed by HP under the Support Terms section.
- i. *Support* means Hardware maintenance and repair, Software maintenance, training, installation and configuration, and other standard support services provided by HP and include "Custom Support" which is any agreed non-standard Support as described in a Statement of Work.
- j. *Transaction Document(s)* means an accepted Ordering Activity order and in relation to that order valid quotations, HP published technical data sheets or service descriptions, HP limited warranty statements, and mutually executed Statement of Work, .
- k. *Version* means a release of Software that contains new features, enhancements, and/or maintenance updates, or for certain Software, a collection of revisions packaged into a single entity and, as such, made available by HP to its customers (also called a "Release").

2. WARRANTY PROVISIONS

- a. **Warranty Statements.** Contractor limited warranty statements for Hardware, Software and Support, as applicable, are contained in their respective sections of these Attachment A terms. The limited warranties in these Attachment A terms are subject to the terms, limitations, and exclusions contained in the limited warranty statement provided for the Product in the country where that Product is located when the warranty claim is made. A different limited warranty statement may apply and be quoted if the Product is purchased as part of a system.
- b. **Transfer.** Warranties are transferable to another party for the remainder of the warranty period subject to Contractors license transfer policies.
- c. **Delivery Date.** Warranties begin on the date of delivery of the Product to Ordering Activity, or for Hardware on the date of installation if installed by Contractor through HP. If Ordering Activity schedules or delays such installation by HP more than thirty (30) days after delivery, Ordering Activity's warranty period will begin on the 31st day after delivery.
- d. **Exclusions.** Contractor is not obligated to provide warranty services or Support for any claims resulting from:
 1. improper site preparation, or site or environmental conditions that do not conform to Contractor's site specifications;
 2. Ordering Activity's non-compliance with Specifications or Transaction Documents;
 3. improper or inadequate maintenance or calibration;

4. Ordering Activity or third-party media, software, interfacing, supplies, or other products;
5. modifications not performed or authorized by Contractor;
6. virus, infection, worm or similar malicious code not introduced by Contractor; or
7. abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, transportation by Ordering Activity, or other causes beyond Contractor's control.

e. Disclaimer. THE WARRANTIES AND ANY ASSOCIATED REMEDIES EXPRESSED OR REFERENCED IN THESE ATTACHMENT A TERMS ARE EXCLUSIVE. NO OTHER WARRANTY, WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED BY CONTRACTOR OR MAY BE INFERRED FROM A COURSE OF DEALING OR USAGE OF TRADE. TO THE EXTENT ALLOWED BY LOCAL LAW CONTRACTOR DISCLAIMS ALL IMPLIED WARRANTIES OR CONDITIONS INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

3. INTELLECTUAL PROPERTY RIGHTS No rights in copyright, patents, trademarks, trade secrets, or other intellectual property are granted by either party to the other except as expressly provided under these Attachment A terms. Ordering Activity will not register or use any mark or internet domain name that contains HP's trademarks (e.g., "HP", "hp" or "Hewlett-Packard").
4. RESTRICTED USE Products, Support, and Deliverables are not specifically designed, manufactured, or intended for (and shall not be used as) parts, components, or assemblies for the planning, construction, maintenance, or direct operation of a nuclear facility. Neither Contractor nor HP shall be liable for use of the Products, Support or Deliverables by Ordering Activity in such a manner or for such purposes.

B. HP HARDWARE TERMS

1. INSTALLATION

If Contractor through HP provides installation services, Ordering Activity will make available facilities that meet HP published site guidelines that will be provided to Ordering Activity upon request. Upon delivery, Ordering Activity will place each item of Hardware in its designated location. Installation by HP is complete when the Hardware passes HP's standard installation and test procedures.

2. HARDWARE LIMITED WARRANTY

Contractor warrants HP Branded Hardware against defects in materials and workmanship under normal use during the warranty period and that it will materially conform to its Specifications for the time specified in the applicable Transaction Documents. HP Branded Hardware may contain used parts that are equivalent to new in performance and reliability and are warranted as new.

3. OPERATION

Contractor does not warrant that the operation of Hardware will be uninterrupted or error free, or that Hardware will operate in Hardware and Software combinations other than as expressly required by Contractor in the Product Specifications or that Hardware will meet requirements specified by Ordering Activity. Ordering Activity may only use firmware embedded in the Hardware to enable the Hardware to function in accordance with its Specifications.

4. REMEDIES

Upon notice of a valid warranty claim during the warranty period and if provided reasonable access to the HP Branded Hardware, Contractor will, at its option, repair a defect in the HP Branded Hardware, or correct a material non-conformance to Specifications, or replace such Hardware with Hardware of equal or better functional performance. If Contractor is unable, within a reasonable time, to complete the repair or correction, or replace such HP Branded Hardware, Ordering Activity will be entitled to a refund of the purchase price paid upon prompt return of such Hardware to Contractor.

C. HP SOFTWARE LICENSE TERMS

1. LICENSE GRANT

Contractor grants Ordering Activity a non-exclusive, non-transferable license to "Use", in object code form, the Version or Release of the HP Branded Software delivered from an Contractor accepted order. For purposes of these Attachment A terms, unless otherwise specified in the SLI, "Use" means to install, store, load, execute, and display one copy of the Software on one device at a time for Ordering Activity's internal business purposes. Ordering Activity's Use of such Software is subject to these license terms, the applicable Use restrictions and authorizations, and applicable licensed locations for the Software specified in SLI (the "Software License"). The usage terms specified in the SLI for HP Branded Software will not be materially more restrictive than the Use defined in this subsection.

2. UPGRADES

Software Versions or maintenance updates, if available, may be ordered separately or may be available through Software Support. Contractor reserves the right to require additional licenses and fees for Software Versions or separately purchased maintenance updates or for Use of the Software in conjunction with upgraded Hardware or Software. When Ordering Activity obtains a license for a new Software Version through Software Support or purchases an upgrade license to a new Version, Ordering Activity's Software License for the earlier Version shall terminate. Software Versions are subject to these Attachment A terms.

3. LICENSE RESTRICTIONS

- a. Use Restrictions. Ordering Activity may not exceed the number of licenses, agents, tiers, nodes, seats, or other Use restrictions or authorizations agreed to and paid for by Ordering Activity. Some Software may require license keys or contain other technical protection measures. Ordering Activity acknowledges that Contractor through HP may monitor Ordering Activity's compliance with Use restrictions and authorizations remotely, or otherwise. Any such monitoring shall be subject to compliance with the Ordering Activity's security procedures (and applicable federal regulations) pertaining to access to government systems and information. If Contractor makes a license management program available which records and reports license usage information, Ordering Activity agrees to appropriately install, configure and execute such license management program beginning no later than one hundred and eighty (180) days from the date it is made available to Ordering Activity and continuing for the period that the software is used.
- b. Copy and Adaptation. Unless otherwise permitted by Contractor, Ordering Activity may only make copies or adaptations of the Software for archival purposes or when copying or adaptation is an essential step in the authorized Use of the Software. If Ordering Activity makes a copy for backup purposes and installs such copy on a backup device, unless otherwise provided in the SLI, Ordering Activity may not operate such backup installation of the Software without paying an additional license fee, except in cases where the original device becomes inoperable. If a copy is activated on a backup device in response to failure of the original device, the Use on the backup device must be discontinued when the original or replacement device becomes operable. Ordering Activity may not copy the Software onto or otherwise Use or make it available on, to, or through any public or external distributed network. Licenses that allow Use over Ordering Activity's intranet require restricted access by authorized users only.
- c. Copyright Notice. Ordering Activity must reproduce all copyright notices that appear in or on the Software (including documentation) on all permitted copies or adaptations. Copies of documentation are limited to internal use.
- d. Designated System. Notwithstanding anything to the contrary herein, the Software License for certain Software, as identified in SLI, is non-transferable and for use only on a computer system owned, controlled, or operated by or solely on behalf of Ordering Activity and may be further identified by Contractor by the combination of a unique number and a specific system type ("Designated System") and such license will terminate in the event of a change in either the system number or system type, an unauthorized relocation, or if the Designated System ceases to be within the possession or control of Ordering Activity.
- e. OS Software. Operating system Software may only be used when operating the associated Hardware in configurations as approved, sold, or subsequently upgraded by Contractor through HP.
- f. Changes. Ordering Activity will not modify, reverse engineer, disassemble, decrypt, decompile, or make derivative works of the Software. Where Ordering Activity has other rights mandated under statute, Ordering Activity will provide Contractor with reasonably detailed information regarding any intended modifications, reverse engineering, disassembly, decryption, or decompilation and the purposes therefore.
- g. Use for Service Provision. Extending the Use of Software to any person or entity other than Ordering Activity as a function of providing services must be authorized in writing by Contractor prior to such use and may require additional licenses and fees.
- h. Consultant Use and Access. Subject to these Attachment A terms, Ordering Activity may permit a consultant or subcontractor to Use Software at the licensed location for the sole purpose of providing services to Ordering Activity.

4. WARRANTY

HP Branded Software will materially conform to its Specifications. If a warranty period is not specified for HP Branded Software, the warranty period will be ninety (90) days from the delivery date.

5. VIRUS WARRANTY

Contractor warrants that any physical media containing HP Branded Software will be shipped free of viruses.

6. WARRANTY LIMITATION

Contractor does not warrant that the operation of Software will be uninterrupted or error free, or that Software will operate in Hardware and Software combinations other than as expressly required by Contractor in the Product Specifications or that Software will meet requirements specified by Ordering Activity.

7. REMEDIES

If notified of a valid warranty claim during the warranty period, Contractor will, at its option, correct the warranty defect for HP Branded Software, or replace such Software. If Contractor is unable, within a reasonable time, to complete the correction, or replace such Software, Ordering Activity will be entitled to a refund of the purchase price paid upon prompt return of such Software to HP.

D. HP SUPPORT TERMS

1. SUPPORT SERVICES

- a. Description of Support. Contractor through HP will deliver Support according to the description of the offering, eligibility requirements, service limitations, and Ordering Activity responsibilities described in the relevant Transaction Documents.

Return to Support. If Ordering Activity allows Support to lapse, Contractor may charge Ordering Activity then-current GSA fees to resume Support or require Ordering Activity to perform certain hardware or software upgrades.

- b. Local Availability. Ordering Activity may order Support from Contractor through HP's current Support offerings. Some offerings, features, and coverage (and related Products) may not be available in all countries or areas. In addition, delivery of Support outside the applicable HP coverage areas may be subject to travel charges, longer response times, reduced restoration or repair commitments, and reduced coverage hours.
- c. Relocation. Relocation of any Products under Support is the responsibility of Ordering Activity, and is subject to local availability as detailed herein. Reasonable advanced notice to Contractor may be required to begin Support for some Products after relocation. For Software Products, any relocation is also subject to the license terms for such Software. Ordering Activity may be required to execute amended or new Transaction Documents as a result of relocation.
- d. Multi-vendor Support. Contractor through HP provides Support for certain non-HP Branded Products. The relevant Transaction Document will specify availability and coverage levels, and governs delivery of multi-vendor Support, whether or not the non-HP Branded Products are under warranty. HP may discontinue Support of non-HP Branded Products if the manufacturer or licensor ceases to provide support for such Products.
- e. Service Providers. Contractor reserves the right and Ordering Activity agrees to Contractor's use of HP-authorized service providers to assist in the delivery of Support.
- f. Modifications. Ordering Activity will allow Contractor through HP, at HP's request and at no additional charge, to modify Products to improve operation, supportability, and reliability, or to meet legal requirements.
- g. Support Warranty. Contractor warrants that it will perform Support using generally recognized commercial practices and standards.
- h. Remedies. Contractor through HP will re-perform Support not performed in accordance with the warranty herein.

2. SITE AND PRODUCT ACCESS

Ordering Activity shall provide Contractor through HP access to the Products covered under Support; and if applicable, adequate working space and facilities within a reasonable distance of the Products; access to and use of information, customer resources, and facilities as reasonably determined necessary by HP to service the Products; and other access requirements described in the relevant Transaction Document. Ordering Activity is responsible for removing any Products ineligible for Support, as advised by HP, to allow HP to perform Support.

3. HARDWARE PRODUCT SUPPORT

- a. Minimum Configuration for Support. Ordering Activity must purchase the same level of Hardware Support and for the same coverage period for: all Products within a minimum supportable system unit (i.e. all components within a server, storage, or network device) to allow for proper execution of standalone and operating system diagnostics for the configuration.
- b. Eligibility. For initial and on-going Support eligibility Ordering Activity must maintain all Hardware Products at the latest HP-specified configuration and revision levels and in HP's reasonable opinion, in good operating condition.
- c. Loaner Units. HP maintains title and Ordering Activity shall have risk of loss or damage for loaner units if provided at HP's discretion as part of Hardware Support or warranty services and such units will be returned to HP without lien or encumbrance at the end of the loaner period.
- d. Maximum Use Limitations. Certain Hardware Products have a maximum usage limit, which is set forth in the manufacturer's operating manual or the technical data sheet. Ordering Activity must operate such Products within the maximum usage limit.
- e. Compatible Cables and Connectors. Ordering Activity will connect Hardware Products covered under Support with cables or connectors (including fiber optics if applicable) that are compatible with the system, according to the manufacturer's operating manual.
- f. Support for Accessories. Contractor through HP may provide Hardware Support for cables, connectors, interfaces, and other accessories if Ordering Activity purchases Support for such accessories at the same Hardware service level purchased for the Products with which they are used.
- g. Consumables. Hardware Support does not include the delivery, return, replacement, or installation of supplies or other consumable items (including, but not limited to, operating supplies, magnetic media, print heads, ribbons, toner, and batteries) unless otherwise stated in a Transaction Document.
- h. Replacement Parts. Parts provided under Hardware Support may be whole unit replacements or be new or functionally equivalent to new in performance and reliability and warranted as new. Replaced parts become the property of HP, unless HP agrees otherwise and pays any applicable charges.

4. SOFTWARE PRODUCT SUPPORT

- a. **Eligibility.** Ordering Activity may purchase available Software Support for HP Branded Software only if Ordering Activity can provide evidence it has rightfully acquired an appropriate HP license for such Software. Contractor through HP will be under no obligation to provide Support due to any alterations or modifications to the Software not authorized by HP or for Software for which Ordering Activity cannot provide a sufficient proof of a valid license. Unless otherwise agreed by HP, HP only provides Support for the current Version and the immediately preceding Version of HP Branded Software, and then only when HP Branded Software is used with hardware or software included in HP-specified configurations at the specified Version level.
- b. **Documentation.** If Ordering Activity purchases a Software Support offering that includes documentation updates, along with the right to copy such updates, Ordering Activity may copy such updates only for Products under such coverage. Copies must include appropriate HP trademark and copyright notices.

5. PROPRIETARY SERVICE TOOLS

Contractor through HP will require Ordering Activity's use of certain hardware and/or software system and network diagnostic and maintenance programs ("Proprietary Service Tools"), as well as certain diagnostic tools that may be included as part of the Ordering Activity's system, for delivery of Support under certain coverage levels. Proprietary Service Tools are and remain the property of HP, are provided "as is," and include, but are not limited to: remote fault management software, network Support tools, Insight Manager, Instant Support, and Instant Support Enterprise Edition (known as "ISEE"). Proprietary Service Tools may reside on the Ordering Activity's systems or sites. Ordering Activity may only use the Proprietary Service Tools during the applicable Support coverage period and only as allowed by HP. Ordering Activity may not sell, transfer, assign, pledge, or in any way encumber or convey the Proprietary Service Tools. Upon termination of Support, Ordering Activity will return the Proprietary Service Tools or allow HP to remove these Proprietary Service Tools. Ordering Activity will also be required to:

- a. allow HP to keep the Proprietary Service Tools resident on Ordering Activity's systems or sites, and assist HP in running them;
- b. install Proprietary Service Tools, including installation of any required updates and patches;
- c. use the electronic data transfer capability to inform HP of events identified by the software;
- d. if required, purchase HP-specified remote connection hardware for systems with remote diagnosis service; and
- e. provide remote connectivity through an approved communications line.

6. ORDERING ACTIVITY RESPONSIBILITIES

- a. **Data Backup.** To reconstruct lost or altered Ordering Activity files, data, or programs, Ordering Activity must maintain a separate backup system or procedure that is not dependent on the Products under Support.
- b. **Temporary Workarounds.** Ordering Activity will implement temporary procedures or workarounds provided by Contractor through HP while HP works on permanent solutions.
- c. **Hazardous Environment.** Ordering Activity will notify Contractor through HP if Ordering Activity uses Products in an environment that poses a potential health or safety hazard to HP employees or subcontractors. HP may require Ordering Activity to maintain such Products under HP supervision and may postpone service until Ordering Activity remedies such hazards.
- d. **Authorized Representative.** Ordering Activity will have a representative present when Contractor through HP provides Support at Ordering Activity's site.
- e. **Product List.** Ordering Activity will create and maintain a list of all Products under Support including: the location of the Products, serial numbers, the HP-designated system identifiers, and coverage levels. Ordering Activity shall keep the list updated during the applicable Support period.

7. ACCESS TO HP SOLUTION CENTER AND IT RESOURCE CENTER

- a. **Designated Callers.** Ordering Activity will identify a reasonable number of callers, as determined by Contractor through HP and Ordering Activity ("Designated Callers"), who may access HP's customer Support call centers ("Solution Centers").
- b. **Qualifications.** Designated Callers must be generally knowledgeable and demonstrate technical aptitude in system administration, system management, and, if applicable, network administration and management and diagnostic testing. Contractor through HP may review and discuss with Ordering Activity any Designated Caller's experience to determine initial eligibility. If issues arise during a call to the Solution Center that, in HP's reasonable opinion, may be a result of a Designated Caller's lack of general experience and training, the Ordering Activity may be required to replace that Designated Caller. All Designated Callers must have the proper system identifier as provided in the Transaction Documents or by HP when Support is initiated. HP Solution Centers may provide support in English or local language(s), or both.
- c. **HP IT Resource Center.** HP IT Resource Center is available via the worldwide web for certain types of Support. Ordering Activity may access specified areas of the HP IT Resource Center. File Transfer Protocol access is required for some electronic services. Ordering

Activity employees who submit HP Solution Center service requests via the HP IT Resource Center must meet the qualifications set forth in sub-section D.7.b above.

- d. Telecommunication Charges. Ordering Activity will pay for its own telecommunication charges associated with using HP IT Resource Center, installing and maintaining ISDN links and Internet connections (or HP-approved alternatives) to the HP Solution Center, or using the Proprietary Service Tools.

E. ADDITIONAL LICENSE AUTHORIZATIONS (For HP ArcSight Software products)

1. PRODUCT USE AUTHORIZATIONS

This section provides Additional License Authorizations for the following HP ArcSight Software products of HP's IT Performance Suite Software:

Products	Products (continued)
HP ArcSight Enterprise Security Manager (ESM)	HP ArcSight Express
HP ArcSight ESM Console	HP ArcSight Monitored Devices
HP ArcSight ESM Viewer	HP ArcSight Monitored Desktops
HP ArcSight ESM Compliance Insight Packages (CIP)	HP ArcSight Monitored Vulnerability Assessment Scans
HP ArcSight ESM Web	HP ArcSight Logger Appliance
HP ArcSight ESM Appliance	HP ArcSight Logger Software
HP ArcSight Standard Connectors	HP ArcSight Logger Compliance Insight Packages (CIP)
HP ArcSight Flex Connector Kit	HP ArcSight Connector Appliance
HP ArcSight IdentityView	HP ArcSight Network Configuration Manager
HP ArcSight Interactive Directory	HP ArcSight Network Configuration Manager Audit Packages
HP ArcSight Pattern Discovery	HP ArcSight Threat Response Manager

2. DEFINITIONS

Term	Definition
<i>Appliance or Appl</i>	means an Instance of software loaded and pre-configured on a Server.
<i>Cold Standby System</i>	means a standby non-production system which is NOT up and running. If the production system breaks down, or needs to be taken out of service, Ordering Activity is required to switch on and start the Cold Standby System in order to take over for the production system.
<i>Connector or Conn</i>	means an integration element to a certain software, Device format or function through use of the HP Software Product.
<i>Core</i>	means a part of a CPU that executes a single stream of compiled instruction code.
<i>CPU</i>	means a system in a single integrated circuit package with one or more discrete processing Cores.
<i>Desktop Device or DT Dev</i>	means a single Device such as a PC, laptop or handheld Device.
<i>Development and Test Systems</i>	means a non-production system to be used for a) developing Ordering Activity add-on applications in order to access the licensed Software b) migration testing c) pre-production staging or d) version upgrades/configurations and transition purposes.
<i>Device or Dev</i>	means an addressable entity, physical or virtual, including but not limited to router, switch, bridge, hub, server, PC, laptops, handheld device or printer that resides within the range defined for interrogation and asset tracking.
<i>Domains or Dom or D</i>	means separately licensed features of HP ArcSight ESM that enables custom data set and fields.
<i>E-LTU and E-Media</i>	means products which are electronically delivered only.
<i>EPS</i>	means events per second.
<i>Flows Per Minute</i>	means flow events per minute (e.g. NetFlow, JFlow, SFlow).
<i>GB</i>	means gigabytes which designates the amount of physical capacity that can be managed.
<i>GB/per day or GB/d</i>	means gigabytes which designates the amount of physical capacity that can be collected during a twenty-four (24) hour period.
<i>High Availability or HA</i>	means Hot Standby System.
<i>Hot Standby System</i>	means a non-production system which is up and running, ready to take over from the production system if the production system breaks down or needs to be taken out of service.
<i>HP ArcSight Documentation</i>	means any written materials regarding the Software specifications, development and test processes, formats, methodologies and practices provided by HP to Ordering Activity.
<i>Implementation or Imp or IMP</i>	means a separate ESM Manager instance; when associated with the number 1 ,means the first Implementation reported against or when with associated with 2+ means additional Implementations reported against.
<i>Instance</i>	means each implementation of the application installed on a Server.
<i>Internal Use</i>	means access and Use of the Software for purposes of supporting the internal operations or functions of Licensee.
<i>LTU</i>	means License To Use .
<i>MA</i>	means a software upgrade to an Appliance.

<i>Monitored Applications or Mon App</i>	means software application from which the Software collects logs.
<i>Monitored Devices or Mon Dev</i>	means a device from which the Software collects logs.
<i>Monitored Desktops</i>	means Desktop Device from which the Software collects logs.
<i>Nodes or Nd</i>	means a collection of network interfaces that the Software can pragmatically associate together.
<i>Non-Production or NP</i>	means internal use which is limited to Use on Development and Test Systems and Hot and/or Cold Standby Systems. This NP license requires the previous purchase of the equivalent or greater production licenses. Support for NP licenses is restricted to the period of and current status of the equivalent production license.
<i>NOLONG</i>	means that this Appliance does not include HP ArcSight Logger.
<i>Server or SVR</i>	means any designated computer system in which an Instance or Instances of the Software is installed.
<i>Use</i>	means to install, store, load, execute and display once copy of the Software.
<i>User</i>	means a user whose Use is restricted to the type of Software that is being licensed.
<i>Virtual Machine(s) or VM(s)</i>	means a computer that does not physically exist but is simulated by another computer.

3. SOFTWARE SPECIFIC LICENSE TERMS

For Software Products with software specific license terms, these Attachment A terms are described below. Software Products covered by this additional license authorization section and not covered in this section do not have software specific license terms.

HP ArcSight Enterprise Services Manager

HP ArcSight Enterprise Services Manager is licensed per Core.

HP ArcSight Express

HP ArcSight Express is sold as an appliance only and the applicable limits are the number of Devices and EPS licensed, as described in the corresponding price list SKUs.

HP ArcSight Logger

HP ArcSight Logger is licensed per GB/per day and when licensed with an Appliance is also limited to a maximum number of Devices and total searchable space measured by GB per instance as indicated in the product description for the specific HP ArcSight Logger license.

HP ArcSight Logger Device licenses count toward each unique hardware device (VM, server, firewall, etc) that creates an event. Devices feeding into an aggregator such as a syslog server are still counted uniquely. Multiple sources on the same Device (for instance AV, SQL Server and Windows ® on the same server) count as a single Device. Ordering Activity is not authorized to Use the Software on more than two (2) computer chips that contain a collection of one or more processing Cores.

HP ArcSight Monitored Devices

HP ArcSight Monitored Devices is licensed per Monitored Devices solely (a) to collect data from the aggregate number of network, security and server Devices, and (b) solely with the aggregate number of Users per application.

HP ArcSight Monitored Desktops

HP ArcSight Monitored Desktops is licensed per Desktop Device.

HP ArcSight Monitored Vulnerability Assessment Scans

HP ArcSight Monitored Vulnerability Assessment Scan is licensed per Node.

HP ArcSight Flex Connector Kit

HP ArcSight Flex Connector Kit is a Software development product (“SDK”) that allows Ordering Activity to Use the Software’s object code to configure a Connector and can only be used to monitor Devices not supported by HP ArcSight Software (“Flex Connector”). Flex Connectors shall be used solely with the HP ArcSight Software and use with any other software or other technology for any purpose including, without limitation, Devive monitoring, is expressly prohibited. Ordering Activity’s license to use the Flex Connectors expires upon termination or expiration of Ordering Activity’s HP ArcSight Software license.

HP ArcSight Standard Connectors

HP ArcSight Standard Connectors are software modules provided as part of HP ArcSight ESM, Express or Logger licenses. Standard Connectors are designed to fetch data from Servers or other event sources in customer environments, normalize that data, and feed it into additional HP ArcSight products. Connectors may not be used to feed event data into any non-HP ArcSight products.

4. ADDITIONAL LICENSE TERMS

- a. Software contains Software and associated Specifications licensed from third parties that are confidential to, and trade secrets of, such parties. Ordering Activity will not take any action other than to Use it as authorized under this Attachment A as part of the Software Products and will not disclose it to third parties.
- b. Ordering Activity shall install and use the Software as authorized in this Attachment A only as a complete product and may not use portions of such Software on a standalone basis separate from the complete Software unless expressly authorized in the Transaction Documents, Specifications or an applicable Agreement.
- c. Ordering Activity shall not access the embedded Oracle ® database or any other third-party product embedded in the H_P ArcSight Software with applications other than the HP ArcSight Software.
- d. Ordering Activity will not (and will not instruct, authorize or allow any third party to) publicly disseminate any performance information or analysis (including, without limitation, benchmarks and performance tests) from any source relating to the Software.
- e. Ordering Activity acknowledges and agrees that the Software (i) accumulates and organizes security information that, in the wrong hands, could serve as a blueprint of Ordering Activity's security system and its vulnerabilities and that any disclosure of such information could result in substantial harm to Ordering Activity and others. Ordering Activity will be solely responsible for any disclosure of such information; and (ii) is designed to give the user emergency administrator-level control over Ordering Activity's computer network, with the ability to dynamically reconfigure or disable network infrastructure devices, change network topology and exclude network access. Such networking products should be used only by users who have been trained in the use of such networking products. Improper use of such networking products may result in significant network damage or downtime. Ordering Activity assumes all risks associated with the operation of such networking products.
- f. Ordering Activity shall not create, modify, change the behavior of, classes, interfaces, or sub packages that are in any way identified as "java", "javax", "sun" or similar convention as specified by Oracle ® in any naming convention designation. In the event that End User creates an additional API(s) which: (a) extends the functionality of a Java Environment; and (b) is exposed to third party software developers for the purpose of developing additional software which invokes such additional API, End User must promptly publish broadly an accurate specification for such API for free use by all developers. Oracle and Java Trademarks and Logos. Ordering Activity may not use an Oracle America, Inc. name, trademark, service mark, logo or icon. Licensee acknowledges that Oracle owns the Java trademark and all Java-related trademarks, logos and icons including the Coffee Cup and Duke ("Java Marks") and agrees to: (a) comply with the Java Trademark Guidelines at <http://www.oracle.com/html/3party.html>; (b) not to do anything harmful to or inconsistent with Oracle's rights in the Java Marks; and (c) assist Oracle in protecting those rights, including assigning to Oracle any rights acquired by End User in any Java Mark. Source Code. Software may contain source code that, unless expressly licensed for other purposes, is provided solely for reference purposes pursuant to the terms of your license. Source code may not be redistributed unless expressly provided for in the terms of your license. Third Party Code. Additional copyright notices or license terms applicable to portions of the Software, if any, will be provided to the contracting officer for review, prior to incorporation in the contract.
- g. Ordering Activities of HP ArcSight Logger must enable and utilize the archiving functionality offered in the product to back up data on a daily basis. In the unanticipated event in which data corruption occurs, the backup data will help Ordering Activity to restore the data for search and reporting purposes.

Contractor disclaims responsibility for any data loss in the event of a hardware failure. Hardware must be continually monitored to identify imminent disk failures as early as possible and to allow for appropriate measures to be taken to minimize the likelihood of data loss.

F. HP RETURN TO SUPPORT POLICY

The HP Return to Support Policy covers HP and HP-supported hardware and software products.

If Ordering Activity has let its support contract or warranty coverage lapse on any given product, Ordering Activity may resume support coverage if Ordering Activity purchases a one year or greater support contract and either pay the "Return to Support" fees due, or meet certain eligibility criteria for HP Hardware Support. Certain hardware or software upgrades may also be required in order for products to meet support eligibility requirements.

Return to support policies are required in the information technology industry.

Return to Support for Hardware Products

Before a qualified hardware product can be added to a new or existing support contract, the product must meet all eligibility criteria.

HP Hardware Support Eligibility Criteria

Products meet all eligibility criteria if they:

- a. have not reached the end of their support life (EOSL) as designated by HP and will not reach EOSL during the agreement term, and
- b. are at the latest HP-specified configuration and revision levels, and
- c. are in good operating condition.

Eligibility will be established by HP by one of the following: a) Ordering Activity pays a Return to Support fee, or b) Ordering Activity requests an RTS inspection which may be subject to HP time and material charges.

If HP determines that a product is not in good operating condition or at the current specified configuration and revision level, Ordering Activity must agree to have HP restore the product to good operating condition to the latest HP-specified configuration and revision levels and pay all associated HP time and material charges. Ordering Activity must also agree to place the product under a support contract once the product is again eligible for HP support.

Return to Support for Software Products

Ordering Activity may resume HP Software Support upon payment of the following fees:

- (i) the annual support fee for the new coverage term, and
- (ii) one hundred percent (100%) of all annual support fees that would have been paid if software support coverage had not been terminated.

Prior to any software product being added to a support contract, Ordering Activity must present a valid original license or proof of software license documentation for each software product for which support coverage is being requested.

Ordering Activity must also be running a supported version of software to qualify for support coverage. As part of this service, Ordering Activity will receive the latest revision of the software products on the support contract.

The following is not included in the Return to Support fee:

- Delivery of prior software releases
- Delivery of any hardcopy documentation
- Software update installation assistance

Return to Support Fees

The Return to Support fee equals Contractor's current monthly support GSA charge for each product Ordering Activity wishes to add to its support contract, multiplied by the number of months the product has been without support coverage, less any applicable discounts Ordering Activity is entitled to receive.

The total Return to Support fees due will be billed in the first month of Ordering Activity's new support contract.

Your HP representative will be able to discuss this service and the availability of other services you may require.

Hexagon Manufacturing Intelligence, Inc.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached Hexagon Manufacturing Intelligence, Inc. (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.

2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law, including but not limited to GSAR 552.212-4 Contract Terms and Conditions-Commercial Items. To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.2I, as may be revised from time to time.

 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.238-81, Modifications (Federal Supply Schedule) (April 2014) (Alternate I – JUN 2016) and (Alternate II – JUN 2016), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.

 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.

 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the Federal laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar Federal laws or regulations are enacted, to the extent allowed by Federal law, they will not apply to this Rider or the underlying Schedule Contract.

 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.

- g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
- h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under Federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and

conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any.

- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that immixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the

Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained

Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a Federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
- 3. Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

SOFTWARE LICENSE AGREEMENT

(Americas and AP – Jan 2021 Version)

1 **INTRODUCTION.** Except for Section 5.3, all references to Hexagon Manufacturing Intelligence, Inc. (“Hexagon”) in this Agreement should be read as “Contractor (immixTechnology, Inc.), acting as an independent contractor on behalf of its supplier Hexagon.” Hexagon shall be considered a third-party beneficiary of this Agreement. The terms and conditions of this Agreement apply to the licensing of Software and the provision of Maintenance and Services by Hexagon to Customer hereunder. From time to time, Software licenses, Maintenance and/or Services may be acquired under this Agreement by Customer’s submittal and Hexagon’s acceptance of an Order Schedule incorporating this Agreement. Each mutually agreed upon Order Schedule shall become an integral part of this Agreement.

2 DEFINITIONS.

- 2.1 “**Authorized Users**” means Customer’s: (i) employees, and (ii) contractors working on Customer’s premises who are not competitors of Hexagon and have agreed in writing to use restrictions and confidentiality obligations no less restrictive than those set forth in this Agreement. Customer shall at all times be responsible for its Authorized Users’ compliance with this Agreement.
- 2.2 “**Customer or Ordering Activity**” means the entity identified in the Hexagon quotation or Order Schedule as the “Customer”. Customers or Ordering Activities are those agencies and activities authorized under 552.238-113 Scope of Contract (Eligible Ordering Activities) and GSA Order OGP 4800.2I, to use GSA Multiple Award Schedules . More specifically, Customers or Ordering Activities that are Executive agencies (as defined in FAR Subpart 2.1), including non-appropriated fund activities as prescribed in 41 CFR 101-26.000, are referred to as “**Executive Customers**”, while all other Customers or Ordering Activities are referred to as “**Other Customers**”.
- 2.3 “**Customer Computer**” means the Customer computer specifically identified in the Order Schedule. The Customer Computer runs the license manager program accompanying the Software and is sometimes referred to herein as the “license server”.
- 2.4 “**Documentation**” means the user manuals and other user documentation, in any form and on any media, provided by Hexagon for use with the Software.
- 2.5 “**Installation Site**” means the Customer facility identified in the Order Schedule where the Customer Computer resides.
- 2.6 “**Lease License**” means a license of short-term duration (often a year). The license term of any Lease License acquired by Customer shall be set forth in the Order Schedule, and if not specified shall be one (1) year, subject to termination as set forth in this Agreement (and auto-renewal, if any, as set forth in the Order Schedule). Unless otherwise stated in the Order Schedule, for a Lease License, Maintenance during the license term is included in the Lease License fee.
- 2.7 “**Maintenance**” means software maintenance and technical support as described in Section 6.1 and 6.2 of this Agreement.
- 2.8 “**Hexagon**” means Hexagon.Software Corporation or one of its subsidiaries from whom the Software, Maintenance and/or Services is ordered.
- 2.9 “**Order Schedule**” means an Hexagon Order Schedule (or other order document) agreed to by Customer and Hexagon, and which incorporates this Agreement, by reference or otherwise, and sets forth, among other things, the Software, Maintenance and/or Services ordered.
- 2.10 “**Paid-up License**” means a license which has a term beginning on the date specified in the Order Schedule and continuing perpetually, subject to termination as set forth in this Agreement.
- 2.11 “**Services**” means training or other services, if any, purchased under an Order Schedule.
- 2.12 “**Software**” means the executable code version of the computer program(s) specified in the applicable Order Schedule, including any error corrections, updates and subsequent releases thereto furnished by Hexagon to Customer under Maintenance.

Additional terms with specific meanings are defined near where they first appear in this Agreement.

3 **GRANT OF LICENSE.** Upon Hexagon’s acceptance of Customer’s Order Schedule, Hexagon grants to Customer, and Customer accepts from Hexagon, a non-exclusive, non-transferable license to use the Software specified in the Order

Schedule (together with accompanying Documentation, if any), solely for Customer's own internal data processing purposes and subject to the terms and conditions of this Agreement. This license shall be in accordance with the limitations of the license type(s) and in the quantities specified in the Order Schedule. The license term(s) (duration) shall be as specified in the Order Schedule, subject to early termination as set forth in this Agreement.

4 LICENSE TYPES.

- 4.1 **Nodelock License:** If Customer acquires a **Nodelock License**, installation and use of the Software will be limited to a single Customer Computer. The number of target host-ID's may not exceed the number of Nodelock License(s) purchased. Software licensed under a Nodelock License may only be accessed or used by Authorized Users who are at the Installation Site.
- 4.2 **Named User License:** If Customer acquires a **Named User License**, access to and use of the Software will be limited to Authorized Users who are designated as named users. Each named user designated must be an individual who at all times during the designation meets the definition of an "Authorized User". Group or shared logins are strictly prohibited. In addition to any other restrictions set forth herein, unless otherwise specified in the Order Schedule, Software licensed under a Named User License may only be accessed or used in the country where the Installation Site is located.
- 4.3 **Network (Floating) Licenses:** If Customer acquires a **Local Network License, Country Network License, or Regional Network License**, access to and use of the Software will be controlled by a single Customer Computer (license server) and Authorized Users may access and use the Software on client machines served by the license server, provided that access to and use of the Software at any one time does not exceed the number of floating licenses (or "licensing units" in the case of an Hexagon "Licensing System" – see Section 4.3.1) acquired by Customer for that Software. In addition, Customer shall strictly comply with the following restrictions: (i) if Customer acquires a **Local Network License** (also sometimes referred to simply as a **Network License**), the Software may only be accessed or used by Authorized Users at the Installation Site (where the Customer Computer (license server) resides) solely on Customer machines located at the Installation Site and served by the license server, or if Customer's local area network is shared by a grouping of Customer facilities, then by Authorized Users at any Customer facility within ten (10) miles of the Installation Site solely on Customer machines located at such Customer facilities and served by the license server; (ii) if Customer acquires a **Country Network License**, the Software may only be accessed or used by Authorized Users at Customer facilities located within the country where the Installation Site is located solely on Customer machines located at such Customer facilities and served by the license server; or (iii) if Customer acquires a **Regional Network License** in the Hexagon Americas Region, the Software may only be accessed or used by Authorized Users at Customer facilities located in North, Central and South America, solely on Customer machines located at such Customer facilities and served by the license server, except as prohibited by United States and other applicable laws and regulations, including without limitation, those regarding export and import of software and technical data. Any network (floating) license acquired by Customer hereunder shall be deemed a Local Network License, unless it is expressly identified in the Order Schedule as a "Country" or "Regional" Network License.
- 4.3.1 **Licensing System-Specific Terms:** If Customer licenses Software under Hexagon's **MasterKey Plus™** licensing system, **MSC One** licensing system, or other similar Hexagon licensing system (each a "Licensing System") then in addition to the above terms in Section 4.3, the following Licensing System-specific terms apply: Under a Licensing System, Customer purchases "licensing units" (e.g., "**MasterKey Plus Tokens**" under the MasterKey Plus licensing system, "**MSC One Tokens**" under the MSC One licensing system). A specified number of licensing units are required to run each instance of each Software licensed under the Licensing System. Licensing units acquired under one Licensing System cannot be used to run Software under another Licensing System (e.g., MasterKey Plus Tokens may not be used to run software available under the MSC One licensing system). Software licensed under a particular Licensing System is strictly limited to the software identified in the applicable Licensing System attachment (sometimes referred to as a "Table") attached to or incorporated into the Order Schedule or this Agreement. Customer shall not be entitled to use any other software programs under the Licensing System, whether or not such other software programs are marketed by Hexagon under the same Licensing System.

- 4.4 **Evaluation License:** If Software is licensed to Customer under an **Evaluation License**, Customer agrees that, NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE IN THIS AGREEMENT: (i) Customer may use such Software for evaluation, non-production purposes only; (ii) the term (duration) of the evaluation license shall be as set forth in the Order Schedule but shall in no event exceed ninety (90) days; (iii) such Software is provided on an "as is" basis, with no warranties of any kind; and (iv) Hexagon has no obligation to provide any Maintenance for such Software.
- 4.5 **Product-Specific Terms.** Certain Software products and/or licensing systems may be subject to additional product-specific terms, as set forth in the applicable Hexagon schedules, exhibits and/or addenda to Order Schedule(s) or this Agreement.

5 RESTRICTIONS AND PROTECTIONS.

- 5.1 Customer acknowledges that the Software and its structure, organization and source code constitute and contain valuable confidential information and trade secrets of Hexagon (and its suppliers, as applicable). Customer shall not: (i) reverse-engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software; (ii) modify, adapt, alter, translate or create derivative works from the Software or Documentation; (iii) sublicense, rent, loan, lease, sell, or otherwise transfer all or part of the Software or Documentation to any third party except as expressly permitted under this Agreement;
- (iv) allow any third party to access or use the Software on a service bureau, application service provider, time-sharing, or similar basis, or allow anyone other than Authorized Users within the scope of the license, directly or indirectly (whether through human, machine, or other intermediaries) submit jobs to or use the Software; (v) access or use the Software to provide data processing or batch processing services to others; (vi) disable, modify or circumvent the license management system or security mechanism provided with the Software, or take any other steps to avoid or defeat the license management system or security mechanisms provided with the Software; (vii) remove, alter, or obscure any proprietary notices, labels, or marks from the Software or Documentation; (viii) disclose results of any Software test or benchmark without Hexagon's prior written consent; (ix) use the Software to develop software applications for use by or distribution to any third party; (x) use the Software or its output for the purposes of developing a competitive product or service; (xi) disclose, display, or permit access to or use of the Software or Documentation by persons other than Authorized Users using the Software and Documentation within the scope of the license acquired by Customer; or (xii) otherwise use or copy the Software or Documentation except as expressly permitted under this Agreement. Customer agrees to notify Hexagon immediately of any unauthorized access to or use of the Software. Customer shall at all times be responsible for its Authorized Users' compliance with this Agreement.
- 5.2 Customer may copy the Software as reasonably required in conjunction with permitted use under this Agreement and for backup purposes. Any such copies made by Customer must reproduce and include, in exact form, all proprietary rights notices. Customer shall maintain records of the location of each copy of the Software, and the location and identity of the computers on which the Software is installed.
- 5.3 The Software and Documentation, and all worldwide intellectual property rights therein, are and remain the property of Hexagon and/or its suppliers. Nothing in this Agreement will be deemed to convey to Customer any title, ownership, or other intellectual property rights in or related to the Software or Documentation, and Customer agrees not to assert any such rights. All rights in and to the Software and Documentation not expressly granted to Customer in this Agreement are reserved by Hexagon (and/or its suppliers, as applicable).
- 5.4 Upon fifteen (15) days written notice, Hexagon or its authorized agent may audit Customer's installation and use of the Software and Documentation. Customer shall cooperate with Hexagon's audit and provide reasonable assistance and access to information. In addition to any other remedies available to Hexagon, Customer agrees to pay within thirty (30) days of written notification any fees and charges applicable to Customer's use of the Software and Documentation in excess of Customer's license rights. Hexagon shall not be responsible for Customer's costs incurred in cooperating with the audit. Hexagon shall comply with Customer's reasonable security procedures while on Customer's facilities.
- 5.5 Except as required by applicable law, or as necessary for Customer to enforce or exercise its rights hereunder, Customer shall not disclose the terms of any Order Schedule or Hexagon's pricing in connection with this Agreement to any third-

party.

5.6 Reserved.

6 MAINTENANCE.

- 6.1 If Customer acquires Maintenance for Software, then during the applicable Maintenance term and subject to the terms and conditions of this Agreement, Hexagon will provide Customer with error corrections, updates and subsequent releases of the Software (and updated Documentation), if any, that Hexagon, in its sole discretion, makes generally available at no additional charge to its end-users who are on Maintenance. Maintenance shall not entitle Customer to any release, option, module, or future product, which Hexagon, in its sole discretion, licenses separately or offers for an additional fee. Hexagon is under no obligation to develop any future programs or functionality. Hexagon reserves the right to discontinue, in whole or in part, and at any time, offering Maintenance for any Software or platform.
- 6.2 Further, if Customer acquires Maintenance for Software, then during the applicable Maintenance term and subject to the terms and conditions of this Agreement, Hexagon will provide Customer with technical support in English via telephone, email and any other means Hexagon, in its sole discretion, makes generally available from time to time under technical support. Technical support is provided only for the then-current major release and the immediately preceding major release (as designated by Hexagon) of the Software, running unaltered, and on an appropriate hardware and operating system configuration, as specified in the applicable Documentation. Technical support is limited to reasonable assistance in response to Customer's technical support inquiries regarding: (i) Software installation, (ii) Software errors, and (iii) general questions regarding the usage of Software features. Technical support does not include training, consulting, on-site services, or the provision of engineering judgment for a customer-specific simulation. Upon request, Customer shall provide information required by Hexagon to verify that Customer and the specific license are entitled to technical support.
- 6.3 If Customer acquires Maintenance, the term for Maintenance shall be as set forth in the Order Schedule. Unless otherwise agreed to by the parties in writing: (i) annual Maintenance renewal, if any, will be at Hexagon's then-current Maintenance prices, and (ii) to purchase any Maintenance, Customer is required to purchase Maintenance for all Software Customer has licensed from Hexagon. In the event that Maintenance expires or was not originally purchased, upon the commencement of Maintenance a reinstatement fee will be assessed in accordance with Hexagon's then current policies. In addition to any other remedies available to Hexagon, Hexagon reserves the right to refuse to provide Maintenance if Customer is overdue on any payment obligation under this Agreement.
- 6.4 Hexagon's sole and exclusive liability, and Customer's sole and exclusive remedy, for a failure to meet any obligation under Maintenance and failure to cure such deficiency after thirty (30) days written notice will be that Customer may terminate Maintenance for the Software involved and receive a pro-rata return of any Maintenance fees paid for the remaining unused Maintenance period of the Software involved.

7 ORDER AND DELIVERY.

- 7.1 Reserved.
- 7.2 Hexagon reserves the right to deliver the Software and Documentation either by making them available to Customer for electronic download or by physical delivery. Where the Software and Documentation are made available to Customer for electronic download, Hexagon is under no further delivery obligation under the Order Schedule, whether physical or otherwise. For electronic delivery, the delivery date shall be when the Software is made available to Customer electronically.
- 7.3 Where physical shipment is made, Hexagon shall ship (or cause to be shipped) to the physical delivery address set forth in the Order Schedule one copy of the Software media and one set of Documentation (in the form generally available, as determined by Hexagon) for each Software licensed under the Order Schedule. Delivery terms are F.O.B. Destination. Unless otherwise agreed to in writing by the parties, Hexagon will determine the method of shipment. Additional media

and shipping and handling fee may apply to physical shipments.

- 7.4 To the extent available, additional Documentation may be purchased at Hexagon's then-current prices.

8 INSTALLATION AND AUTHORIZATION CODES.

- 8.1 Customer may install the Software only on the applicable Customer Computer identified in the Order Schedule, provided however that in the case of a Network (Floating) License or a Named User License Customer may install the Software on client machines within the scope of the license type acquired, as long as use of the Software is controlled by the Customer Computer (license server). Customer shall be responsible for installation of the Software and all associated costs. Customer may only relocate the Customer Computer with Hexagon's prior written consent.
- 8.2 THE SOFTWARE MAY REQUIRE AUTHORIZATION CODES (also known as "LICENSE KEYS") TO RUN. ANY SUCH REQUIRED AUTHORIZATION CODES WILL BE ISSUED IN ACCORDANCE WITH Hexagon'S THEN- CURRENT LICENSE MANAGEMENT POLICY. Customer shall provide Hexagon with the host identifier and any other information reasonably required by Hexagon for each Customer Computer to permit Hexagon to generate the necessary authorization codes.
- 8.3 Hexagon reserves the right to charge Hexagon's then-current standard hardware transfer fees whenever Hexagon, in response to a Customer request, generates and delivers to Customer replacement authorization codes due to a change to the Customer Computer. Prior to any such delivery, Customer shall complete, sign and submit Hexagon's standard hardware transfer request form. Hexagon has no obligation to provide replacement authorization codes for changes to the Customer Computer if: (i) the applicable Software is not covered by Maintenance; (ii) the Software is not supported on the proposed substitute computer; or (iii) if Customer is in breach of this Agreement.
- 8.4 Anti-Piracy. Software piracy is illegal and Hexagon and its affiliates reserve the right to take all legal steps to stop piracy of their products and pursue those who take part in these activities. As part of these anti-piracy efforts, the Software may contain security mechanisms intended to detect the installation or use of unauthorized copies of the Software, and collect and transmit data relating to such copies (including data relating to use of such copies, the machines on which such copies are accessed or used, and network configuration data), to Hexagon and/or its affiliates, and/or their agents, contractors, suppliers, successors and assigns. By installing or using the Software, Customer agrees to such detection, collection and transmission, as well as to the use of such data, for the purposes of identifying unauthorized usage and protecting and enforcing intellectual property rights.

9 FEES, TAXES AND PAYMENT.

- 9.1 The terms in this Section 9.1 apply when Customer orders directly from Hexagon: Customer shall pay in full all fees payable under this Agreement, including all fees under any and all Order Schedules. All fees will be due and payable in the currency identified in the applicable Order Schedule, and if no currency is identified, then in the currency quoted and/or invoiced by Hexagon. Fees are due and payable as set forth in the Order Schedule
- 9.2 Hexagon shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 552.212-4(k).

10 WARRANTY; LIMITATIONS.

- 10.1 Hexagon warrants that the Software when used as permitted under this Agreement and in accordance with the instructions in the Documentation (including use on a computer hardware and operating system platform supported by Hexagon) will conform substantially to its associated Documentation for a period of ninety (90) days from the delivery date. Any claim by Customer of a breach of this warranty must be made in writing and within ninety (90) days of the delivery date.
- 10.2 EXCEPT AS EXPRESSLY STATED IN SECTION 10.1 OF THIS AGREEMENT AND TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, NEITHER Hexagon NOR ANY SUPPLIER OF Hexagon MAKE ANY WARRANTIES OF ANY KIND, WITH

RESPECT TO THE SOFTWARE, DOCUMENTATION, MAINTENANCE, OR SERVICES PROVIDED UNDER THIS AGREEMENT. Hexagon FURTHER EXPRESSLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON- INFRINGEMENT. Hexagon MAKES NO WARRANTY THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

- 10.3 Customer's exclusive remedy, and Hexagon's sole liability, for Software that does not meet the warranty set forth in Section 10.1 will be, at Hexagon's option: (i) to correct the non-conforming Software within a reasonable time so that it conforms to the warranty; (ii) to replace the non-conforming Software with another Hexagon software offering of substantially similar functionality; or (iii) if neither (i) or (ii) is commercially feasible, permit Customer to terminate the license as to the non-conforming Software and refund of the license fees and associated, unused Maintenance fees actually paid to Hexagon for the non-conforming Software. Hexagon will have no responsibility or obligation under the foregoing warranty or otherwise with respect to: (a) any Software that has been modified by anyone other than Hexagon, or (b) failure of the Software caused by Customer or its agents through accident, abuse or misapplication.

11 LIMITATION OF LIABILITY.

- 11.1 Customer acknowledges that the Software along with the Documentation, Maintenance and any Services provided hereunder are only an aid in Customer's development of Customer's products and is not intended as a substitute for sound engineering judgment. Hexagon will not be liable in any manner whatsoever for the data output obtained through use of the Software. Customer assumes full responsibility for its use of the Software and its use of the data output obtained from such use of the Software.
- 11.2 NEITHER Hexagon NOR ITS SUPPLIERS WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES (INCLUDING LOST DATA, SAVINGS, PROFITS OR REVENUES) ARISING FROM OR RELATED TO THIS AGREEMENT, EVEN IF Hexagon HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR CLAIM. Hexagon'S TOTAL CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL BE LIMITED TO AND WILL IN NO EVENT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER TO Hexagon UNDER THIS AGREEMENT FOR THE SPECIFIC ITEM THAT IS THE SUBJECT MATTER OF, OR IS DIRECTLY RELATED TO THE CAUSE OF ACTION. CUSTOMER ACKNOWLEDGES THAT THE FEES

REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT Hexagon WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON LIABILITY. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN SIX YEARS AFTER THE CAUSE OF ACTION ACCRUED. TO THE EXTENT ANY APPLICABLE LAW LIMITS THE SCOPE OF THIS SECTION 11.2, THIS AGREEMENT SHALL BE INTERPRETED TO CONFORM TO SUCH LAW IN A MANNER THAT LIMITS Hexagon'S LIABILITY TO THE FULLEST EXTENT ALLOWED BY LAW. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO

(1) FOR FRAUD; OR (2) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

12 TERM AND TERMINATION.

- 12.1 This Agreement will remain in full force until terminated in accordance with this Agreement. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Hexagon's shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.
- 12.2 Upon termination of this Agreement, all licenses and service rights granted to Customer under this Agreement will automatically terminate, and Customer agrees to immediately cease using all Software and Documentation and promptly uninstall and erase all Software and Documentation (and related authorization codes) from all Customer computers. Within fifteen (15) days following termination, Customer shall return or destroy (at Hexagon's sole option) all originals and copies of the Software (and related authorization codes) and Documentation, and upon Hexagon's request, certify in writing that it has returned or destroyed (as applicable) all such originals and copies. Termination of this Agreement shall not relieve Customer from any obligation accrued on or before the date of termination. Provisions that survive termination of this Agreement include those in Sections 5, 6.4, 9, 10, 11, 12, 13, 14, 15, 16 and others which by their nature are intended to survive.

13 INTELLECTUAL PROPERTY INDEMNITY.

- 13.1 Hexagon shall, at its own expense and subject to the terms of this Agreement indemnify, have the right to intervene to defend and hold Customer harmless from and against any claim(s) brought against Customer by a third party alleging that the Software or any portion thereof as furnished under this Agreement and used within the scope of the licenses granted to Customer infringes any copyrights or U.S. patents, or violates any trade secrets; provided that Customer gives Hexagon:
 - (i) prompt written notice of such claim; (ii) assistance and information reasonably requested by Hexagon; and (iii) to the extent permitted by applicable law, the sole authority to defend and settle such claim. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.
- 13.2 Notwithstanding the provision of Section 13.1, Hexagon shall have no liability for any infringement arising from: (i) the integration or combination of the Software together with other software, materials or products not integrated or combined by Hexagon, if the infringement would have been avoided in the absence of such integration or combination; (ii) the use of other than a current unaltered release of the Software available from Hexagon, if the infringement would have been avoided by the use of the then-current release; (iii) modifications to the Software that were not authorized by Hexagon or were undertaken at the request of or direction of Customer; or (iv) Customer's use of the Software in a manner that does not comply with this Agreement.
- 13.3 If the Software becomes, or in Hexagon's opinion is likely to become, the subject of an infringement claim, Hexagon may, at its sole option and expense, either: (i) substitute non-infringing software of substantially similar functionality; (ii) modify

the infringing Software so that it no longer infringes but remains substantially similar in functionality; (iii) obtain for Customer, at Hexagon's expense, the right to continue use of such Software; or (iv) if none of the foregoing is commercially feasible, Hexagon will take back the Software involved, and grant Customer a refund or credit for the unused portion of the license fee and associated unused Maintenance fees actually paid to Hexagon for the Software involved, using a straight line amortization over sixty (60) months from initial delivery for Paid-up License(s). THIS SECTION 13 STATES Hexagon'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS AND ACTIONS.

- 14 **EXPORT.** Customer acknowledges that this Agreement and all orders hereunder are subject to United States laws and regulations relating to export controls. Customer shall comply with all applicable United States export control laws and regulations, and further agrees not to export or re-export the Software, Documentation, technical data or other deliverables provided under this Agreement without: (i) Hexagon's prior written approval and (ii) obtaining, at Customer's sole cost and expense, any required authorization from the applicable governmental authority as may be required by law. Upon Hexagon's request, Customer shall promptly cooperate with Hexagon and provide Hexagon with any end-user certificates, affidavits, or other documents reasonably requested by Hexagon in connection with the exporting or importing of any products or services under this Agreement. Customer shall further comply with all applicable foreign export control laws and regulations to the extent not in conflict with applicable United States laws and regulations.
- 15 **U.S. GOVERNMENT CONTRACTS.** The Software provided under this Agreement is commercial computer software as described in the Department of Defense Federal Acquisition Regulation Supplement (DFARS) 252.227-7014(a)(1) and Federal Acquisition Regulation (FAR) 2.101 (commercial item). If acquired by or on behalf of any agency or authorized governmental entity, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in FAR 12.212, Computer Software.

16 MISCELLANEOUS.

- 16.1 This Agreement, together with any schedules, exhibits and addenda attached hereto, and any and all mutually agreed upon Order Schedule(s) incorporating (by reference or otherwise) this Agreement, constitute the complete agreement between Hexagon and Customer with respect to the subject matter hereof, and this agreement supersedes all prior or contemporaneous agreements or representations, written or oral, with respect to the subject matter. If Customer issues a purchase order or other instrument covering the Software, Maintenance, and/or Services provided under this Agreement, it is expressly agreed that the terms and conditions of this Agreement supersede any different, conflicting or additional terms and conditions in such purchase order or other customer-issued instrument. This Agreement may not be modified except in a writing signed by the authorized representatives of the parties.
- 16.2 The Software may be accompanied by or contain certain third party software, including open source software (collectively, "Third Party Software"), for which Hexagon is required to pass-through to its licensees certain additional terms and conditions and/or notices. Such required Third Party Software terms and conditions and/or notices are provided at <http://www.Hexagonsoftware.com/thirdpartysoftware> or any other successor site designated by Hexagon. Nothing herein shall bind the Customer to any Third Party Software terms unless the terms are provided for review and agreed to in writing by all parties. Hardcopies of the Third Party Software terms and conditions may be printed from the foregoing site. THIRD PARTY SOFTWARE IS PROVIDED "AS-IS," WITHOUT WARRANTIES OR LIABILITY OF ANY KIND BY Hexagon.
- 16.3 This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. However, Customer may not assign or transfer, by operation of law or otherwise, this Agreement (or any of the licenses or other rights or obligations hereunder), without Hexagon's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be void. Hexagon may subcontract a service, or any part of it, to subcontractors selected by Hexagon, provided Hexagon will remain responsible to Customer for such subcontractor's performance in accordance with this Agreement.
- 16.4 If any provision of this Agreement is invalid, the parties agree that such invalidity will not affect the validity of the remaining portions of this Agreement. The parties further agree to substitute a valid provision for the invalid provision which most closely approximates the intent and economic effect of the invalid provision.
- 16.5 Ambiguities, inconsistencies, or conflicts in this Agreement, will not be strictly construed against the drafter of this

Agreement; rather, they will be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the parties at the time of contracting. The section headings in this Agreement are for convenience only and will not be of any effect in constructing the meaning of the Sections.

- 16.6 Except for the making of payment under this Agreement, in accordance with FAR 552.212-4(f), neither party will be held liable or responsible for delay or failure to perform any of such party's obligations under this Agreement occasioned by any cause beyond its reasonable control, including but not limited to war; terrorist acts; civil disturbance; fire; flood; earthquake; acts or defaults of common carriers; governmental laws, acts, regulations, embargoes or orders; or any other cause, contingency or circumstance not subject to such party's reasonable control. The affected party will resume full performance of interrupted obligations as soon as practicable upon cessation of intervening causes.
- 16.7 Notices permitted or required under this Agreement shall be in writing and delivered personally (including courier service), by certified or registered mail, return receipt requested, or by confirmed facsimile transmission. Notices shall be effective upon receipt. If notice is sent to Hexagon, it shall be directed to **Attn: Legal Department**.
- 16.8 Customer acknowledges and agrees that any and all consulting services performed or to be performed by Hexagon for Customer are independent of Customer's purchase and use of the Software licenses. Customer further agrees that payment under this Agreement for items purchased hereunder is in no way dependent or in any other way associated with the commencement, completion or delivery of consulting services.
- 16.9 Signed copies of Order Schedules and related forms provided via facsimile or otherwise will be deemed binding to the same extent as original documents. The English language version of this Agreement is legally binding in case of any inconsistencies between the English version and any translations.
- 17 **SOFTWARE MIGRATION OR UPGRADE.** If a Software license is migrated or upgraded, the old license is deemed to have automatically terminated and Customer no longer has any right to use the terminated license.

MasterKey Plus Addendum

The terms and conditions of this MasterKey Plus Addendum (“Terms”) apply when Customer licenses Software under Hexagon’s **MasterKey Plus™** licensing system. These Terms are in addition to, and not in lieu of, the terms and conditions of the Hexagon software license agreement (and any amendments thereto) entered into by Hexagon and Customer (the “Agreement”). In the event of a conflict between these Terms and terms and conditions of the Agreement, these Terms shall prevail with respect to Software licensed by Customer under the MasterKey Plus licensing system. Unless otherwise defined in this Addendum, capitalized terms shall have the same meaning as in the Agreement.

MasterKey Plus Licensing System. MasterKey Plus is a flexible licensing system under which Customer may use multiple software products by purchasing licensing units known as MasterKey Plus Tokens (hereinafter, “Tokens”). A specified number of Tokens is required to run each floating license of software licensed under MasterKey Plus. The specified number of Tokens is “checked out” from Customer’s pool of Tokens when each floating license of software is executed and returned to Customer’s Token-pool after usage. Token requirements are set forth in the applicable MasterKey Plus Table.

Licensed Software. Software licensed by Customer under the MasterKey Plus is strictly limited to: (i) the “Base Products” identified in the applicable MasterKey Plus Table; and (ii) any “Optional Product(s)” separately licensed by Customer under the MasterKey Plus licensing system for an additional fee, as specified in the applicable order documentation.

Base Products. By purchasing Tokens under MasterKey Plus, Customer licenses the Software identified in the applicable MasterKey Plus Table under “Base Products”. Access to and use of a Base Product at any moment in time will be limited by the number of Tokens then available for check-out in Customer’s Token-pool.

Example: If each floating license of Base Product “A” checks out 50 Tokens, and at a given time 250 Tokens are available for check-out, then Customer can run up to 5 floating licenses of Base Product “A”.

Optional Products. The purchasing of Tokens does not result in any license with respect to Optional Products. Customer may, subject to availability, purchase a license to use Optional Product(s) within the MasterKey Plus licensing environment (i.e., with Customer’s Token-pool). The license fees (and any associated Maintenance fees) for any licensed Optional Product(s) will be as set forth in the applicable order documentation. Payment of the license and Maintenance fees for Optional Products does not entitle Customer to additional Tokens. Optional Products may be available for licensing under “Token-Based” and/or “Seat Based” models, each of which is described below.

1. **“Token-Based” Model.** If an Optional Product is licensed under a “Token-Based” model, then the “quantity” for that Optional Product as set forth in the applicable order document shall reflect the number of Tokens enabled for use of that Optional Product, and access to and use of each such licensed Optional Product at any moment in time will be limited by the number of enabled Tokens then available for check-out. The licensing (enablement) of each Optional Product requires payment of additional fees. To license any Optional Product under the “Token-Based” model, Customer is required to pay a license (enablement) fee for all Tokens in the Customer Token-pool. No partial enablement of the Token-pool permitted.
2. **“Seat-Based” Model.** If an Optional Product is licensed under a “Seat-Based” model (formerly sometimes referred to as “Premium Option”), then the “quantity” for that Optional Product as set forth in the applicable order document shall reflect the number of floating license(s) (or “seat(s)”) acquired for that Optional Product, with each such floating license requiring a designated number of Tokens to run. Access and use of an Optional Product licensed under the Seat-Based model at any moment in time will be limited by both the number of seats acquired for that Optional Product and the number of Tokens then available for check-out.

Hexagon reserves the right to: (i) discontinue, in whole or in part, and at any time, offering Maintenance for any Software; or (ii) change, at any time and without notice, the list of products made available for future licensing under MasterKey Plus. Some products and modules have dependencies and prerequisites. For avoidance of doubt, all restrictions and limitations in the Agreement shall apply, including without limitation, restrictions on authorized users, usage, the license term, and the geographical access limitations on network (floating) licenses. All references in this Addendum to “purchase” of Tokens or software shall mean purchase of a license to use software. Software is licensed, not sold.

SimManager License Management (Rev. June 2012)

As a server/client application that enables users to manage simulation data and to execute remote processes on external compute resources, a typical implementation of SimManager will require multiple license types in operation. Your order schedule documents the licenses that apply to your installation. This document provides a description of the various component license types. There are four types of licenses that are applicable to SimManager:

- SimManager Portal License
- SimManager User License
- Add On Module License
- Concurrent Process License

SimManager Portal License

A SimManager Portal refers to a single logical instance of SimManager with a unique URL address, dedicated database instance, security layer, and portal configuration. A single SimManager Portal may be supported by either a single web application server or a cluster of web application servers in a load-balanced/high-availability configuration. In the latter case, the SimManager server software will be installed on each of the web application servers (see Note below). A Portal License is required to operate a single SimManager Portal in either case.

Note: Customers are only required to purchase a single Portal License to operate a single SimManager Portal in a clustered environment. However, it is required that Portal Licenses are used for each SimManager server that is installed in a clustered environment. The additional Portal Licenses that are to be used exclusively for the servers in the clustered environment supporting the original, single portal can be obtained at no additional charge from Hexagon upon request through your Hexagon account manager. Please consult with your account manager to request adequate licenses to run SimManager in your particular environment.

Additional and separate SimManager Portals (with its own URL, dedicated database instance, security layer, and portal configuration) require a separate Portal License purchase, even if located in the same facility or on the same hardware.

In the case of multi-site configuration of a single SimManager Portal, the second, third, etc., instance of the same SimManager Portal will also require a separate Portal License purchase.

SimManager User Licenses

SimManager supports two different user license schemes, referred here as "Named User License Model" or a "Network Client License Model (legacy)". The following sections describe the two different models.

Network Client License Model (Legacy)"

The Network Client License Model is a legacy model used primarily to support installations that are being upgraded from SimManager R3.x and for large environments (100+ users) under special approval. The following provides a description of the Client Access license used in a "Network Client License"-based implementation.

A Client Access license (sometimes referred to as concurrent or floating) allows multiple users to utilize the same license, but not simultaneously. When a user logs into SimManager, a Client Access license is checked out from the license server. When the user logs out, or when the Web server terminates its session due to inactivity, the Client Access license is released and is available for use by another user. The maximum number of users who can log into the SimManager portal simultaneously is equivalent to the total number of SimManager Client Access licenses.

Note: The network Client Access license authorizes a maximum number of simultaneous or concurrent users, which is equivalent to the number of Client Access licenses. An authorized user is permitted to login and run multiple sessions of SimManager, however, each session will consume an additional Client Access license. When individual users consume multiple licenses, it may result in denied access to other users if all licenses have been consumed.

Installation

During the installation process of SimManager, you will be presented the option to select either a "Named User License Model" or a "Network Client License Model (legacy)". To use the "Network Client License Model", this option must be selected during installation. Refer to the SimManager Installation Guide and the SimManager Administration Guide for more information.

Named User Licenses

The following provides a description of the various user license types for a "Named User"-based implementation:

1. A SimManager Full Client license for each user who will be creating data and executing actions within SimManager
2. A SimManager Limited Client license for each user who will be viewing/accessing data within SimManager

SimManager Full Client License

A Full Client License enables a user in SimManager complete access to data/actions. The user privileges can be further controlled by the authorization layer within SimManager based on the user's role and access to projects. Each user activated by the SimManager administrator will consume one license, independently of how the user is logged in and how many sessions the user has open (e.g. from the web client or other thick client). The license will only be released when the user is made inactive by the SimManager administrator. Even if the user logs out of SimManager, the license will NOT be released.

SimManager Limited Client License

A Limited Client License enables a user in SimManager read-only access to the data and only limited actions in the system (e.g. change password, search). The user privileges can be further controlled by the authorization layer within SimManager based on the user's role and access to projects. Each user activated by the SimManager administrator will consume one license, independently of how the user is logged in and how many sessions the user has open (e.g. from the web client or other thick client). The license will only be released when the user is made inactive by the SimManager administrator. Even if the user logs out of SimManager, the license will NOT be released.

Active vs. Inactive Users

Within the Administration Workspace of SimManager, the system administration can assign either a Full Client License or a Limited Client License to each user. In addition, each user can be given the status of Active "true" (Active) or Active "false" (Inactive). Only active users in the system will be assigned an actual user license based on their assigned license type, Full Client or Limited Client. Additionally, only the maximum number of available licenses of either license type can be assigned to users. For example, if there are 20 users registered in SimManager and there are 5 Full Client Licenses and 5 Limited Client Licenses, then there can only be 5 Active Full Client users and 5 Active Limited Client users. All other attempts to assign the other 10 users an Active status will fail, until one of the 5 Active Full or 5 Active Limited clients are made Inactive.

Additionally, there is a minimum of one (1) required SuperUser in the system. By default, "SimMan", is the SuperUser defined in the out of the box configuration, but this user can be replaced by another designated SuperUser and "SimMan" can be made Inactive, thus releasing its Full Client License.

During initial setup of SimManager and the assignment of Active status and the License Type to each user, the "License Checked Out" status may indicate "false" to a user who has been assigned both Active status and a specific license type. If this is the case, the user has been assigned a license but it has not been checked out from the license server yet and only upon login by the user, will the "License Checked Out" status change from "false" to "true". When the user logs out, the "License Checked Out" status will remain "true", indicating a license remains checked out and allocated to that user. The license will only be released if the user is made Inactive or the SimManager server is shut down.

Installation

During the installation process of SimManager, you will be presented the option to select either a "Named User License Model" or a "Network Client License Model (legacy)". For both production and development instances of SimManager you will select "Named User License Model". After installation is complete, the users can then be administered from the SimManager web user interface. Refer to the SimManager Installation Guide and to the SimManager Administration Guide for more information.

Add-on Module Licensing

SimManager offers additional add-on modules for use with SimManager, which provide access to features not required by every SimManager user. These modules are separately licensed within SimManager, which are separately purchased for use with a SimManager portal. Add-On Modules can be accessed by either a "Named User License Model" or a "Network Client License Model (legacy)", but Add-On Modules are named user license only. In order for a user to have access to a module, they will need to be granted access to the module via a Module Administrative action. When the user is assigned to the module, a license will be checked out for that user granting them permission to access the module. When the user is removed, the license will be available to be assigned to another user.

Two examples of add-on modules available as of the date of this document are given below.

Report Generator

The Report generates formal reports in HTML, PDF, PowerPoint or Word format from SimManager-stored objects. Reports may be saved as templates which can be auto-executed as part of a multi-step process.

Simulation Generator

The Simulation Generator is used to define the assembly of load case-specific simulations. An analyst can build up FE models based on a flexible definition of the structure of models, load cases, assembly, analysis, and post-processing methods. Any number of analysis runs can be started at once after changing one or more sub-models.

SimManager Development Portal Package

The Development Portal Package is to be used for development and testing of a SimManager Portal in a non-production environment. The Development Portal Package consists of Portal and Concurrent Process licenses with client access controlled by Full Client and Limited Client licenses, as described under "Named User Licenses."

All licenses must be established on a non-production license server separate from the production license server. The Development Portal Package licenses cannot be used or combined with standard licenses that are being used for a production SimManager Portal.

Note: A Development Portal Package may be required for each stage of a non-production SimManager Portal. Some companies may have a multi-stage development environment that includes development, test and pre-production prior to enabling SimManager in production. Each stage of SimManager prior to production may require a separate Development Portal Package if it is to be run simultaneously with other non-production versions of SimManager. Additionally, each developer of a SimManager Portal may require a Development Portal Package. Please consult with your account manager to appropriately plan the required number of Developer Portal Packages.

SimManager Concurrent Process License

A Concurrent Process License enables the execution of remote, concurrent processes from SimManager. The running of these jobs is controlled through a SimManager queuing interface. Remote jobs may be executed by a component called Action Runner that provides the communication to and from SimManager or by directly queuing jobs on remote compute resources. While users in SimManager can initiate an unlimited number of requests, only a controlled amount of remote processes can execute (run) at any given point in time. The following remote process will check out a concurrent process license:

- Assemble SimActivity delivered as part of the product
- Solve SimActivity delivered as part of the product
- PostProcess SimActivity delivered as part of the product
- Remote Actions generated by Custom Action Builder
- Remote Actions that are registered by the Customer that were not part of the delivered product. These may include, but not limited to
 - Remote Data enrichments scripts
 - Remote Template actions
 - Custom SimActivities that run remote
- In future, other specific remote actions or processes maybe licensed as SimManager Concurrent Process Licnese

If the maximum number of processes has reached the limit, the next remote process is "queued" internal to SimManager. SimManager will periodically check the remote process that are executing. When the count of executing processes drops below the maximum allowed, the next process in the queue will be executed. The internal SimManager queue will follow a first in, first out (FIFO) queue model.

The above actions should be configured in conjunction with a queue (or multiple queues) that manage how many “jobs” can be run concurrently. This can be controlled at deployment time by an appropriate setup of the job-submission system that defines the number of queues as Concurrent Process licenses are available.

Third Party Software

The SimManager software may be accompanied by or contain certain third party software, including open source software (collectively, “Third Party Software”), for which Hexagon is required to pass-through to its licensees certain additional terms and conditions and/or notices. Such required Third Party Software terms and conditions and/or notices are provided at <http://www.Hexagonsoftware.com/thirdpartysoftware> or any other successor site designated by Hexagon. Nothing herein shall bind the Customer to any Third Party Software terms unless the terms are provided for review and agreed to in writing by all parties. Hardcopies of the Third Party Software terms and conditions may be printed from the foregoing site. THIRD PARTY SOFTWARE IS PROVIDED "AS-IS," WITHOUT WARRANTIES OR LIABILITY OF ANY KIND BY Hexagon.

ImmixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached Infor (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ)), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has

not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.

- v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

INFOR

INFOR LICENSE, WARRANTY AND SUPPORT TERMS

1. **License Grant.** Ordering Activity shall only be granted a personal, non-exclusive, nontransferable, limited license (without the right to sublease or sublicense) to access and use the Subscription Services and Subscription Products in an environment hosted by Infor for Ordering Activity's own, internal computing operations during the Subscription Term. Any rights not expressly granted in the End User Agreement are expressly reserved. Absent Infor's prior consent, only the Ordering Activity entity who is a party to the End User Agreement is granted rights hereunder, and only persons who are either employees or authorized individual contractors of such Ordering Activity entity are permitted to access and use the Subscription Services and Subscription Products on behalf of such Ordering Activity entity. Ordering Activity may make a reasonable number of copies of the Documentation for the Subscription Products for its internal use in accordance with the terms of the End User Agreement. Ordering Activity will agree that it must reproduce the unaltered Intellectual Property Rights notice(s) in any full or partial copies that Ordering Activity makes of the Documentation.
2. **Ownership.** Ordering Activity shall acknowledge that Infor retains all right, title and interest in the Subscription Products, Subscription Services and Documentation.
3. **Support Services.**
 - (a) **Support Services.** Infor will (a) provide Ordering Activity with access (via the Internet, telephone or other means established by Infor) to Infor's support helpline, (b) install, when and if generally available, Updates; and (c) use reasonable efforts to correct or circumvent any material deviation between the then-current, general release version of the Subscription Product and its Documentation (the foregoing referred to collectively as "Support").
 - (b) **Third Party Products.** With respect to Third Party Products, Infor's provision of Support will be limited to providing Ordering Activity with the support that the Third Party Licensor provides to Infor for such Third Party Products.
 - (c) **Restrictions.** Ordering Activity shall agree to provide Infor with access to such facilities and equipment as are reasonably necessary for Infor to perform its obligations hereunder, including remote access to any of Ordering Activity's equipment.
 - (d) **Application Upgrades.** Infor reserves the right to retire and stop providing Support for older versions of the Subscription Products as newer versions become generally available and eligible for Support.
4. **Subscription Services.** Infor will (i) provide the application hosting environment, including the hardware, equipment, and systems software configuration on which Infor supports use of the Subscription Products and Subscription Services, on servers located at a facility selected by Infor, and (ii) be responsible for maintaining connectivity from its network to the Internet which is capable of servicing the relevant Internet traffic to and from the hosted environment.
5. **Conditions on Providing Subscription Services.** Ordering Activity shall agree that (i) Ordering Activity is responsible for maintaining its own Authorized User UserIDs and passwords, which can be managed through the Subscription Product interface, (ii) Ordering Activity is responsible for all uses and activities undertaken with UserIDs registered on its account, (iii) Ordering Activity is responsible for maintaining the confidentiality of Ordering Activity's UserIDs and passwords and shall cause its Authorized Users to maintain the confidentiality of their UserIDs and passwords, (iv) Ordering Activity agrees to immediately notify Infor of any unauthorized use of Ordering Activity's account of which Ordering Activity becomes aware, (v) Ordering Activity is responsible for providing connectivity to the Internet for itself and its Authorized Users, (vi) Ordering Activity is responsible for ensuring that latency and available bandwidth from the user's desktop to Infor's hosted routers is adequate to meet Ordering Activity's desired level of performance; (vii) if Ordering Activity requires a VPN or private network connection to the Subscription Services, Ordering Activity is responsible for all costs associated with any specialized network connectivity required by Ordering Activity, and (viii) Infor has no obligation to correct a problem caused by Ordering Activity's negligence, Ordering Activity's equipment malfunction or other causes beyond the control of Infor.
6. **Reserved.**

7. **Security Policies and Safeguards.** Ordering Activity shall agree that the following terms are sufficient for the protection of Ordering Activity Data and Personal Information.

- (a) **Security Policies and Safeguards.** Infor will establish and maintain administrative, technical, and physical safeguards designed to protect against the destruction, loss, unauthorized access or alteration of Ordering Activity Data and Personal Information in the possession or under the control of Infor or to which Infor has access in performance of Subscription Services, which are: (i) no less rigorous than those maintained by Infor for its own information of a similar nature; (ii) no less rigorous than generally accepted industry standards; and (iii) required by applicable laws. The security procedures and safeguards implemented and maintained by Infor pursuant to this Section shall include, without limitation:
- (i) User identification and access controls designed to limit access to Ordering Activity Data to authorized users;
 - (ii) the use of appropriate procedures and technical controls regulating data entering Infor's network from any external source;
 - (iii) the use of encryption techniques when Ordering Activity Data is transmitted or transferred into or out of the hosted environment;
 - (iv) physical security measures, including without limitation securing Ordering Activity Data within a secure facility where only authorized personnel and agents will have physical access to Ordering Activity Data;
 - (v) operational measures, including without limitation IT Service Management (ITSM) processes designed to ensure the correct and secure operations of information processing activities;
 - (vi) periodic employee training regarding the security programs referenced in this Section; and
 - (vii) periodic testing of the systems and procedures outlined in this Section.

As used herein, "Personal Information" means information provided to Infor by or at the direction of Ordering Activity, or to which access was provided to Infor in the course of Infor's performance under this Agreement that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses and other unique identifiers); or (ii) can be used to authenticate an individual (including, without limitation, employee identification numbers, government issued identification numbers, passwords or PINs, financial account numbers, credit report information, biometric or health data, answers to security questions and other personal identifiers). Personal Information shall include any non-public personal information regarding any individual that is subject to applicable national, state, regional, and/or local laws and regulations governing the privacy, security, confidentiality and protection of nonpublic personal information.

- (b) **Review of Controls.** Once in each 12 month period during the Subscription Term, Infor shall, at its cost and expense, engage a duly qualified independent auditor to conduct a review of the design and operating effectiveness of Infor's defined control objectives and control activities in connection with the Subscription Services. Infor shall cause such auditor to prepare a report in accordance with the American Institute of Certified Public Accountants Statement on Standards for Attestation Engagements No. 16 (SSAE 16) or an equivalent standard, which may include ISAE 3402 (the "Audit Report"). Ordering Activity shall have the right to request and receive a copy of the Audit Report and Ordering Activity may share a copy of such Audit Report with its auditors and regulators, provided that, such Audit Report shall be Infor's Confidential Information. Such audit shall be conducted subject to applicable Government security requirements.
- (c) **Security Incident Response.** In the event that Infor becomes aware that the security of any Ordering Activity Data or Personal Information has been compromised, or that such Ordering Activity Data or Personal Information has been or is reasonably expected to be subject to a use or disclosure not authorized by this Agreement (an "Information Security Incident"), Infor shall: (i) promptly (and in any event within 24 hours of becoming aware of such Information Security Incident), notify Ordering Activity, in writing, of the occurrence of such Information Security Incident; (ii) investigate such Information Security Incident and conduct a reasonable analysis of the cause(s) of such Information Security Incident; (iii) provide periodic updates of any ongoing investigation to Ordering Activity; (iv) develop and implement an appropriate plan to remediate the cause of such Information Security Incident to the extent such cause is within Infor's control; and (v) cooperate with Ordering Activity's reasonable investigation or Ordering Activity's efforts to comply with any notification or other regulatory requirements applicable to such Information Security Incident.

8. **Restrictions.** Ordering Activity shall agree that (i) Ordering Activity's use of the Subscription Products is subject to any User Restrictions specified in the Government Purchase Order, (ii) Ordering Activity's access to the Subscription Products shall be limited to the rights granted herein, (iii) in no event shall Ordering Activity access the Subscription Products on any environment outside Infor's hosted environment, and (iv) in no event shall Ordering Activity physically or personally possess or control the Subscription Products or any related software code. Ordering Activity shall agree not to: (i) modify, decompile, disassemble, or reverse engineer the Subscription Products or attempt to identify, access or discover any source code therein; (ii) use the Subscription Products to provide service bureau data processing services or to otherwise provide data processing services to third parties; (iii) sell, lease, license, sublicense, copy, market or distribute the Products without Infor's express written consent, (iv) remove or alter any Intellectual Property Rights notice(s) embedded in the Subscription Products or that Infor otherwise provides with the Subscription Services, or (v) allow the Subscription Products to be used by, or disclose all or any part of the Subscription Products to, any person except Ordering Activity and its Authorized Users.

9. **Export Control Compliance and Compliance with Laws.** Ordering Activity shall acknowledge and agree that all U.S. export control laws and other applicable export and import laws govern its use of the Subscription Products and Ordering

Activity shall agree that it will neither export or reexport, directly or indirectly, the Subscription Products, nor any direct product thereof in violation of such laws, or use the Subscription Products for any purpose prohibited by such laws. Ordering Activity shall agree to comply with all laws, rules and regulations applicable to the use of the Subscription Products and Subscription Services including, without limitation, by not submitting any Ordering Activity data that is illegal, defamatory, or that infringes any third party proprietary rights.

10. **Reserved.**

11. **Reserved.**

12. **Nonassignment.** Ordering Activity shall not be permitted to assign or otherwise transfer any of its rights or obligations related to the Subscription Products or Subscription Services, whether by law or otherwise, and any attempt at such assignment will be void without the prior written consent of

Infor.

13. **Warranties.**

(a) Limited Subscription Product Warranty. For a period of ninety (90) days after the date of the applicable Order for the Subscription Products, the Subscription Products will operate without a Documented Defect. The sole obligation of Contractor with respect to a breach of the foregoing warranty shall be, in its sole discretion, to repair or replace the Subscription Product giving rise to the breach of warranty. If Contractor is unable to repair or replace such Subscription Product within a reasonable period of time, then, subject to the applicable limitations of liability herein, Ordering Activity may pursue its remedy at law to recover direct damages resulting from the breach of the warranty. The remedy in this section is exclusive and in lieu of all other remedies, and represent the sole obligations of Contractor, for a breach of the foregoing warranty.

Ordering Activity must provide notice to Contractor of any warranty claim within the warranty period. If an alleged breach of warranty concerns a Subscription Product from a third party that is subject to a more limited warranty (from such third party) than specified herein, Contractor's obligations hereunder will be further limited accordingly.

(b) Malicious Code. Contractor represents that it has used commercially reasonable best efforts utilizing generally accepted industry tools and practices to provide Subscription Products that do not contain any "time bombs," "worms," "viruses," "Trojan horses," "protect codes," "data destruct keys," or other programming devices that are intended to access, modify, delete, damage, deactivate or disable the Subscription Services ("Malicious Code"). Ordering Activity agrees that Ordering Activity's sole remedy for breach of this representation is for Contractor to take action immediately to investigate, identify and remove such Malicious Code from the Subscription Product.

(c) Limited Services Warranty and Remedy for Breach. For the Subscription Term specified in the applicable Order and any renewal thereof, the Subscription Services rendered under such Order will be performed with commercially reasonable care and skill. The hosted environment will also be available at all times throughout the Subscription Term, subject to the exceptions and allowances described in the "Availability" section of the applicable Services Level Description attached to the Order. The level of unavailability shall not exceed one half of one percent (.5%) per month, excluding scheduled maintenance ("Down Time Warranty"). In the event of a breach of the foregoing warranty Contractor shall apply service level credits based on the actual availability measure for the applicable period as follows:

<u>Availability</u>	<u>Service Level Credit</u>
99.500% or greater	No Service Level Credit
99.499% - 99.000%	5% of the monthly prorated subscription fee
98.999% - 98.500%	15% of the monthly prorated subscription fee
98.499% - 95.000%	25% of the monthly prorated subscription fee

Below 95.000%	35% of the monthly prorated subscription fee
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Service level credits for Subscription Fees paid on an annual or quarterly basis shall be based on a monthly equivalent fee. For example, a 5% service level credit on an annual subscription fee shall be 5% of 1/12 of the annual fee. Service level credits shall be applied to Ordering Activity's next invoice or, if Ordering Activity has paid the final invoice under the

Agreement, service level credits shall be paid to Ordering Activity within thirty (30) calendar days following the determination that the credit is due. The service level credit is the exclusive remedy and is in lieu of all other remedies for breach of the Down Time Warranty.

(d) Disclaimer of Warranty. Ordering Activity shall agree to a disclaimer covering Infor stating that, OTHER THAN THE LIMITED WARRANTIES SET FORTH ABOVE, CONTRACTOR AND ITS LICENSORS (i) MAKE NO OTHER WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH REGARD TO THE SUBSCRIPTION PRODUCTS, SUBSCRIPTION SERVICES, ORDER FORM OR END USER AGREEMENT, IN WHOLE OR PART, (ii) EXPLICITLY DISCLAIM WITHOUT LIMITATION, ALL WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE, AND (iii) DO NOT WARRANT THAT THE SUBSCRIPTION PRODUCTS OR SUBSCRIPTION SERVICES, IN WHOLE OR IN PART, WILL BE ERROR FREE, OPERATE

WITHOUT INTERRUPTION OR MEET THE ORDERING ACTIVITY'S REQUIREMENTS.

Ordering Activity shall further agree that Contractor and its Licensors will have no obligation under this section to the extent that any alleged breach of warranty is caused by any modification of the Subscription Software.

14. HIGH RISK ACTIVITIES. ORDERING ACTIVITY WILL AGREE THAT THE SUBSCRIPTION PRODUCTS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE AS ON-LINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR AIRCRAFT COMMUNICATION SYSTEMS, MASS TRANSIT, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF THE SUBSCRIPTION PRODUCTS COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE ("HIGH RISK ACTIVITIES"). ACCORDINGLY, CONTRACTOR AND ITS LICENSORS DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. ORDERING ACTIVITY AGREES THAT PARTNER AND ITS THIRD PARTY LICENSORS SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM OR RELATED TO THE USE OF THE SUBSCRIPTION PRODUCTS IN SUCH APPLICATIONS.

15. Reserved.

16. Reserved.

17. Reserved.

18. Government Entities. If the Ordering Activity is a U.S. Government entity, the following restricted rights clause applies and must be included in the Ordering Activity Agreement:

This License Product is a "commercial component," as this term is defined in 48 C.F.R. 2.101, consisting of "commercial computer Product" and "computer Product documentation," as such terms are defined in 48 C.F.R. 252.227-7014(a)(1) and 48 C.F.R. 252.227-7014(a)(5), respectively, and used in 48 C.F.R. 12.212 and 48 C.F.R. 227.2702, as applicable, and all as amended from time to time. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.2702, and other relevant sections of the Code of Federal Regulations, as applicable, and all as amended from time to time, all U.S. Government entities acquire a license to this Subscription Product only with those rights set forth in the license agreement accompanying this Subscription Product. Use, duplication, reproduction, or transfer of this commercial Product and accompanying documentation is restricted in accordance with FAR 12.212 and DFARS 227.2702 and by a license agreement.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Information Builders, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided

however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

RIDER TO THE TERMS AND CONDITIONS OF GSA MULTIPLE AWARD SCHEDULE IT 70
GS-35F-0265X FOR INFORMATION BUILDERS, INC. SOFTWARE AND SERVICES

Rider Date: _____

Rider to the immixTechnology GSA Multiple Award Schedule IT 70 GS-35F-0265X for Information Builders, Inc., ("IBI") Software products and related services; by and between immixTechnology and the undersigned Ordering Activity under GSA Schedule contracts (or "Licensee" or "Ordering Activity") (collectively, the "Parties," or individually, a "Party").

immixTechnology is acting as an authorized reseller for IBI under GSA Schedule GS-35F-0265X under which Licensee is granted a nonexclusive Subscription License to use certain WebFOCUS and iWay software in IBI's InfoResponse Premium Cloud ("IRPC") which is a hosted cloud based environment to be used solely for temporary proof of concept purposes as further described below. IRPC shall be hosted by Amazon Web Services ("AWS") in the standard configuration authorized by IBI at an AWS data center located in Reston VA (the "IBI Cloud"). The right to use IRPC shall be for a term that runs concurrent with Licensee's separate subscription to Premium InfoResponse Services for the Site Codes specified below. Licensee's right to use IRPC shall expire in the event Licensee does not renew InfoResponse Premium Services for the Site Codes specified. This Rider shall become effective as of the IRPC Start Date specified in the applicable purchase order and shall remain in effect through the period of performance associated with InfoResponse Premium (Maintenance) associated with the Site Codes set forth in the purchase order:

Site Code(s): _____

Delivery Method: Electronic Download

IRPC Start Date:

Installation Location: AWS East Region data center, Reston VA

InfoResponse Premium Services – Add-on:

1. *InfoResponse Premium Cloud (IRPC)* - The IRPC provides a preconfigured WebFOCUS and/or iWay environment in the Information Builders Cloud, with Information Builders Preferred Cloud Provider. The IRPC provides a temporary proof of concept (PoC) platform for evaluating, testing and building PoCs with the latest production release of the IBI software. All included features and components of the WebFOCUS and/or iWay suites are turned on and available for use with the IRPC. The retail demo database is included for testing purposes. Licensee can upload other data via the Upload Wizard. One Virtual Private Network (VPN) connection is permitted to Licensee on premise data.

IRPC Covered Environments (Check all that apply): _WebFOCUS__iWay

See Attachment A for additional Terms and Conditions for the IRPC which are incorporated in their entirety by reference.

Accepted: immixTechnology, Inc.

Licensee

By
Authorized Signature

Print Name/Title

Date

By
Authorized Signature

Print Name/Title

Date

Attachment A

1. The following are included in the fees set forth in the applicable Purchase Order referencing the GSA Schedule. Any services not explicitly listed below may require a consulting engagement.

Included Cloud Managed Hosting/Cloud Support Services Include:

- Needs assessment by Information Builders ATS to assist in determining the size of the environment (CPU, RAM, Storage)
- Set up the cloud environment (OS installation + Web/App Server installation + Firewall installation + Create basic ACL rules for Network Access)
- Installation of the Information Builders Software
- Provide needed credentials for Licensee access to the IBI Cloud
- OS patch and version management
- Installation of Information Builders patches and updates into the included test environment (Testing and migration services not included)
- Backup and restoration.
- Monitoring and alerting
 - Multifactor carrier-class threat management and remediation
 - Network traffic and data flow monitoring to prevent and mitigate DoS,
 - DDoS, worm, and botnet attacks
 - Virus, malware, and intrusion/vulnerability monitoring
 - Availability of servers and services
 - Performance of CPU, RAM, and disk
- Custom response procedures 24x7x365
- Secure Data Disposal

1. IBI CLOUD SUBSCRIPTION TERMS AND CONDITIONS:

- A. **SERVICES.** The Services include the hardware, software, operating systems, networking equipment, data communication facilities and internet connections, bandwidth, and other products and services described above. IBI or its service provider may also perform technical services not listed in this attachment that are expressly requested by Licensee in writing in advance ("Additional Services"). Additional Services. The scope and cost of Additional Services must be agreed to in advance in writing and shall be set forth in a separate mutually agreed to Work Order or Statement of Work which references an applicable Consulting Agreement between parties.
- B. **COMMENCEMENT; ACCESS TO THE SERVICES.** Services will commence on the IRPC Start Date. IBI shall provide for download of the licensed Software to IBI Cloud environment by the IRPC Start Date and will provide Licensee with access to Licensee upon completion of installation. IBI shall inform Licensee by email that its configuration is accessible over the Internet and that its password(s) are available. The licensed Software shall be available for use by the Licensee in the specified configuration for the duration of the applicable InfoResponse Premium Term. The Software is to be located on the IBI Preferred Cloud Provider servers that are controlled by the IBI Preferred Cloud Provider. Licensee may access the Software and certain IBI Preferred Cloud Provider software, but has no right to receive a copy of the object code or source code to the Software or the IBI Preferred Cloud Provider software.
- C. **IBI PREFERRED CLOUD PROVIDER SOFTWARE.** Licensee will have access to certain IBI Preferred Cloud Provider software products ("Cloud Products") as part of the IBI Cloud in addition to the IBI Software set forth above. IBI warrants that the CLOUD PRODUCTS OR RELATED SUPPORT SERVICES THAT SERVICE PROVIDER MAY PROVIDE will, for a period of sixty (60) days from the date of your receipt, perform substantially in accordance with written materials accompanying it. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, NEITHER IBI NOR IBI'S PREFERRED CLOUD PROVIDER MAKE ANY REPRESENTATIONS OR WARRANTY WHATSOEVER REGARDING ANY CLOUD PRODUCTS OR RELATED SUPPORT SERVICES THAT

SERVICE PROVIDER MAY PROVIDE AND, AS BETWEEN LICENSEE AND IBI AND IBI PREFERRED CLOUD PROVIDER, SUCH CLOUD PRODUCTS AND RELATED SUPPORT SERVICES ARE PROVIDED "AS IS." Licensee is not granted any title or intellectual property rights in or to any Cloud Products provided as part of the IBI Cloud, and Licensee may only use the Cloud Products in connection with the IBI Cloud as permitted under this Rider. Licensee shall not (i) copy any Cloud Products; (ii) remove, modify, or obscure any copyright, trademark or other proprietary rights notices that appear on any Cloud Products or appear during use; or (iii) reverse engineer, decompile or disassemble any Cloud Products. Licensee acknowledges that the Cloud Products may have terms and conditions set forth in links set forth herein that are different from the terms and conditions set forth in this Agreement. In the event that IBI agrees to permit any third party software applications to be installed in the IBI Cloud, then Licensee shall obtain all consents and licenses required for all parties to legally access and use all software that Licensee places on the IBI Cloud without infringing any ownership or intellectual property rights. Upon IBI's request, Licensee shall provide reasonable proof to IBI that Licensee has obtained such consents and licenses. IBI and IBI's Preferred Cloud Provider will be relieved of any obligations under this Rider that are adversely affected by Licensee's failure to obtain any required consents or licenses, or to promptly furnish reasonable evidence that Licensee has obtained those consents or licenses.

D. SERVICE LEVEL AGREEMENT.

i. IBI has agreed to pass through Service Level Agreement provisions to Licensee that are consistent with the Service Level Agreement ("SLA") provisions contained in IBI's Agreement with IBI's Preferred Cloud Provider ("Service Provider Agreement"); which provides for service level credits for uptime/downtime as set forth in the attached. Licensee acknowledges that service level credits granted by IBI to Licensee shall be Licensee's sole and exclusive remedy for failure to provide the guaranteed levels of service set forth in the SLA. IBI shall pursue service level credits from IBI's Preferred Cloud Provider as set forth in subsection (ii) below. In the event IBI has successfully obtained any credits from the IBI's Preferred Cloud Provider in accordance the SLA, then IBI agrees to extend prorated credits towards subsequent Subscription renewals. The amount of such credits shall be reasonably determined solely by IBI.

ii. In the event Licensee reasonably determines that a claim against the SLA guarantee levels of service is due, then Licensee shall promptly contact Dan Ortolani, IBI's Senior Vice President, Worldwide Customer Service via e mail at Daniel.Ortolani@informationbuilders.com (or other designee that IBI may name later). Licensee shall promptly advise IBI of the SLA issue, the chronology of the issue and reasons the SLA claim is warranted. Licensee agrees to reasonably cooperate with IBI in documenting, investigating and pursuing any SLA claims with IBI's Preferred Cloud Provider. Service Level Credits must be requested by Licensee in writing within thirty (30) days of the qualifying event; and Licensee will make every reasonable attempt to notify IBI in writing of any downtime the same day, or next business day.

E. FEES, TAXES, AND PAYMENT. Fees will be as set forth in the GSA Schedule pricelist and/or applicable purchase order. Taxes/payment terms are per the referenced GSA Contract. Per FAR 52.212-4(k) Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

F. CONFIGURATION AND CONTENT. Licensee acknowledges and accepts that the role of IBI is solely that of a supplier of software, related items and services and that it is Licensee's responsibility to determine its own data processing requirements and to satisfy itself that the Software and IBI Cloud meets such requirements. Licensee recognizes it is responsible for the selection, use of, and results obtained from any Software and its use in the IBI Cloud, whether the computing environment provided hereunder is suitable, and whether it meets and will continue to meet Licensee's capacity, performance and scalability needs. Licensee is also responsible for the results of implementing any recommendations made by IBI or IBI's Preferred Cloud Provider regarding its individual use of the IBI Cloud as configured. Licensee is responsible for requesting all required upgrades and modifications to the IBI configuration, including those required to address one or any combination of the following: (i) a spike or change in system resource utilization; (ii) processing requirements; (iii) storage requirements; or (iv) hardware and software depreciation. Licensee is solely responsible for the selection, compatibility, licensing, accuracy, performance, maintenance, and support of all information, software, and data, including any hypertext markup language files, scripts, programs, software, applications, recordings, sound, music, graphics, images, applets or servlets that Licensee or its subcontractors or end users create, install, upload or transfer on, from or through the configuration ("Content"). IBI or IBI's Preferred Cloud Provider may immediately (and without prior notice) temporarily block access to any Content on the IBI Cloud (i) that it believes violates the law, misappropriates or infringes the intellectual property rights of a third party; or (ii) pursuant to the Digital Millennium Copyright Act, a subpoena, or an order issued by a court or government agency.

G. CONDITIONS OF USE. Licensee's usage in the IBI Cloud is limited to Licensee's WebFOCUS and/or iWay software applications utilizing the Software identified in the Rider; along with any software that IBI bundles with

such licenses and/or the Cloud Products necessary to run such applications. Licensee shall not be permitted to run other non-IBI provided software applications and/or databases (unless expressly authorized by IBI) in the IBI Cloud. Licensee's right to use the IBI Cloud is conditional upon the provisions set forth herein. Licensee may not:

- i. transfer to any other person or entity any of its rights to use the IBI Cloud;
- ii. sell, rent or lease the IBI Cloud to any third party;
- iii. make the IBI Cloud available to anyone who is not an authorized User as permitted under the GSA schedule terms and conditions and this Rider;
- iv. create any derivative works based upon the IBI Cloud or documentation;
- v. copy any feature, design or graphic in, or reverse engineer the Cloud Products;
- vi. use the IBI Cloud in a way that violates any criminal or civil law;
- vii. exceed the usage limits listed in the Rider.

H. **LICENSEE ACCEPTABLE USE AGREEMENT.** Licensee agrees: (i) that its use of the IBI Cloud shall be in compliance with the attached Acceptable Use Policy ("AUP") and as it may be made available on any successor or related site designated by IBI or IBI's Preferred Cloud Provider; (ii) to comply with all applicable laws, regulations, and ordinances relating to its use of the IBI Cloud; (iii) that Licensee shall encrypt, any Personally Identifiable Information (defined below) transmitted to or from, or stored on, the IBI Cloud servers, storage devices or equipment; neither IBI nor IBI's Preferred Cloud Provider shall be held liable in the event Licensee fails to do so. "Personal Information" and "Personally Identifiable Information" means any information or set of information that identifies or could be used to identify an individual including but not limited to Protected Health Information ("PHI") as defined in the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). The attached AUP is incorporated herein and forms a part of this Rider.

I. **RESPONSIBILITY FOR LICENSEE USE.** Licensee shall be liable for all fees arising from Licensee's use of the IBI Cloud that are not authorized by IBI. Licensee shall be responsible for any usage in violation of the AUP, Privacy Policy or any applicable law, regulation or ordinance. Licensee shall cooperate with IBI and IBI's Preferred Cloud Provider's reasonable investigation of any suspected violation of the AUP, Privacy Policy or any law regulation or ordinance by Licensee. If the Contractor believes the GSA Customer to be in breach of any of the foregoing policies it will file a claim with the Contracting Officer under the Contract Disputes Act.

J. **SUPPORT.** IBI shall be the contact for any and all aspects of Licensee maintenance and telephone support ("InfoResponse Premium") and Licensee technical and account support relating to the IBI Software and the IBI Cloud. If IBI determines, in its reasonable discretion, that a support issue is related to the IBI's Preferred Cloud Provider, IBI will work directly with IBI's Preferred Cloud Provider. IBI's Preferred Cloud Provider shall have no obligation to accept support calls or other requests from Licensee or to otherwise interact with Licensee.

K. **LICENSEE DATA.**

i. Licensee must provide all data for use with or in the IBI Cloud and Licensee is solely responsible for the content and accuracy of the "Licensee Data".

ii. Licensee Data belongs to Licensee, and neither IBI nor IBI's Preferred Cloud Provider shall make any claim to any right of ownership in it.

ii. IBI shall keep the Licensee Data confidential in accordance with Confidentiality Section set forth below and shall enforce such obligations with IBI's Preferred Cloud Provider;

iv. Licensee Data shall only be used by IBI or IBI's Preferred Cloud Provider strictly as necessary to carry out the obligations under this Rider, and for no other purpose. However, IBI and IBI's Preferred Cloud Provider:

a. may observe and report back to Licensee and/or IBI on Licensee's usage of the Cloud Subscription Services, and make recommendations for improved usage of the Subscription Services; and

b. may identify trends and publish reports on its findings;

v. Subject to Licensee's obligation to encrypt all personal data, including but not limited to Personally Identifiable Information, in transit and at rest, IBI and IBI's Preferred Cloud Provider will take reasonable technical and organizational measures to keep personal data secure and to protect it against accidental loss or unlawful destruction, alteration, disclosure or access; and, must deal with the information only in accordance with Licensee's instructions, provided they are reasonable and lawful.

L. **SECURITY.** Licensee agrees to implement security measures that are commercially reasonable for Licensee's use of the IBI Cloud, including encryption technologies, password and user ID requirements, and procedures regarding the application of security patches and updates. Licensee and its Affiliates are responsible for data access and security, including control over logins and passwords. Licensee has responsibility for application level security. IBI's Preferred Cloud Provider holds Cloud security certifications and accreditations for ISO 27001 (the International Standards Organization (ISO) certification for Information security management systems

and processes) and as further set forth at <https://aws.amazon.com/compliance/programs/> . NEITHER IBI NOR IBI'S PREFERRED CLOUD PROVIDER NOR ANY OF THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, SERVICE SUPPLIERS OR LICENSEES WILL BE LIABLE FOR UNAUTHORIZED ACCESS (I.E., "HACKING") INTO THE CLOUD SERVERS OR LICENSEE'S TRANSMISSION FACILITIES, PREMISES OR EQUIPMENT, OR FOR UNAUTHORIZED ACCESS TO DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THEREON, UNLESS AND ONLY TO THE EXTENT THAT THIS DISCLAIMER IS PROHIBITED BY APPLICABLE LAW.

M. DATA PRIVACY. Licensee shall identify and interpret all Privacy Laws and industry standard controls (e.g., PCI DSS) ("Industry Controls") that apply to the transfer, use, storage, backup, availability, integrity, security and destruction of any Licensee content on the IBI Cloud. Licensee shall take all actions and implement all measures that are required for it to comply with any Privacy Law or Industry Control. Notwithstanding any other provision in this Rider, Licensee shall make the final decision regarding whether the IBI Cloud meets or exceeds its legal obligations with respect to the transfer, use, storage, backup, availability, integrity, security and destruction of the Licensee content. To the extent Licensee makes a determination regarding the interpretation of a Privacy Law or Industry Control, or a change in either, and IBI and IBI's Preferred Cloud Provider complies with the decision, IBI and IBI's Preferred Cloud Provider shall be relieved of responsibility for any resulting non-compliance with the misinterpreted Privacy Law or Industry Control. To meet the requirements of EU privacy and data protection laws, IBI's Preferred Cloud Provider leverages the EU Standard Contractual Clauses ("SCCs") where necessary. Specifically, Service Provider has implemented a data export agreement by and between various legal entities within IBI's Preferred Cloud Provider, which establishes a regime to allow for the lawful cross-border transfer of personal information within IBI's Preferred Cloud Provider, including through adoption of the SCCs. The SCCs are a set of standard provisions issued by the European Commission for purposes of establishing adequate safeguards to protect transfers of personal data outside the EU. IBI's Preferred Cloud Provider's statement regarding GDPR and privacy is located at <https://aws.amazon.com/compliance/gdpr-center/> .

N. GOVERNMENT RIGHTS. With respect to the procurement of any Cloud Services by or for the U.S. Government, any software provided in connection with the Cloud Services is deemed to be "commercial computer software" as defined in the FAR and DFARS. The Government will receive no greater than restricted rights as provided in FAR 52.227-14, DFAR 252.227- 7013(c)(1)(ii) (Oct. 1988), DFAR 252.221-7015(c) (May 1991), DFAR 252.227-7014, or DFAR 252.227-7018, as applicable or amended. In addition, the Government will receive no greater than limited rights as provided in FAR 52.227-14, DFAR 252.227-7015, DFAR 252.227-7018, or DFAR 252.227-7013, as applicable or amended. All computer software and technical data were developed exclusively at private expense by IBI or the Service Provider or its third-party licensors or suppliers. The use of all computer software, documentation, and technical data is further restricted in accordance with the terms of this Rider.

O. IP ADDRESSES. Any public or private IP address allocated for Licensee to use as a part of the IBI Cloud will remain allocated to Licensee until (i) Licensee release the IP address using the IBI Cloud portal; (ii) Licensee's IBI Cloud Services are terminated for any reason; or (iii) IBI or IBI's Preferred Cloud Provider decides to change any IP address, which they may do at any time and in their sole discretion by providing Licensee with five (5) days' prior notice of the change in accordance with the notice provisions in the GSA terms and conditions. Upon termination of this Rider, Licensee may no longer use any IP addresses or address blocks that were provided for Licensee's use in connection with the IBI Cloud.

P. LICENSEE REPRESENTATIONS. Licensee represents and warrants to IBI that to the best of Licensee's knowledge (i) no Content on the IBI Cloud is illegal, defamatory, malicious, harmful, or discriminatory based on race, sex, religion, nationality, disability, sexual orientation, or age; (ii) Licensee accurately and adequately discloses how Licensee collects and treats any data collected from visitors to any Website or users of any application on the IBI Cloud; (iii) Licensee's use of the IBI Cloud will comply with all applicable laws, rules and regulations; and (iv) Licensee will not attempt to circumvent or disable any of the security-related, management, or administrative features of the IBI Cloud; (v) Licensee shall have obtained all consents and licenses required for Licensee, IBI and IBI's Preferred Cloud Provider to legally access and use all Content Licensee places on the IBI Cloud as necessary to provide the IBI Cloud and Software and meet their obligations to Licensee hereunder without infringing any ownership or intellectual property rights; (vi) the execution and delivery of this Rider will not conflict with or violate any provision of Licensee's charter, by-laws or other governing documents; and (vii) Licensee have otherwise taken all necessary steps to legally execute the Rider inclusive of the terms, conditions and provisions herein.

Q. EXPORT CONTROL. Each party shall comply with all applicable import, export and re-export control laws and regulations, including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and the sanctions maintained by the Treasury Department's Office of Foreign Assets Control. Licensee represents and warrants that the Services will not be accessed, downloaded, used, exported or re-exported, directly or indirectly, to any location, entity, government, or person prohibited by the applicable laws or regulations of any jurisdiction, including the U.S., without prior authorization from all relevant government authorities.

R. IBI CLOUD DISCLAIMERS.

- i. IBI warrants that the IBI CLOUD SUBSCRIPTION GOODS AND SERVICES will, for a period of sixty (60) days from the date of your receipt, perform substantially in accordance with IBI CLOUD SUBSCRIPTION GOODS AND SERVICES written materials accompanying it. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, THE IBI CLOUD SUBSCRIPTION GOODS AND SERVICES ARE PROVIDED "AS-IS". EXCEPT AS EXPRESSLY REQUIRED BY LAW WITHOUT THE POSSIBILITY OF CONTRACTUAL WAIVER, IBI AND IBI'S PREFERRED CLOUD PROVIDER AND THEIR SUPPLIERS AND LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. LICENSEE IS SOLELY RESPONSIBLE FOR THE SUITABILITY OF ALL GOODS AND SERVICES CHOSEN AND FOR DETERMINING WHETHER THEY MEET LICENSEE'S CAPACITY, PERFORMANCE AND SCALABILITY NEEDS.
- ii. IBI, IBI'S PREFERRED CLOUD PROVIDER AND THEIR SERVICE SUPPLIERS AND LICENSORS DO NOT WARRANT THAT THE CLOUD SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, COMPLETELY SECURE, OR THAT ALL DEFECTS WILL BE CORRECTED. LICENSEE ACKNOWLEDGES THAT IBI AND IBI'S PREFERRED CLOUD PROVIDER DO NOT CONTROL OR MONITOR THE TRANSFER OF DATA OVER THE INTERNET, AND THAT INTERNET ACCESSIBILITY CARRIES WITH IT THE RISK THAT LICENSEE'S PRIVACY, CONFIDENTIAL INFORMATION AND PROPERTY MAY BE LOST OR COMPROMISED.
- iii. LICENSEE'S USE OF ANY SERVICE PROVIDED BY IBI OR IBI'S PREFERRED CLOUD PROVIDER THAT IS INTENDED TO COMPLY WITH CERTAIN LAWS, STANDARDS OR REGULATIONS WILL NOT GUARANTEE THAT LICENSEE IS IN COMPLIANCE WITH THOSE LAWS, STANDARDS OR REGULATIONS. LICENSEE IS ULTIMATELY RESPONSIBLE FOR UNDERSTANDING AND ENSURING THAT ITS BUSINESS OPERATIONS AND ITS USE OF THE SERVICES COMPLY WITH ALL APPLICABLE LAWS, REGULATORY STANDARDS AND REQUIREMENTS.

S. LIMITATION OF DAMAGES FOR IBI CLOUD SUBSCRIPTION. EXCEPT AS EXPRESSLY REQUIRED BY LAW WITHOUT THE POSSIBILITY OF CONTRACTUAL WAIVER: (A) NEITHER IBI NOR IBI'S PREFERRED CLOUD PROVIDER NOR ANY OF THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, SERVICE SUPPLIERS, OR LICENSORS, WILL BE LIABLE FOR ANY PUNITIVE, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, OR FOR ANY LOST PROFITS, LOST DATA, LOST BUSINESS, LOST REVENUES, DAMAGE TO GOODWILL, LOST OPPORTUNITIES OR LOSS OF ANTICIPATED SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY OF SAME, AND REGARDLESS OF WHETHER THE CLAIMS ARE BASED IN CONTRACT, TORT, STRICT LIABILITY, INFRINGEMENT, OR ANY OTHER LEGAL OR EQUITABLE THEORY; AND (B) THE AGGREGATE LIABILITY OF IBI AND IBI'S PREFERRED CLOUD PROVIDER AND THEIR EMPLOYEES, AGENTS AND REPRESENTATIVES TO LICENSEE UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, WILL NOT EXCEED THE TOTAL AMOUNT LICENSEE ACTUALLY PAID TO IBI FOR THE IBI CLOUD SUBSCRIPTION. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Contract under any federal fraud statute, including the False Claims Act, 31. U.S.C. §§ 3729-3733. The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Licensor's negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

T. RESERVED.

U. SUSPENSION. IBI or IBI's Preferred Cloud Provider may temporarily suspend access to the IBI Cloud without prior notice or liability to the limited extent necessary to address the one or more of the following conditions: (i) IBI or IBI's Preferred Cloud Provider reasonably believes that Licensee's use of the Services has or will subject IBI or Service Provider to criminal liability; (ii) IBI or IBI's Preferred Cloud Provider reasonably believe that the IBI Cloud is being used in violation of the AUP or Privacy Policy; (iii) IBI is required to suspend Licensee's access to the IBI Cloud by a law enforcement agency, government agency, or court order; or (D) activity such as a denial of service attack or unauthorized access, poses a threat to the integrity of IBI's Preferred Cloud Provider's network or other clients. The IBI Cloud will not be available to Licensee in whole or in part during a suspension.

V. RESERVED.

W. CONFIDENTIALITY.

- i. The IBI Cloud, Software and associated documentation contain valuable trade secrets that are the sole property of IBI's Preferred Cloud Provider and/or IBI, and Licensee agrees to use reasonable care to prevent other parties from learning of these trade secrets. Licensee must take reasonable care to prevent unauthorized access to or duplication of the IBI Cloud, Software and documentation.
- ii. The Licensee Data and Content may include valuable trade secrets that are the sole property of Licensee. IBI's Preferred Cloud Provider must take reasonable care to prevent other parties from learning of these trade secrets.

- iii. Subsections (i) and (ii) preceding do not apply to any information that (a) is now, or subsequently becomes, through no act or failure to act on the part of receiving party (the "Receiver"), generally known or available; (b) is known by the Receiver at the time of receiving such information, as evidenced by the Receiver's records; (c) is subsequently provided to the Receiver by a third party, as a matter of right and without restriction on disclosure; or (d) is required to be disclosed by law, provided that the party to whom the information belongs is given prior written notice of any such proposed disclosure. IBI recognizes that Federal agencies are subject to the Freedom of Information Act (5 U.S.C. § 552)
- X. FORCE MAJEURE. Excusable delays shall be governed by FAR 52.212-4(f).
- Y. ENTIRE AGREEMENT. The Rider inclusive of these terms, conditions and provisions, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), constitutes the entire agreement between the parties regarding the IBI Cloud Subscription provided by IBI and IBI's Preferred Cloud Provider, and it supersedes all other oral or written agreements or policies relating thereto. If there is a conflict between or among any of the documents referenced in this Rider, they will govern in the following order: the GSA schedule Terms and Conditions, the Purchase Order(s), this Rider, the AUP. Additional or different terms in any written communication from Licensee, including any purchase order or request for Services, are void unless expressly agreed to in writing and signed by both parties.
- Z. Governing Law. Federal law shall govern this Agreement.

AWS Acceptable Use Policy

Summary of AWS Acceptable Use Policy (updated September 16th, 2016)

By both parties executing this Agreement for Cloud Products provided as part of the IBI Cloud, Ordering Activity is deemed to have accepted the acceptable use and privacy policies cloud use policies of IBI's cloud provider Amazon Web Services Inc. ("AWS") whose Acceptable Use Policy is summarized below.

This Acceptable Use Policy (this "Policy") describes prohibited uses of the web services offered by Amazon Web Services, Inc. and its affiliates (the "Services") and the website located at <http://aws.amazon.com> (the "AWS Site").

No Illegal, Harmful, or Offensive Use or Content

You may not use, or encourage, promote, facilitate or instruct others to use, the Services or AWS Site for any illegal, harmful, fraudulent, infringing or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful, fraudulent, infringing or offensive. Prohibited activities or content include:

Illegal, Harmful or Fraudulent Activities.

Any activities that are illegal, that violate the rights of others, or that may be harmful to others, our operations or reputation, including disseminating, promoting or facilitating child pornography, offering or disseminating fraudulent goods, services, schemes, or promotions, make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming.

Infringing Content.

Content that infringes or misappropriates the intellectual property or proprietary rights of others.

Offensive Content. Content that is defamatory, obscene, abusive, invasive of privacy, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts.

Harmful Content. Content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots.

No Security Violations

You may not use the Services to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a "System"). Prohibited activities include:

Unauthorized Access. Accessing or using any System without permission, including attempting to probe, scan, or test the vulnerability of a System or to breach any security or authentication measures used by a System.

Interception. Monitoring of data or traffic on a System without permission.

Falsification of Origin. Forging TCP-IP packet headers, e-mail headers, or any part of a message describing its origin or route. The legitimate use of aliases and anonymous remailers is not prohibited by this provision.

No Network Abuse

You may not make network connections to any users, hosts, or networks unless you have permission to communicate with them. Prohibited activities include:

Monitoring or Crawling. Monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled.

Denial of Service (DoS). Inundating a target with communications requests so the target either cannot respond to legitimate traffic or responds so slowly that it becomes ineffective.

Intentional Interference. Interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques.

Operation of Certain Network Services. Operating network services like open proxies, open mail relays, or open recursive domain name servers.

Avoiding System Restrictions. Using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions.

No E-Mail or Other Message Abuse

You will not distribute, publish, send, or facilitate the sending of unsolicited mass e-mail or other messages, promotions, advertising, or solicitations (like "spam"), including commercial advertising and informational announcements. You will not alter or obscure mail headers or assume a sender's identity without the sender's explicit permission. You will not collect replies to messages sent from another internet service provider if those messages violate this Policy or the acceptable use policy of that provider.

Our Monitoring and Enforcement

We reserve the right, but do not assume the obligation, to investigate any violation of this Policy or misuse of the Services or AWS Site. We may:

investigate violations of this Policy or misuse of the Services or AWS Site; or temporarily remove, disable access to, or modify any content or resource that violates this Policy or any other agreement we have with you for use of the Services or the AWS Site.

We may report any activity that we suspect violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Our reporting may include disclosing appropriate customer information. We also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Policy.

Reporting of Violations of this Policy

If you become aware of any violation of this Policy, you will immediately notify us and provide us with assistance, as requested, to stop or remedy the violation. To report any violation of this Policy, please follow our abuse reporting process.

Amazon Compute Service Level Agreement

Last Updated February 12, 2018

This Amazon Compute Service Level Agreement (this "SLA") is a policy governing the use of the Included Products and Services (listed below) by the undersigned Ordering Activity under GSA Schedule contracts ("you" or "Ordering Activity") under the terms of the AWS Customer Agreement (the "AWS Agreement") between Amazon Web Services, Inc. and its affiliates ("AWS", "us" or "we") and you. This SLA applies separately to each account using the Included Products and Services. Unless otherwise provided herein, this SLA is subject to the terms of the AWS Agreement and capitalized terms will have the meaning specified in the AWS Agreement.

Included Products and Services

Amazon Elastic Compute Cloud (Amazon EC2)

Amazon Elastic Block Store (Amazon EBS)

Amazon Elastic Container Service (Amazon ECS)

Amazon Fargate for Amazon ECS (Amazon Fargate)

Service Commitment

AWS will use commercially reasonable efforts to make the Included Products and Services each available with a Monthly Uptime Percentage (defined below) of at least 99.99%, in each case during any monthly billing cycle (the "Service Commitment"). In the event any of the Included Products and Services do not meet the Service Commitment, you will be eligible to receive a Service Credit as described below.

Definitions

"Monthly Uptime Percentage" is calculated by subtracting from 100% the percentage of minutes during the month in which any of the Included Products and Services, as applicable, was in the state of "Region Unavailable."

Monthly Uptime Percentage measurements exclude downtime resulting directly or indirectly from any Amazon Compute Services SLA Exclusion (defined below).

"Availability Zone" and "AZ" mean an isolated location within a region identified by a letter identifier following the region code (e.g., us-west-1a).

"Region Unavailable" and "Region Unavailability" mean:

For Regions with only one AZ, when that AZ and one AZ in any other Region, in which you are running an instance or task (one or more containers), as applicable, are concurrently "Unavailable" to you.

For all other Regions, when more than one AZ within the same Region, in which you are running an instance or task (one or more containers), as applicable, are concurrently "Unavailable" to you.

"Unavailable" and "Unavailability" mean:

For Amazon EC2, Amazon ECS, or Amazon Fargate, when all of your running instances or running tasks, as applicable, have no external connectivity.

For Amazon EBS, when all of your attached volumes perform zero read write IO, with pending IO in the queue.

A "Service Credit" is a dollar credit, calculated as set forth below, that we may credit back to an eligible account.

Service Commitments and Service Credits

Service Credits are calculated as a percentage of the total charges paid by you (excluding one-time payments such as upfront payments made for Reserved Instances) for either Amazon EC2 or Amazon EBS (whichever was Unavailable, or both if both were Unavailable) in the Region affected for the monthly billing cycle in which the Region Unavailability occurred in accordance with the schedule below.

Monthly Uptime Percentage

Service Credit Percentage

Less than 99.99% but equal to or greater than 99.0% 10%

Less than 99.0% 30%

We will apply any Service Credits only against future Amazon EC2 or Amazon EBS payments otherwise due from you. At our discretion, we may issue the Service Credit to the credit card you used to pay for the billing cycle in which the Unavailability occurred. A Service Credit will be applicable and issued only if the credit amount for the applicable monthly billing cycle is greater than one dollar (\$1 USD). Service Credits may not be transferred or applied to any other account. Unless otherwise provided in the AWS Agreement, your sole and exclusive remedy for any unavailability, non-performance, or other failure by us to provide Amazon EC2 or Amazon EBS is the receipt of a Service Credit (if eligible) in accordance with the terms of this SLA.

Credit Request and Payment Procedures

To receive a Service Credit, you must submit a claim by opening a case in the AWS Support Center. To be eligible, the credit request must be received by us by the end of the second billing cycle after which the incident occurred and must include:

the words "SLA Credit Request" in the subject line;

the dates and times of each Unavailability incident that you are claiming;

the affected EC2 instance IDs or the affected EBS volume IDs; and

your request logs that document the errors and corroborate your claimed outage (any confidential or sensitive information in these logs should be removed or replaced with asterisks).

If the Monthly Uptime Percentage of such request is confirmed by us and is less than the Service Commitment, then we will issue the Service Credit to you within one billing cycle following the month in which your request is confirmed by us. Your failure to provide the request and other information as required above will disqualify you from receiving a Service Credit.

Amazon EC2 SLA Exclusions

The Service Commitment does not apply to any unavailability, suspension or termination of Amazon EC2 or Amazon EBS, or any other Amazon EC2 or Amazon EBS performance issues: (i) that result from a suspension described in Section 6.1 of the AWS Agreement; (ii) caused by factors outside of our reasonable control, including any force majeure event or Internet access or related problems beyond the demarcation point of Amazon EC2 or Amazon EBS; (iii) that result from any actions or inactions of you or any third party, including failure to acknowledge a recovery volume; (iv) that result from your equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within our direct control); (v) that result from failures of individual instances or volumes not attributable to Region Unavailability; (vi) that result from any maintenance as provided for pursuant to the AWS Agreement; or (vii) arising from our suspension and termination of your right to use Amazon EC2 or Amazon EBS in accordance with the AWS Agreement (collectively, the "Amazon EC2 SLA Exclusions"). If availability is impacted by factors other than those used in our Monthly Uptime Percentage calculation, then we may issue a Service Credit considering such factors at our discretion.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

INFORMATION BUILDERS ("IBI")

INFORMATION BUILDERS LICENSE, WARRANTY AND SUPPORT TERMS

In regard to the Software licensed to Ordering Activity hereunder, the Ordering Activity agrees to:

Only use the Software in object code form on the designated CPU(s) identified in the order and limit the number of Processors/Images/Users/Connected Instances as indicated on the order. Restrict use of the Software to object code form only by Ordering Activity's employees and authorized contractors for the Ordering Activity's own internal data processing only;

Prohibit transfer or duplication of the Software except for temporary transfer in the event of computer malfunction and a single backup or archival copy;

Prohibit the use of the Software by any third party whether or not for consideration, including but not limited to use of the Software as part of a service bureau, outsourcing, facilities management or timesharing facility, or assignment of the Software;

Prohibit causing or permitting the reverse engineering, disassembly or decompilation of the Software; Upon any termination of the license granted hereunder, discontinue use and destroy or return to IBI the Software, including user manuals together with any copies thereof and certify in writing the return or destruction of all such copies;

Not publish the results of any benchmark tests run on the Software;

Take all reasonable precautions to maintain the confidentiality of the Software, which precautions shall be at least equivalent to those Ordering Activity takes to protect its own confidential information;

Notify Contractor in writing in the event it exceeds the permitted number of Users (if applicable), exceeds the permitted number of Processors, Images or Connected Instances or desires to transfer the Software to a replacement CPU. A User is defined as any individual employed by Ordering Activity who is authorized to use the Software, regardless of whether the individual is actively using the Software at any time. The Ordering Activity understands that it shall be subject to upgrade fees in accordance with this schedule pricelist in the event the software is moved to a higher tier processor, or if more Processors/Users/Images/Connected Instances are required than originally licensed.

The license granted herein is non-assignable.

Except for the rights specifically granted herein, Ordering Activity is granted no other rights in or to the Software identified above. All rights to the Software (including all related manuals, educational and training materials), including, but not limited to intellectual property rights, trade secrets, patents, trademarks and copyrights, are and shall remain the sole and exclusive property of IBI. Without limiting the generality of the foregoing, Ordering Activity acquires no rights in or to any source codes.

In the event the Ordering Activity elects to subscribe to IBI's annual maintenance service ("*InfoResponse*"), IBI shall extend the following additional warranties:

(a) The Software as delivered by Contractor through IBI to Ordering Activity does not infringe the rights of any third party.

(b) The Software as delivered by Contractor through IBI to Ordering Activity shall work substantially as described in the applicable user manual as modified from time to time.

Ordering Activity has obtained a "Perpetual" license to use the Software as permitted hereunder for a period of 99 years. Title to the Software shall reside at all times with IBI.

Contractor warrants that the media upon which the Software is furnished will be free of defects in materials and workmanship under normal use for a period of ninety (90) days from the date the Software was delivered. Except as otherwise specified herein, the Software is provided on an "AS IS" basis, without a warranty of any kind. Ordering Activity's remedy and Contractor's liability under this warranty will be the correction of defects in the media or the replacement of the media.

EXCEPT AS SPECIFIED IN THIS ATTACHMENT A, ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

Server/CPU Based Pricing Determination

For products which are licensed by Tier (the specific hardware model on which the software will be installed), the applicable Tier level can be found in Information Builders' current Platform Reference Chart.

Additional Processors in this pricelist refers to additional processors on the same server.

Windows Server Pricing for iWay Products:

For iWay software components, Tier category is determined by the number of processors as follows:

1 Processor: Tier 1	5-8 Processors: Tier 4	13-14 Processors: Tier 7
2 Processors: Tier 2	9-10 Processors: Tier 5	15-16 Processors: Tier 4 x 2
3-4 Processors: Tier 3	11-12 Processors: Tier 6	Over 16 Processors: Tier 4 x 2.5

See note regarding Multi-Core and Hyper-threading below.

Pricing for Products on the Linux Platform

Where products are supported on the Linux platform, prices are identical to the equivalent Windows Server, UNIX or Mainframe platform.

For products running under zLinux within a mainframe IFL, the following pricing option is available:

Series (Model)	Price Per IFL
Z800 (2066), z900 (2064), z890 (2086)	Standard Tier 5
Z900 (2084), z9-BC (2096), z9-EC (2094)	Standard Tier 7

Note: Additional Image pricing is applicable for additional images installed in a single IFL. The Additional Image price for the relevant Tier (5 or 7) would apply.

Multi-core Processors and Hyper-threading

Multi-core processors are single chips that can contain multiple processors, referred to as Cores. For pricing purposes, each "Core" is treated as a separate processor. For example, a dual-core chip is treated for pricing purposes as a two processor environment.

Hyper-threading is a technology whereby multiple virtual processors can be defined from one or more physical Intel processors. For products that are priced based on the number of Intel processors, the pricing is based on the number of virtual processors created via hyper-threading, not the number of physical processors.

User-based Licenses

For "User" based licenses, a "User" means a specific individual who is authorized by the Ordering Activity to use the Software, regardless of whether the individual is actively using the software at any time (commonly referred to as a "subscribed" or "subscription" user).

Image Licenses

Regarding "Image" based licenses, an "Image" is defined as a single instance or installation of the licensed software, operating on an authorized computer. In the event the Ordering Activity desires to run multiple "Images" of the licensed software on the authorized computer, by use of logical partitions or other means, then Ordering Activity must acquire a license for each additional image at the applicable price.

Connected Instance Licenses

Regarding "Connected Instance Licenses", each "Instance" shall equate to a connection to an application software package such as SAP, or a transaction system such as CICS. For example, if an iWay Adapter running with WebSphere on UNIX "connects" to 10 instances of SAP located throughout the Ordering Activity's enterprise (10 different installed copies of SAP), then Ordering Activity would need to license 10 "Instances" for the desired iWay Software at the applicable price.

Access to Flat Files

When an Ordering Activity purchases any data adapter (WebFOCUS, iWay, etc.) or purchases a product that comes with a data adapter, then they also have access to flat files on the same machine at no additional charge.

Access to FOCUS Database

The WebFOCUS Reporting Server can access a FOCUS database on the same machine at no additional charge. (The FOCUS database itself is not included, and is licensed separately). Access to a remote FOCUS database requires the FOCUS DBMS Adapter.

Software License Transfers and Upgrades

A Software License is specific to a single type of operating system within an individual computer as identified by model, serial number and number of processors (if applicable). A Software License may only be transferred to another operating system and/or computer within the Ordering Activity's organization under the following terms, and with thirty (30) days advance written notice. Where transfers are permitted, Software Licenses may only be transferred on a one-for-one basis; multiple Software Licenses may not be combined for transfer to a single computer.

- (1) License transfers are only permitted as specified within this pricelist. A license must be covered under current software maintenance service in order to be eligible for transfer/upgrade. If software maintenance has been discontinued on a license, the Government must first pay all software maintenance services fees that would have been due during the period of maintenance lapse and the applicable reinstatement charge before the license can be transferred.
- (2) A License may be transferred at no charge from one computer and operating system to another computer of the same or smaller computer Tier price class and same operating system type. Thirty (30) day advance written notice, to include computer serial numbers, is required.
- (3) A License may be transferred to another computer in a higher price class (License Upgrade) but within the same operating system type with thirty (30) days written notice and payment of the Upgrade Fee. The Upgrade Fee will be the purchase

price of the new software as reduced by the price paid for the earlier version on a feature-by-feature basis. Increased software maintenance charges for License Upgrades are effective as of the date of the upgrade.

(4) For all User-based Licenses, the number of Users for a Software License may be increased (User Upgrade) by payment of the Upgrade Fee. The User Upgrade Fee will be the difference between the then-current GSA price for the higher number of user category and the original fee paid for the License, on a feature-by-feature basis. Increased software maintenance charges for User Upgrades are effective as of the date of the upgrade.

(5) Platform transfers between different UNIX-based operating systems are allowable without charge, however Licenses continue to be limited to use by the specified number of users, if applicable.

(6) Upon License transfer/upgrade, the maintenance charges for the new or upgraded computer become effective on the date of License transfer/upgrade.

SOFTWARE MAINTENANCE SERVICE

Information Builders' software maintenance ("InfoResponse") service includes:

(a) Telephone or other electronic support twenty four (24) hours a day seven (7) days a week via IBI's global support centers or from a local branch, if available; and

(b) enhancements and updates to the licensed software, which are designated as such by IBI.

InfoResponse service is provided for periods of one year (or as otherwise specified) by payment of the applicable software maintenance service fee as set forth in the then current pricelist.

Features, software items, new products, or software which are separately licensed by IBI are not included. InfoResponse service is available for the latest software release made generally available by IBI to its customers and for the two (2) releases immediately preceding the latest available release.

In the event that InfoResponse service is suspended due to non-renewal on the Ordering Activity's part, the Ordering Activity may reinstate InfoResponse service by payment of the back software maintenance service fees which would have accrued during the non covered period plus a reinstatement surcharge of 20% of the accrued software maintenance service fees.

The technical support telephone number for InfoResponse software maintenance service is: 1-800-736-6130.

The website for web-based online technical support is: <http://techsupport.informationbuilders.com/>

TRAINING

Enrollment in public classes is limited to a number of seats. Registration can be made in advance by phone or fax. You will receive confirmation of your registration. If you do not receive confirmation prior to the course dates, please contact (800) 969-INFO.

Classes begin at 9:30 am and conclude at 4:30 pm, unless you are notified otherwise. Courses in Washington, D.C. begin at 9:00 am and conclude at 4:00 pm.

The course tuition fee is due and payable within thirty days after the start date of the course. The course tuition fee includes instruction; course materials; the use of software, computers and other technical hardware as appropriate to the course. The course tuition fee does not include hotel accommodations, meals, travel or any other expenses that may be incurred by our customer.

Transfers/cancellations/no shows

Our flexible transfer/cancellation policy lets our customers enroll early with confidence. We do not impose any penalty for cancellations of enrollments or transfers to another course. Failure to notify Information Builders of an enrollment cancellation or transfer in writing or by phone within five business days before the start of the course will result in forfeiture of the full course fee

Substitutions permitted

We welcome the enrollment of a qualified substitute in an enrollee's place, provided the customer notifies us in writing before the first day of the course. 100% of any prepaid course tuition fees will be credited against the course tuition fee of the substitute. However, the substitute may not take advantage of any discount program for which he or she is not otherwise qualified. Training Passports are non-transferable and therefore are not eligible for substitution.

Course postponements

At times we must change a course location, course date, or postpone a course. We will try to give the customer as much advance notice as possible of any such change. If the customer is unable to attend a course at the revised location or date, we will credit 100% of any prepaid course tuition fees paid against a future course or, if requested, refund those fees. However, we will not be liable for any other costs incurred including (for example) travel charges or any consequential damages even if we were advised of them. Changes in course locations, course dates, or postponement of courses will not extend any bundled or package expiration date.

Terms for private courses

Contact your Education Account Manager, or call (800) 969-INFO to schedule a private class at your site. The appropriate technical environment must be available for all classes. You may choose to hold your private class at one of our classrooms to take advantage of our established technical environment, however, additional fees will apply.

With private classes, the pace and subject matter emphasis can be adapted to the needs, environment, and business areas relevant to the students and the organization. For more information on fully customizing courses, please contact us.

The course tuition fee for on-site courses is due and payable within 30 days following the course start date. We do not impose any penalty if the customer notifies us in writing of the need to cancel or reschedule an on-site course at least two weeks before the scheduled start date of the course. Any on-site course cancelled or rescheduled by our customer less than two weeks before the scheduled start of the course is subject to a \$3,000.00 cancellation/rescheduling fee. If the event is rescheduled at the time of cancellation to execute within 90 days of the cancellation date, Information Builders will waive 50% of the cancellation fee.

For all private classes, instructor expenses, material shipment costs, and applicable taxes are extra. All prices are subject to change without notice.

*Private class attendance is limited to 10 students or the number of available PC's, whichever is less. There is an additional charge per extra student per class day. Maximum total class attendance is 12. Course 176 and 970 student maximum is 8.

Prerequisites

Please make sure that all students enrolling meet the prerequisites described in this Information Builders *Training Curriculum* available at <http://education.informationbuilders.com/> for all courses taken.

Additional training locations and classes

We are continually adding new courses, cities and dates to our course schedule. Check our Web site for the most current course offerings and training locations. Information Builders may schedule classes in addition to those listed in the schedule. Contact your Education Account Manager, call (800) 969-INFO, or visit us at www.informationbuilders.com for the latest information.

Worldwide training services

Information Builders' training is also conducted outside the United States at Information Builders subsidiaries and agent offices throughout the world. To receive a list of Information Builders' international subsidiaries and agents who offer training services, contact International Operations in New York at (212) 736-4433, extension 3095.

Copyright/intellectual property

All copyrights, patents, designs and other intellectual property rights in or relating to any course materials provided or made available in connection with our courses remain the sole property of Information Builders. No part of any course materials may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, or translated into any language, without the prior written permission of Information Builders.

SERVICES

Contractor through Information Builders shall provide the implementation Services described herein and specified more fully in an order.

All Services shall be performed on a time and materials basis unless otherwise specified in the order. Any change in the scope of Services as set forth in the order shall be agreed upon in writing by the parties, and Information Builders shall have no obligation to perform services in connection with any such change until such time as the parties have agreed upon the effect of such change on Information Builders' fees and/or schedule of performance.

Orders may provide certain assumptions and/or responsibilities of Ordering Activity regarding the Services. Ordering Activity understands that Contractor's performance is contingent upon the validity of all assumptions, Ordering Activity's timely and effective performance of its responsibilities, and Ordering Activity's timely decisions and approvals.

Personnel

Information Builders shall be solely responsible for the payment of their personnel's benefits and entire compensation, including employment taxes, worker's compensation, and any similar taxes associated with employment.

Ordering Activity shall provide Information Builder's personnel with adequate work areas, access to computer terminals, data, programs, and personnel, who will provide prompt review of questions submitted, and all other facilities, as may be reasonably required for performance of services by Information Builders.

Contractor through Information Builders agrees to comply with all reasonable rules, regulations, and policies of Ordering Activities while performing services at Ordering Activity's facilities.

Rights in Materials

Any and all deliverables including software programs, source and object code, files, tapes, disks and related user documentation, originally developed or created for Ordering Activity under any order issued pursuant to these terms ("the Work Product") shall remain the property of Information Builders. Upon the payment of all fees incurred, Ordering Activity shall have an irrevocable, perpetual, non-exclusive, worldwide, fully paid-up license to use, execute, reproduce, display, perform, modify, distribute (internally or to affiliates or wholly-owned subsidiaries) copies of the Work Product.

The above notwithstanding, Information Builders is the owner of certain proprietary software and applications including, but not limited to, the WebFOCUS and iWay family of products. Information Builder's rights in and to such proprietary software and applications (and all related intellectual property rights, training materials, written materials and source codes) are protected by certain patents, trademarks, copyrights and trade secret protections. Nothing contained herein shall be deemed to grant Ordering Activity (or any other party) any right, title or interest in or to such proprietary software and applications or to any improvement or modification made to such during the course of any Services performed hereunder, or to any development methodology, programming methods, techniques or know-how utilized by Information Builders or others, or to prevent Information Builders from rendering the same or similar services to others.

In addition, if due to Information Builder's fault, Ordering Activity cannot use the Work Product as a result of the infringement, Information Builders, at its option and expense, will either:

- (a) obtain a license for Ordering Activity to use the infringing item;
- (b) provide a non-infringing work-around; or
- (c) refund to Ordering Activity that portion of the fee relating to the infringing item.

Once Information Builders has done any one of the above, it shall have no further liability to Ordering Activity for the infringement.

WARRANTIES

Contractor warrants that the Services shall be performed by qualified personnel and will be of a professional quality conforming to generally accepted industry standards.

In the case of time and materials based orders, Contractor does not promise that the work can be completed for the amount estimated or within any specified time period.

It is Ordering Activity's responsibility to determine its data processing needs and to satisfy itself that the Services ordered will meet those needs. Contractor is not responsible for the manner in which the results of the Services are used by Ordering Activity.

If any Services do not meet the warranty set forth above, Contractor through Information Builders will use all commercially reasonable efforts, without charge, to bring its services to the specified level. In order to obtain such warranty service, the problem must be reported to Contractor within 90 days of delivery of the item in question. However, any other services will be on a time and materials basis.

Ordering Activity's remedy is for Contractor through Information Builders to use commercially reasonable efforts to cause the Services to comply with the foregoing warranties. In the event, Contractor through Information Builders cannot provide such Services within a reasonable time after notification, Ordering Activity's remedy is to terminate the Services and to receive a refund of any fees paid to Contractor for the non-conforming Services.

EXCEPT FOR ITS WARRANTY SET FORTH ABOVE CONTRACTOR MAKES NO OTHER WARRANTY, EXPRESSED OR IMPLIED. CONTRACTOR DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Kaseya** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided

however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

KASEYA

KASEYA LICENSE, WARRANTY AND SUPPORT TERMS

DEFINITIONS

"Software" or "Product" means the computer programs in object code for Kaseya's Traverse or Helix provided to Ordering Activity by Contractor or an Authorized Partner, and any upgrades, subsequent versions and updates (collectively "Updates") to such software that may be provided to Ordering Activity by Contractor or an Authorized Partner if Ordering Activity is under a support contract.

"Documentation" means installation guides and operation manuals provided with the Product.

"Use" or "Using" means to access, install, download, copy or otherwise benefit from executing or interaction with the Software.

LICENSE GRANT

Subject to the terms and conditions of this Attachment, Contractor hereby grants to Ordering Activity a non-exclusive, non-transferable license to Use the Product for Ordering Activity's internal business operations. Some third party materials included in the Software may be subject to other terms and conditions, which are typically found in a "Read Me" file or "About" file in the Software. Ordering Activity agrees to read such other terms and conditions and if Ordering Activity do not agree to accept such terms, not to use the Software.

RESTRICTIONS

General. Ordering Activity may not sell, lease, license, rent, loan, resell or otherwise transfer, with or without consideration, any Product. If Ordering Activity enter into a contract with a third party in which the third party manages Ordering Activity's information technology resources ("Managing Party"), Ordering Activity may transfer only Ordering Activity's rights to Use the Product to such Managing Party, provided that (a) the Managing Party only Uses the Product for Ordering Activity's internal operations and not for the benefit of another third party; (b) the Managing Party agrees in writing provided to Contractor to comply with the terms and conditions of this Attachment, and (c) Ordering Activity provides Contractor with written notice that a Managing Party will be Using the Product on Ordering Activity's behalf. Except with Contractor's prior written consent, Ordering Activity may not permit third parties to benefit from the Use of the Product via a timesharing, service bureau or any other arrangement. Ordering Activity may not reverse engineer, decompile, or disassemble the Product, except to the extent the foregoing restriction is expressly prohibited by applicable law. Ordering Activity may not modify, or create derivative works based upon, the Product in whole or in part. Ordering Activity may not copy the Software or Documentation except for a single copy for back-up purposes. Back-up copies of the Software may only be installed and activated into production use in the event the primary Software copy has been rendered inoperable or inaccessible due to a disaster. Ordering Activity may not remove any proprietary notices or labels on the Software.

Additional Restriction for Lab Copy licenses. Some Software may be provided to Ordering Activity under a laboratory license ("Lab License Software"). Such Lab License Software may only be deployed on one or more servers in a non-production, laboratory environment. Lab License Software may not be used in a production environment. In the event the Lab License Software is for the Traverse product, such Lab License Software may only be purchased in addition to a Traverse enterprise license.

Failover/Standby licenses: A "Warm Standby" license allows Ordering Activity to install the Software but not keep the Software running on spare or backup servers while the primary production Software is running. A "Hot Standby" license allows Ordering

Activity to install and keep the Software running on spare or backup servers at all times as a backup of the primary production Software.

WARRANTY

Contractor warrants that Software will perform substantially in conformance with the specifications set forth in the Documentation for 60 days from the shipment or transmission date. Contractor does not warrant that operation of the Product will be error-free or uninterrupted. Contractor will provide a workaround or correction for any nonconformity in the Software provided that Ordering Activity gives Contractor prompt written notice of the defect or nonconformity within the warranty period specified above. This warranty does not apply to defects or nonconformities in the Product caused by: (a) Ordering Activity's failure to follow Contractor's installation, operation or maintenance instructions or procedures; (b) modifications not made by Contractor or a Contractor-certified individual; and (c) power failures, surges, fire, flood, accident, actions of third parties or other events outside Contractor's reasonable control. Any Software for which a workaround or correction is provided shall continue to be warranted for the remainder of the original warranty period.

THIS WARRANTY

- (1) IS ORDERING ACTIVITY'S REMEDY AND CONTRACTOR'S ENTIRE LIABILITY FOR DEFECTIVE OR NONCONFORMING ITEMS, AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THIRD PARTY RIGHTS, AND
- (2) IS BETWEEN CONTRACTOR AND ORDERING ACTIVITY (AS THE ORIGINAL PURCHASER) AND MAY NOT BE TRANSFERRED OR ASSIGNED, BY OPERATION OF LAW OR OTHERWISE, WITHOUT CONTRACTOR'S PRIOR WRITTEN CONSENT.

MAINTENANCE TERMS

For the initial maintenance term, Ordering Activity shall pay to Contractor the annual maintenance fee per Ordering Activity's Purchase Order. Maintenance for additional maintenance terms shall be at Contractor's then current maintenance rates. In the event Ordering Activity purchases additional licenses, maintenance fees for such licenses shall be pro-rated so as to be co-terminus with Ordering Activity's existing maintenance period. In no event shall Contractor be responsible for providing maintenance services for a period during which maintenance coverage lapsed.

If Ordering Activity elects to resume maintenance after a lapse of coverage, Ordering Activity shall pay Contractor the pro-rated maintenance fee for the period of time in which maintenance coverage lapsed. Ordering Activity's payment for the lapsed period shall be the then current annual maintenance fee, prorated for the actual period of time that coverage lapsed. To resume maintenance after a lapse of coverage, Ordering Activity must purchase a minimum of one full year's maintenance beyond the lapsed period. If Ordering Activity resumes coverage after a lapse of coverage, the maintenance renewal date shall be changed to the date on which Ordering Activity paid all maintenance fees for the lapsed period and a minimum of one additional year of maintenance.

The term of Contractor's maintenance and product support program is for one year. Any revisions or changes in the terms of the maintenance and product support program shall occur only at the end of Ordering Activity's then current maintenance term.

Updates and Upgrades to the Software and Documentation: During the term, Contractor shall provide Ordering Activity with all updates and upgrades to the Software and online documentation for the Software application purchased by the Ordering Activity.

Maintenance Services

Support for the Helix product is limited to e-mail support.

Standard Support Program: During the term of the support program, Contractor will provide technical support for the Software. Contractor shall make available technical staff to assist with questions about the Software and to assist Ordering Activity in solving problems with the Software. Contractor through Manufacturer shall provide e-mail and/or phone support during its business hours (defined as 8:00 AM to 5:00 PM, Pacific Standard Time, Monday through Friday, excluding public US holidays). Under this Support Program Contractor through Manufacturer agrees to provide a response, but not necessarily a solution, to Ordering Activity within six (6) business hours upon notification by Ordering Activity to Contractor of problems or defects with the Software.

Extended Support Program: In addition to the services listed in the 'Standard Support Program', the Ordering Activity will be entitled to extended support hours between 7:00AM and 7:00PM Pacific Standard Time, Monday through Friday, excluding public US holidays). Contractor through Manufacturer agrees to provide a response, but not necessarily a solution, to Ordering Activity within four (4) business hours upon notification by Ordering Activity to Contractor of problems or defects with the Software.

Support of Previous Versions of the Licensed Software

During the term, Contractor shall provide support services for the current release of the Software and all other releases whose major version number (the numerical part before the first period from the left) is the same as the current release and minor version (the numerical part after the first period) is not more than 2 versions prior to the current release. In the event that the minor version number (the numerical part immediately following the first period from the left) is zero, Contractor will provide support for all releases with the previous major version and 2 minor versions prior to the current version. For example, if the current release is Version 4.5,

Contractor will support only those versions from 4.3 to 4.5. If the current release is 4.0, Contractor will provide support for the 2 minor versions prior to 4.0 (such as 3.6, 3.7 in addition to the current version 4.0).

If Ordering Activity desires support for earlier versions of the Software, such support will be treated as a consulting project.

Ordering Activity Responsibilities

Ordering Activity's Designated Contact - Ordering Activity shall appoint one individual within Ordering Activity's organization to serve as the primary contact between Ordering Activity and Contractor and to receive support through the purchased support program. One additional person can be listed in case the primary contact is not available.

Limitations

Support of Customizations, Modifications or Extensions to Software- Contractor will use commercially reasonable efforts to assist Ordering Activity in its attempts to remedy any problems with the Software resulting from any customizations, modifications, or extensions to the Software, regardless of by who such customizations, modifications, or extensions were performed. If Ordering Activity is unable to remedy such problems that are caused by Contractor's performance of any customizations, modifications or extensions, within a month of notifying Contractor, Ordering Activity may terminate the order and receive a pro-rated refund of any fees paid by Ordering Activity. If Ordering Activity is unable to remedy such problems that are caused by Ordering Activity's performance of any customizations, modifications or extensions, Contractor will, upon Ordering Activity's request, treat such problems as consulting project.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Klas Telecom, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such

occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by

law, regulation or its bona fide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

KLAS TELECOM, INC.

KLAS TELECOM, INC. LICENSE, WARRANTY AND SUPPORT TERMS

GRANT. Subject to the terms of this Agreement, Klas Ltd trading as Klas Telecom or its subsidiary licensing the Software ("Klas") hereby grants to you ("Ordering Activity") a limited, personal, nontransferable, nonpublicable, nonexclusive license to use Klas' software ("Software"), in object code form solely as such Software is embedded in equipment provided herewith.

LICENSE RESTRICTIONS. Ordering Activity may not, directly or indirectly: (a) modify, translate, reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code or the underlying ideas or algorithms of the Software, except to the extent applicable statutory law expressly prohibits such restrictions; (b) create derivative works based on the Software; (c) use the Software for performing comparisons or other "benchmarking" activities; (d) copy, rent, lease, distribute, or otherwise transfer rights to the Software; or (e) remove any proprietary notices or labels on the Software.

SUPPORT. Ordering Activity may purchase support services for the software from Klas or authorized resellers. **TITLE.** As between the parties, Klas and its licensors retain all right, title, and interest, including, without limitation, all intellectual property rights to the Software. Ordering Activity understands that Klas may modify or discontinue offering the Software at any time. The Software is protected by the copyright laws of Ireland and international copyright treaties. This Agreement does not give Ordering Activity any rights not expressly granted herein. This Agreement does not constitute a sale of the Software or any portion or copy of it.

WARRANTY DISCLAIMER. KLAS warrants that the SOFTWARE will, for a period of sixty (60) days from the date of your receipt, perform substantially in accordance with SOFTWARE written materials accompanying it. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, KLAS PROVIDES THE SOFTWARE "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, QUIET ENJOYMENT, INTEGRATION, TITLE, NON-INTERFERENCE AND NON- INFRINGEMENT. FURTHER, KLAS DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS THAT THE SOFTWARE WILL BE FREE FROM BUGS OR THAT ITS USE WILL BE UNINTERRUPTED OR THAT THE SOFTWARE OR WRITTEN MATERIALS WILL BE CORRECT, ACCURATE, OR RELIABLE. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. SHOULD THE SOFTWARE PROVE DEFECTIVE FOLLOWING LICENSE, ORDERING ACTIVITY (AND NOT KLAS) ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING OR REPAIR, EXCEPT AS MAY OTHERWISE BE PROVIDED BY A KLAS RESELLER OR SUPPORT PROVIDER.

GOVERNMENT USE. If Licensee is part of an agency, department, or other entity of the United States of America Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Software or any related Documentation is restricted in accordance with the Federal Acquisition Regulation 12.212 for civilian agencies and the Defense Federal Acquisition Regulation Supplement 227.7202 for military agencies. The Software and Documentation is a "commercial item", "commercial computer software" and "commercial computer software Documentation." The use of the Software and Documentation is further restricted in accordance with the terms of this Agreement, or any modifications thereto.

EXPORT CONTROLS. Licensee shall comply with the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions, and regulations of the United States of America or foreign agency or authority. Licensee will not export, or allow the export or re-export of the Software in violation of any such laws, restrictions or regulations.

EXHIBIT A

Klas Telecom has agreed to provide a limited Product Warranty to the Ordering Activity in respect of the Product, which is limited to the terms set forth below:

1. Definitions and Interpretation

1.1 Unless stated otherwise in these terms:

1.1.1 "Agreement", means the terms and conditions of this Limited Product Warranty Agreement.

1.1.2 "Ordering Activity", means the entity which purchases the Product.

1.1.3 "Klas Telecom", means Klas Limited, a limited liability company registered in Ireland, and having its registered offices at One

Kilmainham Square, Inchicore Road, Kilmainham, Dublin 8, Ireland, and its wholly owned subsidiaries Klas Telecom Inc., a Commonwealth of Virginia corporation having its principal office at 1101 30th Street NW, Suite 500, Washington, DC 20007 and Klas Telecom Services Inc having its principal office at 12100 Sunset Hills Road, Suite LL-1, Reston VA 20190.

1.1.4 "Klas Telecom Support Centre", means the Klas Telecom staff, technicians or authorised representatives contactable by telephone at +1 (703) 881 3156, by e-mail at support@klastelecom.com or through www.klastelecom.com/support.

1.1.5 "Product", means the Klas Telecom Voyager series chassis, backplanes and transit cases with which this warranty was provided at the time of purchase. Product does not include, and this Warranty shall not apply to: the Voyager series network modules which are covered under separate warranty; or, any third party manufacturer items supplied with the Product including personal computers, tablet computers, laptops, BGAN or VSAT terminals, cellular handsets or satellite telephones which are covered by their respective manufacturers' warranties to which Ordering Activity and/or Product user should refer.

1.1.6 "Product Materials", includes information relating to Product specification and any information and advice relating to installation and use of the Product, provided by Klas Telecom to the Ordering Activity or Product users either orally or in writing, during Product training sessions, at time of sale, or subsequently, or which is included in any Klas Telecom sales and advertising materials, support materials or advices, or published on a Klas Telecom website.

1.1.7 "Product Warranty", means the product warranty in accordance with Clause 2.

1.1.8 "RMA", means Return Material Authorisation in accordance with the RMA Procedures.

1.1.9 "RMA Procedures", means the Klas Telecom Return Material Authorisation procedures described on www.klastelecom.com/support, which may from time to time be altered by Klas Telecom.

1.1.10 "Software", means the machine readable (object code) version of the computer programs authored by Klas Telecom and provided as part of the Product and made available by Klas Telecom for licence to the Ordering Activity including firmware, and any copies made, bug fixes for, updates to or upgrades thereof. Software does not include any computer programs provided as part of the Product which are in the name of third party.

1.1.11 "User Maintenance", means any maintenance specified in the Product Materials as being the responsibility of the Ordering Activity or product users.

1.1.12 "Warranty Claim", means a claim by a Ordering Activity in accordance with Clause 3.6 of this Agreement.

1.1.13 "Warranty Period", means 90 days from the earlier of:

(a) the date of delivery of the Product to the Ordering Activity; or (b) the date two weeks after shipment from Klas Telecom.

1.1.14 "Warranty Service", means the repair, replacement or refund of a defective Product in accordance with Clause 3.1 of this Warranty Agreement.

1.2 Interpretation

1.2.1 Reference to Clauses or Schedules

Unless stated otherwise, references to a clause or schedule are to a clause of, or schedule to, this Agreement.

1.2.2 Singular includes Plural

Unless the context requires otherwise, the singular includes the plural and vice versa.

1.2.3 Recitals and clause headings

Recitals and clause headings are inserted for convenience and are to be ignored for the purposes of construction.

2. Limited Product Warranty

- 2.1 Subject to the limitations and conditions set forth herein, Klas Telecom warrants that during the Warranty Period the Product will be free from defects in materials and workmanship; and that, in respect of Software, (a) the media on which the Software is furnished will be free of defects in materials and workmanship, and (b) the Software substantially conforms to the written information (whether contained in user manuals, training materials, specifications or otherwise) pertaining to the Software and supplied with the Product.
- 2.2 Klas Telecom does not warrant that the operation of the Product will be uninterrupted or error free. Klas Telecom is not liable, under any circumstances, for Product downtime, loss of data or loss of information caused by the malfunctioning of the Product.
- 2.3 If, during the Warranty Period, the Product proves defective Klas Telecom shall, at its option, provide Warranty Service in accordance with Clause 3.

3. Warranty Service, Claims, Procedures and Conditions.

3.1 Warranty Service ("Warranty Service")


If the Product proves defective during the Warranty Period, Klas Telecom may at its option, following a Warranty Claim in accordance with Clause 3.6, provide the following Warranty Service:

- 3.1.1 Repair the Product by means of telephone support or at a Klas Telecom designated repair facility at no charge for parts or labour; or,
- 3.1.2 Replace the Product with functionally equivalent or new products; or,
- 3.1.3 Refund the amount paid for the Product less a reasonable allowance for usage, upon its return.

3.2 The decision of Klas Telecom is final regarding applicability of Warranty Service in accordance with this Agreement.

3.3 All claims in respect of a defective Product under this Agreement must be made, in accordance with clause 3.6, as soon as practicable after the problem is discovered.

3.4 Any Product repaired or replaced under this Agreement shall be warranted in accordance with Clause 2 for 90 days from the earlier of:

- a subsidiary of  immixGroup
- (a) the date of delivery to the Ordering Activity of the repaired or replaced Product, or
 - (b) the date two weeks after the shipment of the repaired or replaced Product from Klas Telecom.

The repair or replacement of a warranted Product shall not otherwise extend the Warranty Period.

3.5 Klas Telecom authorised Warranty Service

All warranty repair work must be performed by Klas Telecom or by a Klas Telecom authorised repair facility or personnel. Repairs undertaken by the Ordering Activity or Product users, without prior written express permission or direction from an authorised Klas Telecom technician, will void this Agreement.

3.6 Warranty Claims ("Warranty Claims")

In order to receive Warranty Service, the following shall apply if the Ordering Activity or Product user experiences difficulty with the Product during the Warranty Period:

- 3.6.1 Klas Telecom recommends that the Ordering Activity or Product users first utilise materials shipped with the product, product diagnostics and information published on the internet by Klas Telecom .
- 3.6.2 If the steps at 3.6.1 are not successful, to obtain Warranty Service under this Agreement the Ordering Activity or Product users must notify Klas Telecom of the defect, through Klas Telecom Support Centre, before the expiration of the Warranty Period, whereupon Klas Telecom may at its sole discretion provide Warranty Service in accordance with Clause 3.1.
- 3.6.3 The Ordering Activity or Product users shall provide appropriate assistance to Klas Telecom Support Centre in diagnosing issues with the Product and with resolving those issues.
- 3.6.4 Return of Product/parts
 - (a) In the event that Klas Telecom determine that the return of the Product or part of the Product is necessary, the Klas Telecom RMA Procedures apply.
 - (b) In accordance with the Klas Telecom RMA Procedures, Klas Telecom Support Centre will provide RMA numbers to the Ordering Activity or Product user only upon the decision of Klas Telecom to have the Ordering Activity or Product user return the Product for Warranty Service.
 - (c) The Product serial number, together with any other information from time to time required by Klas Telecom Support Centre, is required to obtain an RMA number.
 - (d) All Products returned to Klas Telecom for Warranty Service must possess a unique RMA number assigned by Klas Telecom. A Product returned to Klas Telecom without an RMA number may, at Klas Telecom's sole discretion, be returned to the Ordering Activity or Product user without provision of Warranty Service, and the cost of such transport and/or postage and/or freight charges shall be the responsibility of the Ordering Activity or Product user.
 - (e) The cost of transport and/or postage and/or freight charges from the Ordering Activity or Product user to Klas Telecom for return of a Product or parts, or replaced Products or parts, from or to any location outside of the United States of America is not assumed by Klas Telecom and shall be the responsibility of the Ordering Activity or Product user.

3.7 Replacement Product/parts


- 3.7.1 In the repair of the Product Klas Telecom may use new or equivalent to new parts for equal or improved quality.
- 3.7.2 A replacement Product or part provided by Klas Telecom becomes the property of the Ordering Activity and the replaced item becomes the property of Klas Telecom, and shall, upon request by Klas Telecom, be returned to Klas Telecom by the Ordering Activity or Product user.

3.8 User Data

- 3.8.1 Ordering Activity or Product user should make periodic backup copies of any software programs, data and other information stored on the Product ("User Data"), to protect User Data and as a precaution against possible operational failures.
- 3.8.2 Before Ordering Activity or Product user delivers the Product for repair it is the responsibility of either the Ordering Activity or the Product user, as appropriate, to keep a separate backup copy of the User Data, and disable any security passwords.
- 3.8.3 Klas Telecom or its authorised representatives are not responsible for any damage to, or loss of, User Data during the course of repair under this Agreement.
- 3.8.4 Any Product repaired or replaced under this Agreement will be returned to Ordering Activity or Product user configured in the same manner as when the Product was originally purchased. At Klas Telecom's discretion, Klas Telecom may make technical changes to the Product during provision of Warranty Service, such as configuration changes in the firmware, in order to upgrade the Product to the latest configuration status applicable to the Product.

4. Exclusions

- 4.1 These warranties shall not apply to any defect, failure or damage caused by improper use or improper or inadequate maintenance and care. Without prejudice to the generality of the foregoing, Klas Telecom shall not be obliged under these warranties:
 - 4.1.1 To repair any defect arising from reasonable wear and tear, accident, abuse, misuse, wilful damage, negligence, abnormal working conditions, or failure to follow Klas Telecom's instructions relating to the use of the Product (whether oral or in writing); or,
 - 4.1.2 To repair damage, malfunction or degradation in performance resulting from attempts by personnel other than Klas Telecom authorised representatives to repair, service, modify or alter the Product in any way other than in the performance of User Maintenance, or unless directed by a Klas Telecom authorised representative; or,
 - 4.1.3 To repair damage, malfunction, or degradation of performance resulting from improper use or connection to incompatible devices, equipment or memory, or installation of software that causes problems with the Product; or,
 - 4.1.4 To repair damage, malfunction or degradation of performance caused by the use of Non-Klas Telecom supplies or consumables or the use of Klas Telecom products not specified for use with this Product; or,
 - 4.1.5 To perform User Maintenance or cleaning or to repair damage, malfunction or degradation of performance resulting from failure to perform User Maintenance and cleaning as prescribed in Product Materials; or,
 - 4.1.6 To repair a Product which has been modified or integrated with other products when the effect of such modification or integration increases the time or difficulty of servicing the Product or degrades performance or reliability; or,
 - 4.1.7 To repair damage, malfunction or degradation of performance resulting from any use of the Product in any manner, or in any environment, not meeting with operating specification set forth in the Product Materials; or,
 - 4.1.8 To repair damage, malfunction or degradation of performance resulting from failure to properly prepare and transport the product as prescribed in Product Materials; or,
 - 4.1.9 To install replacement items that are considered customer replaceable; or,
 - 4.1.10 To repair or replace consumable parts, or damaged or lost ancillary/ accessory items, including batteries, hard drives, removable storage devices, USB storage, removable data key storage, USB serial adapters, webcams or cables unless damage occurred due to default in workmanship; or,
 - 4.1.11 To repair cosmetic damage, including but not limited to scratches, dents and broken plastic on ports; or,
 - 4.1.12 To repair Products with:
 - (a) serial numbers or date tags that have been removed altered or obliterated; or,
 - (b) broken seals or seals that show evidence of tampering; or,

(c) a subsidiary of  immixGroup
non-conforming or non-Klas Telecom, or Klas Telecom supplied, housings, antennas or parts; or,

4.1.13 To repair or replace any Product for which the total price for the Product has not been paid by the due date for payment; or,

4.1.14 To repair damage, malfunction or degradation in performance resulting from the failure by the Ordering Activity or Product users to implement recommendations in respect of, or solutions to, defects previously advised by Klas Telecom.

5. Extended Hardware Warranty, Out of Warranty Repairs, Software/Technical Support

5.1 Extended Hardware Warranty

If, upon the date of purchasing the Product, Ordering Activity purchased extended warranty for the Product (which must include purchase of Klas Telecom Technical Assistance Centre ("KTAC")), such extended warranty is provided in respect of the Product, subject to the terms and conditions of this Limited Product Warranty Agreement for the warranty period specified in the purchase order for the product and Warranty Term is amended accordingly. Ordering Activity or End User may contact Klas Telecom Support Centre to verify the warranty status of the Product.

5.2 Out of Warranty Repairs

5.2.1 If during the Warranty Term Klas Telecom finds the Product to require repair due to damage not covered by this Agreement Klas Telecom shall provide a quote at its then current GSA rates for repair of the Product which shall include all associated shipping costs. Klas Telecom shall not be obliged to carry out any such repairs without first having accepted an order for same on the basis of the quote provided.

5.2.2 If following expiration of the Warranty Term Ordering Activity or Product user requires repairs to be carried out to the Product, Ordering Activity or Product user shall contact Klas Telecom to arrange shipping of the Product to Klas Telecom, at no expense to Klas Telecom, for inspection in order to determine the repairs necessary.

5.2.3 Reserved.

5.2.4 Klas Telecom shall, following its inspection of the Product, provide the requesting party with a quote for repair or refurbishment at its then current GSA rates. Klas Telecom shall not be obliged to carry out any such repairs or refurbishment without first having accepted an order for same on the basis of the quote provided.

5.3 Technical Support

This Agreement entitles the Ordering Activity or Product users to KTAC technical support in respect of the Product and the Software in order to troubleshoot and/or diagnose any Warranty Claims during the Warranty Term (Note that Ordering Activity must purchase KTAC support when purchasing extended warranty for the Product). This Agreement does not entitle the Ordering Activity or Product user to technical support in respect of any third party software which is part of the Product. If, upon the date of purchasing the Product, Ordering Activity also purchased KTAC support in respect of the Product and Software and/or Cisco SMARTnet in respect of Cisco software, Ordering Activity or Product user may be entitled to software and/or technical support in accordance with any such support agreements. In order to determine technical and/or software support status of the Product, Ordering Activity or Product users should contact Klas Telecom Support Centre.

6. Reserved.

7. No Further Warranties

7.1 To the extent permitted by law, this Agreement and the remedies set forth above are exclusive and in lieu of all other warranties, remedies and conditions, whether oral or written, statutory, express or implied. As permitted by applicable law, Klas Telecom specifically disclaims any and all statutory or implied warranties, including, without limitation, warranties of merchantability, fitness for a particular purpose and warranties against hidden or latent defects. If Klas Telecom cannot lawfully disclaim statutory or implied warranties then to the extent permitted by law, all such warranties shall be limited in duration to the duration of this Agreement and to repair or replacement service, or refund, as determined by Klas Telecom in its sole discretion.

8. Reserved.

9. Reserved.

EXHIBIT B

Network Modules Limited Product Warranty

Klas Telecom has agreed to provide a limited Product Warranty to the Ordering Activity in respect of the Product, which is limited to the terms set forth below:

1. Definitions and Interpretation

1.1 Unless stated otherwise in these terms:

1.1.1 "Agreement", means the terms and conditions of this Limited Product Warranty Agreement.

1.1.2 "Ordering Activity", means the entity which purchases the Product.

1.1.3 "Klas Telecom", means Klas Limited, a limited liability company registered in Ireland, and having its registered offices at One Kilmainham Square, Inchicore Road, Kilmainham, Dublin 8, Ireland, and its wholly owned subsidiaries Klas Telecom Inc., a Commonwealth of Virginia corporation having its principal office at 1101 30th Street NW, Suite 500, Washington, DC 20007 and Klas Telecom Services Inc having its principal office at 12100 Sunset Hills Road, Suite LL-1, Reston VA 20190.

1.1.4 "Klas Telecom Support Centre", means the Klas Telecom staff, technicians or authorised representatives contactable by telephone at +1 (703) 881 3156, by e-mail at support@klastelecom.com or through www.klasonline.com/support.

1.1.5 "Product", means the Klas Telecom Voyager network module product which shall include the VoyagerESR, VoyagerSW8, Voyager819, VoyagerVM and Voyager LMR, with which this warranty was provided at the time of purchase. Product does not include, and this Warranty shall not apply to, the Voyager series chassis, backplanes or transit cases which are covered under separate warranty.

1.1.6 "Product Materials", includes information relating to Product specification and any information and advice relating to installation and use of the Product, provided by Klas Telecom to the Ordering Activity or Product users either orally or in writing, during Product training sessions, at time of sale, or subsequently, or which is included in any Klas Telecom sales and advertising materials, support materials or advices, or published on a Klas Telecom website.

1.1.7 "Product Warranty", means the product warranty in accordance with Clause 2.

1.1.8 "RMA", means Return Material Authorisation in accordance with the RMA Procedures.

1.1.9 "RMA Procedures", means the Klas Telecom Return Material Authorisation procedures described on www.klastelecom.com/support, which may from time to time be altered by Klas Telecom.

1.1.10 "Software", means the machine readable (object code) version of the computer programs authored by Klas Telecom and provided as part of the Product and made available by Klas Telecom for licence to the Ordering Activity including firmware, and any copies made, bug fixes for, updates to or upgrades thereof. Software does not include any computer programs provided as part of the Product which are in the name of third party.

1.1.11 "User Maintenance", means any maintenance specified in the Product Materials as being the responsibility of the Ordering Activity or product users.

1.1.12 "Warranty Claim", means a claim by a Ordering Activity in accordance with Clause 3.6 of this Agreement.

1.1.13 "Warranty Period", means 90 days from the earlier of:

(a) a subsidiary of  the date of delivery of the Product to the Ordering Activity; or

(b) the date two weeks after shipment from Klas Telecom.

1.1.14 "Warranty Service", means the repair, replacement or refund of a defective Product in accordance with Clause 3.1 of this Warranty Agreement.

1.2 Interpretation

1.2.1 Reference to Clauses or Schedules

Unless stated otherwise, references to a clause or schedule are to a clause of, or schedule to, this Agreement.

1.2.2 Singular includes Plural

Unless the context requires otherwise, the singular includes the plural and vice versa.

1.2.3 Recitals and clause headings

Recitals and clause headings are inserted for convenience and are to be ignored for the purposes of construction.

2. Limited Product Warranty

2.1 Subject to the limitations and conditions set forth herein, Klas Telecom warrants that during the Warranty Period the Product will be free from defects in materials and workmanship; and that, in respect of Software, (a) the media on which the Software is furnished will be free of defects in materials and workmanship, and (b) the Software substantially conforms to the written information (whether contained in user manuals, training materials, specifications or otherwise) pertaining to the Software and supplied with the Product.

2.2 Klas Telecom does not warrant that the operation of the Product will be uninterrupted or error free. Klas Telecom is not liable, under any circumstances, for Product downtime, loss of data or loss of information caused by the malfunctioning of the Product.

2.3 If, during the Warranty Period, the Product proves defective Klas Telecom shall, at its option, provide Warranty Service in accordance with Clause 3.

3. Warranty Service, Claims, Procedures and Conditions.

3.1 Warranty Service ("Warranty Service")

If the Product proves defective during the Warranty Period, Klas Telecom may at its option, following a Warranty Claim in accordance with Clause 3.6, provide the following Warranty Service:

3.1.1 Repair the Product by means of telephone support or at a Klas Telecom designated repair facility at no charge for parts or labour; or,

3.1.2 Replace the Product with functionally equivalent or new products; or,


3.1.3 Refund the amount paid for the Product less a reasonable allowance for usage, upon its return.

3.2 The decision of Klas Telecom is final regarding applicability of Warranty Service in accordance with this Agreement.

3.3 All claims in respect of a defective Product under this Agreement must be made, in accordance with clause 3.6, as soon as practicable after the problem is discovered.

3.4 Any Product repaired or replaced under this Agreement shall be warranted in accordance with Clause 2 for 90 days from the earlier of:

(a) the date of delivery to the Ordering Activity of the repaired or replaced Product, or

- (b) a subsidiary of  the date two weeks after the shipment of the repaired or replaced Product from Klas Telecom.

The repair or replacement of a warranted Product shall not otherwise extend the Warranty Period.

3.5 Klas Telecom authorised Warranty Service

All warranty repair work must be performed by Klas Telecom or by a Klas Telecom authorised repair facility or personnel. Repairs undertaken by the Ordering Activity or Product users, without prior written express permission or direction from an authorised Klas Telecom technician, will void this Agreement.

3.6 Warranty Claims ("Warranty Claims")

In order to receive Warranty Service, the following shall apply if the Ordering Activity or Product user experiences difficulty with the Product during the Warranty Period:

- 3.6.1 Klas Telecom recommends that the Ordering Activity or Product users first utilise materials shipped with the product, product diagnostics and information published on the internet by Klas Telecom .
- 3.6.2 If the steps at 3.6.1 are not successful, to obtain Warranty Service under this Agreement the Ordering Activity or Product users must notify Klas Telecom of the defect, through Klas Telecom Support Centre, before the expiration of the Warranty Period, whereupon Klas Telecom may at its sole discretion provide Warranty Service in accordance with Clause 3.1.
- 3.6.3 The Ordering Activity or Product users shall provide appropriate assistance to Klas Telecom Support Centre in diagnosing issues with the Product and with resolving those issues.
- 3.6.4 Return of Product/parts
 - (a) In the event that Klas Telecom determine that the return of the Product or part of the Product is necessary, the Klas Telecom RMA Procedures apply.
 - (b) In accordance with the Klas Telecom RMA Procedures, Klas Telecom Support Centre will provide RMA numbers to the Ordering Activity or Product user only upon the decision of Klas Telecom to have the Ordering Activity or Product user return the Product for Warranty Service.
 - (c) The Product serial number, together with any other information from time to time required by Klas Telecom Support Centre, is required to obtain an RMA number.
 - (d) All Products returned to Klas Telecom for Warranty Service must possess a unique RMA number assigned by Klas Telecom. A Product returned to Klas Telecom without an RMA number may, at Klas Telecom's sole discretion, be returned to the Ordering Activity or Product user without provision of Warranty Service, and the cost of such transport and/or postage and/or freight charges shall be the responsibility of the Ordering Activity or Product user.
 - (e) The cost of transport and/or postage and/or freight charges from the Ordering Activity or Product user to Klas Telecom for return of a Product or parts, or replaced Products or parts, from or to any location outside of the United States of America is not assumed by Klas Telecom and shall be the responsibility of the Ordering Activity or Product user.

3.7 Replacement Product/parts

- 3.7.1 In the repair of the Product Klas Telecom may use new or equivalent to new parts for equal or improved quality.
- 3.7.2 A replacement Product or part provided by Klas Telecom becomes the property of the Ordering Activity and the replaced item becomes the property of Klas Telecom, and shall, upon request by Klas Telecom, be returned to Klas Telecom by the Ordering Activity or Product user.

3.8 User Data

- 3.8.1 Ordering Activity or Product user should make periodic backup copies of any software programs, data and other information stored on the Product ("User Data"), to protect User Data and as a precaution against possible operational failures.

- 3.8.2 Before Ordering Activity or Product user delivers the Product for repair it is the responsibility of either the Ordering Activity or the Product user, as appropriate, to keep a separate backup copy of the User Data, and disable any security passwords.
- 3.8.3 Klas Telecom or its authorised representatives are not responsible for any damage to, or loss of, User Data during the course of repair under this Agreement.
- 3.8.4 Any Product repaired or replaced under this Agreement will be returned to Ordering Activity or Product user configured in the same manner as when the Product was originally purchased. At Klas Telecom's discretion, Klas Telecom may make technical changes to the Product during provision of Warranty Service, such as configuration changes in the firmware, in order to upgrade the Product to the latest configuration status applicable to the Product.

4. Exclusions

- 4.1 These warranties shall not apply to any defect, failure or damage caused by improper use or improper or inadequate maintenance and care. Without prejudice to the generality of the foregoing, Klas Telecom shall not be obliged under these warranties:
 - 4.1.1 To repair any defect arising from reasonable wear and tear, accident, abuse, misuse, wilful damage, negligence, abnormal working conditions, or failure to follow Klas Telecom's instructions relating to the use of the Product (whether oral or in writing); or,
 - 4.1.2 To repair damage, malfunction or degradation in performance resulting from attempts by personnel other than Klas Telecom authorised representatives to repair, service, modify or alter the Product in any way other than in the performance of User Maintenance, or unless directed by a Klas Telecom authorised representative; or,
 - 4.1.3 To repair damage, malfunction, or degradation of performance resulting from improper use or connection to incompatible devices, equipment or memory, or installation of software that causes problems with the Product; or,
 - 4.1.4 To repair damage, malfunction or degradation of performance caused by the use of Non-Klas Telecom supplies or consumables or the use of Klas Telecom products not specified for use with this Product; or,
 - 4.1.5 To perform User Maintenance or cleaning or to repair damage, malfunction or degradation of performance resulting from failure to perform User Maintenance and cleaning as prescribed in Product Materials; or,
 - 4.1.6 To repair a Product which has been modified or integrated with other products when the effect of such modification or integration increases the time or difficulty of servicing the Product or degrades performance or reliability; or,
 - 4.1.7 To repair damage, malfunction or degradation of performance resulting from any use of the Product in any manner, or in any environment, not meeting with operating specification set forth in the Product Materials; or,
 - 4.1.8 To repair damage, malfunction or degradation of performance resulting from failure to properly prepare and transport the product as prescribed in Product Materials; or,
 - 4.1.9 To install replacement items that are considered customer replaceable; or,
 - 4.1.10 To repair or replace consumable parts, or damaged or lost ancillary/ accessory items, including batteries, hard drives, removable storage devices, USB storage, removable data key storage, USB serial adapters, webcams or cables unless damage occurred due to default in workmanship; or,
 - 4.1.11 To repair cosmetic damage, including but not limited to scratches, dents and broken plastic on ports; or,
 - 4.1.12 To repair Products with:
 - (a) serial numbers or date tags that have been removed altered or obliterated; or,
 - (b) broken seals or seals that show evidence of tampering; or,
 - (c) non-conforming or non-Klas Telecom, or Klas Telecom supplied, housings, antennas or parts; or,
 - 4.1.13 To repair or replace any Product for which the total price for the Product has not been paid by the due date for payment; or,

4.1.14 To repair damage, malfunction or degradation in performance resulting from the failure by the Ordering Activity or Product users to implement recommendations in respect of, or solutions to, defects previously advised by Klas Telecom.

5. Extended Hardware Warranty, Out of Warranty Repairs, Software/Technical Support

5.4 Extended Hardware Warranty

If, upon the date of purchasing the Product, Ordering Activity purchased extended warranty for the Product (which must include purchase of Klas Telecom Technical Assistance Centre ("KTAC") and SMARTnet technical support), such extended warranty is provided in respect of the Product, subject to the terms and conditions of this Limited Product Warranty Agreement for the warranty period specified in the purchase order for the product and Warranty Term is amended accordingly. Ordering Activity or End User may contact Klas Telecom Support Centre to verify the warranty status of the Product.

5.5 Out of Warranty Repairs

5.5.1. If during the Warranty Term Klas Telecom finds the Product to require repair due to damage not covered by this Agreement Klas Telecom shall provide a quote at its then current GSA rates for repair of the Product which shall include all associated shipping costs. Klas Telecom shall not be obliged to carry out any such repairs without first having accepted an order for same on the basis of the quote provided.

5.5.2. If following expiration of the Warranty Term Ordering Activity or Product user requires repairs to be carried out to the Product, Ordering Activity or Product user shall contact Klas Telecom to arrange shipping of the Product to Klas Telecom, at no expense to Klas Telecom, for inspection in order to determine the repairs necessary.

5.5.3. Reserved.

5.5.4. Klas Telecom shall, following its inspection of the Product, provide the requesting party with a quote for repair or refurbishment at its then current GSA rates. Klas Telecom shall not be obliged to carry out any such repairs or refurbishment without first having accepted an order for same on the basis of the quote provided.

5.6 Software/Technical Support

This Agreement entitles the Ordering Activity or Product users to KTAC technical support in respect of the Product and the Software in order to troubleshoot and/or diagnose any Warranty Claims during the Warranty Term (Note that Ordering Activity must purchase KTAC support and Cisco SMARTnet support when purchasing extended warranty for the Product). This Agreement does not entitle the Ordering Activity or Product user to technical support in respect of any third party software which is part of the Product. If, upon the date of purchasing the Product, Ordering Activity also purchased KTAC support in respect of the Product and Software and/or Cisco SMARTnet in respect of Cisco software, Ordering Activity or Product user may be entitled to software and/or technical support in accordance with any such support agreements. In order to determine technical and/or software support status of the Product, Ordering Activity or Product users should contact Klas Telecom Support Centre.

6. Reserved.

7. No Further Warranties

7.1 To the extent permitted by law, this Agreement and the remedies set forth above are exclusive and in lieu of all other warranties, remedies and conditions, whether oral or written, statutory, express or implied. As permitted by applicable law, Klas Telecom specifically disclaims any and all statutory or implied warranties, including, without limitation, warranties of merchantability, fitness for a particular purpose and warranties against hidden or latent defects. If Klas Telecom cannot lawfully disclaim statutory or implied warranties then to the extent permitted by law, all such warranties shall be limited in duration to the duration of this Agreement and to repair or replacement service, or refund, as determined by Klas Telecom in its sole discretion.

8. Reserved.

9. Reserved.

10. Reserved.

11. Reserved.

Exhibit C

KLASPIONEER EXPRESS LIMITED PRODUCT WARRANTY AND TECHNICAL SUPPORT AGREEMENT

Klas Telecom has agreed to provide a limited Product Warranty and Technical Support to the Ordering Activity in respect of the Product, which is limited to the terms set forth below:

1. Definitions and Interpretation

1.1 Unless stated otherwise in these terms:

1.1.1 "Agreement", means the terms and conditions of this Limited Product Warranty and Technical Support Agreement.

1.1.2 "Ordering Activity", means the entity which purchases the Product.

1.1.3 "Companion Equipment", means any equipment, devices or components integrated into the Product by Klas Telecom and which are manufactured and supplied by third party manufacturers, which may include items such as: the Panasonic CF-18 or CF-19; the Juniper SGT; or, the Thrane and Thrane Explorer 500 BGAN User terminal;

1.1.4 "Delivery Country", means the country or territory in which the Products were delivered to the Ordering Activity.

1.1.5 "Delivery Warranty Period", means thirty (30) days from the date of delivery of the Product to the Ordering Activity.

1.1.6 "Klas Telecom", means Klas Limited t/a Klas Telecom, a limited liability company registered in Ireland, and having its registered offices at One Kilmainham Square, Inchicore Road, Kilmainham, Dublin 8, Ireland, and its wholly owned subsidiary Klas Telecom Inc., a Commonwealth of Virginia corporation having its principal office at 1101 30th Street NW, Suite 500, Washington, DC 20007.

1.1.7 "New Release", means any improved, modified or corrected version of :

- (a) the Product firmware; or,
- (b) the software provided by Klas Telecom when the Product was originally purchased; or,
- (c) Product Materials which may from time to time be released by Klas Telecom.

1.1.8 "Pioneer Support Centre", means the Klas Telecom staff, technicians or authorised representatives contactable by telephone at +1 (703) 881 3156 or by e-mail at support@klastelecom.com.

1.1.9 "Product", means the Klas Pioneer Express with which this warranty was provided at the time purchase.

1.1.10 "Product Materials", includes information relating to Product specification and any information and advice relating to installation and use of the Product, provided by Klas Telecom to the Ordering Activity or Product users either orally or in writing, during Product training sessions, at time of sale, or subsequently, or which is included in any Klas Telecom sales and advertising materials, support materials or advices, or published on a Klas Telecom website.


1.1.11 "Product Warranty", means the product warranty in accordance with Clause 3.

1.1.12 "RMA", means Return Material Authorisation in accordance with the RMA Procedures.

1.1.13 "RMA Procedures", means the Klas Telecom Return Material Authorisation procedures, which may from time to time be altered by Klas Telecom.

1.1.14 "Technical Support", means the provision by Klas Telecom of:

- (a) advice and assistance from Pioneer Support Centre, or by post or e-mail on the use of the Products, available twenty-four (24) hours per day, three hundred and sixty five (365) days per year; and,

(b) a subsidiary of  information and advice by telephone, post or e-mail on forthcoming New Releases; and,

1.1.15 "User Maintenance", means any maintenance specified in the Product Materials as being the responsibility of the Ordering Activity or product users.

1.1.16 "Warranty Claim", means a claim by a Ordering Activity in accordance with Clause 4.6 of this Agreement.

1.1.17 "Warranty Period", means 365 days from the earlier of:

(a) the date of delivery of the Product to the Ordering Activity; or (b) the

date two weeks after shipment from Klas Telecom.

1.1.18 "Warranty Service", means the repair, replacement or refund of a defective Product in accordance with Clause 4.1 of this Warranty Agreement.

1.2 Interpretation

1.2.1 Reference to Clauses or Schedules

Unless stated otherwise, references to a clause or schedule are to a clause of, or schedule to, this Agreement.

1.2.2 Singular includes Plural

Unless the context requires otherwise, the singular includes the plural and vice versa.

1.2.3 Recitals and clause headings

Recitals and clause headings are inserted for convenience and are to be ignored for the purposes of construction.

2. Delivery Warranty

2.1 Klas Telecom warrants the Product to be fully functional, in accordance with its operational specifications, and free from defect upon delivery.

2.2 If **during the Delivery Warranty Period** the Product does not operate in accordance with its specifications, the Ordering Activity shall contact Pioneer Support Centre, and the following shall apply:

2.2.1 Pioneer Support Centre will, by telephone, make every effort to assist the Ordering Activity in correcting the defect so that the Product operates according to its specifications. In the event resolution is not achieved in this manner within fifteen (15) days of the Ordering Activity contacting Klas Telecom, Pioneer Support Centre will provide a Return Material Authorization (RMA) to the Ordering Activity in accordance with Klas Telecom RMA Procedures so that the Product may be returned to Klas Telecom.

2.2.2 On return of the Product, the defective Product will, at Klas Telecom's sole option, either be repaired or replaced. Should Klas Telecom determine that the defective Product cannot be repaired within 30 days of receipt, Klas Telecom will ship a replacement Product to replace the defective one. For defective Products returned under Klas Telecom Delivery Warranty, Klas Telecom shall be responsible for:

(a) the cost of shipping the defective Product from the Delivery Country; and,

(b) the cost of diagnosis, repair, or replacement; and,

(c) the cost of shipping the repaired or replaced Product back to the Delivery Country.

- 3.1 Subject to the exclusions set out at Clause 5 herein, Klas Telecom warrants that the Product will be free from defects in materials and workmanship during the Warranty Period.
- 3.2 Klas Telecom does not warrant that the operation of the Product will be uninterrupted or error free. Klas Telecom is not liable, under any circumstances, for Product downtime, loss of data or loss of information caused by the malfunctioning of the Product.
- 3.3 If, during the Warranty Period, the Product proves defective Klas Telecom shall, at its option, provide Warranty Service in accordance with Clause 4.

4. Warranty Service, Claims, Procedures and Conditions.

4.1 Warranty Service ("Warranty Service")

If the Product proves defective during the Warranty Period, Klas Telecom may at its option, following a Warranty Claim in accordance with Clause 4.6, provide the following Warranty Service:

- 4.1.1 Repair the Product by means of telephone support or at a Klas Telecom designated repair facility at no charge for parts or labour; or,
- 4.1.2 Replace the Product with functionally equivalent or new products; or,
- 4.1.3 Refund the amount paid for the Product less a reasonable allowance for usage, upon its return.
- 4.2 The decision of Klas Telecom is final regarding applicability of Warranty Service in accordance with this Agreement.
- 4.3 All claims in respect of a defective Product under this Agreement must be made, in accordance with clause 4.6, as soon as practicable after the problem is discovered.
- 4.4 Any Product repaired or replaced under this Agreement shall be warranted in accordance with Clause 3 for the longer of: 4.4.1 the remainder of the Warranty Period for the Product, or
- 4.4.2 90 days from the earlier of:
- (a) the date of delivery to the Ordering Activity of the repaired or replaced Product, or
 - (b) the date two weeks after the shipment of the repaired or replaced Product from Klas Telecom.

The repair or replacement of a warranted Product shall not otherwise extend the Warranty Period.

4.5 Klas Telecom authorised Warranty Service

All warranty repair work must be performed by Klas Telecom or by a Klas Telecom authorised repair facility or personnel. Repairs undertaken by the Ordering Activity or Product users, without prior written express permission or direction from an authorised Klas Telecom technician, will void this Agreement.

4.6 Warranty Claims ("Warranty Claims")

In order to receive Warranty Service, the following shall apply if the Ordering Activity or Product user experiences difficulty with the Product during the Warranty Period:

- 4.6.1 Klas Telecom recommends that the Ordering Activity or Product users first utilise materials shipped with the product, product diagnostics, information published on the internet by Klas Telecom and Klas Telecom e-mail support, where available.
- 4.6.2 If the steps at 4.6.1 are not successful, to obtain Warranty Service under this Agreement the Ordering Activity or Product users must notify Klas Telecom of the defect, through Pioneer Support Centre, before the expiration of the

Warranty Period, whereupon Klas Telecom may at its sole discretion provide Warranty Service in accordance with Clause 4.1.

4.6.3 The Ordering Activity or Product users shall provide appropriate assistance to Pioneer Support Centre in diagnosing issues with the Product and with resolving those issues.

4.6.4 Return of Product/parts

- (a) In the event that Klas Telecom determine that the return of the Product or part of the Product is necessary, the Klas Telecom RMA Procedures apply.
- (b) In accordance with the Klas Telecom RMA Procedures, Pioneer Support Centre will provide RMA numbers to the Ordering Activity or Product user only upon the decision of Klas Telecom to have the Ordering Activity or Product user return the Product for Warranty Service.
- (c) The Product serial number, together with any other information from time to time required by Pioneer Support Centre, is required to obtain an RMA number.
- (d) All Products returned to Klas Telecom for Warranty Service must possess a unique RMA number assigned by Klas Telecom. A Product returned to Klas Telecom without an RMA number may, at Klas Telecom's sole discretion, be returned to the Ordering Activity or Product user without provision of Warranty Service, and the cost of such transport and/or postage and/or freight charges shall be the responsibility of the Ordering Activity or Product user.
- (e) The cost of transport and/or postage and/or freight charges from the Ordering Activity or Product user to Klas Telecom for return of a Product or parts, or replaced Products or parts, from or to any location outside of the United States of America is not assumed by Klas Telecom and shall be the responsibility of the Ordering Activity or Product user.

4.7.1 In the repair of the Product Klas Telecom may use new or equivalent to new parts for equal or improved quality.

4.7.2 A replacement Product or part provided by Klas Telecom becomes the property of the Ordering Activity and the replaced item becomes the property of Klas Telecom, and shall, upon request by Klas Telecom, be returned to Klas Telecom by the Ordering Activity or Product user.

4.8 User Data

4.8.1 Ordering Activity or Product user should make periodic backup copies of any software programs, data and other information stored on the Product ("User Data"), to protect User Data and as a precaution against possible operational failures.

4.8.2 Before Ordering Activity or Product user delivers the Product for repair it is the responsibility of either the Ordering Activity or the Product user, as appropriate, to keep a separate backup copy of the User Data, and disable any security passwords.

4.8.3 Klas Telecom or its authorised representatives are not responsible for any damage to, or loss of, User Data during the course of repair under this Agreement.

4.8.4 Any Product repaired or replaced under this Agreement will be returned to Ordering Activity or Product user configured in the same manner as when the Product was originally purchased. At Klas Telecom's discretion, Klas Telecom may make technical changes to the Product during provision of Warranty Service, such as configuration changes in the firmware, in order to upgrade the Product to the latest configuration status applicable to the Product.

4.9 Companion Equipment Support Procedure

4.9.1 Companion Equipment integrated by Klas Telecom into a Product has direct warranties from the Companion Equipment supplier ("Companion Equipment Supplier Warranties"). This Agreement does not replace or supersede the Companion Equipment Supplier Warranties, nor does Klas Telecom create any implied warranty of Companion Equipment.

4.9.2 If, during the Warranty Period, the Ordering Activity or Product user experiences difficulty with any Companion Equipment, such that the Product does not function in accordance with its specification, the following steps should be taken:

- (a) Contact Pioneer Support Centre for a diagnosis of the problem. Pioneer Support Centre will ascertain Companion Equipment Supplier Warranty procedures following an initial telephone diagnosis.
- (b) If, following a diagnosis of the problem by Pioneer Support Centre, it is determined that the Product is to be returned to Klas Telecom for evaluation or repair, an RMA number will be assigned according to the Klas Telecom RMA procedures.
- (c) If at any time Klas Telecom determines that the problem is due to an item of Companion Equipment, Klas Telecom may issue an RMA number, in accordance with the RMA procedures, for return of the Product to Klas Telecom and will arrange for repair of the Companion Equipment by the Companion Equipment supplier.

5. Exclusions

5.1 These warranties shall not apply to any defect, failure or damage caused by improper use or improper or inadequate maintenance and care. Without prejudice to the generality of the foregoing, Klas Telecom shall not be obliged under these warranties:

- 5.1.1 To repair any defect arising from reasonable wear and tear, accident, abuse, misuse, wilful damage, negligence, abnormal working conditions, or failure to follow Klas Telecom's instructions relating to the use of the Product (whether oral or in writing); or,
- 5.1.2 To repair damage, malfunction or degradation in performance resulting from attempts by personnel other than Klas Telecom authorised representatives to repair, service, modify or alter the Product in any way other than in the performance of User Maintenance, or unless directed by a Klas Telecom authorised representative; or,
- 5.1.3 To repair damage, malfunction, or degradation of performance resulting from improper use or connection to incompatible devices, equipment or memory, or installation of software that causes problems with the Product; or,
- 5.1.4 To repair damage, malfunction or degradation of performance caused by the use of Non-Klas Telecom supplies or consumables or the use of Klas Telecom products not specified for use with this Product; or,
- 5.1.5 To perform User Maintenance or cleaning or to repair damage, malfunction or degradation of performance resulting from failure to perform User Maintenance and cleaning as prescribed in Product Materials; or,
- 5.1.6 To repair a Product which has been modified or integrated with other products when the effect of such modification or integration increases the time or difficulty of servicing the Product or degrades performance or reliability; or,
- 5.1.7 To repair damage, malfunction or degradation of performance resulting from any use of the Product in any manner, or in any environment, not meeting with operating specification set forth in the Product Materials; or,
- 5.1.8 To repair damage, malfunction or degradation of performance resulting from failure to properly prepare and transport the product as prescribed in Product Materials; or,
- 5.1.9 To install replacement items that are considered customer replaceable; or,
- 5.1.10 To repair or replace consumable parts such as battery, unless damage occurred due to default in workmanship; or,
- 5.1.11 To repair cosmetic damage, including but not limited to scratches, dents and broken plastic on ports; or,
- 5.1.12 To repair Products with:
 - (a) serial numbers or date tags that have been removed altered or obliterated; or,
 - (b) broken seals or seals that show evidence of tampering; or,
 - (c) non-conforming or non-Klas Telecom, or Klas Telecom supplied, housings, antennas or parts;or,

5.1.13 To repair or replace any Product for which the total price for the Product has not been paid by the due date for payment; or,

5.1.14 To repair damage, malfunction or degradation in performance resulting from the failure by the Ordering Activity or Product users to implement recommendations in respect of, or solutions to, defects previously advised by Klas Telecom.

6. Technical Support

6.1 During the Warranty Period Klas Telecom shall provide the Ordering Activity or Product users with Technical Support in respect of the Product.

7. Reserved.

8. No Further Warranties

8.1 To the extent permitted by law, this Agreement and the remedies set forth above are exclusive and in lieu of all other warranties, remedies and conditions, whether oral or written, statutory, express or implied. As permitted by applicable law, Klas Telecom specifically disclaims any and all statutory or implied warranties, including, without limitation, warranties of merchantability, fitness for a particular purpose and warranties against hidden or latent defects. If Klas Telecom cannot lawfully disclaim statutory or implied warranties then to the extent permitted by law, all such warranties shall be limited in duration to the duration of this Agreement and to repair or replacement service, or refund, as determined by Klas Telecom in its sole discretion.

9. Reserved.

10. Reserved.

11. Reserved.

12. Reserved.

ImmixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached Kronos Incorporated (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All

Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.

- v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.

3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

KRONOS

KRONOS LICENSE, WARRANTY AND SUPPORT TERMS

- A. KRONOS GENERAL TERMS' SALES SOFTWARE (on premise) SUPPORT SERVICES (EXCLUDING webTA and Workforce GovTA), EQUIPMENT AND PROFESSIONAL SERVICES
Exhibit A.1 – EQUIPMENT PURCHASE AND RENTAL TERMS AND CONDITION Exhibit A.2 - WORKFORCE GOVTA SOFTWARE LICENSE
- B. KRONOS webTA and Workforce GovTA SUPPORT POLICIES AND SERVICES
- C. APPLICATION HOSTING SUPPLEMENTAL TERMS AND CONDITIONS
- D. KRONOS WORKFORCE CENTRAL SAAS TERMS
- E. KRONOS WORKFORCE READY SAAS TERMS (contracted prior to July 2020)
- F. KRONOS PROFESSIONAL AND EDUCATION SERVICES POLICIES
- G. KRONOS SUPPORT SERVICES POLICIES (not applicable to WebTA Support)
- H. KRONOS WORKFORCE TELESTAFF IVR SERVICE
- I. WORKFORCE DIMENSIONS™ TERMS AND CONDITIONS

KRONOS GENERAL COMMERCIAL SALES TERMS

These supplemental terms and conditions apply to accepted order made to Contractor to all Kronos Equipment, Software, Professional and Educational Services, Support and such other Kronos offerings, as specified on an order form (an "Order"). In addition to these terms the following sections apply for the different specific offerings: the terms of section A shall apply to the Software licensed (on premise) and Equipment purchase or rental, support and professional services, Section B shall apply to the Support services of the webTA Software and Workforce GovTA; Section C shall apply to the Hosting Services purchased in relation with certain Software licensed under Section A; Section D shall apply to the Workforce central Saas Orders; Section E shall apply to the Workforce Ready Saas Order; Section G shall applicable to the Software and Equipment support services (except WebTA and Workforce GovTA), Section H shall apply to the Workforce Telestaff IVR order and Section I shall apply to Workforce Dimension Terms and Conditions.

SECTION A KRONOS GENERAL TERMS' SALES SOFTWARE (on premise), SOFTWARE SUPPORT SERVICES, EQUIPMENT AND PROFESSIONAL SERVICES

1. **GENERAL LICENSE TERMS**
Kronos owns or has the right to license the Software. The Software and Software documentation are confidential and may not be disclosed to a third party without Kronos' written consent. The Software contains proprietary trade secret technology. Unauthorized use and copying of such Software is prohibited by law, including United States and foreign copyright law. The price Ordering Activity pays for a copy of the Software constitutes a license fee that entitles Ordering Activity to use the Software as set forth below. Contractor grants to Ordering Activity a nonexclusive, nontransferable, perpetual (except as provided herein) license to use the Software. Ordering Activity shall not use the Software if it is in breach

of the terms of this Section A. Upon termination of this license Ordering Activity will have no further right to use the Software and will return the Software media to Kronos and destroy all copies of the Software (and related documentation) in Ordering Activity's possession or control. This license is subject to all of the terms of this Section A of this Attachment A. Specific license terms and conditions applicable to the Workforce GovTA Software are set forth in Exhibit A.2 of this Section A.

2. FEE BASED LIMITATIONS

Ordering Activity recognizes and agrees that the license to use the Software is limited, based upon the amount of the license fee paid by Ordering Activity. Limitations, which are set forth on the Order Form, may include the number of employees, simultaneous or active users, Software product modules, Software features, computer model and serial number and partition, and/or the number of telephone lines or terminals to which the Software is permitted to be connected. Ordering Activity agrees to: i) use the Software only for the number of employees, simultaneous or active users, computer model, partition and serial number, and/or terminals permitted by the applicable license fee; ii) use only the product modules and/or features permitted by the applicable license fees; and iii) use the Software only in support of Ordering Activity's own business. Ordering Activity agrees not to increase the number of employees, simultaneous or active users, partitions, terminals, products modules, features, or to upgrade the model, as applicable, unless and until Ordering Activity pays the applicable fee for such increase/upgrade. Ordering Activity may not relicense or sublicense the Software to, or otherwise permit use of the Software (including timesharing or networking use) by any third party. Ordering Activity may not provide service bureau or other data processing services that make use of the Software without the express prior written consent of Kronos.

3. OBJECT CODE ONLY

Ordering Activity may use the computer programs included in the Software (the "Programs") in object code form only, and shall not reverse compile, disassemble or otherwise convert the Programs into uncompiled or unassembled code. The Programs include components owned by third parties. Such third party components are deemed to be Software subject to this Section A of this Attachment A. Ordering Activity shall not use any of the Programs (or the data models therein) except solely as part of and in connection with the Software and as described in the published documentation for such Software.

4. PERMITTED COPIES

Ordering Activity may copy the Programs as reasonably necessary to load and execute the Programs and for backup and disaster recovery and testing purposes only, except for additional copies of the Teletime Software and the Kronos iSeries (which must be licensed separately). All copies of the Programs or any part thereof, whether in printed or machine readable form and whether on storage media or otherwise, are subject to all the terms of this license, and all copies of the Programs or any part of the Programs shall include the copyright and proprietary rights notices contained in the Programs as delivered to the Ordering Activity.

5. UPDATES

In the event that Kronos supplies Service Packs, Point Releases and Major Releases (including legislative updates if available) of the Software (collectively referred to as "Updates"), such Updates shall be part of the Software and the provisions of this license shall apply to such Updates and to the Software as modified thereby.

6. LIMITED WARRANTY

Contractor warrants that all Kronos Software media shall be free from defects in materials and workmanship, for a period of ninety (90) days from Delivery. In the event of a breach of this warranty, Ordering Activity's remedy shall be Kronos' repair or replacement of the deficient Software media, at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the Specifications. This warranty is extended to Ordering Activity only and shall not apply to any Software media in the event of:

- (a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, , unusual physical or electrical stress or causes other than normal and intended use;
- (b) failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the Specifications; or
- (c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

When using and applying the information generated by Kronos products, Ordering Activity is responsible for ensuring that Ordering Activity complies with requirements of federal and state law where applicable. If Ordering Activity is licensing Workforce Payroll Software or Workforce Absence Management Software: (i) Ordering Activity is solely responsible for the content and accuracy of all reports and documents prepared in whole or in part by using such Software, (ii) using such Software does not release Ordering Activity of any professional obligation concerning the preparation and review of such reports

and documents, (iii) Ordering Activity does not rely upon Kronos, Best Software, Inc. or such Software for any advice or guidance regarding compliance with federal (and state laws where applicable) or the appropriate tax treatment of items reflected on such reports or documents, and (iv) Ordering Activity will review any calculations made by using such Software and satisfy itself that those calculations are correct.

7. PROFESSIONAL AND EDUCATIONAL SERVICES

(a) ENGAGEMENTS

Unless otherwise indicated on the Order, Professional and Educational Services ("Professional Services") shall be provided on a time and material basis at established fixed hourly prices labor rates and described in a statement of work.

(b) WARRANTY

Contractor warrants that all professional and educational services performed under this Section A of this Attachment A shall be performed in a professional and competent manner. In the event that Contractor breaches this warranty, and Ordering Activity so notifies Kronos through Contractor within 30 days of receipt of invoice for the applicable services, the Ordering Activity's remedy and Contractor's liability shall be to re-perform the services which were deficient in a manner so as to conform to the foregoing warranty, at no additional cost to Ordering Activity.

(c) KRONOS PROFESSIONAL/EDUCATIONAL SERVICES POLICIES

Kronos' Professional/Educational Services Policies shall apply to all Professional and/or Educational Services purchased under the applicable SOW and are in Section F of this Attachment A. In the event of a conflict between the Professional Services Policies and this Section A of this Attachment A, the terms of this Section A of this Attachment shall prevail.

8. SOFTWARE SUPPORT SERVICES

(a) SUPPORT OPTIONS

Ordering Activity may select from the following Software support purchase options: Gold (or Gold Plus) and Platinum (or Platinum Plus) support ("Service Type"), each providing different service coverage periods and/or service offerings, as specified herein ("Service Offerings") and in the Kronos Support Service Policies (defined below). Ordering Activity must purchase the same Service Type for all of the Software specified on the Order Form, (however, if Ordering Activity is purchasing support services for Visionware Software, Ordering Activity may only purchase Gold Service Type for the Visionware Software). All Updates shall be provided via remote access.

(b) TERM OF SOFTWARE SUPPORT

Unless otherwise indicated on the Order Form, support service shall commence on the Software Delivery date and shall continue for an initial term of one (1) year. Renewal of support will be agreed by the issuance of a new order and Contractor accepting such order.

(c) GOLD SERVICE OFFERINGS

Ordering Activity shall be entitled to receive:

- (i) Updates for the Software (not including any Software for which Contractor charges a separate license fee), provided that Ordering Activity's operating system and equipment meet minimum system configuration requirements, as reasonably determined by Contractor through Kronos. If Ordering Activity requests Contractor through Kronos to install such Updates or to provide retraining, Ordering Activity shall issue a new purchase order to Contractor for such installation or retraining at Contractor's then current GSA prices.
- (ii) Telephone and/or electronic access to the Kronos Global Support Center for the logging of requests for service during the Service Coverage Period. The Service Coverage Period for the Gold Service Offering is 8:00 a.m. to 8:00 p.m., local time, Monday through Friday, excluding Kronos holidays.
- (iii) Web-based support including access to Software documentation, FAQ's, access to Kronos knowledge base, Ordering Activity forums, and e-case management. Such offerings are subject to modification by Kronos. Current offerings can be found at <http://www.kronos.com/services/support-services.aspx>.
- (iv) Web-based remote diagnostic technical assistance which may be utilized by Kronos to resolve Software functional problems and user problems during the Service Coverage Period.
- (v) Access to specialized content as and when made available by Contractor through Kronos such as technical advisories, learning quick tips, brown bag seminars, technical insider tips, SHRM e-Learning, HR Payroll Answerforce and service case studies.

(d) PLATINUM AND PLUS SERVICE OFFERINGS:

Platinum: In addition to the Service Offerings specified for the Gold Service Offering above, the Service Coverage Period for the Platinum Service Offering is 24 hours a day, seven days a week, 365 days a year.

Plus option: In addition to the Service Offerings specified for the Gold Service Offering above, Ordering Activities purchasing the Plus option shall receive the services of a dedicated, but not exclusive, Kronos Technical Account Manager (“TAM”) for one production instance of the Software. Customers purchasing the Gold-Plus option shall designate up to one primary and one secondary backup technical contacts (“Technical Contacts”) to be the sole contacts with the TAM, while Ordering Activities purchasing the Platinum-Plus option shall designate up to two primary and three secondary backup Technical Contacts. Upon request, Ordering Activity may designate additional and/or backup Technical Contacts. Ordering Activity is required to place all primary Technical Contacts through Kronos product training for the Software covered under this Section A of this Attachment A at Ordering Activity’s expense under a separate order.

Ordering Activities purchasing the Platinum-Plus option shall also receive a one day per year visit to be performed at the Ordering Activity location where the Software is installed. During this onsite visit, Contractor through Kronos shall work with Ordering Activity to identify ways to help Ordering Activity increase functionality or maximize utilization of the Software in Ordering Activity’s specific environment. Ordering Activity must be utilizing the then-current version of the Software.

(e) ADDITION OF SOFTWARE

Additional Software purchased by Ordering Activity as per the ordering procedure set out in the agreement during the initial or any renewal term shall be added to this Section A of this Attachment A at the same support option as the then current Software support coverage in place under these terms. Ordering Activity agrees to pay the charges for such addition as per the Order.

(f) RESPONSIBILITIES OF ORDERING ACTIVITY

Ordering Activity agrees (i) to provide Kronos personnel with full, free and safe access to Software for purposes of support, including use of Kronos’ standard remote access technology, if required; (ii) to maintain and operate the Software in an environment and according to procedures which conform to the Specifications; and (iii) not to allow support of the Software by anyone other than Kronos without prior written authorization from Kronos. Failure to utilize Kronos’ remote access technology may delay Kronos’ response and/or resolution to Ordering Activity’s reported Software problem. If Ordering Activity requires the use of a specific remote access technology not specified by Kronos, then Ordering Activity must purchase the Plus option to receive support and provide Kronos personnel with full, free and safe access to the remote access hardware and/or software.

(g) WARRANTY

Contractor warrants that all support services shall be performed in a professional and competent manner.

9. KRONOS SUPPORT SERVICE POLICIES

Kronos’ Support Services Policies shall apply to all Support Services purchased and may be accessed in Sections B for the WebTa Software support services and Section G for the other products of this Attachment A. In the event of a

conflict between the Support Policies and this Section A of this Attachment A, the terms of this Section A of this Attachment A shall prevail.

10. EXPORT

Ordering Activity acknowledges that the Equipment and Software may be restricted by the United States Government or by the country in which the Equipment or Software is installed from export to certain countries and certain organizations and individuals, and agrees to comply with such laws. Ordering Activity agrees to comply with all applicable laws of all of the countries in which the Equipment and Software may be used by Ordering Activity.

Ordering Activity’s obligations hereunder shall survive the termination or expiration of the Order Form. Ordering Activity must obtain Kronos through Contractor prior written consent before exporting the Software.

11. FIRMWARE

Ordering Activity may not download firmware updates for the Kronos Equipment unless Ordering Activity is maintaining such

Equipment under a support plan with Contractor. If Ordering Activity is not maintaining the Equipment under a support plan with Contractor, Contractor through Kronos shall have the right to verify Ordering Activity’s Kronos Equipment to determine if Ordering Activity has downloaded any firmware to which Ordering Activity is not entitled.

12. TRAINING POINTS

Training Points which are purchased by Ordering Activity may be redeemed for an equivalent value of instructor-led training sessions offered by Kronos. Available instructor-led sessions are listed at <http://customer.Kronos.com> and each session has the Training Points value indicated. Training Points are invoiced when used by the Ordering Activity. Training Points may not be exchanged for other Kronos products and/or services.

13. KNOWLEDGEPASS EDUCATION SUBSCRIPTION:

The parties hereby agree that the following terms shall apply to Ordering Activity's purchase of the Kronos KnowledgePass Education Subscription only, if specified on the Order Form:

Scope: The KnowledgePass Education Subscription is available to customers who are licensing Kronos' Workforce Central and iSeries Timekeeper Software products and who are maintaining such products under a support plan with Kronos. The KnowledgePass Education Subscription provides access via the internet to certain educational offerings provided by Kronos (the "KnowledgePass Content"), including:

- Product and upgrade information for project teams and end users
- Hands-on interactive instruction on common tasks
- Self-paced tutorials covering a range of topics
- Job aids
- Knowledge assessment and reporting tools to measure progress
- Webinars

Term of Subscription: The annual KnowledgePass Education Subscription shall run co-terminously with

Ordering Activity's Software Support, and shall renew for additional one (1) year terms provided Ordering Activity renews its KnowledgePass Education Subscription as provided below.

The KnowledgePass Subscription is available when the Ordering Activity subscribe on annual basis.

Limitations: Ordering Activity recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Ordering Activity is permitted to make copies of the KnowledgePass Content provided in *pdf form solely for Ordering Activity's internal use and may not disclose such KnowledgePass Content to any third party other than Ordering Activity's employees. Ordering Activity may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Ordering Activity may download and modify contents of Training Kits solely for Ordering Activity's internal use.

Train-the-Trainer Program (TTT): Certification under the Train-the-Trainer Program is valid only for the point release of the Software for which the TTT Program is taken, and covers only the Ordering Activity employee who completes the TTT Program.

14. CONFIDENTIAL INFORMATION

Among other information that may be Confidential Information, the Ordering Activity hereby agree that the Software (and Software documentation), and the Specifications shall be deemed to be Kronos' Confidential Information and trade secrets.

15. GENERAL

- (a) Ordering Activity shall not assign, transfer or sublicense the license to the Software without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.
- (b) Ordering Activity understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general product development direction, potential future products and/or product enhancements under consideration, Ordering Activity is not entitled to any products or product enhancements other than those contained on the Order Form. Ordering Activity has not relied on the availability of any future version of the Software or Equipment identified on an Order Form, nor any other future product in executing this Section A of this Attachment.
- (c) Use, duplication, or disclosure by the United States Government is of the Software, Documentation and any other type of technical data provided hereunder are commercial in nature and developed at private expense.
The Software is licensed as Commercial Computer Software and subject to restrictions as set forth in subparagraph (c) (1) (ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or the provision of the GSA Schedule contract, as applicable. Manufacturer/distributor is Kronos Incorporated, 297 Billerica Road, Chelmsford, MA. The Software, Documentation and any other technical data provided hereunder is commercial in nature and developed solely at private expense.

The Software is delivered as "Commercial Computer Software" as defined in DFARS 252.227-7014 (June 1995) or as a "Commercial Item" as defined in FAR 2.101(a) and as such is provided with only such rights as are provided in Manufacturer's standard commercial license for the Software. Technical data is provided with limited rights only as provided in DFAR 252.227-7015 (Nov. 1995) or FAR 52.227-14 (June 1987), whichever is applicable. Contractor grants Ordering Activity only those utilization rights (and reserves the same utilization limitations) as specified in this Attachment A.

Exhibit A.1 – EQUIPMENT PURCHASE, RENTAL AND SUPPORT

The following terms and conditions supplement the terms and conditions of A and govern the purchase and sale, or rental of, Equipment and the related support services, as applicable. Rental of Equipment is only available with the software as a service offerings such as those outlined in Section D and I.

1. Purchase and Sale of Equipment

When indicated on the applicable Order Form as Purchased Equipment, Contractor through Kronos sells to Ordering

Activity the Equipment listed on that Order Form for the price stated on that Order Form in accordance with the GSA Schedule Pricelist. Payment and delivery terms are as stated on the Order Form. Contractor will invoice Ordering Activity for purchased Equipment upon shipment of the Equipment.

2. Equipment Rentals (only available with Software as a Service offerings)

The following terms apply only to Equipment Ordering Activity rents from Contractor when indicated on the applicable Order Form as Rental Equipment:

- 2.1 Rental Term and Warranty. The term of the Equipment rental and the warranty for such Equipment shall run coterminously with the Term of the Service.
- 2.2 Insurance. Ordering Activity shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times during the Term. No loss, theft or damage after shipment of the Equipment to Ordering Activity shall relieve Ordering Activity from Ordering Activity's obligations hereunder.
- 2.3 Location/Replacement. Ordering Activity shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall, subject to the Ordering Activity's security requirements pertaining to security clearances and access to premises, computer systems, and data, have the right to enter Ordering Activity's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Ordering Activity, to replace any Equipment with newer or alternative technology as long as the replacement Equipment at least provides the same level of functionality as that being replaced.
- 2.4 Ownership. All Equipment shall remain the property of Contractor through Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment's attachment to other equipment or real property. Ordering Activity shall not sell or otherwise encumber the Equipment. Ordering Activity shall furnish any assurances, written or otherwise, reasonably requested by Contractor to give full effect to the intent of terms of this paragraph.
- 2.5 Equipment Support. Contractor shall provide to Ordering Activity the Depot Exchange Equipment Support Services described below, the Fees for which are included in the Rental Fees for the Equipment.
- 2.6 Return of Equipment. Upon termination or expiration of the Rental Period for the Equipment or upon termination or expiration of the Order Form, for any reason, Ordering Activity shall return at its expense, within thirty (30) days of the effective date of termination, the Equipment. Equipment will be returned to Contractor in the same condition as and when received, reasonable wear and tear excepted.

3. Warranty

Contractor warrants that all Kronos Equipment shall be free from defects in materials and workmanship, for a period of ninety (90) days from delivery. In the event of a breach of this warranty, Ordering Activity's exclusive remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the Documentation. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) in the event of:

- a. damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Contractor components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- b. failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the

c. malfunctions resulting from the use of badges or supplies not approved by Kronos.

4. Firmware

Ordering Activity may not download firmware updates for the Kronos Equipment unless Ordering Activity is maintaining such Equipment under a support plan with Contractor. If Ordering Activity is not maintaining the Equipment under a support plan with Contractor, Contractor through Kronos shall have the right to verify Ordering Activity's Kronos Equipment to determine if Ordering Activity has downloaded any firmware to which Ordering Activity is not entitled.

5. Export

Ordering Activity acknowledges that the Equipment may be restricted by the United States Government or by the country in which the Equipment is installed from export to certain countries and certain organizations and individuals, and agrees to comply with such laws. Ordering Activity agrees to comply with all applicable laws of all of the countries in which the Equipment may be used by Ordering Activity. Ordering Activity's obligations hereunder shall survive the termination or expiration of the Order Form. Ordering Activity must obtain Kronos through Contractor prior written consent before exporting the Equipment.

6. Equipment with Finger Scan Sensor Technology.

The following terms apply only to any Equipment with finger scan sensor technology purchased by Ordering Activity from Kronos or a Kronos reseller ("Finger Scan Equipment"):

- (a) To the extent that any biometric privacy laws may apply to Ordering Activity's use of the Finger Scan Equipment, Ordering Activity warrants that they will comply with any such laws prior to commencing use of the Finger Scan Equipment and will remain in compliance at all times. Ordering Activity further warrants that, if required by law, prior to such use it will (i) obtain signed releases from employees consenting to the use of the Finger Scan Equipment for employee timekeeping purposes and (ii) issue policies made available to their employees and the public regarding its retention and destruction of the Finger Scan data. Ordering Activity further warrants that it will ensure that any releases, consents, or policies, as required by applicable law, will by their terms expressly apply to Contractor, Kronos and its authorized subcontractors.
- (b) Ordering Activity agrees to be responsible for any penalties or fines, or other liabilities resulting from to Ordering Activity's breach of any of the foregoing warranties in Section 6 (a) above.

7. Equipment Support

Contractor and Ordering Activity hereby agree that Contractor through Kronos shall provide Equipment Support Services for Ordering Activity's Kronos Equipment (referred to below as "Product(s)") if such Equipment Support Services are specified on an Order Form to and from locations within the United States and Puerto Rico.

7.1 Term

Equipment Support Services have a term of one (1) year commencing upon the expiration of the applicable warranty set forth in Section 3 of this Section I. Equipment Support Services can be extended for additional one year terms on the anniversary of its commencement date ("Renewal Date"), if agreed upon by the issuance of a new order and Contractor accepting such order.

7.2 Payment

Ordering Activity agrees that all Products of the same type that are owned by the Ordering Activity, including without limitation Ordering Activity's "Spare Products" (as defined below), must be covered by the Equipment Support Services. Ordering Activity agrees that if Ordering Activity purchases, during the term of the Equipment Support Services, any Products of the same type as those covered by Ordering Activity under Equipment Support Services, such additional Products must be covered by the Equipment Support Services.

7.3 Depot Support Service

7.3.1 Upon the failure of an installed Product, Ordering Activity shall notify Contractor through Kronos of such failure and Kronos will provide remote support in an attempt to resolve the problem. Those failures determined by Kronos to be Product related shall be dispatched to a Kronos Depot Repair Center, and Ordering Activity will be provided with a Return Material Authorization Number (RMA) for the failed Product if Ordering Activity is to return the failed Product to Kronos, as reasonably determined by Kronos. Ordering Activity must return the failed Product with the supplied RMA number. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Ordering Activity on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies which may be found herein under Section G of Attachment A.

7.3.2 Depot Exchange: Contractor through Kronos will provide a replacement for the failed Product at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Product will be shipped the same day, for next business day delivery to Ordering Activity's location as further described in the Support Policies. REPLACEMENT PRODUCT(S) MAY BE NEW OR RECONDITIONED. Ordering Activity shall specify the address to which the Product is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Ordering Activity, upon receipt of the replacement Product from Kronos, shall package the defective Product in the materials provided by Kronos, with the RMA supplied and promptly return failed Products directly to Kronos using the carrier specified by Kronos.

7.3.3 Depot Repair: It is Ordering Activity's obligation to purchase and retain, at Ordering Activity's location and at Ordering Activity's sole risk and expense, a sufficient number of spare products ("Spare Products") to allow Ordering Activity to replace failed Products at all Ordering Activity locations. Upon failure of an installed Product, Ordering Activity shall install a Spare Product to replace the failed Product. Ordering Activity shall also specify the address to which the repaired Product should be return shipped. Ordering Activity shall then return the failed Product, with the required RMA, to the applicable Kronos Depot Repair Center. Upon receipt of the failed Product, Kronos shall repair the failed Product and ship it, within ten (10) business days after receipt, to Ordering Activity. Kronos shall ship the repaired Product by regular surface transportation to Ordering Activity.

7.3.4 Device Software Updates Only: Ordering Activity shall be entitled to receive:

- (a) Service packs for the Product (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal; and
- (b) Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Products.

Service packs for the Products are not installed by the Kronos Depot Repair Center but are available for download at Kronos' customer portal, provided Ordering Activity is maintaining the Products under an annual Equipment Support Services plan with Kronos.

Contractor warrants that all service packs and firmware updates provided under this Exhibit A.1 shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Ordering Activity. In the event of a breach of this warranty, Ordering Activity's exclusive remedy shall be Contractor's repair or replacement of the deficient service pack(s) or firmware update(s), at Contractor's option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the specifications.

7.4 Responsibilities of Ordering Activity

Ordering Activity agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to Kronos in "batches" which shall result in a longer turnaround time and surcharge to Ordering Activity. In addition, Ordering Activity agrees to:

- (a) Maintain the Products in an environment conforming to Kronos' published specifications for such Products;
- (b) De-install all failed Products and install all replacement Products in accordance with Kronos' published installation guidelines;
- (c) Ensure that the Product(s) are returned to Kronos properly packaged; and
- (d) Obtain an RMA before returning any Product to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Ordering Activity may only return the specific Product authorized by Kronos when issuing the RMA.

7.5 Support Exclusions

7.5.1 Depot Support Service does not include the replacement of "consumables". In addition, Depot Support Service does not include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

- (a) Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- (b) Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;

- (c) Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
- (d) Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
- (e) Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or (f) Ordering Activity's repair, attempted repair or modification of the Products.

7.5.2 Professional Services provided by Contractor through Kronos in connection with the installation of any software or firmware upgrades, if available, and if requested by Ordering Activity, are not covered by Equipment Support Services. Firmware (including equipment service packs), which may be available to resolve a Product issue is not installed by the Kronos Depot Repair Center but is available for download at Kronos' customer web site provided Ordering Activity is maintaining the Product under an annual Equipment Support Services plan with Kronos.

7.6 Warranty

Contractor warrants that all repairs performed under this Exhibit A.1 shall be performed in a professional and competent manner. ALL OTHER WARRANTIES FOR THE EQUIPMENT SUPPORT SERVICES PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE AND MERCHANTABILITY, ARE EXCLUDED BY AGREEMENT OF THE PARTIES.

7.7 Limitation of Remedies

To the extent permitted by law, the remedy of Ordering Activity and liability of Contractor shall be replacement of the repaired Product.

EXHIBIT A.2 WORKFORCE GOVTA SOFTWARE LICENSE

Ordering Activity and Contractor agree that the terms and conditions set forth below shall apply to the Contractor through Kronos supply of the commercially available version of the Workforce GovTA Software license and support services specified on an Order Form signed by Ordering Activity (the "Order Form"). The Software described on the Order Form shall be delivered by electronic delivery to Ordering Activity

Contractor and Ordering Activity hereby agree that these terms and conditions of this Exhibit A.2 of Section A of the Attachment A apply for all order forms for the services Workforce GovTA. These terms are effective as of the date of the Order Form is accepted by the Contractor ("Effective Date").

1. DEFINITIONS

"Software" means those Workforce GovTA set forth on an Order Form which are licensed to Ordering Activity to use under the terms of this Exhibit A.2.

"Billing Start Date" means the date the billing of the Service Fees commences as indicated on the applicable Order Form. The Billing Start Date of the Service Fees for any Software license and support ordered by Ordering Activity after the date of this Exhibit A.2 which are incremental to Ordering Activity's then-existing Software license and support services shall be the date the applicable Order Form is executed by Contractor and Ordering Activity. "Documentation" means technical publications published solely to its Customers by Contractor relating to the use of the Services or Applications.

"Initial Term" means the initial term of the Software license and support services as indicated on the Order Form.

"Order Form" means an order form mutually agreed upon by Contractor and Ordering Activity setting forth the items ordered by Ordering Activity and to be provided by Contractor and the fees to be paid by Ordering Activity.

"Renewal Term" means one year or such other renewal term of the Software license and support services as indicated on the Order Form.

"Service Fee(s)" means the recurring fees described in an Order Form in accordance with the GSA Schedule Pricelist. Service Fees include fees for usage of the Software license and support services as applicable. Billing of the Service Fee(s) commences on the Billing Start Date.

"Support services" mean the support services to the Software and which are more fully described in Section B of this Attachment A.

"Term" means the Initial Term and any Renewal Terms thereafter.

2. TERM

2.1 The license of the Software commences upon delivery of the license. The Term of Software license and support services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated by Ordering Activity in accordance with the provisions hereof or applicable laws and regulations. At the expiration of the Initial Term and each Renewal Term as applicable, the Software license and Support services may renew for additional Renewal Terms by Ordering Activity issuing an Order Form.

2.2 If the Order Form is terminated for any reason:

(a) Ordering Activity shall pay Contractor within thirty (30) days of such termination, all fees accrued for the

Software license and Support services prior to the effective date of such termination, provided however, if Ordering Activity terminates for material breach of the Section A by Contract, Contractor shall refund Ordering Activity any pre-paid fees for Software license and Support services, and Implementation Services not delivered by Contractor;

(b) Ordering Activity's right to use the Software shall be revoked and be of no further force or effect;

(c) Ordering Activity agrees to timely return all Contractor-provided materials related to the Software to

Contractor at Ordering Activity's expense or, alternatively, destroy such materials (including the copies of the Software) and provide Contractor with an officer's certification of the destruction thereof; and

(d) All provisions in the Exhibit A.2 of this Attachment A, which by their nature are intended to survive termination, shall so survive for the purposes of that Order Form being terminated.

3. FEES AND PAYMENT

3.1 Ordering Activity shall pay Contractor the Service Fees and such other Contractor offerings, all as set forth on the Order Form in accordance with the GSA Schedule Pricelist. The Service Fees will be invoiced on the frequency set forth on the Order Form ("Billing Frequency"). Except as otherwise set forth on the Order Form, all other Contractor offerings will be invoiced upon execution of the applicable Order Form by Contractor and Ordering Activity. All payments shall be sent to the attention of Contractor as specified on the invoice. Except as expressly set forth in this Exhibit A.2, all amounts paid to Contractor are non-refundable.

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of the Exhibit A.2 of Section A of the Attachment A and the Order Form, Contractor hereby grants Ordering Activity a limited, revocable, non-exclusive, non-transferable, nonassignable right to use during the Term and for internal business purposes only: a) the Applications and related services, including the Documentation; b) training materials; and, c) any embedded third party software, libraries, or other components, which form a part of the Software. The Software contain proprietary trade secret technology of Contractor and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Ordering Activity may use the Software in object code only and shall not reverse compile, disassemble or otherwise convert the Software or other software comprising the Software into uncompiled or unassembled code. Ordering Activity shall not use any of the third party software programs (or the data models therein) included in the Services except solely as part of and in connection with the Software.

4.2 Ordering Activity acknowledges and agrees that the right to use the Software is limited based upon the amount of the Service Fees paid by Ordering Activity. Ordering Activity agrees to use only the modules and/or features for the number of employees and users as described on the Order Form. Ordering Activity agrees not to use

any other modules or features nor increase the number of employees and users unless Ordering Activity pays for such additional modules, features, employees or users, as the case may be. Ordering Activity may not license, relicense or sublicense the Software, or otherwise permit use of the Software (including timesharing or networking use) by any third party. Ordering Activity may not provide service bureau or other data processing services that make use of the Software without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Contractor' licensors or Suppliers, is granted hereunder.

4.3 Ordering Activity may authorize its third party contractors and consultants to access the Software through Ordering Activity's administrative access privileges on an as needed basis, provided Ordering Activity: a) abides by its obligations to protect confidential information; b) remains responsible for all such third party usage and compliance with the Exhibit A.2 of this Attachment A; and c) does not provide such access to a competitor of Kronos who provides workforce management services.

- 4.4 Ordering Activity acknowledges and agrees that, Kronos retains ownership of all right, title and interest to the Software, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein, Ordering Activity shall not obtain or claim any rights in or ownership interest to the Software or any associated intellectual property rights in any of the foregoing. Ordering Activity agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Ordering Activity through the Software.
- 4.5 When using and applying the information generated by the Software, Ordering Activity is responsible for ensuring that Ordering Activity complies with applicable laws and regulations.

5. SUPPORT SERVICES

Ordering Activity shall provide the Support Services at the Gold level as described in Section B of this Attachment A.

6. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

- 6.1 Contractor represents and warrants to Ordering Activity that the Software, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with such Documentation during the Term.
- 6.2 Contractor's obligation and Ordering Activity's remedy for any breach of the foregoing warranty is limited to Contractor's reasonable commercial efforts to correct the non-conforming Software at no additional charge to Ordering Activity. In the event that Contractor is unable to correct material deficiencies in the Software, after using Contractor's commercially reasonable efforts to do so, Ordering Activity shall be entitled to terminate the then remaining Term of the Order Form under Exhibit A.2 of Section A of this Attachment A as Ordering Activity's remedy. Contractor' obligations hereunder for breach of warranty are conditioned upon Ordering Activity notifying Contractor of the material breach in writing, and providing Contractor with sufficient evidence of such non-conformity to enable Contractor to reproduce or verify the same.

EXCEPT AS PROVIDED FOR IN THIS SECTION 6, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D, CONTRACTOR MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

7. LIMITATION OF LIABILITY

- 7.1 EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D OF ATTACHMENT A, KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY DAMAGES OR INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.
- 7.2 THE TOTAL AGGREGATE LIABILITY OF CONTRACTOR OR CONTRACTOR' SUPPLIERS TO ORDERING ACTIVITY AND/OR ANY THIRD PARTY IN CONNECTION WITH THE SECTION D SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY ORDERING ACTIVITY, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY CONTRACTOR FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH SUCH CLAIM ARISES.
- 7.3 IN NO EVENT SHALL CONTRACTOR OR CONTRACTOR' SUPPLIERS, THEIR RESPECTIVE AFFILIATES, SERVICE PROVIDERS, OR AGENTS BE LIABLE TO ORDERING ACTIVITY OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICES OR THE SECTION D, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS

ASSERTED, WHETHER BREACH OF WARRANTY, INDEMNIFICATION, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER LIABILITY IS ASSERTED IN CONTRACT OR OTHERWISE, AND REGARDLESS OF WHETHER CONTRACTOR OR SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LIABILITY, LOSS OR DAMAGE.

THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM KRONOS' NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

8. CONFIDENTIAL INFORMATION

- 8.1 Each Party shall protect the Confidential Information of the other Party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character that it does not wish disclosed to the public. Kronos recognizes that courts of competent jurisdiction may require release of confidential information and that Federal Agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires information that does not fall under certain exceptions to be released despite being marked as "confidential" by Kronos. If a request for is made under the Freedom of Information Act is made, the parties agree to cooperate so that confidential information which is covered by the exceptions will be maintained confidential.

9. GENERAL

- 9.1 Ordering Activity shall not assign the rights to use the Software license and support services without the prior written consent of Contractor through Kronos and any purported assignment, without such consent, shall be void.
- 9.2 Ordering Activity understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general Service or product development direction, potential future Services, products or product enhancements under consideration, Ordering Activity is not entitled to any Services, products or product enhancements other than those contained on the Order Form. Ordering Activity has not relied on the availability of any future version of the Services (including SaaS Applications or equipment) identified on an Order Form, nor any other future product in executing an order which is governed by Section D of this Attachment A.

SECTION B KRONOS webTA and Workforce GovTA SUPPORT POLICIES AND SERVICES

1. General Information

- The current Gold Support standard policies and maintenance services for the Kronos webTA and Workforce GovTA families of products are listed below unless the Ordering Activity has different agreements in their existing contracts governing their maintenance support services. In the absence of a specific maintenance support services contract between Kronos and the client the maintenance support services listed in this document prevail.
- With respect to Kronos' separate product line of Workforce Central Software products and equipment, the standard policies and maintenance services can be found in Section G of this Attachment A
- Kronos webTA and Workforce GovTA customers are only eligible to receive Gold Support. Kronos Gold Plus, Platinum and Plus Programs are not available under webTA or Workforce GovTA support and maintenance agreements.
- Kronos Gold Support does NOT include or provide non-business hours support in any form (see "Gold Support Coverage Period" section below for specifics). Should a client request non-business hours support then a client specific support contract and funding mechanism (p.o.) must be in place in advance of the support requested by the Client. Kronos cannot guarantee or commit that it will have personnel available to provide non-business hours support, even if a Client specific contract and funding mechanism is in place, without 3 business day prior notice of the support requested and confirmation from the Client contracting officer that a p.o. is in place to pay for non-business hours billed by Kronos. If Kronos agrees with Client specific contract to provide non-business hours support then the client specific non-business hours support contract will include at a minimum that Kronos will consider all non-business hours requests as on-call requests and will bill the Client for all on-call hours for all Kronos personnel involved.

2. Product Coverage

Ordering Activities must purchase the same software support service type for all Kronos webTA and Workforce GovTA software products for each installation. The Kronos webTA and Workforce GovTA families of products are commercially available. The Supported Product List for the Kronos webTA and Workforce GovTA families of products is as follows:

Kronos webTA Products v3 (legacy) End of Engineering Support is 3/31/21:

- Kronos webTA – time, attendance & leave management
- Kronos webLM –project tracking & costing
- Kronos webTA Services – interoperability, interfacing, SOA, API
- Kronos webTA Report Server V3 only– web based reporting server
- Kronos webTA Reports V3 only– web based webTA reporting
- Kronos webTA Reports V4 only– web based webTA reporting
- Kronos webTA Smart-time – required for time in/time out time, suggestion based attendance & leave
- Kronos webTA Guide – service enabled on line training module (available for capacity add only, existing installations)

Kronos webTA Products v4 (legacy) (available for capacity add only, existing installations):

- Kronos webTA – time, attendance & leave management
- Kronos webLM –project tracking & costing
- Kronos webTA Services – interoperability, interfacing, SOA, API
- Kronos webTA Reports V4 only– web based webTA reporting
- Kronos webTA Smart-time – required for time in/time out time, suggestion based attendance & leave
- Kronos webTA Guide – service enabled on line training module

Kronos webTA Products v5:

- Kronos webTA V5 – time, attendance, and leave management
- Kronos webTA Smart-time V5 – required for time in/time out, suggestion base attendance & leave
- Kronos webLM V5– project tracking & costing
- Kronos webTA Web Services V5 – interoperability, interfacing, SOA, API
- Kronos webTA Reports V5 – web based webTA reporting

Kronos Workforce GovTA Term License Products v1:

- Kronos Workforce GovTA time and attendance Hourly V1 single user license- PEPY
- Kronos Workforce GovTA minutes entry module V1-PEPY
- Kronos Workforce GovTA projects module V1-PEPY
- Kronos Workforce GovTA services module V1-Per Server Per Year
- Kronos Workforce GovTA reports module V1-PEPY

Kronos webTA and Workforce GovTA

Contractor through Kronos only provides maintenance service support for the current version and release of the

Kronos webTA and Workforce GovTA (for example, v1) and the immediate prior supported versions and releases (for example, v5) of the Software. Resolution of an issue may require that an Ordering Activity upgrade to the current release or version of the Software.

Kronos defines Version, Service Pack, and Patch as follows –

- Version: A software product upgrade that includes major new features or functionality.
- Service Pack: A software product upgrade that includes minor new features or functionality as well as defect repairs, bundled into a single update. Service Packs are cumulative - Service Pack “N” will, at minimum, include all of the changes delivered in Service Pack N-1.
- Patch: a defect repair for a Blocker Priority issue, delivered in advance of the next Service Pack. *Note: the software product hierarchy is: Version, Service Pack, Patch*

Note: Kronos reserves the right to make any changes it deems necessary for bug fixes or core features at their sole discretion. If a customer is receiving a service pack or patch, Kronos will determine the content, considering the customers’ inputs, but the final scope will be determined by Kronos alone.

3. *Support Exclusions*

Kronos Gold Support service does not include service to the Software resulting from, or associated with any of the following. Kronos will consider any request for any work associated with any aspect of the following out of scope for this agreement and therefore treated as a professional services engagement to diagnose and address subject to the Contractor’s current Kronos Professional Service GSA rates. Kronos requires written acknowledgement from Ordering Activity’s authorized representative before commencing troubleshooting efforts.

Support service does not include service to the Software resulting from, or associated with:

1. Any cause external to the Software including, but not limited to, electrical work, fire, flood, water, wind, lightning and transportation, or any act of God; or
2. Ordering Activity’s failure to continually provide a suitable installation environment as specified in Kronos’ specifications; or

3. Ordering Activity's improper use, management or supervision of the Software or other failure to use the Software in accordance with Kronos' specifications; or
4. Ordering Activity's repair, attempted repair or modification of the Software without prior authorization from Kronos; or
5. Ordering Activity's use of the Software for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos or intended use; or
6. Ordering Activity's computer or operating system malfunctions; or
7. Services required for application programs and/or conversions from products or software not supplied by Kronos, including all middleware, authentication tools, security tools, and database changes and configurations; or
8. If a client alters the database in any manner on their own without partnering with Kronos then the maintenance support and warranties are no longer valid; or
9. Re-programming, including reconfiguration of the Software or any work on Ordering Activity's database.
10. Kronos will support or implement Software under the currently supported releases of 3rd party vendor infrastructure products (database, operating, and application software) only; or
11. Code developed by the customer, or by any consultant or contractor, which is not authorized by Kronos.

In addition to the Support exclusions above the following Services are NOT covered by your Kronos Support Service Agreement and are subject to the Contractor's current Kronos Professional Service GSA rates.

1. Configuration Changes, Reprogramming, New Programming such as, but not limited to, Work Rules, Pay Rules, Accrual Rules, Profiles, pay plans, transaction codes, work schedules, accounting structures, workflows, role definitions, scripts, and interfaces. Creating New Business Rules
 - a. Terminal Programming and Cold Start
 - b. Pay Period Changes
2. IT related maintenance or external system configurations, analysis, and troubleshooting
 - a. Unsupported Operating System, Database, or Software
 - b. Database Software upgrades or troubleshooting
 - c. Middleware upgrades or troubleshooting
 - d. Performance related issues caused by non application events
 - e. SSO Requirements or support
 - f. Load Balancing configuration or support
 - g. Monitor/management tools
 - h. Internet security consulting/firewall integration or POAM support and remediation
 - i. API/XML consulting
 - j. Web Services consulting
 - k. IT process review (backup, refresh, etc.)
 - l. VMWare (Virtual Machine)
 - m. All hardware (other than Kronos hardware)
3. Programming, modifying, implementing, training or troubleshooting the following:
 - a. Data integration interfaces
 - b. Custom Reports
 - c. Custom Application extensions
 - d. Creating SQL queries
 - e. Modifying SQL queries created by Kronos or Ordering Activity
 - f. Migrating SQL queries prior versions
4. Editing templates and creating new templates
5. Installing or reinstalling Applications such as, but not limited to:
 - a. Adding a workstation
 - b. Moving the Kronos application
 - c. Reinstalling following a hard drive crash
 - d. System Restoration after hardware failure
 - e. Virus Protection and Spyware
6. Database Administration Maintenance or Services such as, but not limited to:
 - a. Database maintenance scripts
 - b. Writing or customizing database scripts for data reporting and/or retrieval
 - c. Performance Tuning
 - d. Sizing
 - e. Load balancing
 - f. Data warehouse, data mart, cloud computing, data mashing consulting
 - g. Disaster Recovery (other catastrophic failure)
 - h. Database backup strategy and/or setup
 - i. Troubleshooting or error remediation
7. Establishing or maintaining a Non-Production Environment such as, but not limited to:

- a. Test environments, i.e., application servers, database servers
 - b. Demonstration environment
 - c. Training environment
 - d. Stage environments
 - e. Disaster recovery environments
8. Troubleshooting Environmental Issues such as, but not limited to:
- a. Operating System
 - b. Network Issues
 - c. Load Balancing
 - d. Firewalls
 - e. Servers
 - f. Workstations
 - g. Alternate sign on processes, such as single sign on or e-Authentication
9. Custom Reports or Custom Application Extensions
10. Implementation or configuration services related to upgrading product such as, but not limited to:
- a. Software implementation
 - b. Porting custom software (i.e., reports)
 - c. Change management
 - d. Training
 - e. New functionality deployment
 - f. Application interfaces
11. Service to Kronos modified software is not provided, unless otherwise specified on the applicable Statement of Work and Purchase Order for such modified software.
12. Importing new data or developing additional interfaces
13. Load balancing configuration
14. Virtual server configuration
15. Regulatory, union, agency specific requirements, or executive order requested changes
16. Security issues specific to the customers' environment that are outside of the application

4. *Support Discontinuance - End of Service Life*

Kronos may discontinue support for the Software upon 30 days written notice to Ordering Activity, or at the anniversary date of the relevant support Agreement, whichever is longer. If such support is discontinued during the initial or any renewal term of the relevant support Agreement, the remaining value of the Agreement will be left as a credit on the account to be applied against any future invoices.

Contractor through Kronos would no longer provide any type of support for the discontinued Software - no calls accepted, and no patches, bug fixes or changes in any form will occur no matter the Ordering Activity issue. The Ordering Activity is eligible to receive the next version or release of the Software as long as they are current on their maintenance support services payment and their current Software is not yet discontinued.

If the customers current Software has been discontinued and the client is current on their maintenance, but the Ordering Activity has not upgraded to the new version or release by the date of discontinuance of support, then the client will have to purchase new licenses of the Software. Kronos would provide a credit toward the purchase new licenses by the unused portion of their maintenance payment.

If the Ordering Activity does not remain current on their maintenance support services before the discontinuance of support, then they will not receive the next version or release of the Software until they reinstate their licenses of the Software. The client must become current on their maintenance and upgrade to the new version or release before the discontinuance of support date to avoid having to purchase new licenses of the Software.

If the Ordering Activity did not remain current on their maintenance support services and did not become current on their maintenance supports services before the discontinuance of support, then they will not receive the next version or release of the Software until they purchase new licenses of the Software.

All Professional Services required to perform Software upgrades will be billable engagements at the then current GSA rates.

5. *Reinstatement of Support Services*

In the event that Ordering Activity allows Software or Equipment support services to lapse or if Ordering Activity did not originally purchase Software or Equipment support services and wishes to reinstate or procure such services, Ordering Activity must pay the GSA price for the Support service for such lapsed or un-procured time period, plus the current support fee for the support option being purchased by Ordering Activity.

6. *Gold Support Service Coverage Period*

Contractor through Kronos provides maintenance support services to their customers during regular business hours. Regular business hours are defined as weekdays, Monday through Friday, between 9 a.m. and 5 p.m. Eastern Time, except on Kronos holidays and Federal holidays.

Contractor through Kronos will provide on-call Tier 2 and Tier 3 help desk support to diagnose and correct Kronos webTA or Kronos Workforce GovTA system problems and bug fixes to the initial configured as tested, accepted, and deployed baseline release. The primary means of support is a 24-hour web interface to an electronic case management system. Support requests can be submitted at <https://community.kronos.com> or by calling our toll-free number, 800394-4357. Support requests are forwarded to the appropriate support staff. Any requests submitted by phone will also be entered into the Kronos tracking system and managed via that system until the issue is resolved. As Kronos works to resolve issues submitted either by phone or entered directly into tracking system, all subsequent updates and statuses, reported by both the client and Kronos, will be posted and managed through the Kronos tracking system only.

A client must identify 1 or more individuals as designated webTA Administrators to fulfill that role as identified in the webTA software. A client must document these individuals by name & contact information. The trained Administrators are the only authorized individuals to enter tickets into the Kronos tracking system, unless otherwise agreed upon and documented by the client and Kronos. Kronos support personnel will work with the client's Administrators to assure that the client has thoroughly researched an issue on the clients end so that the client Administrators can verify & document that it is truly a Kronos issue that requires resolution.

7. *Priority Based Support*

Contractor through Kronos provides support on a "priority" basis. As such, customers with the most critical request(s) will be serviced first. Kronos Federal Support has set up the following guidelines to assess the priority of each service request:

1. High Priority: These items are further defined as a critical outage. A critical Ordering Activity issue with no available workaround where the system or a module may be down, experiencing major system degradation, data corruption or other related factors resulting in the Ordering Activity not being able to process their payroll such as:
 - a. Production is down and unable to sign-off Time Cards
 - b. Crashes of the system
 - c. Loss of data
 - d. Severe memory leak
 - e. No workaround is available
2. Medium Priority: This is a serious Ordering Activity issue which impacts ability to utilize the product effectively such as:
 - a. Intermittent or inconsistent functionality results or data accuracy
 - b. System performance is inconsistent or fluctuates
 - c. A workaround is available.
3. Low Priority: Non-critical problems are generally Use and Usability issues and or "how to" questions such as:
 - a. Data display inaccuracies or inconsistencies
 - b. How do I set up a holiday pay rule?
 - c. How do I run a report?
 - d. Misspells
 - e. Misaligned text
 - f. Other cosmetic problems

8. *Response Time*

Response time shall mean from the time the case priority is set by Kronos' Federal Support Center until a Kronos support representative contacts the Ordering Activity, either by phone or via the Kronos tracking system during regular business hours, to begin service. Kronos utilizes a priority based support focus. Customers will be serviced during regular business hours in accordance with the following guidelines:

High Priority – 2 hours
Medium Priority – 4 hours
Low Priority – 8 hours
All response times are business hours.

9. *Critical Outages*

Kronos Federal Support will provide continuous effort on all high priority critical outage events through either bug identification, the development of a workaround or problem resolution. *On-going continuous effort may also be dependent on the Ordering Activity's ability to provide a resource to work with the Kronos Federal*

Support engineer during this period. Support outside the scope of the services agreement is billable at the applicable GSA rates and will require a separate order. If the critical outage is the result of or related to any factor listed in the Support Exclusions section of this agreement, then they are considered outside the scope of the services agreement and will require a separate order.

SECTION C APPLICATION HOSTING ADDENDUM SUPPLEMENTAL TERMS AND CONDITIONS

All references to Kronos in these Terms and Conditions should be read as “Contractor (immixTechnology, Inc.), acting by and through its supplier, Kronos Incorporated.”

This Application Hosting Addendum of Supplemental Terms and Conditions (the “Addendum”) applicable for hosting services ordered by the Ordering Activity for Kronos Software licensed under Section A of this Attachment A.

1. DEFINITIONS

“Application Hosting Program” or “Program” means (i) accessibility to the commercially available object code version of the Kronos hosted applications, as set forth in the Managed Services SOW, by means of access to the password protected Ordering Activity area of the Kronos hosting environment, and (ii) all Hosting Related Services.

“Content” means all content Ordering Activity, or others acting on behalf of or through Ordering Activity, posts or otherwise inputs into the Program, including but not limited to information, data (such as payroll data, vacation time, and hours worked), designs, know-how, logos, text, multimedia images (e.g. graphics, audio and video files), compilations, software programs, third party software, applications, or other materials, or any other Ordering Activity content shared or processed on equipment under the control of Kronos or a Supplier.

“Hosting Related Services” means certain services set forth in a statement of work containing hosted related services (the

“Managed Services SOW”), such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, reporting services, storage area network (SAN) services, load balancing services, security services, system administration, connectivity services, performance tuning, service pack installation and all professional and/or managed services and maintenance services related to hosting.

“Initial Term” means the initial term for which Kronos shall provide the Program to Ordering Activity and as set forth in the applicable Managed Services SOW executed by Ordering Activity.

“Internal Use” means the use of the Program: (i) by Ordering Activity’s personnel solely for Ordering Activity’s internal business purposes and (ii) by any authorized employee, agent or contractor of Ordering Activity to process information relating to Ordering Activity’s employees assigned to, or potential employees of, Ordering Activity’s authorized business unit(s), solely for the internal business purposes of such business unit(s).

“Monthly Service Fee(s)” means the monthly fees described in the Managed Services SOW and set forth on the applicable Order Form in accordance with the GSA Schedule Pricelist, which shall include all Hosting Related Services fees.

“Order Form” means the order request form supplied by Ordering Activity that lists the Upfront Fees and Monthly Service Fees for the elements of Ordering Activity’s particular Program.

“Personally Identifiable Data” means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under applicable law or regulation.

“Production Environment” means a permanent environment established for the daily use and maintenance of the Application in a live environment throughout the term of a Program.

“Services Commencement Date” means that the earlier of (a) the date the Software will be ready to be transferred to the hosted environment, as mutually agreed by the parties in writing or (b) 90 days after the Effective Date. Notwithstanding the foregoing, the Services Commencement Date for software hosted in a Temporary Environment shall commence seven (7) days after the Effective Date. For Ordering Activity ordering additional Programs, the Service Commencement Date for the products list on that which is incremental to Ordering Activity’s existing products shall be the date this Order Form is executed

“Service Description” means the detailed service description (including any supplementary service terms) specified in the Managed Services SOW which sets forth the specific Program to be provided to the Ordering Activity.

“Supplier” means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Program.

“Temporary Environment” means a transient database environment created to serve limited purposes for a limited time period, and identified in the applicable Managed Services SOW as a Temporary Environment.

“Upfront Fees” means the one time, Ordering Activity-specific infrastructure set-up fees as indicated on the Order Form that will be charged to Ordering Activity to enable access to the Program.

2. MANAGED SERVICES STATEMENT OF WORK

The description of the particular Program ordered by the Ordering Activity, the Program term, the Monthly Service Fee rates, the Upfront Fees and other fees, if any, applicable to the Program are described in the applicable Managed Services SOW and Order Form. Kronos will not change the Monthly Service Fee rates it charges for Ordering Activity’s existing Program, or the SLA, during the Initial Term. Thereafter the changes applicable charges may change to the extent consistent with the GSA pricing.

3. AUTHORIZED USE

Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Program, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Addendum.

4. MAINTENANCE ACCESS

If Contractor through Kronos, its Suppliers, or the local access provider, as applicable, requires access to Ordering Activity sites in order to maintain or repair the Program, Ordering Activity shall cooperate in a timely manner and reasonably provide such access and assistance as necessary.

5. ORDERING ACTIVITY REPRESENTATIONS AND WARRANTIES; ORDERING ACTIVITY OBLIGATIONS

- 5.1 Ordering Activity represents and warrants to Contractor that it has the right to publish and disclose Ordering Activity’s Content in the Program.
- 5.2 Ordering Activity represents and warrants to Contractor that Ordering Activity’s Content will not: (a) infringe or violate any third party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.
- 5.3 Ordering Activity will, at its own cost and expense, provide all equipment, operating systems, and software (including a web browser) not provided by Contractor through Kronos and needed to access and use the Program in accordance with the technical requirements set forth in the Managed Services SOW. Ordering Activity will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Ordering Activity accessing the Program, unless such connectivity services are purchased from Contractor as indicated on the Managed Services SOW and Order Form.
- 5.4 Ordering Activity shall not, and shall not permit any person or entity under Ordering Activity’s direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.

6. INTERNET ACCESS

- 6.1 If Ordering Activity purchases from Contractor dedicated internet connectivity to utilize the Program, such dedicated access into the hosting center will be delivered to Ordering Activity.
- 6.2 If Ordering Activity uses open internet connectivity or Ordering Activity-supplied VPN internet connections to access the Program, Ordering Activity acknowledges that the performance and throughput of the internet connection cannot be guaranteed by Contractor through Kronos, and variable connection performance may result in application response variations.
- 6.3 Ordering Activity hereby acknowledges that the internet is not owned, operated, managed by, or in any way affiliated with Contractor, Kronos, its Suppliers or any of its affiliates, and that it is a separate network of computers independent of Contractor and Kronos. Access to the internet is dependent on numerous factors, technologies and systems, many of which are beyond Kronos' authority and control. Ordering Activity acknowledges that Contractor or Kronos cannot guarantee that the internet access services chosen by Ordering Activity will meet the level of up-time or the level of response time that Ordering Activity may need. Ordering Activity agrees that its use of the internet access services and the internet is solely at its own risk, except as specifically provided in this Addendum, and is subject to all applicable local, state, national and international laws and regulations.

7. COMMENCEMENT OF PAYMENT.

In consideration of the delivery of the Program, Ordering Activity shall pay Contractor the Monthly Services Fee as defined in the applicable Order Form. The Monthly Services Fee shall begin to accrue on the Services Commencement Date, and shall be invoiced monthly. In addition, Ordering Activity shall be billed the one time setup fee and any additional Upfront Fees set forth in the applicable Order Form. Ordering Activity acknowledges that the billing commencement date does not coincide with implementation completion, final configuration, or go-live.

8. LIMITATION OF LIABILITY

KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.

IN ADDITION TO THE LIMITATIONS SET FORTH, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), ORDERING ACTIVITY'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Kronos' negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

9. DATA SECURITY

- 9.1 As part of the Program, Contractor through Kronos shall provide those Kronos security-related services described in the Managed Services SOW. Ordering Activity acknowledges that the security-related services endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Ordering Activity should consider any particular security-related service as just one tool to be used as part of an overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties.
- 9.2 All Personally Identifiable Data contained in any Software, Equipment or systems supplied by Contractor through Kronos, or to which Contractor through Kronos has access to under this Addendum, as between Contractor and Ordering Activity, is Ordering Activity's Confidential Information and will remain the property of Ordering Activity. Ordering Activity hereby consents to the use, processing and/or disclosure of Personally Identifiable Data only for the purposes described herein and to the extent such use or

processing is necessary for Contractor through Kronos to carry out its duties and responsibilities under this Addendum or as required by law.

9.3 Prior to initiation of the Program and on an ongoing basis thereafter, Ordering Activity agrees to provide notice to Contractor through Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Ordering Activity and which could be imposed on Kronos as a result of provision of the Program. Ordering Activity will ensure that: (a) the transfer and storage of any Personally Identifiable Data to Kronos and managed by Kronos' or Supplier's data center is legitimate under applicable data protection laws and regulations; and (b) Ordering Activity will obtain consent from individuals for such transfer and storage to the extent required under applicable laws and regulations.

9.4 At no cost to Ordering Activity, Contractor through Kronos shall upon (i) request by Ordering Activity at any time and (ii) the cessation of the Program, promptly return to Ordering Activity, in the format and on the media in use as of the date of the request, all Personally Identifiable Data.

10. TERMINATION

10.1 Upon termination, Contractor shall have no obligation to continue to provide the Program. Failure to make payment of the Program fees or of any other default of the Ordering Activity shall not constitute a waiver by contract of any such fees or other fees which remain unpaid.

10.2 Contractor through Kronos reserves the right to temporarily suspend the Services if in Kronos's reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality.

SECTION C-1 CLOUD HOSTING SUPPLEMENTAL TERMS AND CONDITIONS

This Section C-1 shall apply to Cloud Hosting Services purchased in relation with certain Software licensed under Section A provided that the initial Cloud Services were ordered after October 2016. The Cloud Hosting Services is not available for WebTA or GovTA Software.

Ordering Activity has ordered with Contractor to acquire licenses to certain Kronos software applications, as well as equipment and related services under Section A and Ordering Activity desires to use those Kronos software applications in Kronos' managed cloud environment (the "Kronos Private Cloud") in accordance with the License Agreement and upon the supplemental terms and conditions herein, and Contractor desires to assist Ordering Activity in doing so. The parties agree as follows:

1. DEFINITIONS

"Application(s)" means those Kronos software applications set forth on the applicable Order Form (or a schedule to the Order Form if Ordering Activity is only hosting a portion of the Applications for which Ordering Activity has a perpetual license) and which are made accessible to Ordering Activity for use in the Kronos Private Cloud under the terms of this Section C-1.

"Billing Start Date" means the date on which billing for the Cloud Services will commence, as indicated on the Order Form.

"Cloud Services" means access to the password protected Ordering Activity area of the Kronos Private Cloud and those services related thereto such as infrastructure, equipment, bandwidth, server monitoring, backup services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto, all as further described Exhibit D-1 of Section D.

"Ordering Activity Content" means all content Ordering Activity, or others acting on behalf of or through Ordering Activity, posts or otherwise inputs into the Kronos Private Cloud.

"Initial Term" means the initial term of the Cloud Services as indicated on the Order Form.

"Monthly Services Fee(s)" means the monthly fees described in the applicable Order Form in accordance with the GSA Schedule Pricelist.

"Order Form" means an order form mutually agreed upon by Contractor and Ordering Activity setting forth the items ordered by Ordering Activity and to be provided by Contractor, including without limitation the prices and fees to be paid by Ordering Activity.

"Personally Identifiable Data" means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under applicable law or regulation.

“Production Environment” means a permanent environment established for the daily use and maintenance of the Applications in a live environment throughout the Term.

“Renewal Term” means the renewal term of the Services as indicated on the Order Form.

“SLA(s)” means a service level agreement offered by Contractor for the Production Environment and attached to this Section C-1 as Exhibit C-1.1 which contains key service level standards and commitments that apply to the Kronos Private Cloud.

“SLA Credit” means the credit calculated in accordance with the SLA and offered by Contractor in the event of outages or interruptions in the delivery of the Cloud Services that result in a failure to meet the terms of the applicable SLA.

“Supplier” means any contractor, subcontractor or licensor of Contractor providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Cloud Services.

“Temporary Environment” means a transient database environment created to serve limited purposes for a limited time period, and identified on the applicable Order Form as a Temporary Environment.

“Term” means the Initial Term and any Renewal Terms.

2. CLOUD SERVICES AND TERM

- 2.1 During the Term, Contractor will provide the Cloud Services for the Applications. Unless the Order Form indicates that the Applications are to be implemented in a Temporary Environment, the Applications will be deemed to be implemented in a Production Environment.
- 2.2 Contractor through Kronos reserves the right to temporarily suspend the Services if in Kronos’s reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality.
- 2.3 Ordering Activity may terminate the Cloud Services in accordance with the procedures set-forth in FAR 52.212-4.
- 2.4 At no cost to Ordering Activity, Contractor shall upon (i) request by Ordering Activity at any time and (ii) the cessation of the Cloud Services, promptly return to Ordering Activity, in the format and on the media in use as of the date of the request, Ordering Activity’s Content.

3. CLOUD SERVICES, FEES AND PAYMENT

- 3.1 In consideration of the delivery of the Cloud Services, Ordering Activity shall pay Contractor the Monthly Services Fee for such Cloud Services as defined in the applicable Order Form. This Monthly Services Fee shall begin to accrue on the Billing Start Date and will be invoiced on the “Billing Frequency” indicated on the Order Form.
- 3.2 Ordering Activity may be required to purchase additional Cloud Services to address increased infrastructure requirements for a new version of a particular Application as released by Contractor. Any additional Cloud Services will be set forth on an Order Form to be mutually agreed upon by Ordering Activity and Contractor.

4. AUTHORIZED USE

Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Kronos Private Cloud, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section C-1 or use the Cloud Services for any purpose other than Ordering Activity’s internal business purposes on behalf of Ordering Activity’s authorized business unit(s).

5. MAINTENANCE

Monthly Service Fees are in addition to the fees Ordering Activity pays for annual maintenance and support under the Section A of the Attachment A. Ordering Activity must maintain the Software under an active maintenance plan with Contractor throughout the Term. If Contractor, its Suppliers, or the local access provider, as applicable, requires access to Ordering Activity sites in order to maintain or repair access to the Kronos Private Cloud, Ordering Activity shall cooperate in a timely manner and reasonably provide such access and assistance as permitted by Ordering Activity’s applicable security policies.

6. ORDERING ACTIVITY REPRESENTATIONS AND WARRANTIES; AND ORDERING ACTIVITY OBLIGATIONS

- 6.1 Ordering Activity represents and warrants to Contractor that it has the right to publish and disclose Ordering Activity's Content in the Kronos Private Cloud.
- 6.2 Ordering Activity represents and warrants to Contractor that Ordering Activity's Content will not: (a) infringe or violate any third party right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.
- 6.3 Ordering Activity shall not, and shall not permit any person or entity under Ordering Activity's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide unauthorized access to the Kronos Private Cloud to any third party; (b) use the Kronos Private Cloud on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Kronos Private Cloud or Cloud Services; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Cloud Services or any software components of the Cloud Services; (e) use, or allow the use of, the Kronos Private Cloud in contravention of any applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Kronos Private Cloud any virus or other code or routine intended to disrupt or damage the Kronos Private Cloud, alter, damage, delete, retrieve or record information about the Kronos Private Cloud, Cloud Services or its users; (g) excessively overload the Kronos Private Cloud; (h) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (i) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (j) otherwise act in a fraudulent, malicious or negligent manner when using the Kronos Private Cloud.

7. CONNECTIVITY AND ACCESS

Ordering Activity acknowledges that Ordering Activity shall (a) be responsible for securing, paying for, and maintaining connectivity to the Kronos Private Cloud (including any and all related hardware, software, third party services and related equipment and components required for access); and (b) provide Contractor and Contractor's representatives with physical or remote access to Ordering Activity's computer and network environment as mutually agreed upon may be reasonably necessary in order for Contractor to perform its obligations under the Agreement. Ordering Activity will make all necessary arrangements as may be required to provide access to Ordering Activity's computer and network environment if necessary for Contractor to perform its obligations under the Agreement.

8. SERVICE LEVEL AGREEMENT

Contractor shall provide the service levels and associated credits, when applicable, in accordance with the Service Level Agreement attached hereto as Exhibit A and which is hereby incorporated herein by reference. ORDERING ACTIVITY'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE OR INTERRUPTION OF THE SERVICES OR FAILURE BY CONTRACTOR TO MEET THE TERMS OF THE APPLICABLE SERVICE LEVEL AGREEMENT, SHALL BE THE REMEDIES PROVIDED IN EXHIBIT C-1.1.

9. LIMITATIONS

IN ADDITION TO THE LIMITATIONS SET FORTH IN THE SECTION A OF ATTACHMENT A, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM CONTRACTOR'S NEGLIGENCE OR WILLFUL MISCONDUCT, CONTRACTOR DISCLAIMS ANY AND ALL LIABILITY AND SERVICE CREDITS, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL CLOUD SERVICES (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), ORDERING ACTIVITY'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

10. DATA SECURITY

- 10.1 As part of the Cloud Services, Contractor shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Ordering Activity data as described Exhibit D-1 of Section D. Ordering Activity acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Ordering Activity should consider any particular Contractor supplied security-related safeguard as just one tool to be used as part of Ordering Activity's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Section A and C-1 of this Attachment A.

- 10.2 As between Ordering Activity and Contractor, all Personally Identifiable Data is Ordering Activity's Confidential Information and will remain the property of Ordering Activity. Ordering Activity represents that to the best of Ordering Activity's knowledge such Personally Identifiable Data supplied to Contractor is accurate. Ordering Activity hereby consents to the use, processing or disclosure of Personally Identifiable Data by Contractor and Contractor' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Contractor to carry out Contractor' duties and responsibilities under the Agreement or as required by law.
- 10.3 Prior to initiation of the Cloud Services and on an ongoing basis thereafter, Ordering Activity agrees to provide notice to Contractor of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Ordering Activity's industry and which could be imposed on Contractor as a result of provision of the Cloud Services. Ordering Activity will ensure that: (a) the transfer to Contractor and storage of any Personally Identifiable Data by Contractor or Contractor' Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Ordering Activity will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

EXHIBIT C-1.1 SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Cloud Services are provided with the service levels described in this Exhibit C-1.1.

SLAs are only applicable to Production Environments. SLAs will be available upon Ordering Activity's signature of Kronos' Go Live Acceptance Form for Ordering Activity's Production Environment.

99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Ordering Activity in Ordering Activity's Production Environment and end when Contractor through Kronos has restored availability of the Applications. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Ordering Activity to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied for the affected month
<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

"Outage" means the accumulated time, measured in minutes, during which Ordering Activity is unable to access the Applications for reasons other than an Excluded Event.

"Excluded Event" means any event that results in an Outage and is caused by (a) the acts or omissions of Ordering Activity, its employees, Customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos, including without limitation Ordering Activity Content, failures or malfunctions resulting from circuits provided by Ordering Activity, any inconsistencies or changes in Ordering Activity's source environment, including either intentional or accidental connections or disconnections to the environment; (c) excusable delay events as set forth at FAR 52.212-4(f); d) scheduled or emergency maintenance, alteration or implementation provided during

the Maintenance Period defined below; (e) any suspension of the Services in accordance with the terms of the Agreement to which this Exhibit C-1.1 is attached; (f) the unavailability of required Ordering Activity personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (g) using an Application in a manner inconsistent with the product documentation for such Application.

“Maintenance Period” means scheduled maintenance periods established by Kronos to maintain and update the Applications, when necessary. During these Maintenance Periods, the Applications are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Applications available to Ordering Activity; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Ordering Activity contact at least one day in advance of any known downtime so planning can be facilitated by Ordering Activity.

Currently scheduled Maintenance Periods for the Cloud Services are:

Monday through Friday	04:00 am – 06:00 am (U.S. eastern time)
Saturday and Sunday	12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Ordering Activity and Kronos.

“Monthly Minutes (MM)” means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

“Total Minutes Not Available (TM)” means the total number of minutes during the calendar month that the Applications are unavailable as the result of an Outage.

Limitations: Service Credits will not be provided if (a) Ordering Activity is in breach or default under the Agreement at the time the Outage occurred; or (b) the Outage results from an Excluded Event. If Kronos does not provide the appropriate Service Credit as due hereunder, Ordering Activity must request the Service Credit within sixty (60) calendar days of the conclusion of the month in which Service Credit accrues. Ordering Activity waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Kronos records and data unless Ordering Activity can provide Kronos with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Ordering Activity acknowledges that Kronos manages its network traffic in part on the basis of Ordering Activity's utilization of the Applications and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Ordering Activity significantly changes its utilization of the Applications than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to cooperate, in good faith, to resolve the issue.

SECTION D WORKFORCE CENTRAL - SOFTWARE AS A SERVICE TERMS AND CONDITIONS

Ordering Activity and Contractor agree that the terms and conditions set forth below shall apply to the Contractor through Kronos supply of the commercially available version of the Workforce Central SaaS Applications in Kronos' hosting environment, the services related thereto, and the sale or rental of Equipment (if any) specified on an Order Form signed by Ordering Activity (the “Order Form”). The Applications described on the Order Form shall be delivered by means of Ordering Activity's permitted access to the Contractor infrastructure hosting such Applications.

Contractor and Ordering Activity hereby agree that these terms and conditions of this Section D of the Attachment A apply for all order forms for the services Workforce Central SaaS. These terms are effective as of the date of the Order Form is accepted by the Contractor (“Effective Date”).

1. DEFINITIONS

“Section D” means these terms and conditions and the Order Form(s) specific to the Ordering Activity.

"Application(s)" or "SaaS Application(s)" means those Kronos software application programs set forth on an Order Form which are made accessible for Ordering Activity to use under the terms of this Section D.

"Billing Start Date" means the date the billing of the Monthly Service Fees commences as indicated on the applicable Order Form.

Notwithstanding, Implementation Services provided on a time and material basis are billed monthly as delivered.

The Billing Start Date of the Monthly Service Fees for any Services ordered by Ordering Activity after the date of this

Section D which are incremental to Ordering Activity's then-existing Services shall be the date the applicable Order Form is executed by Contractor and Ordering Activity.

"Cloud Services" means those services related to Ordering Activity's cloud environment such as infrastructure, equipment, bandwidth, server monitoring, backup services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto. Cloud Services are described in Exhibit D-1

"Ordering Activity Content" means all content of Ordering Activity, or others acting on behalf of or through Ordering Activity, posts or otherwise inputs into the Services.

"Documentation" means technical publications published solely to its Customers by Contractor relating to the use of the Services or Applications.

"Equipment" means Kronos equipment specified on an Order Form which are provided under Exhibit A.1 of Section A of this Attachment A..

"Implementation Services" means those professional and educational services provided by Kronos to set up the cloud environment and configure the Applications. The professional and education services are described in the Statement of Work and will be provided as set forth on the Order Form and Statement of Work.

"Initial Term" means the initial term of the Services as indicated on the Order Form.

"KnowledgePass Content"/"KnowledgePass Education Subscription" have the meanings ascribed in Section 7.5.

"Monthly Service Fee(s)" means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of the Applications and the Services, Cloud Services as applicable, and Equipment rental, if any. Billing of the Monthly Service Fee(s) commences on the Billing Start Date.

"Order Form" means an order form mutually agreed upon by Contractor and Ordering Activity setting forth the items ordered by Ordering Activity and to be provided by Contractor and the fees to be paid by Ordering Activity.

"Personally Identifiable Data" means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under applicable law or regulation.

"Renewal Term" means one year or such other renewal term of the Services as indicated on the Order Form.

"Services" means (i) the Cloud Services, (ii) accessibility to the commercially available version of the Applications by means of access to the password protected Ordering Activity area of a Contractor website, and all such services, items and offerings accessed by Ordering Activity therein, and (ii) the Equipment rented hereunder, if any.

"Statement of Work", "SOW", "Services Scope Statement" and "SSS" are interchangeable terms referring to a written description of the Implementation Services mutually agreed upon by Contractor and Ordering Activity.

"Supplier" means any contractor, subcontractor or licensor of Contractor providing software, equipment and/or services to Contractor which are incorporated into or otherwise related to the Services.

"Term" means the Initial Term and any Renewal Terms thereafter.

"Training Points" has the meaning ascribed to it in Section 7.6 below.

TERM

- 2.1 The Services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated by Ordering Activity in accordance with the provisions hereof or applicable laws and regulations. At the expiration of the Initial Term and each Renewal Term as applicable, the Services may renew for additional Renewal Terms by Ordering Activity issuing an Order Form.
- 2.2 Contractor through Kronos reserves the right to temporarily suspend the Services if in Kronos's reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality.
- 2.3 If the Order Form is terminated for any reason:
- (a) Ordering Activity shall pay Contractor within thirty (30) days of such termination, all fees accrued for the Services prior to the effective date of such termination, provided however, if Ordering Activity terminates for material breach of the Section D by Contract, Contractor shall refund Ordering Activity any pre-paid fees for Services and Implementation Services not delivered by Contractor;
 - (b) Ordering Activity's right to access and use the Applications shall be revoked and be of no further force or effect, and Ordering Activity shall return rented Equipment as provided in Section 9.1 below;
 - (c) No more than fifteen (15) days after termination (or upon Ordering Activity's written request at any time during the Term), Contractor will provide to Ordering Activity, at no charge to Ordering Activity, the Ordering Activity Content. After such time period, Contractor shall have no further obligation to store or make available the Ordering Activity Content and will securely delete any or all Ordering Activity Content without liability;
 - (d) Ordering Activity agrees to timely return all Contractor-provided materials related to the Services to Contractor at Ordering Activity's expense or, alternatively, destroy such materials and provide Contractor with an officer's certification of the destruction thereof; and
 - (e) All provisions in the Section D of this Attachment A, which by their nature are intended to survive termination, shall so survive for the purposes of that Order Form being terminated.

3. FEES AND PAYMENT

- 3.1 Ordering Activity shall pay Contractor the Monthly Service Fees, the fees for the Implementation Services and any additional one time or recurring fees for Equipment, Training Points, KnowledgePass Education Subscription and such other Contractor offerings, all as set forth on the Order Form in accordance with the GSA Schedule Pricelist. The Monthly Service Fees will be invoiced on the frequency set forth on the Order Form ("Billing Frequency"). Implementation Services will be invoiced monthly as delivered unless otherwise indicated on the Order Form. . All other Contractor offerings will be invoiced upon execution of the applicable Order Form by Contractor and Ordering Activity. All payments shall be sent to the attention of Contractor as specified on the invoice. Except as expressly set forth in this Section D, all amounts paid to Contractor are non-refundable.

4. RIGHTS TO USE

- 4.1 Subject to the terms and conditions of the Section D of the Attachment A and the Order Form, Contractor hereby grants Ordering Activity a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for internal business purposes only: a) the Applications and related services, including the Documentation; b) training materials and KnowledgePass Content; and, c) any embedded third party software, libraries, or other components, which form a part of the Services. The Services contain proprietary trade secret technology of Contractor and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Ordering Activity may use the Application in object code only and shall not reverse compile, disassemble or otherwise convert the Applications or other software comprising the Services into uncompiled or unassembled code. Ordering Activity shall not use any of the third party software programs (or the data models therein) included in the Services except solely as part of and in connection with the Services. The JBoss® Enterprise Middleware components of the Service are subject to the end user license Section D found at http://www.redhat.com/licenses/jboss_eula.html. Ordering Activity acknowledges that execution of separate third party agreements may be required in order for Ordering Activity to order and use certain add-on features or functionality, including without limitation tax filing services.
- 4.2 Ordering Activity acknowledges and agrees that the right to use the Applications is limited based upon the amount of the Monthly Service Fees paid by Ordering Activity. Ordering Activity agrees to use only the modules and/or features for the number of employees and users as described on the Order Form. Ordering Activity agrees not to use any other modules or features nor increase the number of employees and users unless Ordering Activity pays for such additional modules,

features, employees or users, as the case may be. Ordering Activity may not license, relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Ordering Activity may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Contractor's licensors or Suppliers, is granted hereunder.

- 4.3 Ordering Activity may authorize its third party contractors and consultants to access the Services through Ordering Activity's administrative access privileges on an as needed basis, provided Ordering Activity: a) abides by its obligations to protect confidential information; b) remains responsible for all such third party usage and compliance with the Section D of this Attachment A; and c) does not provide such access to a competitor of Kronos who provides workforce management services.
 - 4.4 Ordering Activity acknowledges and agrees that, Kronos retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein, Ordering Activity shall not obtain or claim any rights in or ownership interest to the Services or Applications or any associated intellectual property rights in any of the foregoing. Ordering Activity agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Ordering Activity through the Services.
 - 4.5 When using and applying the information generated by the Services, Ordering Activity is responsible for ensuring that Ordering Activity complies with applicable laws and regulations. If the Services include the Workforce Payroll Applications or Workforce Absence Management Applications: (i) Ordering Activity is solely responsible for the content and accuracy of all reports and documents prepared in whole or in part by using these Applications, (ii) using these Applications does not release Ordering Activity of any professional obligation concerning the preparation and review of any reports and documents, (iii) Ordering Activity does not rely upon Kronos, Best Software, Inc. or these Applications for any advice or guidance regarding compliance with federal and state laws or the appropriate tax treatment of items reflected on such reports or documents, and (iv) Ordering Activity will review any calculations made by using these Applications and satisfy itself that those calculations are correct.
5. ACCEPTABLE USE
- 5.1 Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of the Section D of this Attachment A.
 - 5.2 Ordering Activity represents and warrants to Contractor that Ordering Activity has the right to publish and disclose the Ordering Activity Content in connection with the Services. Ordering Activity represents and warrants to Contractor that the Ordering Activity Content: (a) does not infringe or violate any third-party right, including but not limited to intellectual property, privacy, or publicity rights, (b) is not abusive, profane, or offensive to a reasonable person, or, (c) is not hateful or threatening.
 - 5.3 Ordering Activity will not (a) use, or allow the use of, the Services in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (f) otherwise act in a fraudulent, malicious or negligent manner when using the Services.
6. CONNECTIVITY AND ACCESS
- Ordering Activity acknowledges that Ordering Activity shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); and (b) provide Contractor through Kronos and its representatives with such physical or remote access to Ordering Activity's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Section D of this attachment A and Order Form. Ordering Activity will make all necessary arrangements as may be required to provide access to Ordering Activity's computer and network environment if necessary for Contractor to perform its obligations under the Section D of the Attachment A and Order Form.

7. IMPLEMENTATION AND SUPPORT

- 7.1 Implementation Services. Contractor through Kronos will provide the Implementation Services to Ordering Activity. In the event that Contractor is required to travel to Ordering Activity's location during the implementation, Ordering Activity agrees to pay any travel expenses in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and in accordance with the GSA terms. Section F of this Attachment A (Professional/Educational Services Policies) shall apply to all Implementation Services ("Professional Services Policies"). In the event of a conflict between the Professional Services Policies and this Section D of the Attachment A, the terms of this Section D of the attachment A shall prevail.
- 7.2 Additional Services. Ordering Activity may engage Kronos through Contractor to provide other services which may be fixed by activity or provided on a time and material basis, both based on the prices established in this Contract and the applicable Order.
- 7.3 Support. Kronos through Contractor will provide 24x7 support for the cloud infrastructure, the availability to the cloud environment, and telephone support for the logging of functional problems and user problems. Ordering Activity may log questions online via the Kronos customer Portal. As part of such support, Kronos will make updates to the Services available to Ordering Activity at no charge as such updates are released generally to Contractor' customers. Ordering Activity agrees that Contractor may install critical security patches and infrastructure updates automatically as part of the Services. Section G of this Attachment A (Support Policies and Services) shall apply to all Support Services provided by Contractor ("Support Policies"). In the event of a conflict between the Support Policies and this Section D of this Attachment A, the terms of this Section D shall prevail.
- 7.4 Support Services for Equipment. See Section A, Exhibit A.1
- 7.5 KnowledgePass Education Subscription. When KnowledgePass Education Subscription is purchased on an Order Form, Contractor through Kronos will provide Ordering Activity with the KnowledgePass Education Subscription. The KnowledgePass Education Subscription provides access to certain educational offerings provided by Contractor (the "KnowledgePass Content"). Ordering Activity recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Ordering Activity is permitted to make copies of the KnowledgePass Content provided in pdf form solely for Ordering Activity's internal use. Ordering Activity may not disclose such KnowledgePass Content to any third party other than Ordering Activity's employees. Ordering Activity may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Ordering Activity may download and modify contents of training kits solely for Ordering Activity's internal use.
- 7.6 Training Points. "Training Points" which are purchased by Ordering Activity may be redeemed for an equivalent value of instructor-led training sessions offered by Contractor through Kronos. Training Points are invoiced when used by the Ordering Activity. Training Points may not be exchanged for other Kronos products or services.
- 7.7 Training Courses. When Training Points or training sessions are set forth in an SSS, the SSS applies. When Training Points or training sessions are not set forth in an SSS, as part of the Services, for each SaaS application module included in the Services purchased by Ordering Activity, Ordering Activity's employees shall be entitled to attend, in the quantity indicated, the corresponding training courses set forth at:
www.kronos.com/products/workforce-central-saas/training-guidlines.aspx
Participation in such training courses is limited to the number of seats indicated for the courses corresponding to the modules forming a part of the Services purchased by Ordering Activity.
- 7.8 Technical Account Manager. Ordering Activities purchasing a Kronos Technical Account Manager ("TAM") as indicated on the Order Form shall receive the services of a dedicated, but not exclusive, TAM for one production instance of the Software. Ordering Activity will designate up to two primary and three secondary backup technical contacts ("Technical Contacts") to be the sole contacts with the TAM. Upon request, Ordering Activity may designate additional and/or backup Technical Contacts. Ordering Activity is required to place all primary Technical Contacts through Kronos training for the Applications covered under Section D of this Attachment A at Ordering Activity's expense.

8. ORDERING ACTIVITY CONTENT

Ordering Activity shall own all Ordering Activity Content. Contractor through Kronos acknowledges that all of the Ordering Activity Content is deemed to be the confidential information of Ordering Activity. Kronos may, but shall have no obligation to, monitor Ordering Activity Content from time to time to ensure compliance with the Section D of this Attachment A and applicable law.

9. INTENTIONALLY DELETED

10. SERVICE LEVEL AGREEMENT

Contractor through Kronos shall provide the service levels and associated credits, when applicable, in accordance with the Service Level Agreement attached hereto as Exhibit D-2 and which is hereby incorporated herein by reference. ORDERING ACTIVITY'S SOLE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE or INTERRUPTION OF the SERVICES OR FAILURE BY CONTRACTOR TO MEET THE TERMS OF THE APPLICABLE SERVICE LEVEL AGREEMENT, SHALL BE THE REMEDIES PROVIDED IN EXHIBIT D-2.

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

10.1 Contractor represents and warrants to Ordering Activity that the Applications, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with such Documentation during the Term.

10.2 Contractor's obligation and Ordering Activity's remedy for any breach of the foregoing warranty is limited to Contractor's reasonable commercial efforts to correct the non-conforming Services at no additional charge to Ordering Activity. In the event that Contractor is unable to correct material deficiencies in the Services, after using Contractor's commercially reasonable efforts to do so, Ordering Activity shall be entitled to terminate the then remaining Term of the Order Form under Section D of this Attachment A as Ordering Activity's remedy. Contractor's obligations hereunder for breach of warranty are conditioned upon Ordering Activity notifying Contractor of the material breach in writing, and providing Contractor with sufficient evidence of such non-conformity to enable Contractor to reproduce or verify the same.

10.3 Contractor warrants to Ordering Activity that each item of Equipment shall be free from defects in materials and workmanship during the Warranty Period. In the event of a breach of this warranty, Ordering Activity's remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the Documentation for such Equipment. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) in the event of:

- a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Contractor components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- b) failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or
- c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D, CONTRACTOR MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

12. DATA SECURITY

12.1 As part of the Services, Contractor shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Ordering Activity data as described at:

<http://www.kronos.com/products/workforcecentralcloud/cloud-guidelines.aspx>. Ordering Activity acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Ordering Activity should consider any particular Contractor supplied security-related safeguard as just one tool to be used as part of Ordering Activity's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Section D of this Attachment A.

12.2 As between Ordering Activity and Contractor through Kronos, all Personally Identifiable Data is

Ordering Activity's Confidential Information and will remain the property of Ordering Activity. Ordering Activity represents that to the best of Ordering Activity's knowledge such Personally Identifiable Data supplied to Contractor is accurate. Ordering Activity hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Contractor to carry out Kronos' duties and responsibilities under the Section D of this Attachment A or as required by law.

12.3 Prior to initiation of the Services under the Section D of this Attachment A and Order Form and on an ongoing basis thereafter, Ordering Activity agrees to provide notice to Contractor of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Ordering Activity's industry and which could be imposed on Contractor as a result of provision of the Services. Ordering Activity will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or its' Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Ordering Activity will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

13. LIMITATION OF LIABILITY

13.1 EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D OF ATTACHMENT A, KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY DAMAGES OR INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.

13.2 THE TOTAL AGGREGATE LIABILITY OF CONTRACTOR OR CONTRACTOR' SUPPLIERS TO ORDERING ACTIVITY AND/OR ANY THIRD PARTY IN CONNECTION WITH THE SECTION D SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY ORDERING ACTIVITY, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY CONTRACTOR FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH SUCH CLAIM ARISES.

13.3 IN NO EVENT SHALL CONTRACTOR OR CONTRACTOR' SUPPLIERS, THEIR RESPECTIVE AFFILIATES, SERVICE PROVIDERS, OR AGENTS BE LIABLE TO ORDERING ACTIVITY OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICES OR THE SECTION D, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, WHETHER BREACH OF WARRANTY, INDEMNIFICATION, STRICT LIABILITY OR OTHERWISE, AND WHETHER LIABILITY IS ASSERTED IN CONTRACT OR OTHERWISE, AND REGARDLESS OF WHETHER CONTRACTOR OR SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LIABILITY, LOSS OR DAMAGE.

13.4 EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS NEGLIGENCE OR WILLFUL MISCONDUCT, CONTRACTOR DISCLAIMS ANY AND ALL LIABILITY, INCLUDING WITHOUT LIMITATION LIABILITY RELATED TO A BREACH OF DATA SECURITY AND CONFIDENTIALITY OBLIGATIONS, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING WITHOUT LIMITATION VIRUSES, TROJAN HORSES, AND WORMS), ORDERING ACTIVITY'S

CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT, SAAS APPLICATIONS OR SYSTEMS, OR MACHINE ERROR.

THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM KRONOS' NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

14. CONFIDENTIAL INFORMATION

14.1 Each Party shall protect the Confidential Information of the other Party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character that it does not wish disclosed to the public. Kronos recognizes that courts of competent jurisdiction may require release of confidential information and that Federal Agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires information that does not fall under certain exceptions to be released despite being marked as "confidential" by Kronos. If a request for is made under the Freedom of Information Act is made, the parties agree to cooperate so that confidential information which is covered by the exceptions will be maintained confidential.

15. EXPORT

Ordering Activity understands that any export of the Equipment may require an export license and Ordering Activity assumes full responsibility for obtaining such license. Ordering Activity must obtain Kronos' prior written consent before exporting the Equipment.

16. GENERAL

16.1 Ordering Activity shall not assign the rights to use the Services without the prior written consent of Contractor through Kronos and any purported assignment, without such consent, shall be void.

16.2 Ordering Activity understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general Service or product development direction, potential future Services, products or product enhancements under consideration, Ordering Activity is not entitled to any Services, products or product enhancements other than those contained on the Order Form. Ordering Activity has not relied on the availability of any future version of the Services (including SaaS Applications or equipment) identified on an Order Form, nor any other future product in executing an order which is governed by Section D of this Attachment A.

**EXHIBIT D-1
Kronos® Workforce Central & Workforce TeleStaff
Cloud Offering – Single Tenant**

The following applies to single-tenant Applications within the Kronos Cloud:

Cloud Offering	
<p>Environments: One standard Production and one Non-Production (Development) environment.</p>	<p>Included. More nonproduction environments are available for additional fees.</p>

<p>Environment restoration: Restore of Production environment to one Non-Production environment once per week.</p> <p>Ordering Activity is responsible for requesting data to be moved from the Production environment to the Non-Production environment and for the contents of the data moved from the Production environment to the NonProduction environment.</p>	<p>Included. More frequent restores or additional environments will be subject to additional time and material fees.</p>
<p>Connectivity to Service: Customer's users connect to application via secure SSL/TLS connection over the internet. Cooperative efforts with customer IT staff may be required to enable access. Kronos will assist with validating site connectivity but assumes no responsibility for customer internet connection or ISP relationships. Kronos related Internet traffic cannot be filtered by proxy or caching devices on the client network. Exclusions must be added for the fully qualified domain names and public IP addresses assigned to the environments in the Kronos Cloud.</p>	<p>Included</p>
<p>Device Initiated Terminal Connectivity: In Device Initiated mode of communication, the Kronos Terminal initiates all communications with the Device Manager Server at Kronos Cloud over the internet. For this method, it is required that the customer open port 443 and port 444 outbound. In cases where Network Address Translation is required for terminals, the customer is responsible for applying the translations on their network. Kronos Cloud does not support terminals prior to 4500 series and does support certain models released thereafter.</p>	<p>Included</p>
<p>Remote Access to Non-Web Applications: Remote access to non-web Applications (e.g. Kronos Workforce Integration Manager) using a remote access tool such a Citrix® Receiver. Limited Kronos Applications require the use of these remote access accounts.</p>	<p>2 named users included</p>
<p>SFTP Accounts: SFTP accounts are provided to customers to push files to the Kronos Cloud and to pull files from the Kronos Cloud for designated integration points (e.g. Kronos Workforce Integration Manager input/output folders). This location is not designed for long-term storage and files may be deleted after 30 days after creation.</p>	<p>2 logins included</p>
<p>Operating System and Database Software Management: Includes application of</p>	<p>Included</p>
<p>Cloud Offering</p>	

<p>critical security patches, service packs and hot-fixes; maintenance of servers.</p>	
<p>Server Maintenance: Repair and replacement of defective or failed hardware and the installation of hardware upgrades.</p>	Included
<p>Application Updates: Services to perform technical tasks required to apply application service packs, legislative updates (if applicable), point releases and version upgrades.</p>	Included
<p>Backup: Customer data is backed up daily. Database backups are replicated via encrypted connections to a second Kronos Cloud datacenter. Backups are retained for the prior 28 days on a rotating basis. All historical employee and configuration data is stored in the rotating backups.</p>	Included
<p>Security: Kronos maintains a hosting environment that undergoes examinations from an independent auditor in accordance with the American Institute of Certified Public Accounts SSAE 16 (i.e. SOC 1) and the AICPA Trust Services Principles Section 100a, Trust Services for Security, Availability, Processing Integrity, Confidentiality and Privacy (i.e. SOC 2). The Kronos Private Cloud (KPC) is evaluated for the principles of Security, Availability and Confidentiality by the independent auditor. The Kronos Private Cloud is located in data centers that undergo SSAE 16 examinations. Management access to the KPC is limited to authorized Kronos support staff and customer authorized integrations. The security architecture has been designed to control appropriate logical access to the KPC to meet the Trust Services Principles of Security, Availability and Confidentiality. The Applications provide the customer with the ability to configure application security and logical access per the customer's business processes.</p> <p>In the event the customer identifies a security issue, the customer will notify Kronos. For security purposes, customers are restricted from accessing the desktop, file systems, databases and operating system of the environments.</p> <p>Customer agrees not to upload payment card information as the service is not certified for PCI DSS. Customer agrees not to upload health information that falls under HIPAA.</p>	Included
<p>Read-Only ODBC Access: Kronos will provide customer read-only ODBC access into customer's Production and NonProduction databases for Timekeeper/HRMS over secure connection (e.g. VPN). Customer is responsible for establishing this secure connection to the Kronos Cloud and additional fees for that connection may apply. Kronos may, but is not obligated to, limit or block customer's database read-only ODBC queries in order to prevent failure of the database due to overload. Kronos will not pay SLA credits for any Outage that is the result of overloading the database during read-only ODBC access. Overall performance may be limited during peak processing periods, and customer may need to limit resource intensive read-only ODBC queries to off-peak periods. Customer acknowledges that read-only ODBC over a long distance secure connection is not a reliable protocol for it does not have retry logic built-in to handle connectivity issues. Kronos will not be responsible for any changes required to customer's internal systems to account for limitations of read-only ODBC protocol.</p>	If selected on Order Form

<p>Cloud Offering</p>	
<p>Basic Disaster Recovery Services: Customer environment and all customer data in the Kronos Cloud are replicated to a secondary Kronos Cloud data center. Basic Disaster Recovery Services provides a Recovery Point Objective (RPO) of 24 hours and Kronos strives to restore Application Availability in a commercially reasonable timeframe. The customer will be down until production processing is restored in the primary or secondary data center if needed. No application environment is readily available at the alternate site to process data. Customers are expected to use fully qualified domain names (FQDNs) to access the service given that IP address of the service may change. Any issues arising out of the disaster recovery event due to customer configuration/customization and/or customer third party software outside of the Kronos Cloud is the responsibility of the customer to resolve.</p>	<p>Included</p>
<p>Enhanced Disaster Recovery Services: Customer environment and all customer data in the Kronos Cloud are replicated to a secondary Kronos Cloud datacenter. Enhanced Disaster Recovery Services provide an RTO (Recovery Time Objective) of 72 hours and a RPO (Recovery Point Objective) of 24 hours. In the unlikely event that Kronos declares a disaster in the primary datacenter, Kronos will notify the customer and activate the Disaster Recovery steps necessary to restore application availability within the RTO defined. As part of the enhanced service, Kronos will conduct an annual Disaster Recovery Process test which has the objectives to 1) test backups 2) train Kronos employees 3) verify and improve internal Kronos procedures. The annual Disaster Recovery Process test may be live or simulated test. Customers are expected to use fully qualified domain names (FQDNs) to access the service given that IP address of the service may change. Any issues arising out of the disaster recovery event due to customer configuration/customization and/or customer third party software outside of the Kronos Cloud is the responsibility of the customer to resolve. Workforce Analytics, Workforce Record Manager, Workforce TeleStaff Workforce TeleTime IP and all Non-Production environments are excluded from the RTO.</p>	<p>If selected on Order Form</p>
<p>Cloud Offering</p>	
<p>The following services are not included in the Enhanced Disaster Recovery Services but may be purchased from Kronos on a time and material basis and subject to additional fees: a customer specific DR plan with annual review and Kronos project management for a live DR test.</p>	
<p>Temporary Environments: Temporary Environments are designed for classroom training up to about 40 people and/or functional application testing of roughly five to ten simultaneous people. To order a temporary environment you must be paying for a production environment in Kronos Cloud.</p>	<p>If selected on Order Form</p>

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Third Parties: If Customer uses a third party to configure and implement Customer's Applications, the following applies: Such third party must be authorized by Kronos as part of the Kronos Connect Partner Program prior to accessing Customer's development and testing environments. Third parties will not be granted access to Customer's production environment for purposes of configuring the Applications. Customer understands that although Kronos Connect Partners are subject to Kronos policies and procedures, such Partners are not subject to SOC audits by Kronos or its representatives. As such, Kronos' SSAE16 SOC 1 and AT101 SOC 2 Reports are applicable to the production environment only and not such third parties' activities.

If Customer uses 3rd party as part of implementation

Guidelines and Assumptions:

Category	Assumption
	<p>Estimated availability of production server hardware is approximately 30 days after the Order Form is processed. Customer agrees to receive automatic updates to the Applications.</p>
	<p>Transparent Data Encryption (i.e. data at rest encryption) is not supported.</p> <p>Connecting modem clocks to the Kronos Cloud is not supported.</p>
	<p>Applications will support English only unless stated on the Order Form.</p>
	<p>Customer agrees not to conduct security testing, which includes but is not limited to penetration testing and vulnerability scanning.</p>
	<p>Customer agrees not conduct any sort of automated or manual performance testing of the Service.</p>
<p>Category</p>	<p>Assumption</p>

	<p>Offering includes system resources to process the equivalent of five WIM interfaces using up to 10 links with a maximum of five megabytes of data per link. In addition, systems resources for the integration between Workforce Central and Workforce TeleStaff for People, Punch, and Accrual interfaces are included assuming product documentation is followed for setup and run-time scheduling. Additional processing requirements may incur additional fees associated with corresponding system resources. Custom developed functionality outside of WIM that runs in the Kronos Cloud may incur additional fees.</p>
	<p>Retention policies must be configured in the Application(s). Setting retention policies will ensure that unnecessary system data (e.g. temp files, deleted records, empty rows, etc.) is routinely purged from the system and will help in managing database growth. Historical employee data can be maintained for the duration of the agreement and renewal periods per customer business requirements. Retention policies do not apply to configuration data.</p>
	<p>Sizing considerations based on a three year growth projection of the Production database environment. After 3 years, an archiving strategy may be reviewed with the customer for Service performance.</p>
	<p>Custom reports for Workforce Central are created using Microsoft Visual Studio. If made available from Microsoft the free version of Visual Studio Express will be made available to the customer in their development environment. Customer will have read-only ODBC access to their development database for creating reports. Customer is limited to two named users for report creation who match the two included users for remote access to non-web applications (e.g. Citrix Receiver). Customer created reports for Workforce HR and Payroll may have reduced functionality from Kronos product documentation due to security restrictions in Kronos Cloud.</p>
	<p>Customer will be required to sign a go live milestone document confirming customer has completed its testing and is ready to go live with the Workforce Central Application(s).</p>
	<p>Use of the Workforce Central translation toolkit requires a Kronos professional services engagement to import/export the translation file(s) into a test environment and into the Production environment.</p>
<p>Product Specific Considerations</p>	
	<p>Workforce Record Manager (if included on order form) – When Workforce Record Manager is included it may only be used for archiving purposes. Setup Data Manager only supports import and export of configuration via XML files between Production environment and Non-Production environment, a direct connection between Production and NonProduction environments is not supported. Customer should open a ticket with Kronos Global Support to request migrations when necessary. Customer is allowed one ticket per month at no charge to request migration of changes. Additional requests for configuration and/or interface migrations between customer environments shall be subject to additional time and material fees.</p>
	<p>Workforce TeleTime IP - Teletime IP requires customer to procure from a third party provider a private line (e.g. MPLS) into the Kronos Cloud that meets Kronos Cloud technical standards. Kronos will provide information on how connectivity is established by customer.</p>

Workforce Central Upgrade Services

The Service includes services for Kronos to execute tasks to apply point releases and version upgrades to customer's Kronos Applications in the Kronos Cloud. Services are limited to those tasks which apply these updates to the Applications.

The table below reflects the included upgrade tasks.

<p>Project Coordination: Project Manager to coordinate the upgrade project.</p> <ul style="list-style-type: none"> • Up to eight 30-minute weekly status calls (one per week) • Coordinate Kronos resources • Send meeting invites • Provide Project Timeline and expected customer commitment at the start of the project • Provide initial Project Schedule and communicates progress during weekly status calls <p>Provide Communication Plan and Contact List</p>	Included
Planning Phase	
Customer/ Kronos Introduction Call – up to one hour	Included
Technical readiness & architecture review – Kronos Cloud Environment	Included
Assessment Phase	
Assessment of Interface Upgrade	Included
Assessment of new features or changes to configuration	Not included
Assessment of customs and custom reports and development activities related thereto	Not included
Solution Upgrade / Build Phase	
One (1) restore of Production database to Pre-Production environment for the purpose of upgrade testing. Additional restores, if requested, shall be subject to additional time and material fees.	Included
Upgrade Non-Production and Production environments to new point release or version.	Included
Upgrade of Workforce Integration Manager (WIM) interfaces due to product changes	Included
introduced as part of the technical upgrade as defined in product documentation. For	

Workforce Central Version 8 this includes XML export/imports and database views as defined in the "Workforce Central Import User Guide" and "Workforce Central Data View Reference Guide".	
Upgrade of non-WIM interfaces in Non-Production environment and Production environment.	Not Included
Upgrade of customs and custom reports. This includes upgrade of Workforce Integration Manager (WIM) interfaces that use table import batch functionality, read/write directly to database tables or require changes due to new/changed customer requirements.	Not Included
Upgrade of interfaces and reports created or provided by customer	Not Included
Update of terminal firmware managed by Kronos	Not Included
Configuration of new features or functionality or changes to existing configuration	Available for Purchase
Test & Certify Phase	
System test upgraded environments by verifying a user can log in	Included
User acceptance testing (UAT) of upgraded environments, interfaces, custom reports, new features, etc.	Not Included
Develop customer-specific test cases	Not Included
Sign-off on upgraded Non-Production and Production Environments	Customer
Deploy & Support Phase	
Deployment Readiness Call – up to one hour	Included

Note that new feature configuration, project management services, other Professional, Managed and Educational Services and training are not included as part of Upgrade Services, but may be purchased independently, if desired.

Project coordination lasts for no more than 8 weeks. At the end of this time, Kronos will complete the production upgrade. If for any reason Kronos cannot complete the technical upgrade steps within 8 weeks due to a Kronos caused delay, project coordination will continue proportionally to cover the Kronos caused delay. For example if Kronos causes a two week delay due to Kronos resource unavailability, project coordination will last no more than 10 weeks.

If not specifically noted, the Ordering Activity should assume responsibility of the task and/or deliverable.

EXHIBIT D-2 SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), are provided with the service levels described in

this Exhibit D-2. SLAs are only applicable to production environments. SLAs will be available upon Ordering Activity's signature of Kronos' Go Live Acceptance Form for Ordering Activity's production environment.

99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Ordering Activity in Ordering Activity's production environment hosted by Kronos and end when Kronos has restored availability of the Services. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Ordering Activity to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied to Ordering Activity's monthly invoice for the affected month
<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

"Outage" means the accumulated time, measured in minutes, during which Ordering Activity is unable to access the Applications for reasons other than an Excluded Event.

"Excluded Event" means any event that results in an Outage and is caused by (a) the acts or omissions of Ordering Activity, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos, including without limitation Ordering Activity Content, failures or malfunctions resulting from circuits provided by Ordering Activity, any inconsistencies or changes in Ordering Activity's source environment, including either intentional or accidental connections or disconnections to the environment; (c) excusable delay events as defined in FAR 52.212-4(f); (c) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined below; (d) any suspension of the Services in accordance with the terms of the Section D to which this Exhibit D-2 is attached; (e) the unavailability of required Ordering Activity personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (f) using an Application in a manner inconsistent with the product documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services available to Ordering Activity; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Ordering Activity contact at least one day in advance of any known downtime so planning can be facilitated by Ordering Activity.

Currently scheduled Maintenance Periods for the Services are:

Monday through Friday 04:00 am – 06:00 am (U.S. eastern time)
 Saturday and Sunday 12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Ordering Activity and Contractor. **"Monthly Minutes (MM)"** means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"Total Minutes Not Available (TM)" means the total number of minutes during the calendar month that the Services are unavailable as the result of an Outage.

Limitations: Service Credits will not be provided if: (a) Ordering Activity is in breach or default under the Section D at the time the

Outage occurred; or (b) the Outage results from an Excluded Event. If Contractor through Kronos does not provide the appropriate Service Credit as due hereunder, Ordering Activity must request the Service Credit within sixty (60) calendar days of the conclusion of the month in which the Service Credit accrues.

Ordering Activity waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Kronos records and data unless

Ordering Activity can provide Kronos with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment

may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Ordering Activity acknowledges that Kronos manages its network traffic in part on the basis of Ordering Activity's utilization of the Services and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Ordering Activity significantly changes its utilization of the Services than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to co-operate, in good faith, to resolve the issue.

SECTION E

KRONOS WORKFORCE READY® - SOFTWARE AS A SERVICE TERMS AND CONDITIONS

Ordering Activity and Contractor agree that the terms and conditions set forth below shall apply to the Contractor through Kronos supply of the commercially available version of the Workforce Ready® SaaS Applications in Kronos' hosting environment, the services related thereto, and the sale or rental of Equipment (if any) specified on an Order Form signed by Ordering Activity (the "Order Form"). The Applications described on the Order Form shall be delivered by means of Ordering Activity's permitted access to the Contractor infrastructure hosting such Applications.

Contractor and Ordering Activity hereby agree that these terms and conditions of this Section E of the Attachment A apply for all order forms for the services in relation with Workforce Ready® SaaS. These terms are effective as of the date of the Order Form is accepted by the Contractor ("Effective Date").

1. DEFINITIONS

"Section E" means these terms and conditions and the Order Form(s) specific to the Ordering Activity. "Application(s)" or "SaaS Application(s)" means those Kronos software application programs set forth on an Order Form which are made accessible for Ordering Activity to use under the terms of this Section E.

"Billing Start Date" means the date the billing of the Monthly Service Fees commences as indicated on the applicable Order Form. The Billing Start Date of the Monthly Service Fees for any Services ordered by Ordering Activity after the date of this Section E which are incremental to Ordering Activity's then-existing Services shall be the date the applicable Order Form is executed by Contractor and Ordering Activity.

"Ordering Activity Content" means all content of Ordering Activity, or others acting on behalf of or through Ordering Activity, posts or otherwise inputs into the Services.

"Documentation" means technical publications published solely to its Customers by Contractor relating to the use of the Services.

"Educational Content" has the meanings ascribed in Section 7.3.

"Equipment" means Kronos equipment purchased or rented by Ordering Activity under this Section E.

"Initial Term" means the initial term of the Services as indicated on the Order Form.

"Monthly Service Fee(s)" means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of the Applications, the Services, and Equipment rental, if any. Billing of the Monthly Service Fee(s) commences on the Billing Start Date.

"Order Form" means an order form mutually agreed upon by Contractor and Ordering Activity setting forth the items ordered by Ordering Activity and to be provided by Contractor and the fees to be paid by Ordering Activity.

"Personally Identifiable Data" means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under applicable law or regulation.

"Renewal Term" means one year or such other renewal term of the Services as indicated on the Order Form.

"Services" means (i) accessibility to the commercially available version of the Applications by means of access to the password protected Ordering Activity area of a Contractor website, and all such services, items and offerings accessed by Ordering Activity therein, and (ii) the Equipment rented hereunder, if any.

"Supplier" means any contractor, subcontractor or licensor of Contractor providing software, equipment and/or services to Contractor which are incorporated into or otherwise related to the Services.

"Term" means the Initial Term and any Renewal Terms thereafter.

2. TERM

2.1 The Services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated by Ordering Activity in accordance with the provisions hereof or applicable laws and regulations. At the expiration of the Initial Term and each Renewal Term as applicable, the Services may renew for additional Renewal Terms by Ordering Activity issuing a new purchase order.

2.2 Contractor through Kronos reserves the right to temporarily suspend the Services if in Kronos's reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality.

2.3 If the Order Form is terminated for any reason:

(a) Ordering Activity shall pay Contractor within thirty (30) days of such termination, all fees accrued for the Services prior to the effective date of such termination, provided however, if Ordering Activity

- terminates for material breach of the Section E by Contractor, Contractor shall refund Ordering Activity any pre-paid fees for services not delivered by Contractor;
- (b) Ordering Activity's right to access and use the Applications shall be revoked and be of no further force or effect and Ordering Activity shall return rented Equipment as provided in Section 9.1 below;
 - (c) No more than fifteen (15) days after termination (or upon Ordering Activity's written request at any time during the Term), Contractor will provide to Ordering Activity, at no charge to Ordering Activity, the Ordering Activity Content. After such time period, Contractor shall have no further obligation to store or make available the Ordering Activity Content and will securely delete any or all Ordering Activity Content without liability;
 - (d) Ordering Activity agrees to timely return all Contractor-provided materials related to the Services to Contractor at Ordering Activity's expense or, alternatively, destroy such materials and provide Contractor with an officer's certification of the destruction thereof; and
 - (e) All provisions in the Section E of this Attachment A, which by their nature are intended to survive termination, shall so survive for the purposes of that Order Form being terminated.

3. FEES AND PAYMENT

- 3.1 Ordering Activity shall pay Contractor the Setup Fees, the Monthly Service Fees and any additional one time, set-up or recurring fees, all as defined on the Order Form in accordance with the GSA Schedule Pricelist. Billing will commence on the Billing Start Date with the Monthly Service Fees to be invoiced on the frequency set forth on the Order Form ("Billing Frequency"). Except as expressly set forth in the Section E of this Attachment A, all amounts paid to Contractor are non-refundable.
- 3.2 The Setup Fees shall be invoiced upon execution of the Order Form and shall be due net 30 days following receipt date of invoice. Ordering Activity acknowledges that setup fees may be charged to Ordering Activity by third parties for Add-on Features, provided that the third party setup and monthly fees shall be set forth on an Order Form. Monthly Service fees shall be based on monthly periods that begin on the Billing Start Date. Monthly Service Fees shall include fees for Equipment rental, if any, as specified on the Order Form. Monthly Service Fees for Services added on or before the 15th day of a given month will be charged for that full monthly period and each monthly period of the Term thereafter; Monthly Service Fees for Services added after the 15th day of a given month will begin to accrue as of the 1st day of the following month and will be charged for each monthly period of the Term thereafter. Monthly Service Fees shall be invoiced promptly following the end of the calendar month in which the Monthly Service Fees were accrued. Contractor through Kronos will monitor Ordering Activity's "Usage" of the Services (as defined below) in order to calculate the Usage portion of the Monthly Service Fees to be charged. Usage of the Services, depending on applicable features, components, or services, shall be priced as identified on the Order Form either on a: (a) per month basis; (b) per active employee (herein "Active Employee") per month usage basis; (c) per transaction basis (e.g.: pay statement); or, (d) per access point. For purposes of the Section E, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; or (vi) such employee has been marked by Ordering Activity as having an "Active" status during the period.
- 3.3 Ordering Activity agrees that except in those circumstances in which Ordering Activity is entitled to invoke the termination for cause provision set forth in Section 2.3 above, in consideration of Kronos' delivery of the Services on a variable fee basis, Ordering Activity agrees to pay Contractor each month during the Term in which charges accrue no less than the minimum monthly fees ("Minimum Monthly Fees") which shall be calculated by Contractor through Kronos based the amounts identified on all Order Forms for Ordering Activity's Usage of the Services, plus Equipment rental fees, if any. In the event that Ordering Activity does not reach the anticipated Usage upon which the Minimum Monthly Fees was based for any given month during the Term, Ordering Activity shall remain responsible for paying the Minimum Monthly Fees for that month.

4. RIGHTS TO USE

- 4.1 Subject to the terms and conditions of the Section E of this Attachment A and the Order Form, Contractor hereby grants Ordering Activity a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for internal business purposes only: a) the Applications and related services, including the Documentation and training materials; and, b) any embedded third party software, libraries, or other components, which form a part of the Services. The Services contain proprietary trade secret technology of Contractor and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Ordering Activity shall not reverse compile, disassemble or otherwise convert the Applications or other software comprising the Services into uncompiled or unassembled code. Ordering Activity acknowledges and agrees that the right to use the Services is limited based upon authorized Usage and the amount of the Monthly Service Fees to be paid by Ordering Activity. Ordering Activity agrees to use only the modules and/or features described on the Order Form.

Ordering Activity agrees not to use any other modules or features unless Ordering Activity has licensed such additional modules or features. Ordering Activity may not relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Ordering Activity may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or Suppliers, is granted hereunder. When using and applying the information generated by the Services, Ordering Activity is responsible for ensuring that Ordering Activity complies with applicable laws and regulations.

- 4.2 Ordering Activity may authorize its third party contractors and consultants to access the Services through Ordering Activity's administrative access privileges on an as needed basis, provided Ordering Activity: a) abides by its obligations to protect confidential information; b) remains responsible for all such third party usage and compliance with the Section E of this Attachment A; and c) does not provide such access to a competitor of Contractor who provides workforce management services.
- 4.3 Ordering Activity acknowledges and agrees that, Kronos retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein, Ordering Activity shall not obtain or claim any rights in or ownership interest to the Services or any associated intellectual property rights in any of the foregoing. Ordering Activity agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Ordering Activity through the Services.
- 4.4 Kronos will make updates and upgrades to the Services (tools, utilities, improvements, third party applications, general enhancements) available to Ordering Activity at no charge as they are released generally to its customers as part of the Services. Ordering Activity agrees to receive those updates automatically as part of the Services. Contractor through Kronos also may offer new products and/or services to Ordering Activity at an additional charge. Ordering Activity shall have the option of purchasing such new products and/or services under a separate Order Form.
- 4.5 Contractor through Kronos reserves the right to change the Services, in whole or in part, including but not limited to, the Internet based services, technical support options, and other Services-related policies. Ordering Activity's continued use of the Services after Kronos posts or otherwise notifies Ordering Activity of any changes indicates the Section E of Attachment A and the Order Form to those changes.

5. ACCEPTABLE USE

- 5.1 Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of the Section E of this Attachment A.
- 5.2 Ordering Activity represents and warrants to Contractor that Ordering Activity has the right to publish and disclose the Ordering Activity Content in connection with the Services. Ordering Activity represents and warrants to Contractor that the Ordering Activity Content: (a) does not infringe or violate any third-party right, including but not limited to intellectual property, privacy, or publicity rights, (b) is not abusive, profane, or offensive to a reasonable person, or, (c) is not hateful or threatening.
- 5.3 Ordering Activity will not (a) use, or allow the use of, the Services in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (f) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

6. CONNECTIVITY AND ACCESS

Ordering Activity acknowledges that Ordering Activity shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); and (b) provide Contractor and its representatives with such physical or remote access to Ordering Activity's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Section E of this Attachment A and the Order Form. Ordering Activity will make all necessary arrangements as may be required to provide access to Ordering Activity's computer and network environment if necessary for Contractor to perform its obligations under the Section E of this Attachment A. Contractor is hereby (i) granted access to such Ordering Activity data to perform its obligations under the Section E of this Attachment A and the Order Form and (ii) authorized to audit the number of Active Employee counts or other transactions that have occurred to measure Usage.

7. IMPLEMENTATION AND SUPPORT

7.1 Implementation. Contractor through Kronos will configure the Services utilizing scheduled remote resources. Software module configuration will be based on information and work flows obtained from Ordering Activity during the discovery portion of the implementation. Ordering Activity shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met. Contractor and Ordering Activity's implementation responsibilities are described more specifically in the Services Implementation Guideline attached as Exhibit E-1.

7.2 Standard Support. Contractor through Kronos will provide telephone support 8:00 a.m. to 5:00 p.m., local time, Monday – Friday. Customers also shall be provided the capability to log questions online via the Kronos customer Portal.

7.3 Educational Materials and Content. Ordering Activity will have access to certain educational materials and content (the "Educational Content") within the Services. Ordering Activity recognizes and agrees that the Educational Content is copyrighted by Kronos. Ordering Activity is permitted to make copies of the Educational

Content provided in *pdf form solely for Ordering Activity's internal training purposes and may not disclose such Educational Content to any third party other than Ordering Activity's employees. Ordering Activity may not edit, modify, revise, amend, change, alter, customize or vary the Educational Content without the written consent of Kronos, provided that Ordering Activity may download and modify contents of Training Kits solely for Ordering Activity's internal use.

8. Ordering Activity content

Ordering Activity shall own all Ordering Activity Content. Contractor acknowledges that all of the Ordering Activity

Content is deemed to be the confidential information of Ordering Activity. Notwithstanding the foregoing, Ordering Activity grants Contractor permission to combine Ordering Activity's business data with that of other Ordering customers in a manner that does not identify the Ordering Activity or any individual in order to evaluate and improve the services Contractor offers to Ordering customers. In addition, Kronos may, but shall have no obligation to, monitor Ordering Activity Content from time to time to ensure compliance with the Section E of this Attachment A and applicable law.

9. INTENTIONALLY DELETED

10. SERVICE LEVEL AGREEMENT

Contractor through shall: (a) provide basic support for the Services at no additional charge, (b) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (when it shall give at least 8 hours notice via the Services and shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday, Eastern Time), or (ii) any unavailability caused by circumstances beyond Kronos' reasonable control, as governed by FAR 52.212-4(f).

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

11.1 Contractor represents and warrants to Ordering Activity that the Applications, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with such Documentation during the Term.

11.2 Contractor's sole obligation and Ordering Activity's remedy for any breach of the foregoing warranty is limited to Contractor's reasonable commercial efforts to correct the non-conforming Services at no additional charge to Ordering Activity. In the event that Contractor is unable to correct material deficiencies in the Services arising during the Warranty Period, after using Contractor's commercially reasonable efforts to do so, Ordering Activity shall be entitled to terminate the then remaining Term of the Order Form under Section E of this Attachment A as Ordering Activity's remedy. Contractor's obligations hereunder for breach of warranty are conditioned upon Ordering Activity notifying Contractor of the material breach in writing, and providing Contractor with sufficient evidence of such non-conformity to enable Contractor to reproduce or verify the same.

11.3 Contractor warrants to Ordering Activity that each item of Equipment shall be free from defects in materials and workmanship during the Warranty Period. In the event of a breach of this warranty, Ordering Activity's remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the Documentation for such Equipment. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) in the event of:

- a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Contractor components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- b) failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or
- c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION

THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION E, CONTRACTOR MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

12.0 DATA SECURITY

12.1 As part of the Services, Kronos shall provide those administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Ordering Activity data. Ordering Activity acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Ordering Activity should consider any particular Kronos supplied security-related safeguard as just one tool to be used as part of Ordering Activity's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Section E of this Attachment A.

12.2 As between Ordering Activity and Contractor through Kronos, all Personally Identifiable Data is Ordering Activity's Confidential Information and will remain the property of Ordering Activity. Ordering Activity represents that to the best of Ordering Activity's knowledge such Personally Identifiable Data supplied to Contractor is accurate. Ordering Activity hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Contractor to carry out Kronos' duties and responsibilities under the Section E of this Attachment A or as required by law.

12.3 Prior to initiation of the Services under the Section E of this Attachment A and the Order Form and on an ongoing basis thereafter, Ordering Activity agrees to provide notice to Contractor of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Ordering Activity's industry and which could be imposed on Contractor as a result of provision of the Services. Ordering Activity will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or its Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Ordering Activity will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

13. LIMITATION OF LIABILITY

13.1 Except as specifically provided in this section E of this Attachment A, Kronos and its suppliers will not be liable for any damages or injuries caused by the use of the services or by any errors, delays, interruptions in transmission, or failures of the Services.

13.2 The total aggregate liability of Contractor or Contractor's suppliers to ordering activity and/or any third party in connection with the section E shall be limited to direct damages proven by ordering activity, such direct damages not to exceed an amount equal to the total net payments received by contractor for the Services in the Twelve (12) month period immediately preceding the date in which such claim arises.

13.3 In no event shall Contractor or Contractor's suppliers, their respective affiliates, service providers, or agents be liable to Ordering Activity or any third party for any incidental, special, punitive, consequential or other indirect damages or for any lost or imputed profits or revenues, lost data or cost of procurement of substitute services resulting from delays, nondeliveries, misdeliveries or services interruption, however caused, arising from or related to the services or the Section E, regardless of the legal theory under which such liability is asserted, whether breach of warranty, indemnification, negligence, strict liability or otherwise, and whether liability is asserted in contract or otherwise, and regardless of whether contractor or supplier has been advised of the possibility of any such liability, loss or damage.

13.4 Except with respect to liability arising from Kronos' gross negligence or willful misconduct, contractor disclaims any and all liability, including without limitation liability related to a breach of data security and confidentiality obligations, resulting from any externally introduced harmful program (including without limitation viruses, Trojan horses, and worms), Ordering Activity's content or applications, third party unauthorized access of equipment, SaaS applications or systems, or machine error.

13.5 The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Kronos' negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

14. CONFIDENTIAL INFORMATION

14.1 Each Party shall protect the Confidential Information of the other Party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such

Party utilizes for its own information of similar character that it does not wish disclosed to the public.

15. EXPORT

Ordering Activity understands that any export of the Equipment may require an export license and Ordering Activity assumes full responsibility for obtaining such license. Ordering Activity must obtain Kronos' prior written consent before exporting the Equipment.

16. GENERAL

16.1 Ordering Activity shall not assign the rights to use the Services without the prior written consent of Contractor and any purported assignment, without such consent, shall be void.

16.2 Ordering Activity understands and acknowledges that while Contractor may disclose to customers certain confidential information regarding general Service or product development direction, potential future Services, products or product enhancements under consideration, Ordering Activity is not entitled to any Services, products or product enhancements other than those contained on the Order Form. Ordering Activity has not relied on the availability of any future

Item	Kronos Responsibility	Ordering Activity Responsibility
Time and Labor	Kronos will configure and implement Time and Labor module.	It is the responsibility of the customer to Complete Workforce Ready the Time and Attendance templates.
Accruals	Kronos will configure and Implement the Workforce Ready Accruals module.	It is the responsibility of the customer to Complete the Time and Accruals templates.
Human Resources	Kronos will configure and implement Workforce Ready Human Resources module.	It is the responsibility of the customer to the Human Resource templates.
Payroll	Kronos will configure and implement Payroll module.	It is the responsibility of the customer to Complete Workforce Ready the Payroll templates.

version of the Services (including SaaS Applications or equipment) identified on an Order Form, nor any other future product in executing the Section E of this Attachment A.

Kronos® Workforce Ready™ Implementation Guidelines

Travel Expenses

In the event that Ordering Activity requests Kronos to travel to Customer's location during the implementation, Ordering Activity agrees to pay any travel expenses in accordance with FTR/JTR, as applicable. Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and funded under the applicable ordering document.

Complete

Clocks Kronos will configure up to 3 clocks and It is the responsibility of the customer to train the customer's IT staff to replicate physically install/mount all clocks. It is the additional configurations. responsibility of the customer to configure/install additional clocks.

Network Kronos will provide specifications on recommended network settings to allow communications between the hosted environment and the clocks. It is the responsibility of the customer to configure their network to allow inbound and outbound communications to and from the clocks. Specific ports/firewall settings may need to be modified to allow communications.

Tax Filing Kronos will coordinate the communication It is the responsibility of the customer to between MasterTax and the customer. provide Kronos with the necessary tax Kronos will confirm proper configuration of the payroll information to setup the MasterTax exports. export to MasterTax .

An employee import will be configured to pull It is the responsibility of the customer to provide a employee based information into Workforce Ready. file in a Kronos approved format for the import.

Accrual import An accrual import will be configured to pull accrual It is the responsibility of the customer to provide a balances into Workforce Ready. file in a Kronos approved format for the import.

Payroll export Kronos will provide a standard export file for It is the responsibility of the customer to provide Workforce Ready. Kronos with the necessary import file specifications for their payroll software.

Training Kronos will provide 1 administrative training It is the responsibility of the customer to session and up to 2 manager training sessions conduct all employee and any remaining for each software product purchased. manager training sessions.

SECTION F

Professional and Educational Services Engagement Policies

The following are intended to provide the policies under which Kronos Professional and Educational Services will operate during the course of a customer engagement:

Professional Services:

1. Contractor will provide Ordering Activities with a Professional Services Estimate or Statement of Work that outlines the project deliverables and provides an estimate for the project scope and cost required to complete the engagement, based upon preliminary information provided by Ordering Activity.
2. Contractor and Ordering Activity agree that given the use of estimated times; the Assess Phase of the engagement will be used to determine whether modifications to project scope and cost are required.
3. Any such modification to project scope and cost will be supported through the generation of a Change Order that is signed by the Ordering Activity (see Change Order Process below).
4. The original project scope and cost of an engagement will apply until, and if, the Ordering Activity signs a Change Order.
5. The Professional Services Estimate or Statement of Work is valid for one year from the date of signature.
6. Contractor will invoice the Ordering Activity on a monthly basis for all Professional Services provided during the previous month.
7. Professional Services work will be conducted during normal business hours, 8:00 AM - 5:00 PM, Monday through Friday.
8. All Professional Services work scheduled to start outside of normal business hours will be billed in full at a premium rate described below. For work to be performed After Hours, on Holidays, or on Weekends, an approved Change Order will be required prior to scheduling (see Change Order Process below). Ordering Activities will be charged as follows:
 1. All Professional Services will be scheduled and billed in 4 hour increments with a minimum charge of 4 hours.
 2. After Hours
 - i. All scheduled work will be billed at 1.5 times the current contract rate by role.
 - ii. After Hours are 5:00 PM - 8:00 AM, Monday through Thursday.
 - f. Weekend
 - i. All scheduled work will be billed at 2.0 times the current contract rate by role.
 - ii. Weekend is 5:00 PM Friday- 8:00 AM Monday.
 - g. Holiday
 - i. All scheduled work will be billed at 2.0 times the current contract rate by role.
 - ii. Holiday is recognized Kronos Holiday (see below).
 - h. Onsite Support requiring Travel:

All travel time (portal to portal) will be billed at the current contract rate by role.

- ii. Expense reimbursement is pursuant to the agreement covering such Professional Services between the customer and Kronos, subject to the terms and conditions of the GSA Schedule contract, customer order, and applicable Federal travel regulations.

9. Contractor requires notification for the cancellation or rescheduling of Kronos personnel, Ordering Activity will be charged for failure to meet the following notification requirements:
2 business days prior to scheduled work - 50% of planned charges are invoiced for scheduled work.
1 business day prior to scheduled work - 100% of planned charges are invoiced for scheduled work. Business days are Monday, Tuesday, Wednesday, Thursday, and Friday, excluding holidays.

Here is an example:

- o Work is scheduled for Wednesday, 1p - 5p (4 hours) o Customer cancels on:

-Friday - no penalty

-Monday - 50% of planned charges are invoiced (2 hours) Tuesday - 100% of planned charges are invoiced (4 hours)

Here is a holiday example:

- o Work is scheduled for Wednesday, 1p - 5p (4 hours) o Customer cancels on:

-Thursday - no penalty

-Friday - 50% of planned charges are invoiced (2 hours)

-Monday- holiday; doesn't count as "business day"

-Tuesday --- 100% of planned charges are invoiced (4 hours) Kronos

Professional Services recognizes the

following holidays:

New Year's Day President's Day Memorial Day

Independence Day Labor Day

Thanksgiving Day and the day after

Christmas Day

Change Order Process:

1. All changes to the original, signed Professional Services Estimate or Statement of Work will be initiated by the Kronos Project Manager and reflected through the use of a Change Order, approved and signed by the Ordering Activity.
2. A change of project scope and cost, resulting in a Change Order, could result from: an increase or change to project deliverables, Ordering Activity allocated time, Ordering Activity scheduling changes, technology limitations.
3. The last authorized Professional Services Estimate or Statement of Work, including any previously approved Change Orders, will prevail until amended by a subsequent approved Change Order.
4. Unless otherwise addressed within these policies, the hourly rate(s) quoted within a Change Order for work to be performed within normal business hours will be consistent with that contained within the original Professional Service Estimate or Statement of Work, if such Change Order is executed during the course of the original engagement, or within one (1) year of the signing of the original Professional Services Estimate or Statement of Work, whichever is earlier.
5. In instances where specialized resources are requested, but not contained within the original Professional Services Estimate or Statement of Work, the quoted rate will be established at Contractor's then current GSA rate for such requested services.

Educational Services

1. All Instructor-led Educational Services classes will be held at a Kronos facility, or via the Kronos Virtual Classroom (if offered in that modality), unless Ordering Activity has purchased onsite location training.
2. Contractor requires notification of cancellation from an Instructor-led class. Ordering Activity will be charged for training upon failure to meet the following notification requirements:
 - a. For any PUBLIC course held in the traditional classroom or in the virtual classroom: Attendees must cancel at least five business days before the class start *date* to avoid cancellation fees (equal to the cost of the course). Student substitutions can be made at any time as long as prerequisites have been met.
 - b. For any PRIVATE course held at a Ordering Activity site, in the traditional classroom, or in the virtual classroom: Attendees must cancel at least ten business days before the class

start date. Student substitutions can be made at any time as long as prerequisites have been met.

3. Contractor through Kronos reserves the right to cancel classes up to five business days before the scheduled start date for public courses held in a Kronos Traditional Classroom (KTC) and up to two business days before the scheduled start date for public courses held in a Kronos Virtual Classroom (KVC) due to lack of enrollment or any other unforeseen circumstances.
4. Educational Services ordered are valid for one (1) year from the date of signature. Educational Service purchased but not used within this one-year period will expire. New Order will need to be reissued by the Contracting Agency
5. All training course delivery scheduled to start outside of normal business hours will be billed in full at a premium rate described below. Ordering Activities will be charged as follows:
 - a. After Hours
There will be a 1.5 times premium in either per student public or per class private day rates. After Hours are 5:00 PM - 8:00 AM, Monday through Thursday.
 - b. Weekend
There will be a 2.0 times premium in either per student public or per class private day rates. Weekend is 5:00 PM Friday - 8:00 AM Monday.
 - c. Holiday
There will be a 2.0 times premium in either per student public or per class private day rates. Holiday is recognized Kronos Holiday (see below).
 - d. Onsite Support requiring Travel:
All travel time (portal to portal) will be billed at the current contract rate by role. Expense reimbursement is pursuant to the agreement covering such Educational Services between the Ordering Activity and Kronos, subject to the terms and conditions of the GSA Schedule contract, customer order, and applicable Federal travel regulations

Other Policies

1. Kronos personnel working at the Ordering Activity site shall have access to necessary infrastructure (servers, network, etc.) subject to applicable Government security requirements.
2. In instances where Kronos personnel are working remotely access will be granted through the use of industry standard tools (DTS, GoToMyPC, PCAnywhere, etc.), subject to Government prior approval.
3. Ordering Activity agrees to not hire any Kronos employee who has performed services under the Agreement for a period of one-year after the completion of such services, provided that solicitations and subsequent hirings initiated through general newspaper or website advertisements and other general circulation materials not directly targeted at such individuals shall not be deemed solicitations in violation of this sentence.
4. All required system administration, maintenance, backups, tuning, etc., is the responsibility of the Ordering Activity.
5. Ordering Activity Data: To perform the implementation and to provide support after completion, Kronos may need to access and retain information regarding your employees and business organization. Kronos will take all reasonable steps to limit and safeguard the security of this information. We may make recommendations to enhance your organization's procedures for securing your data - these recommendations are intended to enhance the security of any sensitive information that is provided to us. However, there are no guarantees that they will ensure the security of your information, nor should Kronos' actions be viewed as the only safeguards necessary. The security of your data is ultimately your responsibility.

SECTION G

SUPPORT POLICIES AND SERVICES (not applicable to WebTA Software Support Services)

Product Coverage

For each installation, Ordering Activities must purchase the same software support service type for all software and must purchase the same equipment support service type for all equipment of the same type. The latest Supported Product List is available at <http://customer.kronos.com/support/status/index.htm>.

Workforce Central suite

Contractor through Kronos only provides service packs for the current release and the two immediately prior releases of the Software. We currently come out with new releases every eighteen months. Resolution of an issue may require that you upgrade to the current release of the Software.

For Workforce Payroll, when service packs are no longer provided Kronos will provide two quarterly legislative updates to provide you with additional time to upgrade.

Workforce Analytics (WFAN) – supported components include:

All procedures and Database Objects associated with the Workforce Analytics databases.

All WFAN for Healthcare Reports accessible through the “WFAN Advanced Reporting” link from the SharePoint Home Page that were delivered through the Core Product.

All Analysis Services Cubes found in the Workforce Analytics databases.

Kronos iSeries Central suite

Contractor through Kronos only provides service packs for the current release and the two immediately prior releases of the Software. Resolution of an issue may require that you upgrade to the current release of the Software.

Timekeeper Central

Contractor through Kronos only provides "defect repairs" for the current release of the Software.

Kronos defines Version, Release, and Service Pack as follows:

Version: A software product upgrade that includes major new features or functionality.

Release: A software product upgrade that includes minor new features or functionality.

Service Pack: One or more defect repairs bundled into a single update. Service packs are cumulative — Service Pack N will, at minimum, include all of the changes delivered in Service Pack N-1.

The software product hierarchy is: Version . Release . Service Pack

Updates

Ordering Activities electing to undergo a major platform upgrade migration (i.e. from Timekeeper Central to Workforce Central suite or from OptiLink version 6 to OptiLink Plus version 7) are required to purchase the licenses to the new version at the applicable license GSA fees.

Support Exclusions

Support service does not include service to the Software resulting from, or associated with:

1. Any cause external to the Software including, but not limited to, electrical work, fire, flood, water, wind, lightning and transportation, or any act of God; or
2. Ordering Activity's failure to continually provide a suitable installation environment as specified in Kronos' specifications; or
3. Ordering Activity's improper use, management or supervision of the Software or other failure to use the Software in accordance with Kronos' specifications; or
4. Ordering Activity's repair, attempted repair or modification of the Software without prior authorization from Kronos; or
5. Ordering Activity's use of the Software for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos; or
6. Ordering Activity's computer or operating system malfunctions; or
7. Services required for application programs and/or conversions from products or software not supplied by Kronos; or
8. Reprogramming, including reconfiguration of the Software or the rebuilding of Ordering Activity's database. In addition to the Support exclusions above the following Services are NOT covered by your Kronos Support Service Agreement and are subject to the applicable Contractor Service GSA rates.
 1. Configuration Changes, Reprogramming, New Programming such as, but not limited to, Work Rules, Pay Rules, Accrual Rules, Profiles, Dashboards and Fields
 2. Creating New Schedules
 3. Terminal Programming and Cold Start
 4. Pay Period Changes
 5. Programming, modifying, implementing, training or troubleshooting the following:
 - a. Data integration interfaces (i.e. Connect, Integration Manager, Analytics)
 - b. Custom Reports

- c. Custom Application extensions
6. Editing Process Manager templates and creating new templates
7. Installing or reinstalling Applications such as, but not limited to,
 - a. Adding a Workstation
 - b. Moving the Application
 - c. Reinstalling following a Hard Drive Crash
 - d. Service Packs
8. Database Administration Maintenance or Services such as, but not limited to,
 - a. Database maintenance scripts
 - b. Writing or customizing database scripts for data reporting and/or retrieval
 - c. Performance Tuning
 - d. Sizing
 - e. Disaster Recovery
 - f. Database backup strategy and/or setup
9. Establishing a Non-Production Environment such as, but not limited to,
 - a. Test environments, i.e., application servers, database servers
 - b. K-Demo
10. Troubleshooting Environmental Issues such as, but not limited to,
 - a. Operating System
 - b. Network Issues
 - c. Firewalls
 - d. Servers
 - e. Workstations
 - f. Single Sign On
11. Custom Reports or Custom Application Extensions
12. Implementation or configuration services related to upgrading product such as, but not limited to,
 - a. Software implementation
 - b. Porting custom software (i.e., reports)
 - c. Change management
 - d. Training
 - e. New functionality deployment
 - f. Application interfaces
13. Service to Kronos custom software is not provided, unless otherwise specified on the applicable Order Form for such custom software.
14. Importing new data i.e. from acquisitions or purchasing of another company.
15. Load balancing configuration
16. Virtual server configuration

Support Discontinuance — End of Service Life

Contractor through Kronos may discontinue support for the Software upon 30 days written notice to Ordering Activity, or at the anniversary date of the relevant support Agreement, whichever is longer. If such support is discontinued during the initial or any renewal term of the relevant support Agreement, the remaining value of the Agreement will be left as a credit on the account to be applied against any future invoices.

Reinstatement of Support Services

In the event that Ordering Activity allows Software or Equipment support services to lapse or if Ordering Activity did not originally purchase Software or Equipment support services and wishes to reinstate or procure such services, Ordering Activity must pay (i) the support services fees at current GSA Schedule contract price for such lapsed or unprocured time period for when the products were not on support; and (ii) the annual support services at the then current GSA Schedule contract price for the applicable product(s) by issuing a new purchase order.

Service Coverage Period

Local* business hours, Monday through Friday, excluding Kronos holidays, with access to Kronos' technical support staff — Gold or Gold Plus Support. *Please check Contact Us on the Ordering Activity Portal for the specific business hours of coverage at your location from your Support Services group.

Support Services groups:

US - 8:00 a.m. - 8:00 p.m. local time

24 hours a day, seven days a week, 365 days a year, with access to Kronos' technical support staff — Platinum or Platinum Plus Support

Priority Based Support

Contractor through Kronos provides support on a "priority" basis. As such, Ordering Activities with the most critical request(s) will be serviced first. Kronos Global Support has set up the following guidelines to assess the priority of each service request:

High Priority: A critical Ordering Activity issue with no available workaround where the system or a module may be down, experiencing major system degradation, data corruption or other related factors resulting in the Ordering Activity not being able to process their payroll such as:

- Unable to sign-off Time Cards
- Totals are not accurate
- Unable to collect punches from terminals
- Unable to access a critical application function such as scheduling

No workaround is available.

Medium Priority: A serious Ordering Activity issue which impacts ability to utilize the product effectively such as:

- Intermittent or inconsistent functionality results or data accuracy — accrual balances not matching pay codes but balances are accurate
- Data display inaccuracies or inconsistencies across multiple tasks
- System performance is inconsistent or fluctuates

A workaround is available.

Low Priority: Non-critical problem generally Use and Usability issues and or "how to" questions such as:

- How do I set up a holiday pay rule?
- How do I run a report?
- How often should database maintenance be executed?

A workaround is available on the Ordering Activity portal.

Response Time

Response time shall mean from the time the case priority is set by Kronos' Support Center until a Kronos support representative contacts the Ordering Activity to begin service. Kronos utilizes a priority based support focus. Customers with the most critical request will be serviced in accordance with the following guidelines:

Priority	Gold	Platinum
High	2 hours	1 hour
Medium	4 hours	4 hours
Low	8 hours	8 hours

All response times are business hours.

The above are only guidelines and may be modified, for a particular incident, based on joint agreement between the Ordering Activity and Kronos.

e.g., If a Gold support Ordering Activity's case is logged at 4:55 p.m., local time, with a "Medium Priority" designation, Kronos would respond before 8:55 a.m., local time, the next business day (Monday–Friday for Gold Support customers).

Critical Outages

Contractor through Kronos Global Support will provide continuous effort on all high priority events through either bug identification, the development of a workaround or problem resolution. If this effort goes beyond normal hours, the case may be passed to the after hours team or to the mission critical support engineer on duty. *On-going continuous effort may also be dependent on the Ordering Activity's ability to provide a resource to work with the Kronos Global Support engineer during this period.*

Technical Escalation

Our case resolution process is a Team based approach structured around specific products of the Application suite and staffed by Support Engineers covering the full spectrum of skill sets and technical expertise. The Teams are empowered to dynamically apply the appropriate resources to a case based on severity and complexity to ensure the fastest resolution time possible.

The Teams are also integrated with the Development Engineering staff and engage their assistance and technical guidance when necessary and/or directly escalate depending on case severity and time to resolve considerations. For situations that contain multiple cases an Account Manager may be assigned to act as a single point of contact and communication regarding case resolution status, action plan development, resource integration and implementation co-ordination. The Account Manager remains engaged until the situation has been successfully remediated.

Management Escalation

Ordering Activities may, at any time, ask to speak to a Kronos manager if they experience dissatisfaction with the level of service received with respect to a specific case or service in general. To contact a Kronos Global Support manager, please telephone your Kronos Support Services center and ask to speak to a manager. Phone numbers are listed on the Customer Portal at <http://customer.kronos.com/ContactUs.htm>.

Software Support Services and Features

Contractor through Kronos provides different levels of support offerings through our Platinum *Plus*, Platinum, Gold *Plus*, and Gold support services.

Platinum Plus Support Service

Platinum Plus Support customers have access to the same features as the Platinum Support customers and access to the Technical Account Manager (TAM). The TAM is a seasoned service professional that will draw upon a vast knowledge of Kronos products and services to provide you with proactive, consultative expertise. For Platinum Plus customers, a TAM is available *24 hours per day, 7 days per week*. Platinum Plus customers can designate *5 named contacts*, and also enjoy one on-site visit per year.

Platinum Support Service

Platinum Support customers have access to the same service features as Gold Support customers and the following additional entitlements:

24 x 7 x 365 telephone access to Kronos Global Support

Access to Senior Support Engineers

Response time of 1 hour or less for High, 4 hours or less for Medium, and 1 business day or less for Low Priority calls.

Platinum Support customers also have the option of upgrading to Platinum Plus.

Gold Plus Support Service

Gold Plus Support customers have access to the same features as the Gold Support customers and access to the Technical Account Manager (TAM). The TAM is a seasoned service professional that will draw upon a vast knowledge of Kronos products and services to provide you with proactive, consultative expertise. For Gold Plus customers, a TAM is available from *8:00 a.m.–8:00 p.m.*, local time, Monday–Friday. Gold Plus customers can designate *2 named contacts*.

Gold Support Service

Gold Support offers a very well-rounded support program. Included is free access to Kronos Global Support from

8:00 a.m. to 8:00

p.m. local time, as well as the following entitlements noted below. Gold Support customers also have the option of upgrading to Gold Plus.

SuperSearch (Available to all Support Agreement customers)

The Search engine searches the following data sources* and includes Basic and Advanced filters to search by product.

Knowledge base

Documentation (Manuals and User Guides)

Service packs

Customer forums

Technical Advisories and Technical Insiders

Frequently asked questions (FAQs)

*Access to data sources is limited by type of support service.

Technical Advisories (Available to all Support Agreement customers)

Kronos Global Support Center personnel are a valuable source of knowledge and experience. That's why we give you access to the same vast repositories of information that they use. You have access to these technical alerts located on the Kronos customer portal. *Please sign up for email alerts to get notified of the release of new technical advisories on the Kronos customer portal.*

Service Case Studies (Available to Gold and Platinum level customers)

When you want an in-depth understanding of technology and how Kronos applications incorporate that technology, you'll enjoy reading and learning from these case studies.

Learning Quick Tips (Available to Gold and Platinum level customers)

Enjoy the convenience of web-based, self-paced recorded training modules for your Kronos application. These training recordings are short in duration and you can take them anytime and anywhere that you have access to the Web.

Technical Insider (Available to Gold and Platinum level customers)

Learn from the experts here at Kronos and become an expert yourself. The Technical Insider offers best practices, procedures, and tools and is available through our customer portal.

Brown Bag Sessions (Available to Gold and Platinum level customers)

Experience training over the Internet on a variety of topics pertaining to your Kronos system. Kronos Global Support offers these Brown Bag workshops in a structured online format without costly travel or interruption to your busy schedule. These sessions are one hour in length and are FREE for all Kronos customers with Gold or Platinum support agreements.

HR and Payroll Answerforce (Available to Gold and Platinum level customers)

HR and Payroll Answerforce enables you to facilitate communication between employees, managers and HR professionals. It provides managers and employees with current HR information they need to make effective decisions. Experience an award-winning user interface which delivers up-to-date human resources, employee benefits, compensation, employment and regulatory information directly to your desktop.

SHRM e-Learning (Available to Gold and Platinum level customers)

SHRM e-Learning is an online educational environment that delivers just-in-time training to HR professionals through a series of HR-related mini-courses. Browse the courses in the SHRM e-learning catalog <http://www.shrm.org/elearning/> to create a learning journey that is unique to you. SHRM e-Learning courses are facilitated by leading industry experts and presentations range from sixty to ninety minutes in length.

Interactive Forms (Available to Platinum level customers)

Instant access to a comprehensive and easy-to-use library of HR and Employment & Payroll Tax forms and instructions. You can access, fill out, save, print, and maintain over 730 HR forms and 2500 Payroll forms.

Service Packs (Available to all Support Agreement customers)

Kronos Support Services entitles all Ordering Activities who purchase a support agreement to the latest available product version upgrades, updates and enhancements, and documentation released during the agreement period, available on CD or downloadable from the Kronos customer portal. Protecting your investment is where our coverage for you begins as you embark on your journey to increased knowledge and improved business performance.

This service feature entitles you to the latest available product releases, updates/patches and legislative updates for the Workforce Payroll™ module. For many products, the latest support releases (service packs) or legislative updates are posted on the customer portal for you to download and install. *Please sign up for email alerts to get notified of the release of new service packs on the Kronos customer portal.*

Knowledge Base (Available to all Support Agreement customers)

Accessed by our Ordering Activities thousands of times per month, this online database currently contains thousands of answers to questions about Kronos products. Type in a question and the knowledge base suggests a solution. It is tightly integrated with our Global Support case management system and captures the real-world experience of our support engineers. The knowledge base is constantly updated. When our support engineers encounter and resolve new situations, they can automatically submit new solutions to the knowledge base.

Frequently Asked Questions (Available to all Support Services customers)

Conveniently organized and continuously populated from the knowledge base, FAQs truly represent those issues that Ordering Activities ask about most. Before querying the knowledge base, try the FAQs to find your answers or get ahead of issues you may not be aware of.

eCase management (Available to all Support Agreement customers)

For your convenience, we give you direct access to our electronic case management system. Make your own notes to help explain what you are encountering. Your case is formally assigned a number and subject to all the normal tracking and routing mechanisms. Cases are reviewed Monday–Friday, during the business hours of your Kronos support center, excluding Kronos holidays. Should you require assistance outside the described hours, please telephone your Kronos support center.

Documentation (Available to all Support Agreement customers)

Online access to documentation for most of Kronos' products, for example:

- Installation guides
- Configuration guides
- Database administrators guides
- User guides
- System administrators guides
- Database views reference guides.

Customer Forums (Available to all Support Agreement customers)

Our Customer forums provide a unique opportunity to connect with other Kronos customers and to benefit from their real-world experiences. Organized by product platform and using threaded messaging, the Forums allow you to post questions to other forum visitors — or provide advice to someone else's query. A chance to go beyond simple product "how to," many customers have commented on how the forums have helped them gain a broader understanding of how to leverage their Kronos applications.

Remote Support (Available to all Support Agreement customers)

A web-based screen-sharing application that enables Kronos to support you by empowering our support representatives to remotely view your computer. By connecting through the Internet or via intranets and extranets, support representatives will work in real time with your users and quickly escalate to desktop sharing, which features mutual mouse and keyboard control and whiteboard capability.

Per-event Software Service

Ordering Activities seeking support outside their service coverage period or Services that are not covered by your Support service or Ordering Activities without a Support Agreement on Active Product will be charged at the current GSA hourly rate.

	Software/Equipment
	Phone Support
Day and Time (local time)	Minimum hours
Monday-Friday 8:00a.m.–5:00p.m.	2
Monday-Thursday 5:01p.m.–7:59a.m.	4
Friday-Monday 5:01p.m.–7:59a.m.	8

Conditions:

1. Time billed is minimum billable in accordance with the terms and conditions of the underlying GSA IT Schedule 70 Contract and the Purchase Order.
2. The 8:00 a.m.–5:00 p.m. minimum billable hours apply to software support calls received prior to 5:00 p.m. local time Monday– Friday.
3. The response time for customers without a support agreement is within two business days.

4. Ordering Activities with a Support Agreement receive a 50 percent reduction from the minimum amount of hours.
5. Per-event rates are not discountable.

Equipment / Hardware Support Services

Depot Exchange Service

The premium hardware service option: Contractor through Kronos sends a replacement unit on an advance exchange basis by nextbusiness day delivery if request is received prior to 2:00 p.m. Kronos recommends that Depot Exchange Ordering Activities procure the appropriate number of spare units to maintain adequate coverage while a unit is out of service.

How it works:

You contact Contractor through Kronos to troubleshoot the problem. If unable to resolve the issue, you are issued a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.

You install your spare unit from your inventory.

Contractor through Kronos sends a replacement unit on an advance exchange basis by next-business day delivery if request is received prior to 2:00 p.m.

Upon receipt of replacement, you send the terminal needing service back to the Kronos Equipment Services Center.

Availability:

Currently ONLY available in Australia, Canada, China, Mexico, New Zealand, and United States.

Conditions:

Batching (defined as 2 or more terminals) voids the turn-around time.

You will be charged Contractor's current GSA IT Schedule 70 rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.

Equipment Support Services do NOT include the replacement of "consumables." In addition, Depot Support Services do NOT include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

- a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- b. Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
- c. Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
- d. Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
- e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
- f. Ordering Activity's repair, attempted repair or modification of the Products.

Terminals are warranted for 90 days from date of shipment.

This service includes access to equipment service packs / firmware updates available on the Kronos customer portal. Please sign up for email alerts to get notified of the release of new service packs on the Kronos customer portal.

Depot Repair Service

This service was designed for those who keep their own inventory of spare terminals and options.

How it works:

You contact Contractor through Kronos to troubleshoot the problem. If unable to resolve the issue, you are issued a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.

You install your spare unit from your inventory.

You send the terminal needing service back to the Kronos Equipment Services Center.

Upon receipt of product, Kronos shall repair the product within ten (10) business days and return to you by regular surface transportation.

Availability:

NOT available from the Australia and China Support Services groups.

Conditions:

Batching (defined as 2 or more terminals) voids the turn-around time.

You will be charged Contractor's current GSA time and materials rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.

Equipment Support Services do NOT include the replacement of "consumables." In addition, Depot Support Services do NOT include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

- a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- b. Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
- c. Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
- d. Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
- e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
- f. Ordering Activity's repair, attempted repair or modification of the Products.

Repairs are warranted for 90 days from date of shipment.

This service includes access to equipment service packs / firmware updates available on the Kronos customer portal. Please sign up for email alerts to get notified of the release of new service packs on the Kronos customer portal.

Device Software Maintenance

Device Software Maintenance is designed for those Kronos customers who choose to manage time clock repair themselves and just want access to device software updates. This service option lets you download equipment service packs from the Customer Portal to ensure that your time clock is always up to date with:

- The latest security enhancements
- Communication protocols
- Fixes and terminal software feature updates
- Compatibility updates with Kronos software or other terminals

Device Software Maintenance is included with Depot Exchange and Depot Repair.

Device Software Maintenance does NOT include any repair or exchange services.

How it works:

Go to the Customer portal at <http://customer.kronos.com>.

Register or log in to the Customer Portal. An email address and Kronos Solution ID are required to register for access to the customer portal.

Go to the Support page to access the equipment service packs.

Availability:

The Device Software Maintenance offering is available worldwide.

NOT available for the 100, 400, 500, Century and Cyber series terminals

This service includes access to equipment service packs / firmware updates available on the Kronos customer portal. Please sign up for email alerts to get notified of the release of new service packs on the Kronos customer portal.

Per-event rates apply to Ordering Activities without an equipment support agreement. The Kronos Equipment Services center will attempt to repair any repairable defective item within 15 business days after receipt at the current Per-event pricing. The product will be returned by regular surface transportation.

How it works:

You contact Contractor through Kronos to get a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.

You install your spare unit from your inventory

You send the terminal needing service back to the Kronos Equipment Services Center.

Upon receipt of product, Kronos shall repair the product within fifteen (15) business days and return to the Ordering Activity by regular surface transportation.

Conditions:

Batching (defined as 2 or more terminals) voids the turn-around time.

You will be charged Contractor's current GSA time and materials rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.

Equipment Support Services do NOT include the replacement of "consumables." In addition, Depot Support Services do NOT include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

- a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- b. Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
- c. Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
- d. Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
- e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
- f. Ordering Activity's repair, attempted repair or modification of the Products.

Repairs are warranted for 90 days from date of shipment.

This service does NOT include access to equipment service packs / firmware updates.

SECTION H WORKFORCE TELESTAFF IVR SERVICE (Licensed or User Based)

This Section H is amending the Section A or D of Attachment A applicable between Contractor and Ordering Activity governing those certain Kronos Workforce Telestaff software applications whether on a perpetual license basis or in a software as a service model.

The parties hereby agree that the following terms and conditions are supplemental terms and conditions to the Section A or D, as applicable and are applicable to the Workforce Telestaff IVR offering ("Telestaff IVR"), a subscription service Contractor through Kronos is authorized to resell. Telestaff IVR can be ordered either on a licensed basis with Port (in which case Telestaff IVR is only available with a perpetual license to Workforce Telestaff and is not hosted by Kronos) ("Workforce Telestaff IVR License Per Port") or on a per minute basis ("Workforce Telestaff IVR Service"). The applicable designation for Telestaff IVR will be indicated on the applicable Order Form.

1. **Description.** Telestaff IVR is an Interactive Voice Response (IVR) solution, provided solely for Customer's internal use, by which Ordering Activity may initiate phone calls to staff members to fill vacancies or receive notifications of work opportunities for employees who are licensed to use the Kronos Workforce TeleStaff® product. Each exchanged message (notice, response, confirmation, denial) shall be considered an "Interaction."

2. Maintenance.
Telestaff IVR maintenance will entitle Ordering Activity to Telestaff IVR phone support and software updates and shall commence on the date set forth in the applicable Order Form. For Workforce Telestaff IVR Service, maintenance will be provided at the same level of support as Ordering Activity's Workforce TeleStaff product at no additional charge. For Workforce Telestaff IVR License Per Port, if Ordering Activity wants maintenance for the Workforce Telestaff IVR License Per Port, Ordering Activity must purchase maintenance for both Workforce TeleStaff and Workforce Telestaff IVR License Per Port, and maintenance for Workforce Telestaff IVR License Per Port will be charged at the same level of support as Workforce TeleStaff (i.e., Gold or Platinum).
3. Implementation. To initiate and setup administration of the required communications, Contractor through Kronos will perform the standard implementation of Telestaff IVR, including configuration, as described in the Statement of Work ("SOW"). Any additional professional services for non-standard implementation services will be provided at mutually agreed upon rates subject to a separate Order Form or a separate statement of work mutually agreed upon by both parties.
4. Methodology of payment: The Contractor will invoice Ordering Activity as set forth on the GSA Schedule Contract and as follows: (i) for the license fees and annual maintenance associated with the Workforce Telestaff IVR License Per Port, upon execution of the Order Form; or (ii) each month in arrears for the Workforce Telestaff IVR Service usage fees for the total actual number of metered minutes used each month (the "Minute Usage Fee") at a rate identified on the Order Form. Ordering Activity's right to begin using the service shall begin upon activation of the service after implementation/configuration.
5. Restrictions on Telestaff IVR Services; Additional Responsibilities. Ordering Activity agrees that Telestaff IVR has not been designed for, and may not be used as, a means to connect with 911 or E911 emergency services.
Contractor shall have no liability for any delays, failures or unavailability of Telestaff IVR due to transmission or other delays, errors or problems beyond Contractor's control, or any other interruptions caused by the mobile communications network and/or mobile devices. Use of Telestaff IVR is subject to the software license terms set forth in the Agreement as well as the provider's Acceptable Use Policy found at: <http://voxeo.com/aup> and Ordering Activity agrees that it shall be liable for all loss, damage or injury that may result from Ordering Activity's failure to abide by such Policy. Ordering Activity acknowledges that communications occurring through Telestaff IVR may be subject to standard mobile carrier policies or government regulatory requirements for mobile communications.
6. Telestaff IVR Security. The Telestaff IVR service relies upon a third party hosted communication platform. Accordingly, notwithstanding any other provision of Section A or D as applicable or this Section H to the contrary, Ordering Activity understands and acknowledges that the exclusive statement of the security protections provided for i) Interactions by Ordering Activity and its employees through Telestaff IVR, and ii) all associated data, is part of the provider's privacy policy which is subject to change with prior written notice. The current security statement is as follows:

Section 7 - SECURITY OF YOUR PERSONAL INFORMATION

Contractor's provider takes appropriate technical, physical and administrative steps to protect the security of your information. Access to your personal information is limited only to those employees, contractors or authorized agents of Contractor and its provider who have authorization to access your personal information and such access is limited to the extent such information is needed to fulfill the task for which personal information was collected. While we strive to protect your personal information, we cannot ensure the security of the information you transmit. We recommend you to take every precaution to protect your personal information when you are on the Internet. For example, change your passwords often, use a combination of letters and numbers when creating passwords, and make sure you use a secure browser.

7. Renewal and Termination. The initial term is twelve months commencing upon the execution of the Order Form and will be renewed by the signature of a new order form. Any change will be identified on the Order and shall be in accordance with the pricing and this Attachment.

SECTION I WORKFORCE DIMENSIONS™ TERMS AND CONDITIONS

Ordering Activity and Contractor agree that the terms and conditions set forth below shall apply to the Contractor through Kronos supply of the commercially available version of the Kronos' Workforce Dimensions software as a service and other related offerings specified on an Order Form signed by Ordering Activity (the "Order Form").

Contractor and Ordering Activity hereby agree that these terms and conditions of this Section I of the Attachment A apply for all order forms for the Services. These terms are effective as of the date the Order Form is accepted by the Contractor ("Effective Date")

This Section I includes the following exhibits, which are incorporated by reference, and which form an integral part of this contract:

Exhibit A:

Attachment A-2: Service Level Agreement

Exhibit B: Workforce Dimensions Cloud Guidelines

Exhibit C: Customer Success

Attachment C-1: Customer Success Plans

Attachment C-2: Customer Success Programs

Attachment C-3: Advisory Support Offerings

Exhibit CC: UPDATE Customer Success (Effective as of July 13th 2020)

Attachment CC-1: UPDATED Workforce Dimension Support Policies Exhibit D:

Acceptable Use Policy (AUP):

Exhibit E: AtomSphere Service and Boomi Software

DEFINITIONS

“Section I” means these terms and conditions and the Order Form(s) specific to the Ordering Activity.

“Acceptable Use Policy” and “AUP” are interchangeable terms referring to the Kronos policy describing prohibited uses of the Service as further described in Exhibit D.

“Aggregated Data” is any statistical data that is derived from the operation of the Service, including without limitation, for analysis of the Service, Configurations or Customer Data, and is created by Kronos in response to specified queries for a set point in time; including without limitation aggregation, metrics, trend data, correlations, benchmarking, determining best practices, the number and types of transactions, configurations, records, reports processed in the Service, and the performance results for the Service Agreement.

“Applicable Law(s)” means any applicable provisions of all laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders which govern the Party’s respective business.

“Authorized User” means any individual or entity that directly (or through another Authorized User) accesses or uses the Service with any login credentials or passwords Ordering Activity uses to access the Service.

“Application(s)” means those Kronos Workforce Dimensions software application programs set forth on an Order Form which are made accessible for Ordering Activity to use under the terms of this Agreement.

“Boomi AtomSphere Service” means the third-party service for the creation of integrations by Ordering Activity as further described in Exhibit E, which the Ordering Activity and Ordering Activity’s Authorized Users have the right to access through the Service.

“Boomi Software” means the third-party proprietary software associated with the Boomi AtomSphere Service as further described in Exhibit E.

“Configuration(s)” means the Ordering Activity specific settings of the parameters within the Applications(s), including pay and work rules, security settings such as log-in credentials, passwords, and private keys used to access the Service.

“Controls” means the administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data, designed and implemented by Contractor through Kronos to secure Customer Data against accidental or unlawful loss, access or disclosure consistent with the AICPA Trust Principles Criteria for security, availability, confidentiality and processing integrity (SOC 2).

“Customer Data” means all content Ordering Activity, or its Authorized Users, posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.

“Customer Success Plan(s)” means the services provided by Contractor through Kronos to support and maintain the Service as described in Exhibit C, including but not limited to the Support Plans and the Customer Success Programs.

“Ordering Activity Indemnified Party(ies)” means Ordering Activity and Ordering Activity’s respective directors, officers, and employees.

“Data Protection Law(s)” means all international, federal, state, and local laws, rules, regulations, directives and published governmental or regulatory decisions that specify data privacy, data protection or data security obligations, and which, in each case, have the force of law applicable to a Party’s collection, use, processing, storage, or disclosure of Personally Identifiable Information.

“Documentation” means the published specifications for the applicable Applications and Equipment, such as user manuals and administrator guides.

“Educational Services” means (i) KnowledgeMap Learning Portal; (ii) KnowledgeMap Live; and (iii) ala carte educational consulting services.

“Equipment” means Kronos equipment such as time clocks, devices, or other equipment set forth on an Order Form and provided as set forth I Exhibit A.1 of Section A of this Attachment A.

“Equipment Support Services” means the maintenance and support services related to Kronos’ support of Equipment as further described in Attachment A-1.

“Feedback” means suggestions, ideas, comments, know how, techniques or other information provided to Kronos for enhancements or improvements, new features or functionality or other feedback with respect to the Service.

“Fees” means the charges to be paid by Ordering Activity for a particular item.

“Implementation Services” means those professional and educational services provided by Contractor through Kronos to set up the cloud environment and to setup the Configurations within the Applications, as set forth in an SOW.

“KnowledgeMap™ Learning Portal” means the online educational portal providing access to self-paced learning modules.

“KnowledgeMap™ Live” means the subscription service providing instructor led training by user role on a rotating course schedule.

“Order Form” means an order form mutually agreed upon by Contractor and Ordering Activity setting forth, among other things, the items ordered by Ordering Activity and to be provided by Contractor through Kronos and the Fees to be paid by Ordering Activity.

“Party(ies)” means Contractor or Ordering Activity, or both of them, as the context dictates.

“PEPM” means the per employee per month fee for a Ordering Activity’s Authorized Users access to the Service.

“Personally Identifiable Information” means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under Applicable Data Protection Law.

“Professional Services” means the professional, educational, consulting, or training services provided by Contractor through Kronos pursuant to an Order Form and which are not described in a Statement of Work.

“Seasonal Licenses” are limited use licenses that have the following attributes: (i) valid only for the four (4) consecutive months during the annual period identified on the Order Form; (ii) valid from the first day of the month in which they commence until the end on the last day of the month in which they expire; and (iii) will be effective automatically each year during the Term, subject to termination and non-renewal as provided in the Agreement.

“Service” means the Contractor through Kronos supply of the commercially available version of the Workforce Dimensions SaaS Applications in Kronos’ hosted environment and the services described in the section related thereto.

“Statement of Work” and “SOW” are interchangeable terms referring to a written description of the Implementation Services.

“Technology” means the intellectual property of Kronos within the Service, including but not limited to the Applications.

Term means the Initial Term and any Renewal Terms.

1. ORDER FORMS

1.1 The following commercial terms may appear on an Order Form:

- a. The Application(s) included in the Service, and the other offerings being ordered by Ordering Activity
- b. Billing Start Date (i.e., the date the billing of the PEPM Fees commences)
- c. Initial Term (i.e., the initial billing term of the Service commencing on the Billing Start Date)
- d. Renewal Term (i.e., the renewal billing term of the Service)
- e. Billing Frequency (i.e., the frequency for the invoicing of the PEPM Fees such as Annual in Advance or Monthly in Arrears)
 - i. "Annual in Advance" means payment is due on an annual basis with the invoice being issued upon execution of the Order Form.
 - ii. "Monthly in Arrears" means payment is due on a monthly basis with the invoice being issued at the end of the month in which the Service was delivered.
- f. Reserved
- g. Reserved

1.2 The following Fees as set forth on the GSA Pricelist may appear on an Order Form:

- a. PEPM Fees for use of the Service, including PEPM Fees for Seasonal Licenses
- b. Customer Success Fees for Premium and Premium Plus Plans
- c. Implementation Services Fees (The Order Form will note if Implementation Services Fees are included in PEPM Fees.)
- d. Equipment Purchase Fees
- e. Equipment Rental Fees
- f. KnowledgeMap™ Live Fees

1.3 Contractor through Kronos may also sell (or rent) Equipment to Ordering Activity, and provide related Equipment Support Services, if included on an Order Form. These offerings are subject to this Agreement and the terms and conditions set forth in Attachment A1.

2. BILLING

2.1 Contractor will invoice the Fees on the Billing Frequency indicated on the Order Form in accordance with the GSA Pricelist. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. Ordering Activity will pay the Fees on the Payment Terms and in the currency, indicated on the Order Form. Ordering Activity will send payment to the attention of Contractor at the address indicated on the applicable invoice unless the Parties have made an alternative payment arrangement (such as credit card, wire transfer, ACH payment or otherwise). Unless expressly provide in this Section I, all amounts paid to Contractor are nonrefundable. Each Party is responsible to pay all costs and fees attributable to such Party pursuant to the Shipping Terms indicated on the Order Form.

2.2 The Services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated by Ordering Activity in accordance with the provisions hereof or applicable laws and regulations. At the expiration of the Initial Term and each Renewal Term, as applicable, the Services may renew for additional Renewal Terms by Ordering Activity issuing a new purchase order.

3. IMPLEMENTATION SERVICES, PROFESSIONAL SERVICES, AND EDUCATIONAL SERVICES

3.1 Implementation Services are described in a SOW that the Parties will sign or reference on a signed Order Form. These SOWs are subject to this Section I. Implementation Services are invoiced monthly as delivered, except if otherwise indicated on an Order Form. Each Party will perform their respective obligations as outlined in a signed SOW.

3.2 While Ordering Activity may configure the Applications itself, as part of the Implementation Services as described in an SOW, Contractor through Kronos may also configure the Applications. Contractor through Kronos will configure the Applications based on Ordering Activity's instructions and direction. Ordering Activity is solely responsible for ensuring that the Configurations comply with Applicable Law.

3.3 Contractor through Kronos may also provide Professional Services to Ordering Activity that do not require an SOW but which will be as set forth on an Order Form.

- 3.4 The KnowledgeMap™ Learning Portal is included in the PEPM Fees. If included on an Order Form, Contractor through Kronos will also provide a subscription to KnowledgeMap™ Live. The KnowledgeMap Live 1st Year Training will expire one (1) year from purchase. KnowledgeMap Live Subscription and KnowledgeMap Live 5 Pack are coterminous with the Service and will renew with the Service, unless terminated by Ordering Activity upon at least sixty (60) days prior written notice before the start of a Renewal Term. Ordering Activity is permitted to assign one (1) employee to each user account (or seat) included in Ordering Activity's KnowledgeMap Live subscription. The number of permitted seats will appear on the Order Form. Passwords and accounts cannot be shared by multiple users. Ordering Activity will designate one (1) named user account to act as a training administrator. The KnowledgeMap Live 5 Pack entitles Customer to add up to five (5) additional named users.
 - 3.5 Contractor through Kronos may also provide ala carte educational consulting services as Implementation Services or Professional Services as described in an SOW or Order Form.
 - 3.6 The Professional Service policies set forth in Section F of this Attachment A (Professional/Educational Services Policies) shall apply to all Implementation Services and Professional Services provided by Contractor through Kronos. In the event of a conflict between the Professional Services Policies and this Section I, the terms of this Section I shall prevail.
4. SERVICE LEVEL AGREEMENT
Contractor through Kronos offers the Service Level Agreement and associated SLA Credits as described in Attachment A-3. The SLA Credits are Ordering Activity's sole and exclusive remedy in the event of any Outage. Kronos remains obligated to provide the Service as otherwise described in this Section I.
 5. DATA, CONFIDENTIALITY, SECURITY AND PRIVACY
 - 5.1 DATA
 - 5.1.1 Ordering Activity owns Customer Data. Ordering Activity is solely responsible for Customer Data, including ensuring that Customer Data complies with the Acceptable Use Policy and Applicable Law. Ordering Activity is solely responsible for any Claims that may arise out of or relating to Customer Data.
 - 5.1.2 Kronos owns the Aggregated Data. Nothing in this Agreement will prohibit Kronos from utilizing the Aggregated Data for any purposes, provided that Kronos' use of Aggregated Data will anonymize Customer Data, will not reveal any Customer Confidential Information, and will not reveal any Personally Identifiable Information.
 - 5.2 CONFIDENTIALITY
Each Party will treat the Confidential Information of the other Party with the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character that it does not wish disclosed to the public. Contractor recognizes that courts of competent jurisdiction may require release of confidential information and that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by Kronos. If a request for is made under the Freedom of Information Act is made, the parties agree to cooperate so that confidential information which is covered by the exceptions will be maintained confidential.
 - 5.3 SECURITY AND PRIVACY
 - 5.3.1 Kronos will maintain the Controls throughout the Term.
 - 5.3.2 Each Party will comply with all Applicable Laws, including, without limitation, Data Protection Laws.
 - 5.3.3 Kronos employees will access Customer Data from the locations from which such employees work. Ordering Activity consents to Kronos' handling, collection, use, transfer, and processing of Customer Data to provide the Service. As may be required by Applicable Law, Ordering Activity will ensure that Customer Data may be provided to Kronos for the purposes of providing the Service. Ordering Activity has obtained all necessary consents from individuals to enable Kronos to use the Customer Data to provide the Service. As may be

contemplated by the applicable Data Protection Laws, Ordering Activity will remain the "controller" of Customer Data and Kronos will be considered a "processor" of Customer Data.

5.3.4 Contractor through Kronos will notify Ordering Activity in accordance with Applicable Law upon becoming aware of an unauthorized access of Customer Data. To the extent reasonably possible, such a notification will include, at a minimum (i) a description of the breach, (ii) the information that may have been obtained as a result of the breach, and (iii) the corrective action Kronos is taking in response to the breach.

6. WARRANTY

Contractor warrants that the Service will be provided in a professional and workmanlike manner. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES RELATED TO THE SERVICE, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. If Ordering Activity informs Contractor in writing that there is a material deficiency in the Service which is making this warranty untrue, Contractor will use its reasonable commercial efforts to correct the non-conforming Service at no additional charge, and if Contractor is unable to do so within a reasonable period of time, Ordering Activity may terminate the then remaining Term of the Order Form under Section I of this Attachment A, which will be Ordering Activity's sole and exclusive remedy. Ordering Activity agrees to provide Contractor with reasonable information and assistance to enable Contractor to reproduce or verify the nonconforming aspect of the Service.

7. LICENSE

7.1 Technology License

7.1.1 As part of the Service, Contractor will provide Ordering Activity access to and use of the Technology, including the Applications. Contractor hereby grants Ordering Activity a limited, revocable, non-exclusive, non-transferable, non-assignable right to use the Service, including the Technology, during the Term and for internal business purposes only. Ordering Activity acknowledges and agrees that the right to use the Service, including Seasonal Licenses when included on the Order Form, is limited based upon the number of Authorized Users, and Ordering Activity's payment of the corresponding PEPM Fees. Ordering Activity agrees to use the Applications only for the number of employees stated on the total of all Order Forms for the applicable Applications. Ordering Activity agrees not to use any other Application nor increase the number of employees using an Application unless Ordering Activity enters into an additional Order Form that will permit the Ordering Activity to have additional Authorized Users.

7.1.2 Kronos owns all title or possesses all intellectual property rights in and to the Technology used in delivering the Service. Ordering Activity has a right to use this Technology and to receive the Service subject to this Section I. No other use of the Technology is permitted. Ordering Activity is specifically prohibited from reverse engineering, disassembling or decompiling the Technology, or otherwise attempting to derive the source code of the Technology. Ordering Activity cannot contact third party licensors or suppliers for direct support of the Technology. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of any third party supplying Technology as part of the Service, is granted hereunder.

8. SCOPE AND AUTHORITY

8.1 Authorized Users may access the Service on Ordering Activity's behalf, and Ordering Activity will be responsible for all actions taken by its Authorized Users. Ordering Activity will make sure that Authorized Users comply with Ordering Activity's obligations under this Section I. Unless Contractor breaches its obligations under this Section I, Kronos is not responsible for unauthorized access to Ordering Activity's account, nor activities undertaken with Ordering Activity's login credentials, nor by Ordering Activity's Authorized Users. Ordering Activity should contact Contractor immediately if Ordering Activity believes an unauthorized person is using Ordering Activity's account or that Ordering Activity's account information has been compromised.

8.2 Access to the Service includes access to the Marketplace feature (the "Marketplace"). The Marketplace allows Ordering Activity to electronically enter into agreements and make transactions such as orders, contracts, statements of work, and notices of cancellation. Ordering Activity shall configure the Marketplace to disable use by its Authorized Users if it does not agree to enter into electronic transactions or agreements. Ordering Activity acknowledges that if it does not disable use of the Marketplace it agrees to be bound by agreements and transactions electronically entered into through the Service.

9. SUSPENSION

9.1 Contractor through Kronos reserves the right to temporarily suspend the Service if in Kronos's reasonable judgment, the Service or any component thereof are about to suffer a significant threat to security or functionality.

9.2 Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of the AUP. Contractor through Kronos and its third party cloud service provider reserve the right to review Ordering Activity's use of the Service and Customer Data for AUP compliance and enforcement. Ordering Activity acknowledges that failure to comply with the AUP may result in a significant threat to the security or functionality of the Services. If Contractor through Kronos discovers an AUP violation, Contractor through Kronos may temporarily suspend Ordering Activity's use of the Service immediately without notice.

Article 10. TERMINATION

10.1 Effects of Termination

If the Section I is terminated for any reason:

- a. All Fees will be paid by Ordering Activity for amounts owed through the effective date of termination.
- b. Any Fees paid by Ordering Activity for the Service not rendered prior to the effective date of termination will be refunded to Ordering Activity.
- c. Ordering Activity's right to use the Service will end as of the effective date of termination. Notwithstanding such termination, Ordering Activity will have thirty (30) days after the effective date of termination to access the Service for purposes of retrieving Customer Data through tools provided by Contractor through Kronos that will enable Ordering Activity to so extract Customer Data. If Ordering Activity requires a longer period of access to the Service after termination to retrieve Customer Data, such access will be subject to additional Fees. Extended access and use of the Services will be subject to the terms of this Section I.
- d. Contractor through Kronos will delete Customer Data after Ordering Activity's rights to access the Service and retrieve Customer Data have ended. Contractor through Kronos will delete Customer Data in a series of steps and in accordance with Kronos' standard business practices for destruction of Customer Data and system backups. Final deletion of Customer Data will be completed when the last backup that contained Customer Data is overwritten.
- e. Contractor and Ordering Activity will each return or destroy any Confidential Information of the other Party, with any retained Confidential Information remaining subject to this Section I.
- f. Provisions in this Section I which by their nature are intended to survive in the event of a dispute or because their obligations continue past termination will so survive.

11. EXTENT AND LIMITATIONS OF LIABILITY

11.1 EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION I OF THIS ATTACHMENT A, THE TOTAL AGGREGATE LIABILITY OF CONTRACTOR OR CONTRACTOR'S SUPPLIERS TO ORDERING ACTIVITY OR TO ANY THIRD PARTY IN CONNECTION WITH THIS SECTION I WILL BE LIMITED TO ACTUAL AND DIRECT DAMAGES PROVEN BY ORDERING ACTIVITY, SUCH DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY CONTRACTOR FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY THE DATE IN WHICH SUCH CLAIM ARISES.

11.2 NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES. NEITHER PARTY WILL BE LIABLE FOR THE COST OF ACQUIRING SUBSTITUTE OR REPLACEMENT SERVICES. NEITHER PARTY WILL BE LIABLE FOR ANY LOST OR IMPUTED PROFITS OR REVENUES OR LOST DATA RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICE OR THIS SECTION I. THESE LIMITATIONS APPLY FOR ANY REASON, REGARDLESS OF ANY LEGAL THEORY AND FOR WHATEVER REASON LIABILITY IS ASSERTED.

11.3 THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM KRONOS; NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

12. CHANGES

The information found in any Exhibit (or at any URL referenced in this Section I) may change over the Term. Any such change will be effective as of the start of the next Renewal Term after such change is announced or published by Kronos.

13. FEEDBACK

From time to time, Ordering Activity may provide Feedback. Kronos has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Ordering Activity hereby grants Kronos a royalty-free, fully paid up, worldwide, transferable, sublicensable, irrevocable, perpetual license to use, copy, distribute, transmit, display, perform, create derivative works of and otherwise fully exercise and commercially exploit the Feedback for any purpose in connection with Kronos' business without any compensation to Ordering Activity or any other restriction or obligation, whether based on intellectual property right claim or otherwise. Any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Section I limits Kronos' right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

14. GENERAL

14.1 Ordering Activity and Contractor shall not assign the rights to use the Services without the prior written consent of the other Party and any purported assignment, without such consent shall be void.

Attachment A-1: Service Level Agreement

Service Level Agreement: Kronos offers the Service Level Agreement and associated SLA Credits as described in this Attachment A-2. This Attachment A-2 does not apply to the Boomi development environment described in Exhibit E.

Availability: The production environment of the Service will maintain 99.75% Availability. SLA Credits become available starting the month after Ordering Activity's written "go live" confirmation is provided to Kronos.

SLA Credits: If, due to an Outage, the Service does not maintain 99.75% Availability, Ordering Activity is entitled to a credit to Ordering Activity's monthly invoice for the affected month, such credit to be equivalent to 3% of Ordering Activity's monthly PEPM Fees for every 1% of Availability below 99.75%, but in no event to exceed 100% of Ordering Activity's monthly PEPM Fees.

"Outage" means the accumulated time, measured in minutes, during which Ordering Activity is unable to access the production environment for the Service for reasons other than an Excluded Event.

"Excluded Event" means any event that causes unavailability to the Service due to (a) the acts or omissions of Ordering Activity, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos or its third party suppliers providing the Service; (c) failures or malfunctions resulting from circuits provided by Ordering Activity; (d) any inconsistencies or changes in Ordering Activity's source environment, including either intentional or accidental connections or disconnections to the environment; (e) Customer Data; (f) Force Majeure events as governed by FAR 52.212-4(f); (g) expected downtime during the Maintenance Periods described below; (h) any temporary suspension of the Service in accordance with the terms of this Section I; (i) the unavailability of required Ordering Activity personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (j) using an Application in a manner inconsistent with the Documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Kronos to maintain and update the Services, when downtime may be necessary. The Maintenance Period is used for purposes of the Service Credit Calculation; Kronos continuously maintains the production environment on a 24x7 basis to reduce disruptions. The current Maintenance Period is each Saturday, 12:00 AM - 4:00 AM (US) EST.

Service Credit Calculation: An Outage will be deemed to commence when the Service is unavailable to Ordering Activity and ends when Kronos has restored availability to the Service.

Availability Percentage: (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100 and then divided by Monthly Minutes (MM), but not including Excluded Events.

“Monthly Minutes (MM)” means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

“Total Minutes Not Available (TM)” means the total number of minutes during the calendar month that the Service is unavailable as the result of an Outage.

Reporting and Claims Process


Kronos will provide Ordering Activity with Availability metrics on a monthly basis for each prior calendar month. Ordering Activity must request the applicable SLA Credits by written notice to Kronos within sixty (60) days of receipt of the metrics. Ordering Activity waives any right to SLA Credits not requested within this time period. All performance calculations and applicable SLA Credits are based on Kronos' records and data unless Ordering Activity can provide Kronos with clear and convincing evidence to the contrary.

Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating SLA Credits.

Ordering Activity acknowledges that Kronos manages its network traffic in part on the basis of Ordering Activity's utilization of the Service and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Ordering Activity significantly changes its utilization of the Service than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the Parties agree to co-operate, in good faith, to resolve the issue.

Exhibit B: Workforce Dimensions Cloud Guidelines

Solution Definition	
Tenants included	One standard production tenant One partial copy non-production tenant limited to 18 months of data
Additional tenants	Additional partial copy tenants available for purchase on an annual basis
Connectivity	
Connectivity to service	The customer's end users connect to Workforce Dimensions applications via a secure SSL/TLS connection over the internet. Cooperation between Kronos and the customer's IT staff may be required to enable access. Kronos will assist with validating site connectivity but assumes no responsibility for the customer's internet connection or ISP relationships. Kronos-related internet traffic cannot be filtered by proxy or caching devices on the client network. Workforce Dimensions supports vanity URL, utilizing a single domain.
Connectivity	
SFTP accounts	The Kronos cloud SFTP service provides a generic endpoint for customers to push and pull files — including people import, payroll, accruals, schedules, punches, drivers, and more — to and from the Kronos cloud in support of Kronos' integrations. The service includes two SFTP managed service accounts that customers may use to automate their integrations with the Kronos cloud. All managed service account logins use public key authentication to secure files in transit. Transfers of files up to 100MB are supported. Customers may also purchase additional managed service accounts. User accounts for individual (named) customer login are not supported by the SFTP service.
MPLS/Site-to-cloud (optional)	Customers choosing to utilize MPLS are required to use connections offered by Google Cloud Interconnect service providers and will pay the service provider directly. Kronos will assist in provisioning of the link.
Server-initiated device (optional)	Supported per Documentation (includes two VPN connections)
Usage	
Storage	Storage will be aligned with the number of employees using Workforce Dimensions and the number of software modules being deployed. Storage is covered by the per-employee-per-month fees.
Secure file transfer limits	Integration with Kronos Workforce Dimensions using the Kronos Cloud SFTP service is subject to the following limits: <ul style="list-style-type: none"> - 20 active concurrent sessions per SFTP account - File size transferred per SFTP session not to exceed 100MB - Storage quota of 10GB per SFTP account
Key performance indicators (KPIs)	KPIs can be used to monitor and control business targets and thresholds. Many KPIs are delivered to the customer to track common workforce metrics such as overtime and labor costs. The customer has the option to build additional organization-specific KPIs using the KPI Builder. The number of active KPIs used with Workforce Dimensions applications will be limited to 200 per customer. Additional KPIs may be purchased.
API usage	Data can be accessed through APIs. Kronos reserves the right to limit usage of APIs to preserve the integrity of the system and to charge additional fees for usage of the APIs beyond "normal levels" as required for integrations with other systems. The expected volume of API calls may be exceeded by building additional applications using APIs or routinely extracting large volumes of data to support an external data warehouse.
Policies	
Data refresh	Customer can request that a copy of production tenant be moved to its non-production tenant once per week — up to the limit of data allowable in the non-production tenant.

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Kronos application updates Maintenance updates will be automatically applied as needed. New software releases will be automatically applied according to the release schedule published during the first month of each quarter.

Data retention	As part of the standard offering transactional data will be retained for 3 years in production environment and an additional 4 years in archive. After the 7 years' customers will need to extract data that they require to keep for longer periods of time. Kronos has the right to purge the data after 7 years.
Customer termination support	Upon customer termination, Kronos will provide access to the service for an additional 30 days so the customer may extract data.
Security compliance	A SOC 2 Type 1 report will be published during the first quarter after general availability release. A SOC 2 Type 2 report will be published 12 months after general availability release.
Disaster recovery	Recovery time objective: 24 hours Recovery point objective: 4 hours
Encryption	Data encryption in transit and at rest is included.
Servicelevel agreement uptime	99.75% system availability
Maintenance window	Four hours once a week, according to defined standard schedule: Saturday, midnight – 4:00 a.m. EST
Data usage	Kronos has the right to use scrubbed system data to define benchmarks, understand usage, and establish patterns.
Third parties	The customer may contract with a third party to configure and/or implement Workforce Dimensions applications. The customer will be responsible for creating users in the system for the third party to access the application and for maintaining the permissions those users have within the application. Dedicated service and support accounts can be accessed only by Kronos personnel or contractors employed by Kronos.
Legal Hold	Kronos will comply with applicable laws and regulations when responding to subpoenas and inquiries from government agencies after consultation with customers when applicable and possible. In the event that a customer is subject to a subpoena, litigation discovery request, or government inquiry directed at customer data or documents that are solely within Kronos' control, Kronos will, at the customer's request, make commercially reasonable efforts to provide assistance to the extent that it is technically feasible. The customer will reimburse Kronos for the costs that Kronos incurs to provide such assistance, such as professional services fees, copying, delivery, and other handling expenses. Subject to the above, Kronos will produce the relevant data or documents. Except at its sole discretion or if legally required to do so, Kronos will not entertain requests to store or host legacy or archived customer data or documents for these purposes. Kronos periodically reviews all matters subject to legal hold, including data that is being retained.

EXHIBIT C: CUSTOMER SUCCESS

1. Customer Success Plans
 - 1.1 Contractor through Kronos offers the following Customer Success Plans:
 - a. Standard (included in Ordering Activity's PEPM Fee)
 - b. Premium (available for an additional Fee,¹ minimum annual spend may be required for certain services)
 - c. Premium Plus (available for an additional Fee, minimum annual spend may be required for certain services)
 - 1.2 As part of the Standard Plan, Kronos will provide:
 - a. 24/7 support for infrastructure outages, with always-on maintenance for Application Availability and Outages;
 - b. Kronos Community access: Self-solve issues, access Knowledgebase articles, and open support cases;
 - c. Local Time Zone Support: 8-5 callback support and two-hour email response time to cases Monday to Friday;
 - d. In-Context Support: Screen-specific, built-in assistance within the Applications;

¹ All additional fees will be in accordance with the GSA Pricelist.

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- e. KnowledgeMap™ Learning Portal: Access to self-paced eLearning and webinars;
 - f. Access to Customer Success;
 - g. Customer Health Monitoring to proactively identify and address potential issues based on Kronos' evaluation of customer experience metrics; and,
 - h. Success Reporting: Automated success dashboard to provide usage data and success tips.
- 1.3 Each Plan provides different services and different service coverage periods. The current services of each Plan are described in Attachment C-1. The current services of the corresponding Customer Success Programs – Community, Guided and Signature - are described in Attachment C-2.
- 1.4 Technical Account Manager. A Technical Account Manager (TAM) is included in Premium Plus. A TAM may be added to the Premium Plan for an additional Fee and requires a minimum annual spend. TAMs are senior Technical Support Engineers or former Kronos Application Consultants with industry specific Kronos product knowledge.
- 1.5 The Kronos policies which apply to all Customer Success Plans are set forth attachment C-4.

Customer Success Plans Attachment C-1

	Standard	Premium	Premium Plus
24x7 Support for Mission Critical Issues	✓	✓	✓
Self-service	✓	✓	✓
Local Time Zone Support	Electronic/Callback Support 8:00 AM – 5:00 PM M-F	Phone/Electronic Support 8:00 AM – 8:00 PM M-F	24 hour Live Phone/Electronic Support
Email Response Time	2 hours	2 hours	1 hour
Community Support	✓	✓	✓
Training / Education:			
Get Started Training	✓	✓	✓
In-Context Support	✓	✓	✓
eLearning Portal	✓	✓	✓
Advisory Support: (Details see Attachments C-1)			
Support Plus	-	✓	✓
Best Practice Audit	-	-	✓
System Health Check	-	-	✓
Developer Support	-	-	✓

Service Included:	Standard	Premium	Premium Plus*
TAM Resources:			
Technical Account Manager Includes Escalation Manager	-	Fees apply 8:00 AM – 8:00 PM	Included 24 Hour Live Phone/Electronic Support
Help Desk Support			
Direct User/Locations Support	-	Fee in addition to Premium 8:00 AM – 8:00 PM	Fee in addition to Premium 24X7
Customer Success Programs (Details in Attachment C-2):			
Community Success	Included	Included	-
Guided Success	-	Requires minimum spend	-
Signature Success	-	-	Included

Attachment C-2: Customer Success Programs

	 Community	 Guided	 Signature
Named Customer Success Manager	Team	Yes – 1 : 25	Yes – 1 : 8
Customer Onboarding Experience	Community	Remote	In-Person
Success Reporting	Dashboard Report - Annually	360 Report – Semi Annually	Insights Report - Quarterly
Product Adoption Guidance	Campaigns	Direct	Direct
Customer Happiness Monitoring	Trends/Campaigns	Direct	Direct
Customized Success Paths with Updates	-	Annually	Quarterly
Live Check In Meetings	-	Quarterly	Monthly
Executive Business Reviews	-	Annually – Remote	Quarterly – In Person

Attachment C-3

Advisory Support Offerings

Support Plus

Description	Delivery Considerations
Evaluate Application beyond a specific fix. Focus on not only issue identified but overall health of the application when engaging support	Delivered as part of each Support case by Support Eng.
Identify known issues and solutions: <ul style="list-style-type: none"> Quarterly review of PARs fixed/assessment of impact 	<ul style="list-style-type: none"> Delivered as part of each Support case for area in question Delivered quarterly in a proactive fashion independent of Support calls
Implementation of new functionality (minor feature releases) <ul style="list-style-type: none"> Review minor features released in product (assumes CSM will cover major product features with product) No licensed feature additions 	Delivered based on release cycles

Best Practices Audit

Description	Delivery Considerations
App Review and Audit (Quarterly): <ul style="list-style-type: none"> Audit of Application and use of Kronos recommended best practices Evaluation of Application Error conditions and impact on System use <ul style="list-style-type: none"> Review error logs with an eye toward trends. Proactive identification of configuration changes/pars that may address identified trends or issues Evaluate overall system performance and tune as needed (Need tools from engineering to provide this) 	Delivered Quarterly with focus on the Application best practices only.
Timeclock review and audit (Quarterly) <ul style="list-style-type: none"> Flash versions on Kronos Hardware Review communication error messages <ul style="list-style-type: none"> Review error logs with an eye toward trends. Proactive identification of configuration changes/pars that may address identified trends or issues 	Delivered Quarterly

Attachment C-4 Workforce Dimensions Support Policies

Kronos provides support services for all customer environments (Production and User Acceptance Testing (UAT)) running the Workforce Dimensions Applications. Upgrades to these environments are included in all Success plans. Configuration of new features may be subject to additional cost depending on complexity.

Support Exclusions

Support services do not include service to the Applications resulting from, or associated with:

1. Failure to use the Applications in accordance with Kronos' published specifications; or
2. Customer's end user computer or operating system malfunctions, including browser and internet connection; or
3. Services required for application programs or conversions from products or software not supplied by Kronos.

Service Coverage Period

Kronos provides support for the Workforce Dimensions Infrastructure 24 hours a day, seven days a week, 365 days a year.

Support coverage hours for the Application for use, usability and "how to" questions depend on the Success Plan purchased with the Service.

Success Plans	Standard	Premium	Premium Plus

	Electronic submission w/callback Support 8:00 AM – 5:00 PM Monday to Friday*	Phone/Electronic Support 8:00 AM – 8:00 PM Monday to Friday*	24 Hour Live Phone/Electronic Support 7 days per week
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* Excluding Kronos holidays

Priority Based Support

Kronos provides support on a "priority" basis. As such, customers with the most critical request(s) will be serviced first.

Kronos Global Support has set up the following guidelines to assess the priority of each service request:

High Priority: A critical customer issue with no available workaround where the Applications cannot be accessed, or where the Applications are experiencing major system degradation, and any other related factors resulting in the customer not being able to process their payroll, such as:

- Cloud outage
- Unable to sign-off Time Cards
- Totals are not accurate
- Unable to collect punches from terminals
- Unable to access a critical function within the Applications such as scheduling

Medium Priority: A serious customer issue which impacts ability to utilize the application effectively such as:

- Intermittent or inconsistent functionality results or data accuracy - accrual balances not matching pay codes but balances are accurate
- Data display inaccuracies or inconsistencies across multiple tasks
- Application performance is inconsistent or fluctuates

Low Priority: Non-critical problem generally entailing use and usability issues or

"how to" questions such as: How do I set up a holiday pay rule?

- How do I run a report?

Response Time

Response time shall mean the number of hours from the time the case priority is set by the Kronos Support Center until a Kronos technical representative contacts the customer to begin service. Kronos utilizes a priority based support focus. Customers with the most critical request will be serviced in accordance with the following guidelines:

	Standard	Premium	Premium Plus
Priority			
High	2 hours	2 hours	1 hour
Medium	4 hours	4 hours	4 hours
Low	8 hours	8 hours	8 hours

Success Plans

Critical Outages

Kronos will provide continuous effort on all high priority events through either bug identification, the development of a workaround, or problem resolution. If this effort goes beyond normal business hours, the case may be passed to the after-hours team. On-going continuous effort may also be dependent on the customer's ability to provide a resource to work with Kronos during this period.

Technical Escalation

Kronos' case resolution process is a team based approach structured around specific features within the Application suite and staffed by Kronos Support Engineers covering the full spectrum of skill sets and technical expertise. The teams are empowered to dynamically apply the appropriate resources to a case based on severity and complexity to ensure the fastest resolution time possible.

The teams are also integrated with the Development Engineering and Cloud Operations staff and engage their assistance and technical guidance when necessary and/or directly escalate depending on case severity and time to resolve considerations.

For situations that contain multiple cases, an Account Manager may be assigned to act as a single point of contact and communication regarding case resolution status, action plan development, resource integration and implementation co-ordination. The Account Manager remains engaged until the situation has been successfully remediated.

Management Escalation

Customers may, at any time, ask to speak to a Kronos manager if they experience dissatisfaction with the level of service received with respect to a specific case or service in general. To contact a Kronos Global Support manager, please telephone your Kronos Support Services center and ask to speak to a manager. Phone numbers are listed on the Kronos Community at <https://community.kronos.com/s/article/ka361000000ACDuAAO/KB13193>.

Remote Support

A web-based screen-sharing application that enables Kronos to support you by empowering our support representatives to remotely view your computer. By connecting through the Internet or via intranets and extranets, support representatives will work in real time with your users and quickly escalate to desktop sharing, which features mutual mouse and keyboard control and whiteboard capability.

Kronos Community

The Community helps you make the most of your Kronos solution by putting tools and resources at your fingertips in a collaborative, intuitive online space — a space that makes opening a case, accessing support, and viewing all your account information easier than ever. Streamlined and searchable, the information you need is just a click away.

Exhibit CC: UPDATED Success Plans (Effective for renewals or of _____
_____th
Service ordered after July 13 , 2020)

Section 1. UPDATED Success Plans

1.1 Kronos offers the following Success Plans for Workforce Dimensions:

- a. Essentials (included in Customer's PEPM Fee)
- b. Enhanced (available for an additional Fee as indicated on the Order Form)

1.2 As part of the Essentials Success Plan, Kronos will provide:

- a. Local Time Zone Support: 8am – 8pm Monday to Friday, with two-hour response time to support cases.
- b. 24/7 Mission Critical Support: Immediate and on-going support for a critical issue with no available workaround, where the system or a module may be down, experiencing major system degradation, or other related factors.
- c. Kronos Community Access: Ability to access how-to articles, discussion boards, and open support cases.
- d. Kronos Onboarding Experience: Step-by-step guidance to assist Customer during onboard activities.
- e. KnowledgeMap™: On-line education portal providing access to Kronos e-learning resources.
- f. KnowledgeMap™ Live may be purchased for an additional Fee.
- g. A Technical Account Manager (TAM) may be purchased for an additional Fee: senior Technical Support Engineers or former Kronos Application Consultants with industry-specific Kronos product knowledge.

1.3 As part of the Enhanced Success Plan, Kronos will provide:

- a. All of the services under the Essentials Success Plan.
- b. 24/7 Local Time Zone Support with one-hour response time to support cases.
- c. Dedicated Success Manager included at no additional charge.
- d. Integration/API Support: Assistance with enhancing and updating existing APIs and integrations.
- e. New Feature Review and Activation assistance.
- f. Industry Best Practices Review: Review configuration and use of Workforce Dimensions against industry peers and provide recommendations.
- g. Configuration Review: Assistance with optimizing the use of Workforce Dimensions based on your current usage patterns.

1.4 The Kronos policies set forth in Attachment CC-1 shall apply to all Success Plans.

Attachment C C-1: UPDATED Support Policies:

7.1 Attachment CC-1 UPDATED Workforce Dimensions Support Policies

Kronos provides support services for all customer environments (Production and User Acceptance Testing (UAT)) running the Workforce Dimensions Applications. Upgrades to these environments are included in all Success plans. Configuration of new features may be subject to additional cost depending on complexity.

Support Exclusions

Support services do not include service to the Applications resulting from, or associated with:

1. Failure to use the Applications in accordance with Kronos' published specifications; or

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2. Customer's end user computer or operating system malfunctions, including browser and internet connection; or
3. Services required for application programs or conversions from products or software not supplied by Kronos.

Service Coverage Period

Kronos provides support for the Workforce Dimensions Infrastructure 24 hours a day, seven days a week, 365 days a year. Support coverage hours for the Application for use, usability and "how to" questions depend on the Workforce Dimensions Success Plan purchased with the Service.

Workforce Dimensions Success Plans	Essentials (formerly Community Success and Guided Success)	Enhanced (formerly Signature Success)
Local Time Zone Support	8:00 AM – 8:00 PM Monday to Friday* 2 hour response to support cases * Excluding Kronos holidays	24 Hour x 7 support 1 hour response to support cases

Priority Based Support

Kronos provides support on a "priority" basis. As such, customers with the most critical request(s) will be serviced first. Kronos Global Support has set up the following guidelines to assess the priority of each service request:

High Priority: A critical customer issue with no available workaround where the Applications cannot be accessed, or where the Applications are experiencing major system degradation, and any other related factors resulting in the customer not being able to process their payroll, such as:

- Cloud outage
- Unable to sign-off Time Cards
- Totals are not accurate
- Unable to collect punches from terminals
- Unable to access a critical function within the Applications such as scheduling

Medium Priority: A serious customer issue which impacts ability to utilize the application effectively such as:

- Intermittent or inconsistent functionality results or data accuracy - accrual balances not matching pay codes but balances are accurate
- Data display inaccuracies or inconsistencies across multiple tasks
- Application performance is inconsistent or fluctuates

Low Priority: Non-critical problem generally entailing use and usability issues or "how to" questions such as:

- How do I set up a holiday pay rule?
- How do I run a report?

Critical Outages

Kronos will provide continuous effort on all high priority events through either bug identification, the development of a workaround, or problem resolution. If this effort goes beyond normal business hours, the case may be passed to the after-hours team. On-going continuous effort may also be dependent on the customer's ability to provide a resource to work with Kronos during this period.

Technical Escalation

Kronos' case resolution process is a team based approach structured around specific features within the Application suite and staffed by Kronos Support Engineers covering the full spectrum of skill sets and technical expertise. The teams are empowered to dynamically apply the appropriate resources to a case based on severity and complexity to ensure the fastest resolution time possible.

The teams are also integrated with the Development Engineering and Cloud Operations staff and engage their assistance and technical guidance when necessary and/or directly escalate depending on case severity and time to resolve considerations. For situations that contain multiple cases, an Account Manager may be assigned to act as a single point of contact and communication regarding case resolution status, action plan development, resource integration and implementation co-ordination. The Account Manager remains engaged until the situation has been successfully remediated.

Management Escalation

Customers may, at any time, ask to speak to a Kronos manager if they experience dissatisfaction with the level of service received with respect to a specific case or service in general. To contact a Kronos Global Support manager, please telephone your Kronos Support Services center and ask to speak to a manager. Phone numbers are listed on the Kronos Community at <https://community.kronos.com/s/article/ka361000000ACDuAAO/KB13193>.

Remote Support

A web-based screen-sharing application that enables Kronos to support you by empowering our support representatives to remotely view your computer. By connecting through the Internet or via intranets and extranets, support representatives will work in real time with your users and quickly escalate to desktop sharing, which features mutual mouse and keyboard control and whiteboard capability.

Kronos Community

The Community helps you make the most of your Kronos solution by putting tools and resources at your fingertips in a collaborative, intuitive online space — a space that makes opening a case, accessing support, and viewing all your account information easier than ever. Streamlined and searchable, the information you need is just a click away.

Exhibit D: Acceptable Use Policy

This Acceptable Use Policy (this “Policy”) describes prohibited uses of the Service. The examples described in this Policy are not exhaustive. If Ordering Activity violates the Policy or authorizes or helps others to do so, Contractor may temporarily suspend use of the Service until the violation is corrected, or submit a claim to the contracting office under the Contract Disputes Act to terminate the Order Form for cause in accordance with the terms of this Section

I.

No Illegal, Harmful, or Offensive Use or Content

Ordering Activity may not use, or encourage, promote, facilitate or instruct others to use, the Service for any illegal, harmful or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful, or offensive. Prohibited activities or content include:

- **Illegal Activities.** Any illegal activities, including advertising, transmitting, or otherwise making available gambling sites or services or disseminating, promoting or facilitating child pornography.
- **Harmful or Fraudulent Activities.** Activities that may be harmful to others, Kronos’ operations or reputation, including offering or disseminating fraudulent goods, services, schemes, or promotions (e.g., make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming), or engaging in other deceptive practices.
- **Infringing Content.** Content that infringes or misappropriates the intellectual property or proprietary rights of others.
- **Offensive Content.** Content that is defamatory, obscene, abusive, invasive of privacy, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts.
- **Harmful Content.** Content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots.

No Security Violations

Ordering Activity may not use the Service to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a “System”).

Prohibited activities include:

- **Unauthorized Access.** Accessing or using any System without permission, including attempting to probe, scan, or test the vulnerability of a System or to breach any security or authentication measures used by a System. Ordering Activity will not perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan on any System.
- **Interception.** Monitoring of data or traffic on a System without permission.
- **Falsification of Origin.** Forging TCP-IP packet headers, e-mail headers, or any part of a message describing its origin or route. This prohibition does not include the use of aliases or anonymous remailers.
- **No Use of Robots.** Ordering Activity will not use any tool designed to automatically emulate the actions of a human user (e.g., robots)

No Network Abuse

Ordering Activity may not make network connections to any users, hosts, or networks unless Ordering Activity has permission to communicate with them. Prohibited activities include:

- **Monitoring or Crawling.** Monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled.
- **Denial of Service (DoS).** Inundating a target with communications requests so the target either cannot respond to legitimate traffic or responds so slowly that it becomes ineffective.
- **Intentional Interference.** Interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques.
- **Operation of Certain Network Services.** Operating network services like open proxies, open mail relays, or open recursive domain name servers.
- **Avoiding System Restrictions.** Using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions.

No E-Mail or Other Message Abuse

Ordering Activity will not use the Service to distribute, publish, send, or facilitate the sending of unsolicited mass e-mail or other messages, promotions, advertising, or solicitations (like "spam"), including commercial advertising and informational announcements. Ordering Activity will not alter or obscure mail headers or assume a sender's identity without the sender's explicit permission. Ordering Activity will not collect replies to messages sent from another internet service provider if those messages violate this Policy or the acceptable use policy of that provider.

Monitoring and Enforcement

Contractor through Kronos reserves the right, but does not assume the obligation, to investigate any violation of this Policy or misuse of the Service. Contractor through Kronos may:

- investigate violations of this Policy or misuse of the Service; or
- temporarily remove, disable access to, or modify any content or resource that violates this Policy and submit a claim to the contracting officer under the Contract Disputes Act to permanently remove, disable, or modify the content.

Contractor through Kronos may report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Such reporting may include disclosing appropriate customer information. Contractor through Kronos also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Policy.

Reporting of Violations of this Policy

If Ordering Activity becomes aware of any violation of this Policy, Ordering Activity will immediately notify Contractor and provide Contractor with assistance, as requested, to stop or remedy the violation.

Exhibit E: AtomSphere Service and Boomi Software

As part of the Service, Ordering Activity has the right to access and use the Boomi AtomSphere Service and a nonexclusive, nontransferable and non sublicensable license to use the associated Boomi Software as part of the Boomi AtomSphere Service. Ordering Activity may use the Boomi AtomSphere Service and the Boomi Software only to create integrations to and from the Service.

There are two (2) cloud environments associated with Ordering Activity use of the Boomi AtomSphere Service and the Boomi Software:

- a. Run-Time environment: A run time environment in the Kronos Cloud where the integration created by with the Boomi AtomSphere Service runs. This environment is described in Exhibit B.
- b. Development environment: A development environment in the Boomi Cloud where the design and development tools exist to build the integrations. This environment is referred to as a Hosted Environment in the hyperlink below.

The Boomi AtomSphere Service is subject to the additional terms and conditions set forth at: www.kronos.com/workforcedimensions/agreement/attachment-e1. These additional terms and conditions apply to all integrations to and from the Service using the Boomi AtomSphere Service, whether done by Ordering Activity or by Kronos. Except as provided in these additional terms and conditions, all terms and conditions of this Section I related to the Service apply to the Boomi AtomSphere Service. Upon termination, Ordering Activity's rights to access the Boomi AtomSphere Service and the Boomi Software also terminates.

Attachment E-1 Boomi AtomSphere Service And Boomi Software Flow Downs

The following provisions are required "flow-down" provisions from our authorized reseller agreement with Boomi, Inc.

for the AtomSphere Service and Boomi Software. These terms and conditions apply to all integrations to and from the Kronos Services using the AtomSphere Service and are in addition to the terms of the Agreement for all such integrations. For purposes of these provisions, "Customer" is referred to as "End-Customer" throughout these provisions.

- (1) Restrictions. Except and only to the extent that the exclusions and limits of this Restrictions Section are prohibited by applicable law, End-Customer may not reverse engineer, decompile, disassemble, or attempt to discover or modify in any way the underlying source code of the Boomi Software, or any part thereof. In addition, End-Customer may not (i) modify, translate, localize, adapt, rent, lease, loan,

create or prepare derivative works of, or create a patent based on the Boomi Software or any part thereof, (ii) resell, sublicense or distribute the Boomi Software, (iii) provide, make available to, or permit use of the AtomSphere Service or the Boomi Software, in whole or in part, by any third party (except as expressly set forth herein) without Dell's prior written consent, (iv) use the AtomSphere Service or the Boomi Software to create or enhance a competitive offering or for any other purpose which is competitive to Dell, or (v) perform or fail to perform any act which would result in a misappropriation or infringement of Dell's intellectual property rights in the AtomSphere Service or the Boomi Software. End-Customer understands and agrees that the AtomSphere Service or the Boomi Software may work in conjunction with third party products and End-Customer agrees to be responsible for ensuring that it is properly licensed to use such third party products.

- (2) **Proprietary Rights.** End-Customer understands and agrees that (i) the AtomSphere Service or the Boomi Software are protected by copyright and other intellectual property laws and treaties, (ii) Dell, its Affiliates and/or its suppliers own the copyright, and other intellectual property rights in the Products, (iii) the Boomi Software is licensed, and not sold, (iv) this Agreement does not grant EndCustomer any rights to Dell's trademarks or service marks, and (v) Dell reserves any and all rights, implied or otherwise, which are not expressly granted to EndCustomer in this Agreement.
- (3) **Support.** All technical support related to the AtomSphere Services and Boomi Software shall be provided by Kronos. EndCustomer shall have no right to contact Dell for technical support for the AtomSphere Services and Boomi Software.
- (4) **Protected Data.** For purposes of this Section, "Protected Data" means any information or data that is provided by End-Customer to Dell during this Agreement that alone or together with any other information relates to an identified or identifiable natural person or data considered to be personal data as defined under Privacy Laws, and "Privacy Laws" means any applicable law, statute, directive or regulation regarding privacy, data protection, information security obligations and/or the processing of Protected Data.

Except as permitted herein or to the extent required by Privacy Laws or legal process, Dell shall not disclose Protected Data to any third party for any reason. Dell shall implement appropriate technical and organizational measures to prevent unauthorized disclosure of or access to Protected Data by third parties, and shall only store and process Protected Data as required to fulfill its obligations under this Agreement and any applicable Orders. Dell shall make reasonable efforts to comply with End-Customer's written instructions with respect to the Protected Data; however, Dell shall have no liability to End-Customer for any breach of this Section resulting from Dell's acts or omissions in accordance with any such instructions. Dell shall promptly notify End-Customer of any disclosure of or access to the Protected Data by a third party in breach of this Section and shall cooperate with End-Customer to reasonably remediate the effects of such disclosure or access. Dell further affirms to End-Customer that Boomi, Inc.

currently abides by the safe harbor framework as set forth by the U.S. Department of Commerce regarding the collection, use and retention of data from the European Union.

End-Customer hereby (i) represents that it has the right to send the Protected Data to Dell, (ii) consents for Dell to store and use the Protected Data worldwide for the sole purpose of performing its obligations under this Agreement and any applicable Orders, (iii) agrees that the Protected Data may be accessed and used by Dell and its Representatives worldwide as may be needed to support Dell's standard business operations, and (iv) agrees that Protected Data consisting of End-Customer contact information (e.g., email addresses, names) provided as part of Maintenance AtomSphere Services may be sent to Dell's third party service providers as part of Dell's services improvement processes.

- (5) **Infringement.** Dell will at its own expense defend or settle any claim, suit, action, or proceeding brought against End-Customer by a third party to the extent it is based on an allegation that the Boomi Software directly infringes any patent, copyright, trademark, or other proprietary right enforceable in the country in which the Boomi Software is delivered to End-Customer, or misappropriates a trade secret in such country (a "Claim"). Additionally, Dell shall pay any judgments finally awarded against End-Customer under a Claim or any amounts assessed against End-Customer in any settlements of a Claim, and reasonable administrative costs or expenses, including without limitation reasonable attorneys' fees, necessarily incurred by End-Customer in responding to the Claim. Dell's obligations under this Section are conditioned upon End-Customer (i) giving prompt written notice of the Claim to Dell; (ii) permitting Dell to retain control of the investigation, defense or settlement of the Claim, and (iii) providing Dell with such cooperation and assistance as Dell may reasonably request from time to time in connection with the investigation, defense or settlement of the Claim. Dell shall have no obligation hereunder to defend End-Customer against any Claim (a) resulting from use of the Boomi Software other than as authorized in this Agreement, (b) resulting from a modification of the Boomi Software other than by Dell, or (c) based on End-Customer's use of the Boomi Software after Dell recommends discontinuation because of possible or actual infringement, (d) based on End-Customer's use of a superseded or altered release of Boomi Software if the infringement would have been avoided by use

of a current or unaltered release of the Boomi Software made available to End-Customer, or (e) to the extent the Claim arises from or is based on the use of the Boomi Software with other products, services, or data not supplied by Dell if the infringement would not have occurred but for such use. If End-Customer's use of the Boomi Software is enjoined as a result of a Claim, Dell shall, at its expense and option either (1) obtain for EndCustomer the right to continue using the Boomi Software, (2) replace the Boomi Software with a functionally equivalent non-infringing product, (3) modify the Boomi Software so that it is noninfringing, or (4) terminate the License for the infringing Boomi Software and discontinue End-Customer's right to access and use the infringing Boomi Software and refund the unused pro-rated portion of any fees pre-paid by End-Customer for the AtomSphere Service affected by the removal of the infringing Boomi Software. This Section states the entire liability of Dell, and End-Customer's sole and exclusive remedy, with respect to a Claim. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or suit brought against the U.S. pursuant to its jurisdictional statute 28 U.S.C. § 516.

- (6) Warranty. Dell warrants that the Boomi Software and AtomSphere Service will, for a period of sixty (60) days from the date of your receipt, perform substantially in accordance with Boomi Software and AtomSphere Service written materials accompanying it. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING SENTENCE, THERE ARE NO WARRANTIES OR REMEDIES PROVIDED TO CUSTOMER BY DELL HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES OR REMEDIES ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NONINFRINGEMENT, SATISFACTORY QUALITY, AND ANY WARRANTIES ARISING FROM USAGE OF TRADE OR COURSE OF DEALING OR PERFORMANCE. DELL DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE PRODUCTS. (9) High Risk Disclaimer. END-CUSTOMER UNDERSTANDS AND AGREES THAT THE PRODUCTS ARE NOT FAULTTOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HIGH-RISK OR HAZARDOUS ENVIRONMENT, INCLUDING WITHOUT LIMITATION, THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, AIR TRAFFIC CONTROL, LIFE SUPPORT MACHINES, WEAPONS SYSTEMS, OR ANY OTHER APPLICATION WHERE THE FAILURE OR MALFUNCTION OF ANY PRODUCT CAN REASONABLY BE EXPECTED TO RESULT IN DEATH, PERSONAL INJURY, SEVERE PROPERTY DAMAGE OR SEVERE ENVIRONMENTAL HARM (A "HIGH RISK ENVIRONMENT"). ACCORDINGLY, (I) ENDCUSTOMER SHOULD NOT USE THE PRODUCTS IN A HIGH RISK ENVIRONMENT, (II) ANY USE OF THE PRODUCTS BY CUSTOMER IN A HIGH RISK ENVIRONMENT IS AT CUSTOMERS OWN RISK, (III) DELL, ITS AFFILIATES AND SUPPLIERS SHALL NOT BE LIABLE TO END-CUSTOMER IN ANY WAY FOR USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT, AND (IV) DELL MAKES NO WARRANTIES OR ASSURANCES, EXPRESS OR IMPLIED, REGARDING USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT.
- (7) Export. End-Customer acknowledges that the Boomi Software and AtomSphere Service are subject to the export control laws, rules, regulations, restrictions and national security controls of the United States and other applicable foreign agencies (the "Export Controls") and agrees to abide by the Export Controls. End-Customer hereby agrees to use the Boomi Software and AtomSphere Service in accordance with the Export Controls, and shall not export, re-export, sell, lease or otherwise transfer the Boomi Software and AtomSphere Service or any copy, portion or direct product of the foregoing in violation of the Export Controls. End-Customer is solely responsible for obtaining all necessary licenses or authorizations relating to the export, re-export, sale, lease or transfer of the Boomi Software and AtomSphere Service and for ensuring compliance with the requirements of such licenses or authorizations. End-Customer hereby (i) represents that End-Customer is not an entity or person to which shipment of Boomi Software and AtomSphere Service is prohibited by the Export Controls; and (ii) agrees that it shall not export, re-export or otherwise transfer the Boomi Software and AtomSphere Service to (a) any country subject to a United States trade embargo, (b) a national or resident of any country subject to a United States trade embargo, (c) any person or entity to which shipment of Boomi Software and AtomSphere Service is prohibited by the Export Controls, or (d) anyone who is engaged in activities related to the design, development, production, or use of nuclear materials, nuclear facilities, nuclear weapons, missiles or chemical or biological weapons. Except as may be prohibited by applicable law, End-Customer shall, at its expense, defend Dell and its Affiliates from any third party claim or action

arising out of any inaccurate representation made by End-Customer regarding the existence of an export license, EndCustomer's failure to provide information to Dell to obtain an export license or any allegation made against Dell due to End-Customer's violation or alleged violation of the Export Controls (an "Export Claim") and shall pay any judgments or settlements reached in connection with the Export Claim as well as Dell's costs of responding to the Export Claim.

(8) Hosted Environment.

(a) Data. End-Customer may store data on the systems to which it is provided access in connection with its use of the AtomSphere

Service (the "Hosted Environment"). Dell may periodically make back-up copies of End-Customer data, however such back-ups are not intended to replace End-Customer's obligation to maintain regular data backups or redundant data archives. End-Customer is solely responsible for collecting, inputting and updating all End-Customer data stored in the Hosted Environment, and for ensuring that it does not (i) knowingly create and store data that actually or potentially infringes or misappropriates the copyright, trade secret, trademark or other intellectual property right of any third party, or (ii) use the Hosted environment for purposes that would reasonably be seen as obscene, defamatory, harassing, offensive or malicious. If the Order states where End-Customer data is to be stored, Dell will not move the data from the specified region without notifying End-Customer, except if Dell is required to do so by law or legal process. Dell shall have the right to delete all End-Customer data stored in connection with the use of the AtomSphere Service thirty (30) days following any termination of this Agreement or any license to Boomi Software granted hereunder.

End-Customer represents and warrants that it has obtained all rights, permissions and consents necessary to use and transfer all

End-Customer and/or third party data within and outside of the country in which End-Customer or the applicable End-Customer Affiliate is located (including providing adequate disclosures and obtaining legally sufficient consents from End-Customer's employees, End-Customers, agents, and contractors). If End-Customer transmits data to a third-party website or other provider that is linked to or made accessible by the AtomSphere Service or Boomi Software, End-Customer will be deemed to have given its consent to Dell enabling such transmission and Dell shall have no liability to End-Customer in connection with any claims by a third party in connection with such transmission.

(b) Conduct. In connection with the use of the Hosted Environment and the AtomSphere Service, End-Customer may not (i) attempt to use or gain unauthorized access to Dell's or to any third-party's networks or equipment; (ii) permit other individuals or entities to copy the Boomi Software; (iii) provide unauthorized access to or use of any Boomi Software or the associated access credentials; (iv) attempt to probe, scan or test the vulnerability of the Boomi Software, the Hosted Environment, or a system, account or network of Dell or any of Dell's EndCustomers or suppliers; (v) interfere or attempt to interfere with service to any user, host or network; (vi) engage in fraudulent, offensive or illegal activity of any nature or intentionally engage in any activity that infringes the intellectual property rights or privacy rights of any individual or third-party; (vii) transmit unsolicited bulk or commercial messages; (viii) intentionally distribute worms, Trojan horses, viruses, corrupted files or any similar items; (ix) restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose or knowledge, to use or enjoy the Boomi Software (except for tools with safety and security functions); or (x) restrict, inhibit, interfere with or otherwise disrupt or cause a performance degradation to any Dell (or Dell supplier) facilities used to provide the Hosted Environment. End-Customer shall cooperate with Dell's reasonable investigation of Hosted Environment outages, security issues, and any suspected breach of this Section.

(c) Suspension. Dell may temporarily suspend End-Customer's use of Boomi Software and the AtomSphere Service (a) if so required by law enforcement or legal process, (b) in the event of an imminent security risk to Dell or its End-Customers, or (c) if continued use would subject Dell to material liability. Dell shall make commercially reasonable efforts under the circumstances to provide as much prior notice as possible to EndCustomer of any such suspension.

(9) Limitation of Liability. EXCEPT FOR (A) ANY MATERIAL BREACH OF THE "RESTRICTIONS", "CONFIDENTIAL INFORMATION" SECTIONS OF THIS AGREEMENT, (B) AMOUNTS CONTAINED IN JUDGMENTS OR SETTLEMENTS WHICH DELL IS LIABLE TO PAY ON BEHALF OF END-CUSTOMER

UNDER THE "INFRINGEMENT" SECTION OF THIS AGREEMENT AND CUSTOMER IS LIABLE TO PAY ON BEHALF OF DELL UNDER THE "CONDUCT" OR "EXPORT" SECTIONS OF THIS AGREEMENT, OR (C) ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A

MATTER OF APPLICABLE LAW, IN NO EVENT SHALL END-CUSTOMER, KRONOS, KRONOS' AFFILIATES OR RESELLERS, DELL, DELL'S AFFILIATES OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF GOODWILL OR REPUTATION, LOSS OF ANTICIPATED SAVINGS, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA, HOWSOEVER ARISING, WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR IN THE CONTEMPLATION OF THE PARTIES AND WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE. The foregoing limitation of liability shall not apply to (1) personal bodily injury or death resulting from Licensor's gross negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law. EXCEPT FOR (A) ANY MATERIAL BREACH OF THE "LICENSE," "RESTRICTIONS," OR "CONFIDENTIAL INFORMATION" SECTIONS OF THIS AGREEMENT, OR ANY OTHER VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; (B) DELL'S EXPRESS OBLIGATIONS UNDER THE "INFRINGEMENT" SECTION OF THIS AGREEMENT AND END-CUSTOMER'S EXPRESS OBLIGATIONS UNDER THE "CONDUCT" AND "EXPORT" SECTIONS OF THIS AGREEMENT; (C) DELL BOOMI'S COSTS OF COLLECTING DELINQUENT AMOUNTS THAT ARE NOT SUBJECT TO A GOOD FAITH DISPUTE; OR (D) ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW, THE MAXIMUM AGGREGATE AND CUMULATIVE LIABILITY OF END-CUSTOMER, KRONOS, KRONOS' AFFILIATES OR RESELLERS, DELL, DELL'S AFFILIATES AND SUPPLIERS UNDER THIS AGREEMENT, WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT THAT IS THREE TIMES THE FEES PAID AND/OR OWED (AS APPLICABLE) BY END-CUSTOMER TO DELL BOOMI DURING THE PRECEDING TWELVE (12) MONTHS, UP TO A MAXIMUM OF US\$1,000,000.00 .

THE PARTIES AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR DELL PROVIDING PRODUCTS AND SERVICES TO END-CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES OR FAILURES.

Dell's Affiliates and suppliers shall be beneficiaries of this "Limitation of Liability" Section; otherwise, no third party beneficiaries exist under this Agreement. Dell expressly excludes any and all liability to any third party.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **MarkLogic Corporation** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided

however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

MARKLOGIC CORPORATION

MARKLOGIC LICENSE, WARRANTY AND SUPPORT TERMS

1. DEFINITIONS

"Applications" means applications that interact and operate with the Software, according to any restrictions specified in the Order Document, developed in accordance with the Documentation; provided, that such applications do not expose generic database functionality provided by the Software nor allow users to further develop such applications.

"Customer Technology" means any Intellectual Property which is owned or licensed by Ordering Activity prior to the Effective Date or which is developed by Ordering Activity outside the scope and unrelated to the subject matter of this Attachment A. Customer Technology expressly excludes Developed Materials and Work Product.

"Developed Materials" means any Intellectual Property created or developed solely or primarily by MarkLogic, its employees, agents or contractors, other than Work Product.

"Documentation" means any user instructions, release notes, manuals or other materials, and on-line help files in the form generally made available by MarkLogic regarding the use of the Software.

"Equipment" means a single Ordering Activity computer system or virtual computer system at Ordering Activity's facilities running the Software, which meet the restrictions specified on the applicable Order Document, if any.

"Error" means a material failure of Software to conform to its functional specifications described in the Documentation.

"Error Correction" means any bug fixes, modifications, additions, or routines intended to correct the practical adverse effect of an Error.

"Intellectual Property Rights" means patent rights (including patent applications and invention disclosures), copyrights, rights in database, moral rights, trademarks, service marks, trade secrets, know-how and any other intellectual property rights recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed or recorded.

"Intellectual Property" means technology, inventions, know-how, show-how, designs, formulae, processes, techniques, trade secrets, ideas, artwork, software, works of authorship, and any document or other materials embodying any of the foregoing, whether or not any of the same are patentable or copyrightable, and related documentation.

"License Keys" means the license key or keys provided to Ordering Activity by MarkLogic hereunder to enable the Software.

"License Period" means the period for which the license is granted to Ordering Activity for each Software, as set forth in an Order Document.

"Order Document" means the document executed by the Parties specifically referencing this Schedule Contract pursuant to which Ordering Activity orders and Contractor accepts to supply Software licenses and/or Support, under the terms and conditions of this Attachment A.

“Software” means the computer software programs in object code format specified in the Order Document, the License Keys, Documentation, copies thereof and, if Ordering Activity has purchased Support, Updates.

“Statement of Work” means the document executed by the Parties specifically referencing this Attachment A pursuant to which Ordering Activity orders and Contractor through MarkLogic supplies Services, as ultimately described in the Statement of Work

“Support” means the technical support services and Updates for the level of support services specified in the Order Document.

“Territory” means the certain geographic areas, specified in the Order Document, in which the Software may be used.

“Updates” means Error Corrections, updates, modifications or enhancements to the Software developed after the effective date of the Order Document, which MarkLogic makes generally available under the Support level ordered by Ordering Activity in the applicable Order Document. Updates expressly exclude new products for which MarkLogic generally charges a separate license fee.

“Work Product” means any Intellectual Property created or developed by MarkLogic, its employees, agents or contractors on behalf of, and that is specified in the applicable Statement of Work as a deliverable to, Ordering Activity in the course of providing Services.

2. SOFTWARE LICENSE

Grant. Subject to the terms and conditions of this Attachment A, including but not limited to payment of the applicable fees and the Software use rights, rules and definitions described in the applicable Order Document, Contractor grants to Ordering Activity a limited, nonexclusive, nontransferable license in the Territory and for the License Period to (a) install, run and use the Software on the Equipment solely for Ordering Activity’s own internal business operations and solely as enabled by the License Keys, and (b) use the Documentation in connection with such use of the Software.

Additional Licenses. Ordering Activity may expand the license granted under this Attachment A, or otherwise change the scope of the license granted under an Order Document, upon Contractor’s receipt and acceptance of a new Order Document specifying the foregoing, and upon Ordering Activity’s payment of additional license fees for such expanded scope as set forth in Contractor’s then-current GSA price list.

Copies. Except as otherwise set forth in an Order Document and except for archival or backup copies of the Software, Ordering Activity may not make copies of the Software. Notwithstanding the foregoing and except as otherwise set forth in an Order Document, in no event shall the Software be installed on Equipment that is immediately available for production processing in the event of a disaster or failure of the primary production Equipment running the Software.

License Restrictions. Ordering Activity shall not itself, or through any affiliate, employee, consultant, contractor, agent or other third party:

- i. sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the Software, or MarkLogic’s Confidential Information;
- ii. use the Software to provide training or other professional services to third parties;
- iii. decipher decompile, disassemble, reverse assemble, modify, translate, reverse engineer or otherwise attempt to derive source code, algorithms, tags, specifications, architectures, structures or other elements of the Software, including the License Keys, or MarkLogic’s Confidential Information, in whole or in part, for competitive purposes or otherwise;
- iv. allow access, provide, divulge or make available the Software or MarkLogic’s Confidential Information to any user other than Ordering Activity’s employees and independent contractors who have a need for such access and who shall be bound by a written nondisclosure agreement applicable to the Software with provisions that are no less restrictive than the terms of this Attachment A;
- v. write or develop any derivative software or any other software program based upon the Software, the Documentation or any Confidential Information, except that Ordering Activity may develop its own Applications independently;
- vi. modify, adapt, translate or otherwise make any changes to the Software or any part thereof, including the License Keys;
- vii. create license keys or other programs or functionality that enable access to the Software, reverse engineer or otherwise attempt to discover or decipher the License Keys, distribute the License Keys to third parties, or cause such third parties to create, use, or distribute the License Keys, knowingly or otherwise;
- viii. use the Software or MarkLogic’s Confidential Information to provide processing services to third parties, or otherwise use the Software on a ‘service bureau’ basis or outsource any of its operations utilizing any Software to any third party (which shall include, without limitation, the operation or maintenance of any environment on which any Software is installed). “Outsource” used in this section shall mean any arrangement by which a third party performs any of Ordering Activity’s internal business operations on Ordering Activity’s behalf;
- ix. otherwise use or copy the Software except as expressly permitted herein;
- x. disclose or publish, without Contractor’s express prior written consent, performance or capacity statistics or the results of any benchmark test performed on Software; or

Delivery. Contractor through MarkLogic will promptly make available to Ordering Activity, within 10 days after execution and receipt by Contractor of (i) the applicable Order Document and (ii) a purchase order from Ordering Activity, if applicable, License Keys as specified in the applicable Order Document, a downloadable machine-readable copy of the Software and a downloadable machine-readable copy of the Documentation. Ordering Activity will be solely responsible for installation and implementation of the Software.

3. SERVICES

Support. If ordered, Support is provided on an annual basis under MarkLogic's Support policies in effect at the time the services are provided for the level of services ordered. Ordering Activity may access such policies as set forth in Exhibit A of this Attachment A. When ordered, Support must be ordered for all copies of the Software. The Support fee is as set forth in the applicable Order Document.

4. WARRANTIES AND DISCLAIMERS

Software. Contractor warrants that the Software, as updated and used in accordance with the Documentation and this Agreement, will perform in substantial accordance with the Documentation for a period of 90 days after the effective date of the applicable Order Document for such Software. As Customer's exclusive remedy for any claim under the warranty in this Section, Customer shall promptly notify MarkLogic in writing of its claim and, provided that such claim is determined by MarkLogic to be MarkLogic's responsibility, MarkLogic shall, within 30 days of its receipt of Customer's written notice, (i) use commercially reasonable efforts to correct any Error in the Software or (ii) provide Customer with a plan reasonably acceptable to Customer for correcting any such Error. The preceding warranty cure shall constitute MarkLogic's entire liability and Customer's exclusive remedy for cure of the warranty set forth in this Section.

Requirements. The warranties set forth above are made to and for the benefit of Ordering Activity only. The Software warranty shall apply only if (i) the Software has been properly installed and used at all times in accordance with this Attachment A and the Documentation; (ii) no modification, alteration or addition has been made to the Software by persons other than Contractor through MarkLogic or MarkLogic's authorized representative; and (iii) a defect in or malfunction of the Software has not been caused by Ordering Activity, Equipment, Ordering Activity's other equipment or software, including, without limitation, Applications, or third party software or equipment.

Disclaimer. Ordering Activity acknowledges that no employee, agent, representative or affiliate of Contractor has authority to bind Contractor to any oral representations or warranties concerning the Software, or any other product or service provided to Ordering Activity hereunder, including any Work Product. Any written representation or warranty not expressly contained in this Attachment A is expressly disclaimed and is not enforceable. Except as set forth in this Section, Contractor makes no warranties, whether express, implied, or statutory regarding or relating to the Software, Services, Support, Developed Materials, Work Product or any other materials or services provided to Ordering Activity hereunder. CONTRACTOR HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE SOFTWARE, SERVICES, SUPPORT, DEVELOPED MATERIALS, WORK PRODUCT AND OTHER MATERIALS PROVIDED TO ORDERING ACTIVITY HEREUNDER. CONTRACTOR DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE, SERVICES, SUPPORT, DEVELOPED MATERIALS, WORK PRODUCT OR ANY OTHER MATERIALS PROVIDED BY CONTRACTOR WILL BE ERROR-FREE, PERFORM IN AN UNINTERRUPTED MANNER, OR THAT CONTRACTOR WILL CORRECT ALL ERRORS.

5. OWNERSHIP/CONFIDENTIALITY

Ownership. Ordering Activity acknowledges that MarkLogic retains ownership of the Software and all Intellectual Property Rights in, to and/or embodied in or associated with the Software, Support and Services provided by MarkLogic hereunder, and all copies and derivative works thereof (whether developed by MarkLogic, Ordering Activity or a third party), other than Applications independently developed by Ordering Activity. Ordering Activity acknowledges that no source code of the Software will be provided to Ordering Activity. MarkLogic shall retain all rights, title and interest in and to any and all Developed Materials used or in any manner employed by MarkLogic in the provision of services and any and all Work Product. Contractor grants Ordering Activity, upon full payment of the applicable Services fees and charges, a personal, nonexclusive, non-transferable, worldwide, royalty-free license to, use, execute, reproduce, display, perform and internally distribute the Work Product and prepare for internal use only derivative works based upon the Work Product. Additionally, to the extent Developed Materials may be included with or embodied in any deliverable(s) delivered hereunder, Contractor grants Ordering Activity, upon full payment of the applicable fees and charges, a personal, nonexclusive, non-transferable, worldwide, royalty-free license to, use, execute, reproduce, display, perform, and internally distribute the Developed Materials and prepare for internal use only derivative works based upon such Developed Materials in each case solely in conjunction with the deliverable(s) provided in connection with the Order Document. Ordering Activity acknowledges that MarkLogic may create original works for third parties that may appear similar to a deliverable provided hereunder, including any Work Product. Ordering Activity agrees that, so long as such original work does not embody and is not created with reference to any of Ordering Activity's Confidential Information or any portion of the Customer Technology, MarkLogic will not be prevented from independently creating original, but similar, works for the benefit of third parties. Except as expressly set forth in this Section, the license restrictions set forth herein apply to Work Product and Developed Materials. All rights not expressly granted in this Attachment A are reserved by Contractor.

Confidentiality. By virtue of this Attachment A, each Party may be exposed to or be provided with certain confidential and proprietary information of the other Party, including, but not limited to, information designated as confidential in writing and information, which ought to be in good faith considered confidential and proprietary to the disclosing Party ("Confidential Information"). Notwithstanding the foregoing, the following are Confidential Information of Contractor: all trade secrets, software, including, without limitation, the Software, Developed Materials and Work Product, source code, object code, specifications, as well as results of testing and benchmarking of the Software or other services, product roadmap, data and other information of Contractor through MarkLogic and its licensors relating to or embodied in the Software, Developed Materials or Work Product. Each Party will protect the other's Confidential Information from unauthorized dissemination and use with the same degree of care that each such Party uses to protect its own non-public and confidential information, but in no event less than a commercially reasonable degree of care. Neither Party will use the other's Confidential Information for purposes other than those necessary to directly further the purposes of this Attachment A. Neither Party will disclose to third parties the other's Confidential Information without prior written consent of such other Party. Information shall not be considered Confidential Information to the extent, but only to the extent, that the receiving Party can establish that such information (i) is or becomes generally known or available to the public through no fault of the receiving Party; (ii) was in the receiving Party's possession before receipt from the disclosing Party; (iii) is lawfully obtained from a third party who has the right to make such disclosure; (iv) has been independently developed by the receiving Party without use of or reference to any Confidential Information of the disclosing Party; or (v) is required to be disclosed by law provided the receiving Party has promptly notified the disclosing Party of such requirement and allowed the disclosing Party a reasonable time to oppose such requirement.

EXHIBIT A – MAINTENANCE AND SUPPORT OFFERINGS

HOW TO CONTACT US

To contact MarkLogic Technical Support, please use one of the following methods:

- Email – support@marklogic.com
- Web – <https://help.marklogic.com>
- Phone – 650-655-2300

Contractor through MarkLogic recommends that all support requests be submitted via either email or web, to enhance the process of reporting, tracking and resolving issues.

HOW TO RECEIVE SUPPORT SERVICES

As a customer, Ordering Activity can receive MarkLogic support services as soon as:

- The MarkLogic software products are properly licensed by Ordering Activity and Ordering Activity have a valid contract with Contractor, and
- You have registered with MarkLogic support.

Support services are provided for issues (including problems created by you) that are demonstrable or reproducible in the currently supported release(s) of a MarkLogic licensed product, running unaltered, and on an appropriate hardware and operating system configuration, as specified in the product documentation.

REGISTERING WITH MARKLOGIC SUPPORT

Customer Support Contact

Unless Ordering Activity contract with Contractor provides otherwise, you can designate up to two support contacts within your organization.

The role of the customer support contact is to serve as the first level of support for Ordering Activity, to log technical support issues for Ordering Activity, and to contact MarkLogic support in case of a technical problem.

Registering your Customer Support Contacts

Phone MarkLogic support to register Ordering Activity support contacts, with the following information: contact name, email address, telephone number and work address.

SUPPORT PLAN FEATURES

Software Updates

"Update" means a subsequent release of the software which Contractor through MarkLogic generally makes available for licensed installations to its supported customers at no additional license fee, provided Ordering Activity have purchased maintenance and support services for such licenses for the relevant time period. Updates do not include any release, option, or future software that MarkLogic licenses separately.

Software Updates is the base level for all MarkLogic support services and consists of:

- Major, minor, and service releases
- Patches
- Documentation updates
- Bug fix information

Updates are provided when available, and Contractor through MarkLogic is under no obligation to develop any future software or

Ordering Activity support contacts are notified when updates become available. Contractor through MarkLogic will provide download information; Ordering Activity is responsible for downloading and installing the updates.

Technical Support

Technical Support consists of assistance with unlimited support requests and includes email and telephone support during standard business hours. Contractor through MarkLogic's standard business hours are 9 a.m. to 5 p.m., except for holidays observed by MarkLogic. Holidays are posted on the support site.

Support requests for severity 1 issues (as defined below) should be submitted at any hour via email to urgent@marklogic.com or by calling our urgent support telephone number: 650-655-2303.

Contractor through MarkLogic is not obligated to provide other support services or levels, including support directly to end users or customers of our customers or any other third party.

WHAT TO DO PRIOR TO LOGGING A SERVICE REQUEST

Before contacting MarkLogic Support, please follow the general checklist provided below:

- Ensure that Ordering Activity have been registered as a customer support contact.
- Review the product documentation, including troubleshooting instructions.
- Ensure that Ordering Activity have a supported system configuration.
- Document all pertinent information regarding your deployment: Product name and version, hardware and operating system, description of the problem (including error messages, and the circumstances under which problem occurred, including the events and actions leading up to the problem)
- Prepare a minimum reproducible case. When submitting a service request, your support contact should have a baseline understanding of the problem you are encountering and an ability to reproduce the problem in order to assist MarkLogic in diagnosing and triaging the problem.

UNDERSTANDING CASE PRIORITY AND RESPONSE TIME TARGETS

Ordering Activity and the MarkLogic support engineer will work together to assign the appropriate priority level to Ordering Activity's service request. The MarkLogic support engineer will classify Ordering Activity's support need and the problem severity according to the following criteria.

Case Priority Problem Severity	Response Goals
1 – Severe The system or major application is down or seriously impacted, or data is lost or destroyed, and there is no reasonable workaround currently available (system crashes or panics, corrupted data).	MarkLogic responds within 1 hour.
2 - High The system or application is moderately affected. There is no workaround currently available or the workaround is cumbersome to use.	MarkLogic responds within 4 business hours.
3 - Medium The system or application issue is not critical: no data has been lost, and the system has not failed. The issue has been identified and does not hinder normal operation, or the situation may be temporarily circumvented using an available workaround.	MarkLogic responds within 1 business day.
4 – Low Non-critical issues, general questions, enhancement requests.	MarkLogic responds within 3 business days.

Response time is the time it takes to answer the initial contact on a service request, and assumes the support request was properly filed through documented procedures. Response time is not a resolution goal and should not be interpreted as a guarantee of service.

TECHNICAL SUPPORT LIFE CYCLE

Product Release Numbering

Contractor through MarkLogic uses a three-place numbering scheme to designate released versions of software. The format is VV.RR-MM, where V indicates the version, R indicates the release level, and MM indicates the maintenance level. An example would be Version 3.0-1 (abbreviated 3.0-1).

A major release indicates major enhancements to product functionality. A change in the VV number denotes a major release, e.g. 3.0-1.

A minor release is provided to introduce enhanced functionality on a smaller scale. A change in the RR number denotes a minor release, e.g. 3.1-1.

A service release is produced to roll out resolutions to a number of problems that have been identified in the product. A change in the MM numbering denotes a service release, e.g. 3.1-2.

Maintenance and Assistance Support

Maintenance Support includes Software Updates as defined previously.

Assistance Support includes assistance and workarounds for resolving known problems. As a product enters Assistance Support phase, the following guidelines apply:

- New enhancements and error corrections will not be made to the version/release.
- Contractor through MarkLogic will direct customers to existing fixes/patches and workarounds applicable to the reported case.
- Contractor through MarkLogic may direct customers to upgrade to a more current version/release of the product.

Support Cycle

When a major release is made available, Contractor through MarkLogic will continue to provide Maintenance Support for the prior major release for a period of at least 365 days from the declared production date of the new major release. After this period, MarkLogic will provide Assistance Support for a period of at least an additional 180 days.

When a minor release is made available, Contractor through MarkLogic will continue to provide Maintenance Support for the prior minor release for a period of 365 days from the declared production date of the new minor release. After this period, MarkLogic will provide Assistance Support for a period of at least an additional 180 days.

Contractor through MarkLogic will only provide maintenance support for the last two minor releases at any given time. For example, if MarkLogic has released versions 3.0, 3.1 and 3.2, it will only provide maintenance support for 3.1 and 3.2.

When a service release is made available, Contractor through MarkLogic will continue to provide Assistance Support for the prior service release for a period of 90 days from the declared production date of the new service release.

The support cycle described above is based on a major and minor release frequency that results in an average minor release lifespan of 18 – 24 months.

End of Life

In an effort to continuously enhance and improve our product offering, it may become necessary as a part of MarkLogic's product lifecycle to declare that a particular product or product configuration (eg. a particular operating system release) is at the "end of life" stage and therefore, Contractor through MarkLogic reserves the right to desupport that product or product configuration. End-of-Life Notices generally are available 12 months in advance of the desupport date.

Desupport Notices are provided to Ordering Activity by either mail or e-mail. Desupport Notices contain desupport dates, information about availability of Maintenance Support and Assistance Support, and information about migration paths for certain features. Desupport Notices are subject to change. MarkLogic will provide updated Desupport Notices as necessary.

ORDERING ACTIVITY'S RESPONSIBILITIES

As a customer of MarkLogic's support services, Ordering Activity have the following responsibilities:

- Ordering Activity will provide Contractor through MarkLogic with access to Ordering Activity personnel and equipment during normal business hours. This access must include the ability to log in to the equipment on which the software is operating and to obtain the same access as the highest privilege level.
- Ordering Activity will provide supervision, control and management of the use of the software. In addition, Ordering Activity will implement procedures for the protection of information and the implementation of backup facilities in the event of errors of malfunction of the software or equipment. Contractor through MarkLogic will not be responsible for any loss of information or data while performing maintenance.
- Ordering Activity will document and promptly report to Contractor through MarkLogic any errors or malfunctions of the software, and will freely provide MarkLogic with all relevant and requested information regarding such errors or malfunctions. Ordering Activity will take all steps necessary to carry out procedures for the rectification of errors or malfunctions within a reasonable time after such procedures have been received from MarkLogic.
- Ordering Activity will maintain a current backup copy of all software and data.
- Ordering Activity will properly train your personnel in the use and application of the software and the equipment on which it is used.

Should Ordering Activity opt to not fully meet or perform your responsibilities as outlined above, Contractor through MarkLogic's ability to provide Ordering Activity with full and complete support under these policies will be significantly impaired. In this situation, MarkLogic's obligation will be to use its good faith reasonable efforts to provide the services described in this handbook.

SUPPORT TERMS

Support Period

Technical Support is effective upon the effective date of the order document. Unless otherwise stated in the order document, MarkLogic technical support reflects a 12 month support period (the "support period"). Contractor through MarkLogic is not obligated to provide technical support beyond the end of the support period.

Matching Service Levels

When acquiring technical support, all licenses must be supported under the same technical support service level. Ordering Activity may not support a subset of licenses.

Exclusions

Support does not include events arising from the following:

- Accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure of electric power, air conditioning or humidity control; failure of rotation media not furnished by Contractor through MarkLogic; operation of the software with other media not meeting or not maintained in accordance with the manufacturer's specifications; or causes other than ordinary use.
- Improper installation by Ordering Activity or use of the software that deviates from any operating procedures established by Contractor through MarkLogic in the applicable documentation.
- Software that does not incorporate all of the required Major, Minor, and Service Releases, Patches and other release(s) provided by Contractor through MarkLogic.
- Modification, alteration or addition or attempted modification, alteration or addition of the software undertaken by persons other than Contractor through MarkLogic or MarkLogic's authorized representatives.
- Software, hardware or technology of any third party other than Contractor through MarkLogic (including those of the Ordering Activity).

MarkLogic Server ships with sample applications in installation directories named Samples or samples. These sample applications are collectively called Sample Software. Contractor through MarkLogic is under no obligation to support Sample Software and it is offered "as is" without a warranty expressed or implied. MarkLogic is not responsible for the maintenance of Sample Software. MarkLogic does not guarantee the publication or availability of any Sample Software within or between major, minor and service releases. MarkLogic is not responsible for any consequences resulting from the use of Sample Software. Sample Software is employed solely at the customer's risk and should be thoroughly tested before use in a production system.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **MSC Software Corporation** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided

however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

MSC SOFTWARE

MSC SOFTWARE LICENSE, WARRANTY AND SUPPORT TERMS

DEFINITIONS

"Authorized Users" means Ordering Activity's: (i) employees, and (ii) contractors working on Ordering Activity's premises who are not competitors of Contractor and have agreed in writing to use restrictions and confidentiality obligations no less restrictive than those set forth in this Attachment. Ordering Activity shall at all times be responsible for its Authorized Users' compliance with this Attachment.

"Ordering Activity Computer" means the Ordering Activity computer specifically identified in the Order Schedule. The Ordering Activity Computer runs the license manager program accompanying the Software and is sometimes referred to herein as the "license server".

"Documentation" means the user manuals and other written materials, in any form and on any media, provided by Contractor for use with the Software.

"Installation Site" means the Ordering Activity facility identified in the Order Schedule where the Ordering Activity Computer resides.

"Lease License" means a license of short-term duration (often a year). The specific license term of any Lease License acquired by Ordering Activity shall be set forth in the Order Schedule, subject to termination as set forth in this Attachment. Unless otherwise stated in the Order Schedule, for a Lease License, Maintenance during the license term is included in the Lease License fee.

"Maintenance" means software maintenance and technical support as described below in this Attachment.

"Order Schedule" means Contractor's form Order Schedule or any other mutually agreed upon order schedule which references this Attachment (by citing the Contractor Attachment Number above or otherwise) and sets forth, among other things, the Software, Maintenance and/or Services to be provided by Contractor to Ordering Activity hereunder and the fees to be paid by Ordering Activity.

"Paid-up License" means a license which has a term beginning on the date specified in the Order Schedule and continuing perpetually, subject to termination as set forth in this Attachment.

"Services" means training or other services, if any, purchased by Ordering Activity under this Attachment pursuant to a mutually agreed upon Order Schedule.

"Software" means the executable code version of the computer program(s) specified in the applicable Order Schedule, including any error corrections and subsequent releases thereto furnished by Contractor to Ordering Activity under Maintenance. Additional terms with specific meanings are defined near where they first appear in this Attachment.

GRANT OF LICENSE. Upon Contractor's acceptance of Ordering Activity's Order Schedule, Contractor grants to Ordering Activity, and Ordering Activity accepts from Contractor, a non-exclusive, non-transferable license to use the Software specified in the Order

Schedule (together with accompanying Documentation, if any), solely for Ordering Activity's own internal data processing purposes and subject to the terms and conditions of this Attachment. This license shall be in accordance with the limitations of the license type(s) and in the quantities specified in the Order Schedule. The license term(s) (duration) shall be as specified in the Order Schedule, subject to early termination as set forth in this Attachment.

LICENSE TYPES.

Nodelock License: If Ordering Activity acquires a Nodelock License, installation and use of the Software will be limited to a single Ordering Activity Computer. The number of target host-ID's may not exceed the number of Nodelock License(s) purchased. Software licensed under a Nodelock License may only be accessed or used by Authorized Users who are physically located at the Installation Site.

Named User License: If Ordering Activity acquires a Named User License, access to and use of the Software will be controlled by a single Ordering Activity Computer (license server), and named users may access and use the Software on client machines served by the license server, provided that access to and use of the Software at any one time does not exceed the number of Named User Licenses acquired by Ordering Activity for that Software. For certain Software, a named user may have the option to run more than one instance of the Software at any one time, in which case each such additional instance is counted separately and will require an additional Named User License. Ordering Activity is responsible for designating and maintaining (in the license manager program that accompanies the Software) the list of individual "named user(s)" authorized to access and use each Software, and may re-edit the list of named users, provided that the number of named users never exceeds the number licensed for each Software. Each named user designated by Ordering Activity must be an individual who at all times during the designation meets the definition of an "Authorized User". Group or shared logins are strictly prohibited. In addition to any other restrictions set forth herein, Software licensed under a Named User License may only be accessed or used in the country where the Installation Site is located.

Network (Floating) Licenses: If Ordering Activity acquires a Local Network License, Country Network License, or Regional Network License, access to and use of the Software will be controlled by a single Ordering Activity Computer (license server) and Authorized Users may access and use the Software on client machines served by the license server, provided that access to and use of the Software at any one time does not exceed the number of floating licenses (or "licensing units/tokens" in the case of an Contractor "Licensing System" acquired by Ordering Activity for that Software. In addition, Ordering Activity shall strictly comply with the following restrictions: (i) if Ordering Activity acquires a Local Network License (also sometimes referred to simply as a Network License), the Software may only be accessed or used by an Authorized User physically located at the Installation Site (on client machines located at the Installation Site), or if Ordering Activity's local area network is shared by a grouping of Ordering Activity facilities, then by Authorized Users physically located at any Ordering Activity facility within ten (10) miles of the Installation Site (on client machines located at any such Customer facility); (ii) if Ordering Activity acquires a Country Network License, the Software may only be accessed or used by Authorized Users located at Ordering Activity facilities located within the country where the Installation Site is located (on client machines located at such Customer facilities); or (iii) if Ordering Activity acquires a Regional Network License, the Software may only be accessed or used at Ordering Activity facilities located in North, Central and South America (Contractor's "Americas Region") (on client machines located at such Customer facilities). Any network (floating) license acquired by Ordering Activity hereunder shall be deemed a Local Network License, unless it is expressly identified in the Order Schedule as a "Country" or "Regional" Network License.

Licensing System-Specific Terms: If Ordering Activity licenses Software under the Contractor.MasterKey Plus licensing system, or other similar Contractor token licensing system (each a "Licensing System") then in addition to the above terms in Section 4.3, the following Licensing System-specific terms apply: Under a Licensing System, Ordering Activity purchases "licensing units" (e.g., "Masterkey PlusTokens" are licensed under the Contractor.MasterKey Plus licensing system). A specified number of licensing units are required to run each instance of each Software licensed under the Licensing System. Licensing units acquired under one Licensing System cannot be used to run Software under another Licensing System (e.g., Contractor.MasterKey Plus Tokens may not be used to run software available under the Enterprise Advantage licensing system). Software licensed under a particular Licensing System is strictly limited to the software identified in the applicable Licensing System attachment (sometimes referred to as a "Summary Sheet") attached to or incorporated into the Order Schedule or this Attachment. Ordering Activity shall not be entitled to use any other software programs under the Licensing System, whether or not such other software programs are marketed by Contractor under the same Licensing System.

RESTRICTIONS AND PROTECTIONS.

Ordering Activity acknowledges that the Software and its structure, organization and source code constitute and contain valuable confidential information and trade secrets of Contractor and/or its suppliers. Accordingly, Ordering Activity shall not: (i) reverseengineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software; (ii) modify, adapt, alter, translate or create derivative works from the Software or Documentation; (iii) sublicense, rent, loan, lease, sell, or otherwise transfer all or part of the Software or Documentation to any third party except as expressly permitted under this Attachment; (iv) allow any third party to access or use the Software on a service bureau, application service provider, time-sharing, or similar basis; (v) access or use the Software to provide data processing services to others; (vi) disable, modify or circumvent the license management system or security mechanism provided with the Software or take any other steps to avoid or defeat the license management system or security mechanisms provided with the Software; (vii) remove, alter, or obscure any proprietary notices, labels, or marks from the Software or Documentation; (viii) disclose results of any Software test or benchmark without Contractor's prior written consent; (ix) use the Software to develop software applications for use by or distribution to any third party; (x) use the Software or its output for the purposes of developing a competitive product or service; (xi) disclose, display, or permit access to or use of the Software or Documentation by persons other than Authorized Users using the Software and Documentation within the scope of the

license acquired by Ordering Activity, or (xii) otherwise use or copy the Software or Documentation except as expressly permitted under this Attachment. Ordering Activity agrees to notify Contractor immediately of any unauthorized access to or use of the Software. Ordering Activity shall at all times be responsible for its Authorized Users' compliance with this Attachment.

Ordering Activity may not copy or otherwise reproduce the Software in whole or in part, except (i) as may be required for installation into the computer memory for the purpose of executing the Software for licensed use and/or (ii) to make one copy for backup purposes. Any such copies made by Ordering Activity shall be the property of Contractor, and Ordering Activity must reproduce and include, in exact form, all proprietary rights notices. Ordering Activity shall maintain records of the location of each copy of the Software, and the location and identity of the computers on which the Software is installed.

The Software and Documentation, and all worldwide intellectual property rights therein, are and remain the property of Contractor and/or its suppliers. Nothing in this Attachment will be deemed to convey to Ordering Activity any title, ownership, or other intellectual property rights in or related to the Software or Documentation, and Ordering Activity agrees not to assert any such rights. All rights in and to the Software and Documentation not expressly granted to Ordering Activity in this Attachment are reserved by Contractor and/or its suppliers.

Upon fifteen (15) days written notice, Contractor may audit Ordering Activity's installation and use of the Software and Documentation. Ordering Activity shall cooperate with Contractor's audit and provide reasonable assistance and access to information, including without limitation reasonable access to Ordering Activity's facilities and computer systems during normal business hours. In addition to any other remedies available to Contractor, Contractor shall invoice Ordering Activity to pay within thirty (30) days of written notification any fees and charges applicable to Ordering Activity's use of the Software and Documentation in excess of Ordering Activity's license rights. Contractor shall not be responsible for Ordering Activity's costs incurred in cooperating with the audit. Contractor shall comply with all Ordering Activity's reasonable security procedures while on Ordering Activity's facilities.

MAINTENANCE.

If Ordering Activity acquires Maintenance for Software, then during the applicable Maintenance term and subject to the terms and conditions of this Attachment, Contractor will provide Ordering Activity with error corrections and subsequent releases of the Software (and updated Documentation), if any, that Contractor, in its sole discretion, makes generally available at no additional charge to its end-users who are on Maintenance. Maintenance shall not entitle Ordering Activity to any release, option, module, or future product, which Contractor, in its sole discretion, licenses separately or offers for an additional fee. Contractor is under no obligation to develop any future programs or functionality. Contractor reserves the right to discontinue, in whole or in part, and at any time, offering Maintenance for any Software or platform.

Further, if Ordering Activity acquires Maintenance for Software, then during the applicable Maintenance term and subject to the terms and conditions of this Attachment, Contractor will provide Ordering Activity with technical support in English via telephone, email and any other means Contractor, in its sole discretion, makes generally available from time to time under technical support. Technical support is provided only for the then-current major release and the immediately preceding major release (as designated by Contractor) of the Software, running unaltered, and on an appropriate hardware and operating system configuration, as specified in the applicable Documentation. Technical support is limited to reasonable assistance in response to Ordering Activity's technical support inquiries regarding: (i) Software installation, (ii) Software errors, and (iii) general questions regarding the usage of Software features. Technical support does not include training, consulting, on-site services, or the provision of engineering judgment for a customer-specific simulation. Upon Contractor's request, Ordering Activity shall provide information required by Contractor to verify that Ordering Activity and the specific license are entitled to technical support. To allow Contractor to properly address technical issues, Contractor may request that Ordering Activity provide files and other materials and information.

If Ordering Activity acquires Maintenance, the term and fees for Maintenance shall be set forth in the Order Schedule. Maintenance fees are due and payable in advance of the Maintenance term. Unless otherwise agreed to by the parties in writing: (i) annual Maintenance renewal, if any, will be at Contractor's then-current Maintenance prices, and (ii) to purchase any Maintenance, Ordering

Activity is required to purchase Maintenance for all Software Ordering Activity has licensed from Contractor. In the event that Maintenance expires or was not originally purchased, upon the commencement of Maintenance a reinstatement fee equal to what the Ordering Activity would have paid if it did not let Maintenance expire or originally purchased will be assessed in accordance with Contractor's then current GSA Schedule prices. In addition to any other remedies available to Contractor, Contractor reserves the right to refuse to provide Maintenance if Ordering Activity is overdue on any payment obligation under this Attachment.

Ordering Activity's remedy for a failure to meet any obligation under Maintenance and failure to cure such deficiency after thirty (30) days written notice will be that Ordering Activity may terminate Maintenance for the Software involved and receive a pro-rata return of any Maintenance fees paid for the remaining unused Maintenance period of the Software involved.

INSTALLATION AND AUTHORIZATION CODES.

Ordering Activity may install the Software only on the applicable Ordering Activity Computer identified in the Order Schedule, provided however that in the case of a Network (Floating) License or a Named User License Ordering Activity may install the Software on client machines within the scope of the license type acquired, as long as use of the Software is controlled by the license

management program accompanying the Software and installed on the Ordering Activity Computer (license server). Ordering Activity shall be responsible for installation of the Software and all associated costs. Ordering Activity may only relocate the Ordering Activity Computer with Contractor's prior written consent.

THE SOFTWARE MAY REQUIRE AUTHORIZATION CODES (also known as "LICENSE KEYS") TO RUN. ANY SUCH REQUIRED AUTHORIZATION CODES WILL BE ISSUED IN ACCORDANCE WITH CONTRACTOR'S THEN-CURRENT LICENSE MANAGEMENT POLICY. Ordering Activity shall provide Contractor with the host identifier and any other information reasonably required by Contractor for each Ordering Activity Computer to permit Contractor to generate the necessary authorization codes. Use of any Software without any required MSC-issued authorization codes is prohibited.

Contractor reserves the right to charge Contractor's then-current standard hardware transfer fees whenever Contractor, in response to an Ordering Activity request, generates and delivers to Ordering Activity replacement authorization codes due to a change to the Ordering Activity Computer. Prior to any such delivery, Ordering Activity shall complete, sign and submit Contractor's standard hardware transfer request form. Contractor has no obligation to provide replacement authorization codes for changes to the Ordering Activity Computer if: (i) the Software is not supported on the proposed substitute computer; or (ii) if Ordering Activity is in breach of this Attachment. Contractor will not provide replacement authorization codes to Customer if the applicable Software is not currently covered by maintenance.

Software piracy is illegal and MSC. Software Corporation and its affiliates reserve the right to take all legal steps to stop piracy of their products and pursue those who take part in these activities. As part of these anti-piracy efforts, the Software may contain security mechanisms intended to detect the installation or use of illegal copies of the Software, and collect and transmit data relating to those illegal copies, and installation or use thereof, to MSC. Software Corporation and/or its affiliates, and/or their agents, contractors, suppliers, successors and assigns. By installing or using the Software, Ordering Activity agrees to such detection, collection and transmission, as well as to the use of such data, for the purposes of identifying illegal usage and protecting and enforcing intellectual property rights.

WARRANTY; LIMITATIONS.

Contractor warrants that the Software when used as permitted under this Attachment and in accordance with the instructions in the Documentation (including use on a computer hardware and operating system platform supported by Contractor) will conform substantially to its associated Documentation for a period of ninety (90) days from the delivery date. Any claim by Ordering Activity of a breach of this warranty must be made in writing and within ninety (90) days of the delivery date.

EXCEPT AS EXPRESSLY STATED IN THE PRECEDING PARAGRAPH OF THIS ATTACHMENT AND TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, NEITHER CONTRACTOR NOR ANY SUPPLIER OF CONTRACTOR MAKE ANY WARRANTIES OF ANY KIND, WITH RESPECT TO THE SOFTWARE, DOCUMENTATION, MAINTENANCE, OR SERVICES PROVIDED UNDER THIS ATTACHMENT. CONTRACTOR FURTHER EXPRESSLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CONTRACTOR MAKES NO WARRANTY THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

Ordering Activity's exclusive remedy, and Contractor's sole liability, for Software that does not meet the warranty set forth in Section 10.1 will be, at Contractor's option: (i) to correct the non-conforming Software within a reasonable time so that it conforms to the warranty; (ii) to replace the non-conforming Software with another Contractor software offering of substantially similar functionality; or (iii) if neither (i) or (ii) is commercially feasible, permit Ordering Activity to terminate the license as to the nonconforming Software and refund of the license fees and associated, unused Maintenance fees actually paid to Contractor for the non-conforming Software. Contractor will have no responsibility or obligation under the foregoing warranty or otherwise with respect to: (a) any Software that has been modified by anyone other than Contractor, or (b) failure of the Software caused by Ordering Activity or its agents through accident, abuse or misapplication.

US GOVERNMENT USE.

If Customer is a branch or agency of the U.S. Government or is licensing the Software on behalf of the U.S. Government ("Government"), the following provisions apply to this Agreement. If the Software is supplied to the Department of Defense ("DoD"), it is classified as "Commercial Computer Software" under clause 252.227-7014 of the DoD Supplement to the Federal Acquisition Regulations ("DFARS") (or any successor regulations) and the Government is acquiring only the license rights granted herein (the license rights customarily provided to non-Government users). If the Software is supplied to any unit or agency of the U.S. Government other than the DoD, it is classified as "Restricted Computer Software" and the Government's rights in the Software are defined in clause 52.227-19 of the Federal Acquisition Regulations ("FAR") (or any successor regulations) or, in the case of NASA, in clause 18.52.227-86 of the NASA Supplement to the FAR (or any successor regulations).

MASTERKEY PLUS ADDENDUM

The terms and conditions of this MasterKey Plus Addendum ("Terms") apply when Ordering Activity licenses Software under MSC's

MasterKey Plus™ licensing system. These Terms are in addition to, and not in lieu of, the terms and conditions of the MSC software license agreement (and any amendments thereto) entered into by MSC and Ordering Activity (the "Agreement"). In the event of a conflict between these Terms and terms and conditions of this Attachment A, these Terms shall prevail with respect to Software licensed by Ordering Activity under the MasterKey Plus licensing system. Unless otherwise defined in this Addendum, capitalized terms shall have the same meaning as in this Attachment A.

MasterKey Plus Licensing System. MasterKey Plus is a flexible licensing system under which Ordering Activity may use multiple software products by purchasing licensing units known as MasterKey Plus Tokens (hereinafter, "Tokens"). A specified number of Tokens is required to run each floating license of software licensed under MasterKey Plus. The specified number of Tokens is "checked out" from Ordering Activity's pool of Tokens when each floating license of software is executed and returned to Ordering Activity's Token-pool after usage. Token requirements are set forth in the applicable MasterKey Plus Table.

Licensed Software. Software licensed by Ordering Activity under the MasterKey Plus is strictly limited to: (i) the "Base Products" identified in the applicable MasterKey Plus Table; and (ii) any "Optional Product(s)" separately licensed by Ordering Activity under the MasterKey Plus licensing system, as specified in the applicable order documentation.

Base Products. By purchasing Tokens under MasterKey Plus, Ordering Activity licenses the Software identified in the applicable MasterKey Plus Table under "Base Products". Access to and use of a Base Product at any moment in time will be limited by the number of Tokens then available for check -out in Ordering Activity's Token-pool.

Example: If each floating license of Base Product "A" checks out 50 Tokens, and at a given time 250 Tokens are available for check- out, then Ordering Activity can run up to 5 floating licenses of Base Product "A".

Optional Products. The purchasing of Tokens does not result in any license with respect to Optional Products. Ordering Activity may, subject to availability, purchase a license to use Optional Product(s) within the MasterKey Plus licensing environment (i.e., with Ordering Activity's Token-pool). The license fees (and any associated Maintenance fees) for any licensed Optional Product(s) will be as set forth in the applicable order documentation. Optional Products may be available for licensing under "Token -Based" and/or "Seat Based" models, each of which is described below.

1. "Token -Based" Model. If an Optional Product is licensed under a "Token-Based" model, then the "quantity" for that Optional Product as set forth in the applicable order document shall reflect the number of Tokens enabled for use of that Optional Product, and access to and use of each such licensed Optional Product at any moment in time will be limited by the number of enabled Tokens then available for check- out. The licensing (enablement) of each Optional Product requires payment of additional fees. To license any Optional Product under the "Token -Based" model, Ordering Activity is required to pay a license (enablement) fee for all Tokens in the Ordering Activity Token-pool. No partial enablement of the Token -pool permitted.

2. "Seat -Based" Model. If an Optional Product is licensed under a "Seat-Based" model (formerly sometimes referred to as "Premium Option"), then the "quantity" for that Optional Product as set forth in the applicable order document shall reflect the number of floating license(s) (or "seat(s)") acquired for that Optional Product, with each such floating license requiring a designated number of Tokens to run. Access and use of an Optional Product licensed under the Seat -Based model at any moment in time will be limited by both the number of seats acquired for that Optional Product and the number of Tokens then available for check -out.

All references in this Addendum to "purchase" of Tokens or software shall mean purchase of a license to use software. Software is licensed, not sold.

SIMMANAGER LICENSE MANAGEMENT

(Rev. Nov 2013)

The terms of this section shall apply to MSC's SimManager™ software, if any, licensed by Ordering Activity.

As a server/client application that enables users to manage simulation data and to execute remote processes on external compute resources, a typical implementation of SimManager will require multiple license types in operation. The SimManager licenses and quantities ordered, if any, by Ordering Activity will be as set forth in the body of the applicable order schedule (or other order document) entered into by Contractor and Ordering Activity. This document provides a description of the various SimManager component license types. There are four types of licenses that are applicable to SimManager:

- SimManager Portal License
- SimManager User License
- Add On Module License
- Concurrent Process License

SIMMANAGER PORTAL LICENSE

A SimManager Portal refers to a single logical instance of SimManager with a unique URL address, dedicated database instance, security layer, and portal configuration. A single SimManager Portal may be supported by either a single web application server or a cluster of web application servers in a load-balanced/high-availability configuration. In the latter case, the SimManager server software will be installed on each of the web application servers (see Note below). A Portal License is required to operate a single SimManager Portal in either case.

Note: Ordering Activities are only required to purchase a single Portal License to operate a single SimManager Portal in a clustered environment. However, it is required that Portal Licenses are used for each SimManager server that is installed in a clustered environment. The additional Portal Licenses that are to be used exclusively for the servers in the clustered environment supporting the original, single portal can be licensed from MSC upon request through your MSC account manager. Please consult with your account manager to request adequate licenses to run SimManager in your particular environment.

Additional and separate SimManager Portals (with its own URL, dedicated database instance, security layer, and portal configuration) require a separate Portal License purchase, even if located in the same facility or on the same hardware.

In the case of multi-site configuration of a single SimManager Portal, the second, third, etc., instance of the same SimManager Portal will also require a separate Portal License purchase.

SIMMANAGER USER LICENSES

SimManager supports two different user licenses, referred here as "Named User License" or a "Concurrent User License". The following sections describe the two different types of Licenses. In both cases, user refers to any Authorized User (as defined the Attachment) worldwide (subject to U.S. and other applicable export laws and regulations), for whom a SimManager authorized account is established by Ordering Activity.

"CONCURRENT USER LICENSE"

The Concurrent User License (sometimes referred to as concurrent or floating) allows multiple users to utilize the same license, but not simultaneously. When a user logs into SimManager, a Concurrent User License is checked out from the license server. When the user logs out, or when the Web server terminates its session due to inactivity, the Concurrent User License is released and is available for use by another user. The maximum number of users who can log into the SimManager portal simultaneously is equivalent to the total number of SimManager Concurrent User Licenses.

Note: The Concurrent User License authorizes a maximum number of simultaneous or concurrent users, which is equivalent to the number of Concurrent User Licenses. An authorized user is permitted to login and run multiple sessions of SimManager, however, each session will consume an additional Concurrent User License. When individual users consume multiple licenses, it may result in denied access to other users if all licenses have been consumed.

NAMED USER LICENSES

The following provides a description of the various user license types for a "Named User License":

1. A SimManager Full Client license for each user who will be creating data and executing actions within SimManager
2. A SimManager Limited Client license for each user who will be viewing/accessing data within SimManager

In both cases, Ordering Activity will use such software tools or utilities in accordance with the following: (i) Ordering Activity will establish an account on SimManager for each access to or use of SimManager Software; (ii) Ordering Activity will provide each SimManager Named User with a personal account number, password or other security code in order to provide the SimManager with access to the appropriate SimManager Named User Account; (iii) each SimManager Named User Password is personal to the person to whom it has been assigned and may not be shared, disclosed, or transferred to any other person; and (iv) Ordering Activity has sole responsibility for establishing and administering the system through which the Central Administration Services Level Tool is used to add, reassign or inactivate SimManager named users accounts.

SIMMANAGER FULL CLIENT LICENSE

A Full Client License enables a user in SimManager complete access to data/actions. The user privileges can be further controlled by the authorization layer within SimManager based on the user's role and access to projects. Each user activated by the SimManager administrator will consume one license, independently of how the user is logged in and how many sessions the user has open (e.g. from the web client or other thick client). The license will only be released when the user is made inactive by the SimManager administrator. Even if the user logs out of SimManager, the license will NOT be released.

SIMMANAGER LIMITED CLIENT LICENSE

A Limited Client License enables a user in SimManager read-only access to the data and only limited actions in the system (e.g. change password, search). The user privileges can be further controlled by the authorization layer within SimManager based on the user's role and access to projects. Each user activated by the SimManager administrator will consume one license, independently of how the user is logged in and how many sessions the user has open (e.g. from the web client or other thick client). The license will only be released when the user is made inactive by the SimManager administrator. Even if the user logs out of SimManager, the license will NOT be released.

ACTIVE VS. INACTIVE USERS

Within the Administration Workspace of SimManager, the system administration can assign either a Full Client License or a Limited Client License to each user. In addition, each user can be given the status of Active "true" (Active) or Active "false" (Inactive). Only active users in the system will be assigned an actual user license based on their assigned license type, Full Client or Limited Client. Additionally, only the maximum number of available licenses of either license type can be assigned to users. For example, if there are 20 users registered in SimManager and there are 5 Full Client Licenses and 5 Limited Client Licenses, then there can only be 5 Active Full Client users and 5 Active Limited Client users. All other attempts to assign the other 10 users an Active status will fail, until one of the 5 Active Full or 5 Active Limited clients are made Inactive.

Additionally, there is a minimum of one (1) required SuperUser in the system. By default, "SimMan", is the SuperUser defined in the out of the box configuration, but this user can be replaced by another designated SuperUser and "SimMan" can be made Inactive, thus releasing its Full Client License.

During initial setup of SimManager and the assignment of Active status and the License Type to each user, the "License Checked Out" status may indicate "false" to a user who has been assigned both Active status and a specific license type. If this is the case, the user has been assigned a license but it has not been checked out from the license server yet and only upon login by the user, will the "License Checked Out" status change from "false" to "true". When the user logs out, the "License Checked Out" status will remain "true", indicating a license remains checked out and allocated to that user. The license will only be released if the user is made Inactive or the SimManager server is shut down.

ADD- ON MODULE LICENSING

SimManager offers additional add-on modules for use with SimManager. These modules are separately licensed within SimManager, which are separately purchased for use with a SimManager portal. Add-On Modules can be accessed by either a "Concurrent User License" or a "Named User License". If Add-on Modules are licensed for Concurrent Users, the number of Concurrent Add-on Module Licenses must match the number of Concurrent User Licenses. Named Add-On Modules do not need to be equal to the number of Named Users. In order for a Named user to have access to a module, they will need to be granted access to the module via a Module Administrative action. When the user is assigned to the module, a license will be checked out for that user granting them permission to access the module. When the user is removed, the license will be available to be assigned to another user.

REPORT GENERATOR

The Report generates formal reports in HTML, PDF, PowerPoint or Word format from SimManager-stored objects. Reports may be saved as templates which can be auto-executed as part of a multi-step process.

SIMULATION GENERATOR

The Simulation Generator is used to define the assembly of load case-specific simulations. An analyst can build up FE models based on a flexible definition of the structure of models, load cases, assembly, analysis, and post-processing methods. Any number of analysis runs can be started at once after changing one or more sub-models.

SIMMANAGER DEVELOPMENT PORTAL PACKAGE

The Development Portal Package is to be used for development and testing of a SimManager Portal in a non-production environment. The Development Portal Package consists of a SimManager package with the following licenses: (i) Portal Licenses; (ii) Concurrent Process Licenses; (iii) Concurrent User Licenses; (iv) Full Client Named User License; (v) Limited Client Named User Licenses; and (vi) Add-on Module Licenses, as described above

All licenses must be established on a non-production license server separate from the production license server. The Development Portal Package licenses cannot be used or combined with standard licenses that are being used for a production SimManager Portal.

Note: A Development Portal Package may be required for each stage of a non-production SimManager Portal. Some companies may have a multi-stage development environment that includes development, test and pre-production prior to

enabling SimManager in production. Each stage of SimManager prior to production may require a separate Development Portal Package if it is to be run simultaneously with other non-production versions of SimManager. Additionally, each developer of a SimManager Portal may require a Development Portal Package. Please consult with your account manager to appropriately plan the required number of Developer Portal Packages.

SIMMANAGER CONCURRENT PROCESS LICENSE

A Concurrent Process License enables the execution of client plug-in or application from SimManager. Client plug-in or applications that are integrated into SimManager will draw a Concurrent Process License provided from SimManager. User license will also be checked out during client connections to SimManager. The maximum number of users accessing SimManager from a Client integration cannot exceed the number of Concurrent Process Licenses. Concurrent Process Licenses are used for

- Client access from the SimManager Microsoft Excel Add-in
- CAE, CAD, PDM client integration access (e.g.: Patran-SimManager Integration)
- Other specific client actions or processes may be licensed as SimManager Concurrent Process License

MATERIALCENTER LICENSE MANAGEMENT (Rev. Nov 2013)

The terms of this document shall apply to MSC's MaterialCenter™ software, if any, licensed by Ordering Activity.

As a server/client application that enables users to manage materials data and to execute processes on external compute resources, a typical implementation of MaterialCenter will require multiple license types in operation. The MaterialCenter licenses and quantities ordered, if any, by Ordering Activity will be as set forth in the body of the applicable order schedule (or other order document) entered into by Contractor and Ordering Activity.

This document describes the various MaterialCenter component license types. There are four types of licenses that are applicable to MaterialCenter:

- MaterialCenter Portal License
- MaterialCenter User License
- Add On Module License
- Concurrent Process License

MATERIALCENTER PORTAL LICENSE

A MaterialCenter Portal refers to a single logical instance of MaterialCenter with a unique URL address, dedicated database instance, security layer, and portal configuration. A single MaterialCenter Portal may be supported by either a single web application server or a cluster of web application servers in a load-balanced/high-availability configuration. In the latter case, the MaterialCenter server software will be installed on each of the web application servers (see Note below). A Portal License is required to operate a single MaterialCenter Portal in either case.

Note: Ordering Activities are only required to purchase a single Portal License to operate a single MaterialCenter Portal in a clustered environment. However, it is required that Portal Licenses are used for each MaterialCenter server that is installed in a clustered environment. The additional Portal Licenses that are to be used exclusively for the servers in the clustered environment supporting the original, single portal can be licensed from MSC upon request through your MSC account manager. Please consult with your account manager to request adequate licenses to run MaterialCenter in your particular environment.

Additional and separate MaterialCenter Portals (with its own URL, dedicated database instance, security layer, and portal configuration) require a separate Portal License purchase, even if located in the same facility or on the same hardware.

In the case of multi-site configuration of a single MaterialCenter Portal, the second, third, etc., instance of the same MaterialCenter Portal will also require a separate Portal License purchase.

MATERIALCENTER USER LICENSES

MaterialCenter supports two different user licenses, referred here as "Named User License" and a "Concurrent User License". The following sections describe the two different types of Licenses. In both cases, user refers to any Authorized User (as defined the Attachment) worldwide (subject to U.S. and other applicable export laws and regulations), for whom a MaterialCenter authorized account is established by Ordering Activity.

"Concurrent User License"

The Concurrent User License (sometimes referred to as concurrent or floating) allows multiple users to utilize the same license, but not simultaneously. When a user logs into MaterialCenter, a Concurrent User License is checked out from the license server. When the user logs out, or when the Web server terminates its session due to inactivity, the Concurrent User License is released and is available for use by another user. The maximum number of users who can log into the MaterialCenter portal simultaneously is equivalent to the total number of MaterialCenter Concurrent User Licenses.

Note: The Concurrent User License authorizes a maximum number of simultaneous or concurrent users, which is equivalent to the number of Concurrent User Licenses. An authorized user is permitted to login and run multiple sessions of MaterialCenter, however, each session will consume an additional Concurrent User License. When individual users consume multiple licenses, it may result in denied access to other users if all licenses have been consumed.

Named User Licenses

The following provides a description of the various user license types for a "Named User License":

1. A MaterialCenter Full Client license for each user who will be creating and managing materials data and executing actions within MaterialCenter
2. A MaterialCenter Limited Client license for each user who will be viewing/accessing materials data within MaterialCenter

In both cases, Ordering Activity will use such software tools or utilities in accordance with the following: (i) Ordering Activity will establish an account on MaterialCenter for each access to or use of MaterialCenter Software; (ii) Ordering Activity will provide each MaterialCenter Named User with a personal account number, password or other security code in order to provide the MaterialCenter with access to the appropriate MaterialCenter Named User Account; (iii) each MaterialCenter Named User Password is personal to the person to whom it has been assigned and may not be shared, disclosed, or transferred to any other person; and (iv) Ordering Activity has sole responsibility for establishing and administering the system through which the Central Administration Services Level Tool is used to add, reassign or inactivate MaterialCenter named users accounts.

MaterialCenter Full Client License

A Full Client License enables a user in MaterialCenter complete access to data/actions. The user privileges can be further controlled by the authorization layer within MaterialCenter based on the user's role and access to projects. Each user activated by the MaterialCenter administrator will consume one license, independently of how the user is logged in and how many sessions the user has open (e.g. from the web client or other thick client). The license will only be released when the user is made inactive by the MaterialCenter administrator. Even if the user logs out of MaterialCenter, the license will NOT be released.

MaterialCenter Limited Client License

A Limited Client License enables a user in MaterialCenter read-only access to the material data and only limited actions in the system (e.g. change password, search). The user privileges can be further controlled by the authorization layer within MaterialCenter based on the user's role and access to projects. Each user activated by the MaterialCenter administrator will consume one license, independently of how the user is logged in and how many sessions the user has open (e.g. from the web client or other thick client). The license will only be released when the user is made inactive by the MaterialCenter administrator. Even if the user logs out of MaterialCenter, the license will NOT be released.

Active vs. Inactive Users

Within the Administration Workspace of MaterialCenter, the system administration can assign either a Full Client License or a Limited Client License to each user. In addition, each user can be given an Active status of "true" (Active) or "false" (Inactive). Only active users in the system will be assigned an actual user license based on their assigned license type, Full Client or Limited Client. Additionally, only the maximum number of available licenses of either license type can be assigned to users. For example, if there are 20 users registered in MaterialCenter and there are 5 Full Client Licenses and 5 Limited Client Licenses, then there can only be 5 Active Full Client users and 5 Active Limited Client users. All other attempts to assign the other 10 users an Active status will fail, until one of the 5 Active Full or 5 Active Limited clients are made Inactive.

Additionally, there is a minimum of one (1) required SuperUser in the system. A default SuperUser is defined in the out of the box configuration, but this user can be replaced by another designated SuperUser and default SuperUser can be made Inactive, thus releasing its Full Client License.

During initial setup of MaterialCenter and the assignment of Active status and the License Type to each user, the "License Checked Out" status may indicate "false" to a user who has been assigned both Active status and a specific license type. If this is the case, the user has been assigned a license but it has not been checked out from the license server yet and only upon login by the user, will the "License Checked Out" status change from "false" to "true". When the user logs out, the "License Checked Out" status will remain "true", indicating a license remains checked out and allocated to that user. The license will only be released if the user is made Inactive or the MaterialCenter server is shut down.

ADD-ON MODULE LICENSING

MaterialCenter offers additional add-on modules for use with MaterialCenter, which provide access to specific Add-on Module features. These modules are separately licensed within MaterialCenter, which are separately purchased for use with a MaterialCenter portal. Add-On Modules can be accessed by either a "Concurrent User Licenses" or a "Named User Licenses". If

Add-on Modules are licensed for Concurrent Users, the number of Concurrent Add-on Module Licenses must match the number of Concurrent User Licenses. Named Add-On Modules do not need to be equal to the number of Named Users. In order for a Named user to have access to a module, they will need to be granted access to the module via a Module Administrative action. When the user is assigned to the module, a license will be checked out for that user granting them permission to access the module. When the user is removed, the license will be available to be assigned to another user.

An example of add-on modules available as of the date of this document are given below.

Report Generator

The Report generates formal reports in HTML, PDF, PowerPoint or Word format from MaterialCenter-stored materials, properties, parameters and source information. Reports may be saved as templates which can be auto-executed as part of a multi-step process.

MATERIALCENTER CONCURRENT PROCESS LICENSE

A Concurrent Process License enables the execution of client plug-in or application from MaterialCenter. Client plug-in or applications that are integrated into MaterialCenter will draw a concurrent license provided from MaterialCenter. User license will also be checked out during client connections to MaterialCenter. The maximum number of users accessing MaterialCenter from a Client integration cannot exceed the number of Concurrent Process Licenses. Concurrent Process Licenses are used for

- Client access from the MaterialCenter Microsoft Excel Add-in
- CAE, CAD, PDM client integration access (eg: Patran-MaterialCenter Integration)
- Digimat Integration
- In future, other specific remote actions or processes maybe licensed as MaterialCenter Concurrent Process License

MATERIALCENTER DEVELOPMENT PORTAL PACKAGE

The Development Portal Package is to be used for development and testing of a MaterialCenter Portal in a non-production environment. The Development Portal Package consists of a MaterialCenter package with the following licenses: (i) Portal Licenses; (ii) Concurrent Process Licenses; (iii) Concurrent User Licenses; (iv) Full Client Named User License; (v) Limited Client Named User Licenses; and (vi) Add-on Module Licenses, as described above.

All licenses must be established on a non-production license server separate from the production license server. The Development Portal Package licenses cannot be used or combined with standard licenses that are being used for a production MaterialCenter Portal.

Note: A Development Portal Package maybe required for each stage of a non-production MaterialCenter Portal. Some companies may have a multi-stage development environment that includes development, test and pre-production prior to enabling MaterialCenter in production. Each stage of MaterialCenter prior to production may require a separate Development Portal Package if it is to be run simultaneously with other non-production versions of MaterialCenter. Additionally, each developer of a MaterialCenter Portal may require a Development Portal Package. Please consult with your account manager to appropriately plan the required number of Developer Portal Packages.

ImmixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Napatech, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ)), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All

Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.

- v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.

- 3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

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Washington, DC 20007

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Nuix North America, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ)), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such

occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by

law, regulation or its bona fide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

NUIX - END USER LICENSE AGREEMENT

This EULA ("Attachment A") is a legally binding agreement between Nuix and Licensee for use of the Software. The EULA consists of these terms and the Quotation. By executing this agreement in writing, Licensee acknowledges that Licensee has read, understands, and agrees to be bound by the terms of this EULA. Unless Licensee agrees with the terms of this EULA, Licensee is not authorized to use the Software. If Licensee does not agree to the license terms for updates and/or upgrades, Licensee is not authorized to use the updates and/or upgrades. **License.**

1.1 Grant of License. Subject to the terms of this Attachment A, in consideration of payment of the License Fee by Licensee, Nuix hereby grants to Licensee a non-exclusive, non-transferable, non-assignable, license to use the Software for Licensee's internal use only in the Territory for the Term in accordance with the terms of this ATTACHMENT A.

1.2 Prohibitions. Licensee must not: (a) copy, modify, adapt, translate, create a derivative work of, clone, reverse engineer, reverse assemble, disassemble or decompile the Software or any part of the Software (or any accompanying hardware) or otherwise attempt to discover any part of the source code of the Software; (b) use any unauthorized modified version of the Software, including (without limitation) for the purpose of building similar or competitive software or for the purpose of obtaining unauthorized access to the Software; (c) use the Software in a manner that is contrary to any law or in violation of any Intellectual Property Rights or privacy rights; (d) publish, post, upload or otherwise transmit Licensee Data that contains any viruses, Trojan horses, worms, time bombs, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with information or property of any person; (e) use or knowingly permit the use of any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Software; (f) use the Software in a web enabled form for the purposes of third party analysis or view via the internet or other external network access method; (g) permit or authorize any third party to use or copy the Software; (h) rent the use of the Software to any third parties; (i) gain revenue, profit or benefit from the use of any trial Software; (j) take any action that may compromise or jeopardize Nuix's Intellectual Property Rights; (k) remove or deface any confidentiality, copyright or other proprietary notice placed on the Software or Documentation; (l) make any representations or warranties to any third parties that could be construed as being representations or warranties from Nuix in relation to the Software or any other matter; (m) use the Software in any way that involves service bureau use, outsourcing, renting, SAAS or cloud services, reselling, sublicensing, concurrent use of a single User login, or time-sharing of the Software; (n) duplicate the virtual environment where the Software resides, to the extent that such duplication would exceed the Licensee's authorized usage of the Software; or (o) do any other thing in relation to the Software specifically prohibited by Nuix in the Documentation or otherwise communicated by Nuix to Licensee in writing.

1.3 **Reserved.**

1.4 **Reserved.**

1.5 **Reserved.**

1.6 Discontinuance. Nuix may discontinue offering the Software at the conclusion of the Term, or thirty-six (36) months after the Commencement Date, whichever is earlier. Nuix will have no liability to Licensee or any third party in relation to any such discontinuance.

2. Intellectual Property Rights.

2.1 Nuix's Intellectual Property. Licensee acknowledges Nuix owns, or is an authorized licensee of, all rights, title and interest in all Intellectual Property Rights in the Software and the Documentation. The license granted to Licensee pursuant to this Attachment A does not convey any express or implied Intellectual Property Rights in the Software or the Documentation. Nuix's marks, logos and product names are marks of Nuix and Licensee agrees not to use such marks without Nuix's prior written consent.

2.2 Restrictions. Licensee: (a) may make an unlimited number of copies of the Software and Documentation for internal use by the

Licensee's Personnel and for backup and archival purposes only; (b) may (except in respect of Nuix Reviewer and Nuix Demo software) install the Software on multiple computers provided that, at any particular point in time, only one User uses the Software by the application of each Nuix License Key; (c) may, if Nuix has granted multiple licenses to Licensee, use the

Software contemporaneously on multiple computers up to the maximum number of licenses granted; (d) must not access the

Software by any means other than through the interfaces approved by Nuix; and (e) must not undertake any 'mirroring' or 'framing' of any part of the Software, or create Internet links to the Software which include log-in information, usernames, passwords or secure cookies.

2.3 Nuix Reviewer. Licensee may only install and use Nuix Reviewer software on one computer for each license for Nuix Reviewer software granted by Nuix to Licensee.

2.4 Unauthorized Use. If Licensee becomes aware of any unauthorized use of the Software, Licensee will immediately notify

Nuix. Licensee will, at Licensee's cost, comply with all reasonable directions of Nuix and take all reasonable steps to prevent the unauthorized use or dissemination of the Software. Without derogating from Licensee's obligations under this Attachment

A, Nuix will own all Intellectual Property Rights in any copy, translation, modification, adaptation or derivation of the Software or Documentation including but not limited to any improvements or developments in the Software or Documentation.

2.5 Feedback. Nuix will receive a royalty-free, worldwide, transferable, sub-licensable, irrevocable, and perpetual license to use or incorporate into the Software or Documentation any suggestions, enhancement requests, recommendations or other feedback provided by Licensee or Users.

2.6 Open Source and Third Party Intellectual Property. The Software may incorporate, be distributed with, or depend upon, certain software or other intellectual property that may be considered "open source," "public use" ("Open-Source Components"). Any use of the Open-Source Components by Licensee shall be governed by, and subject to, the terms and conditions of this Attachment A.. The Software may also contain third party software or other intellectual property ("Third Party Software"). Third Party Software is licensed for use solely with the Software and may not be used on a stand-alone basis or with any other third party products unless authorized by Nuix in writing. Licensee agrees not to use any marks of third parties without the prior written consent of those third parties.

3. Terms of Service.

3.1 Licensee Details. Licensee will provide accurate and complete details of Licensee's name, address, email address and phone number, and will immediately advise Nuix of any change to such details. Nuix may rely on any information and act on any instructions provided from an email address designated by Licensee.

3.2 User Access. Licensee will authorize access to and assign unique passwords and usernames to each User. User logins are for designated Users and cannot be shared or used by more than one User, but any User login may be reassigned to another User. Licensee is responsible for all activities conducted under User logins.

3.3 Security. Licensee will be responsible for the security, confidentiality and use of usernames and passwords. Licensee must prevent unauthorized access to or use of usernames and passwords. Licensee must promptly notify Nuix of any loss or theft or unauthorized use of any username or password.

- 3.4 **Users.** Licensee is responsible for each User's compliance with this Attachment A. Licensee will ensure that all use of the Software by Users is in accordance with the terms of this Attachment A.
- 3.5 **Licensee Data.** Licensee acknowledges and agrees that Licensee will be solely responsible for backing-up, and taking all appropriate measures to protect and secure, Licensee Data. Licensee acknowledges that Nuix may make, store and maintain back up copies of Licensee Data, but is not obliged to do so. Nuix will not be liable for any loss or corruption of Licensee Data.
- 3.6 **Support.** As a precondition of the license grant set forth in clause 1.1, support and maintenance must be purchased by the End-User with the license purchase and upon payment of support fees, support and maintenance will be provided under Nuix's support and maintenance agreement attached as Exhibit A (Maintenance and Support Agreement)
- 3.7 **Training.** In the event that Licensee wishes to obtain or provide training in relation to this ATTACHMENT A or the use of the Software, Nuix will provide such training services at rates contained in this GSA Schedule Contract. Licensee acknowledges that it shall only participate in Nuix (or Nuix approved) training services, and that participation in any unauthorized third party training is prohibited.
- 3.8 **Hardware.** Any accompanying hardware purchased by Licensee will be governed by, in addition to the terms of this ATTACHMENT A, the terms and conditions provided in Nuix's Hardware Transfer Agreement attached as Exhibit B.
4. **Reserved.**
5. **Reserved.**
6. **Reserved.**
7. **Consequences of Termination.**
- 7.1 **License Ends.** Upon the expiration or termination of this Attachment A: (a) all rights granted to Licensee under this Attachment A will cease; (b) Licensee will have no rights to use the Software and must cease using the Software; (c) Licensee must immediately provide to Nuix all hard copies of the Documentation and Confidential Information, and all other items of Nuix's property, in Licensee's possession or control; (d) Licensee must immediately provide to Nuix a copy of all soft copies of the Software, Documentation and Confidential Information, and then erase and destroy all remaining soft copies of the Software, Documentation and Confidential Information, in Licensee's possession or control; (e) Licensee must take such action as reasonably directed by Nuix for the protection and preservation of the Confidential Information, Nuix's Intellectual Property Rights and all other items of Nuix's property; and (f) not do any act or thing which may injure, impair or reduce the goodwill or reputation of Nuix.
- 7.2 **Reserved..**
- 7.3 **Data on Termination.** Nuix may, at any time following 14 days after the expiration or termination of ATTACHMENT A, delete any of Licensee's Data in Nuix's possession or control and Nuix will not be liable to Licensee or any other party for any loss, liability, cost, payment, damages, debt or expense arising directly or indirectly from the loss or deletion of Licensee Data. If Licensee makes a written request to Nuix prior to the expiration or termination of this ATTACHMENT A, Nuix may grant Licensee limited access to the Software for the sole purpose of Licensee retrieving Licensee Data, provided that Licensee has paid all amounts owed to Contractor.
- 7.4 **Reserved.**
8. **No Warranty.**
- 8.1 **WARRANTY DISCLAIMER.** NUIX warrants that the SOFTWARE will, for a period of sixty(60) days from the date of your receipt, perform substantially in accordance with SOFTWARE written materials accompanying it. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, NUIX MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE (INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR SUITABILITY FOR LICENSEE'S REQUIREMENTS). WITHOUT LIMITING THE FOREGOING, NUIX DOES NOT WARRANT THAT THE SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS OR THAT ANY USE OF THE SOFTWARE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR THAT ANY ERRORS OR DEFECTS IN THE SOFTWARE WILL BE CORRECTED OR THAT THE SOFTWARE WILL DETECT OR CORRECT ANY THREATS OR HARMFUL COMPONENTS. THE SOFTWARE IS PROVIDED TO LICENSEE ON AN 'AS IS' AND 'AS AVAILABLE' BASIS AND FOR COMMERCIAL USE ONLY. LICENSEE IS RESPONSIBLE FOR DETERMINING WHETHER ANY INFORMATION GENERATED FROM USE OF THE SOFTWARE IS ACCURATE AND SUFFICIENT FOR LICENSEE'S PURPOSES.
- 8.2 **Statutory Warranty.** If the law of any jurisdiction implies a warranty that cannot be excluded, that warranty will, to the extent permitted by law, continue for no more than a period of five (5) days from the Commencement Date.

8.3 Remedy. If the Software does not perform in accordance with any warranty implied by law that cannot be excluded, and Licensee provides written notice to Nuix during the warranty period, Nuix's liability and Licensee's remedy will be for Nuix to either (at Nuix's option) correct, repair or replace the Software or affected part of the Software or refund the License Fee. Any corrected, repaired or replaced Software will be warranted for the remainder of the original warranty period.

8.4 Exclusions. Any warranty implied by law that cannot be excluded does not apply if: (a) the use was pursuant to a demo or trial period; (b) Licensee has previously used the Software pursuant to a demo or trial period; (c) the issue relates to use of a prerelease alpha and beta version of the Software; (d) Licensee has used the Software other than in accordance with the Documentation; (e) the Software has been modified in any way without Nuix's prior written consent; (f) the issue relates to the incorrect installation of the Software; (g) the issue relates to the unauthorized modification of the Software; (h) the issue relates to the nature, use or operation of hardware; (i) the issue relates to use of any third party software other than prescribed in the Documentation; (j) the issue relates to any other items not provided by Nuix; (k) Licensee has used the Software in contravention of any law, treaty, regulation, or convention; (l) Licensee has infringed any Intellectual Property Rights; or (m) Licensee has breached any of the terms of this ATTACHMENT A.

9. Reserved.

10. General.

10.1 Reserved.

10.2 Reserved. Force Majeure. Nuix will not be liable for any failure or delay in performing any obligation under this ATTACHMENT A where such failure or delay is due to any cause beyond Nuix's reasonable control (including but not limited to any natural catastrophe, governmental act or omission, law or regulation, labor strike or difficulty, transportation stoppage or slowdowns or inability to procure personnel, parts or materials) and, if any such cause prevents or delays performance for more than thirty (30) days, Nuix may terminate this EULA.

10.3 Reserved.

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10.18 Definitions. In this ATTACHMENT A: (a) "Commencement Date" means the earlier of the commencement date set out in the Quotation or the date on which Licensee first installs or uses the Software or otherwise agrees to be bound by the terms of this ATTACHMENT A; (b) "Confidential Information" means: (i) information, whether in visual, oral, documentary, electronic, machine-readable, tangible, intangible or any other form, relating to Nuix or any Related Body Corporate of Nuix (including but not limited to any specifications, formulae, know how, concepts, inventions, ideas, software, designs, copyright, trade secrets or any information relating to any business, products, markets, operations, processes, techniques, technology, forecasts, strategies or any other matter); (ii) negotiations in relation to, and the terms of, this ATTACHMENT A; (iii) information designated as confidential by Nuix; and (iv) information that is by its nature confidential; (c) "Documentation" means any documentation which accompanies the Software and is provided by Nuix to Licensee; (d) "ATTACHMENT A" means this End User License Agreement and includes the Quotation; (e) "Expiry Date" means the expiry date set out in the Quotation; (f) "Initial Term" means the period from the Commencement Date to the Expiry Date; (g) "Intellectual Property Rights" means any present and future rights

conferred by statute, common law or equity throughout the world including rights in respect of or in connection with any confidential information, copyright, trademarks, service marks, designs, patents, circuit layouts, business names, domain names, inventions or other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields whether or not registered or registrable and includes any right to apply for the registration, renewal and extension of such rights; (h) "License Fee" means the license fee set out in the Quotation; (i) "Licensee" means the entity who acquires the license rights from Nuix to use the Software pursuant to this ATTACHMENT A; (j) "Licensee Data" means all electronic data or information submitted to the Software by Licensee or any member of Licensee's Personnel; (k) "Nuix" means the Nuix company described in Section 10.17 ("Contracting Parties, Governing Law, Notices, and Jurisdiction"); (l) "Nuix License Key" is an encrypted file provided by Nuix, which unlocks the Software and enables the use of the Software by a User; (m) "Personnel" means any employee, servant, contractor, subcontractor, agent, partner, director or officer of a party; (n) "Quotation" means the quotation(s) or other document(s) provided by Nuix to Licensee from time to time setting out details in relation to Licensee's use of the Software; (o) "Related Body Corporate" means a body corporate that is, in relation to another body corporate: (i) a holding company of that other body corporate; (ii) a subsidiary of that other body corporate; or (iii) a subsidiary of a holding company of that other body corporate; (p) "Renewal Term" means any further term granted by Nuix; (q) Software" means the software (including any upgrades or updates) supplied by Nuix to Licensee; (r) "Taxes" means any present or future tax, fee, levy, duty, charge, withholding, penalty, fine, impost or interest imposed by any government or governmental, semi-governmental or administrative body, department, commission, authority, agency, minister, statutory corporation, instrumentality or entity (which is not the subject of a valid certificate of exemption) including but not limited to any tax in relation to sales, use, property, value added, goods and services, turnover, stamp duty, interest equalization, business, occupation, excise, income, profits or receipts; (s) "Term" means the Initial Term plus any Renewal Term(s); (t) "Territory" means the territory set out in the Quotation (or, in the absence of a territory in the Quotation, worldwide except for countries which are the subject of any United States trade restriction, export control or embargo); and (u) "User" means any person who uses the Software.

10.19 Reserved.

EXHIBIT A

MAINTENANCE AND SUPPORT AGREEMENT

You ("End-User") agree that the following maintenance and support agreement ("Agreement") shall govern the delivery of any support and/or maintenance services by Nuix ("Support") listed on an order document entered into pursuant to the Nuix End User License

Agreement, other Nuix license agreement, or any other ordering document as applicable (collectively, the "Contract") to which this Agreement is attached and made a part thereof. Ordering any Support from Nuix or any authorized reseller indicates End-User's acceptance of this Agreement.

1. **Services.** Subject to End-User's timely payment of the applicable Support fees set forth in the Contract (the "Support Fees"), Nuix will provide the level of Support identified in the Contract in accordance with the Support descriptions set forth below. No other maintenance or support for the Software is included in this Agreement.
2. **Support Fees.** Support Fees will be due and payable in accordance with the Contract. Nuix will notify (electronically or otherwise) End-User of the then-current Support Fee for each notice of term renewal. Support Fees will be non-refundable once paid.
3. **Scope of Support.** Subject to Section 6 of this Agreement, and End-User's payment of the Support Fees, End-User is entitled to Support for the following:
 - a. clarification of the software's functions, features, operations and documentation; and
 - b. error verification, analysis and correction

End-User is also entitled to all software upgrades, updates, and maintenance releases to the extent made generally available by Nuix to its end-users.

4. **Access to Support.** Support is accessed through email at support@nuix.com. All initial support requests shall be communicated to Nuix through email. This enables the issue to be logged, plus makes the issue visible to each of the Nuix support teams based in the United Kingdom, the United States, and Australia ("Support Team"). [Support@nuix.com](mailto:support@nuix.com) is operational 24 hours Monday through Friday. Support coverage over weekends is excluded from the scope of this Agreement and must be arranged separately with Nuix.
5. **Response Times.** Upon receipt of an email at support@nuix.com, the Support Team will respond as detailed below. All response times are during standard business hours as described above. End-User will receive immediate email notification of receipt of a Support email and the support issue will be dealt with according to its priority:

means a program error that prevents operation of critical documented functions with high frequency or duration. **b. Priority 2 Issue (High):**

means a program error that has some impact on administration; non-critical operation or other secondary functions for which a temporary work around has been provided and also includes general clarification issues outlined in 3a above. **c.**

Priority 3 Issue (Medium/Low):

means a program error with little or no impact on productivity, impacting unsupported software or functions or a request for an enhancement or additional functionality that is not due to a defect in the Software.

Priority	Response Time	Target Resolution Time
Priority 1 Issue	3 hours	1 business day
Priority 2 Issue	6 hours	3 business days
Priority 3 Issue	8 hours	Next maintenance release

If an End-User is not available to assist the Support Team in the resolution of the issue, Nuix will not be responsible for adhering to the Response Time or Target Resolution Time. At no time does Nuix guarantee a “fix” during a Response Time or Target Resolution Time. For Priority 1 & 2 Issues, providing a Nuix Systems Diagnostic set, along with a sample of the any items perceived to be causing the error, is a requirement to maintain the Target Resolution Time. Nuix will provide support without these items, but promptly providing these items to Support will accelerate the resolution time.

d. Level of Effort: Nuix will use commercially reasonable efforts commensurate with the then applicable industry standards to provide the Support in a professional and workmanlike manner, but Nuix does not guarantee that every question or problem raised by End-User will be resolved. When, at Nuix’s discretion and following agreement from the End-User that on-site Support is required, End-User agrees to pay any travel expenses in accordance with FTR/JTR, as applicable. EndUser shall only be liable for such travel expenses as approved by End-User and funded under the applicable ordering document.

- 6. Exclusions to Support.** Support does not include services where the End-User requests custom development, consulting, or professional services. Furthermore, examples of Support not covered by this Agreement include:
- a. Versions of the Software other than the most recent version or the Supported Prior Versions;
 - b. Administrator or end user training;
 - c. Support of requested (or customer created) enhancements or features to the Software;
 - d. Software installation or troubleshooting of software installation issues not directly associated with the Software;
 - e. Environment configuration;
 - f. Environment troubleshooting issues not directly associated with the Software;
 - g. Troubleshooting data specific issues not directly caused by or related to the Software; or
 - h. Onsite support.

7. Reserved.

8. **Software End of Life Policy.** Nuix Software comes with a three digit number version. The first digit represents the major release (*i.e.*, upgrade), the second digit identifies the minor releases (*i.e.*, updates) and the third digit identifies the maintenance releases. With a new major version, the number to the left of the decimal is changed and for minor releases, the number to the right of the decimal point is increased. Nuix provides Support only on the current major release and (a) the two immediately prior major releases or (b) twenty-four (24) months from the then current major release, whichever period is greater (“**Supported Prior Versions**”).
9. **End-User Responsibilities.**
 - a. **End-User Contacts:** End-User shall appoint up to three (3) of its personnel who are trained and knowledgeable in the operation of the Nuix Software to serve as the primary contacts with Nuix for all Support communication (“**Nuix Trained Users**”). Each of the Nuix Trained Users MUST undergo a minimum of eight (8) hours of Nuix training BEFORE accessing the Support. All Support communications shall be initiated through Nuix Trained Users. End-User may change its primary or alternate contacts at any time upon written notification to Nuix.
 - b. **Training:** End-User shall properly train its personnel in the proper use of the Software and the equipment on which the Software is loaded and operating.
 - c. **Reporting:** End-User shall document and promptly report all errors or malfunctions of the Licensed Software to Nuix. Nuix will provide End-User with a trouble ticket number that End-User will use to track the status of each issue. End-User shall take all steps necessary to carry out any procedures Nuix may give for the rectification of errors or malfunctions within a reasonable time after such procedures have been provided. Nuix reserves the right to close the trouble ticket without further responsibility if End-User does not provide appropriate feedback to Nuix within thirty (30) days of receiving new Licensed Software, a workaround for a problem, or fails to respond to a request for additional information.
10. **Reserved.**
11. **Force Majeure.** Nuix will not be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials or supplies, war, acts of terror, riot, acts of God or governmental action.

EXHIBIT B

NUIX EQUIPMENT TRANSFER ADDENDUM

YOU (“**LICENSEE**”) AGREE THAT THIS NUIX EQUIPMENT TRANSFER ADDENDUM (“**TRANSFER**”) SHALL GOVERN ANY TITLE TRANSFER FOR ANY ACCOMPANYING EQUIPMENT IN A SOFTWARE PURCHASE LISTED ON A PURCHASE ORDER (“**ORDER**”) TO WHICH THIS TRANSFER IS ATTACHED AND MADE A PART THEREOF. THE PURCHASE OF ANY HARDWARE FROM NUIX (AS DEFINED IN THE CONTRACT) OR ANY AUTHORIZED RESELLER INDICATES END-USER’S ACCEPTANCE OF THIS TRANSFER.

1. **Scope.** This Transfer amends the Contract solely with respect to the third party computer hardware and equipment sold to Licensee in conjunction with the software (“**Hardware**”). In the event of conflict between this Transfer and the Contract with respect to the Hardware, the provisions of this Transfer shall prevail.
2. **Hardware Shipment and Delivery.**
 - (a) **Reserved.**
 - (b) **Delivery.** Unless expressly agreed to by the Parties in writing, Nuix shall deliver the Hardware to the address specified in the applicable Order, using Nuix’s (or manufacturer’s, as the case may be) standard methods for packaging and shipping such Hardware.
 - (c) **Reserved.**
3. **Title and Risk of Loss.** Title to Hardware ordered under any Order passes from Nuix to Licensee upon receipt of full payment by Nuix (or Nuix Reseller, as applicable) for such Hardware.

Reserved. 5. Warranty.

(a) **Pass Through Warranty.** If Nuix provides any Hardware covered by a third party warranty, Nuix shall: (a) provide Licensee with a copy of each such warranty; and (b) if such warranty does not, by its terms, pass through to the Licensee, then to the extent permitted by the third party, assign to Licensee or otherwise cause the third party to grant to Licensee all warranties provided by such third party. These are Licensee's exclusive warranty remedies with respect to such Hardware. No additional terms or warranties are offered.

(b) **WARRANTY DISCLAIMER.** EXCEPT FOR ANY THIRD PARTY WARRANTIES DESCRIBED IN SECTION 5(A), NUIX MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE HARDWARE (INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS

FOR A PARTICULAR PURPOSE, OR SUITABILITY FOR LICENSEE'S REQUIREMENTS). WITHOUT LIMITING THE FOREGOING, NUIX DOES NOT WARRANT THAT THE HARDWARE WILL MEET LICENSEE'S REQUIREMENTS OR THAT

ANY USE OF THE HARDWARE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR THAT ANY ERRORS

OR DEFECTS IN THE HARDWARE WILL BE CORRECTED. THE HARDWARE IS PROVIDED TO LICENSEE ON AN 'AS IS' AND 'AS AVAILABLE' BASIS AND FOR COMMERCIAL USE ONLY. LICENSEE IS RESPONSIBLE FOR DETERMINING WHETHER THE USE OF THE HARDWARE IS SUFFICIENT FOR LICENSEE'S PURPOSES.

(c) **Statutory Warranty.** If the law of any jurisdiction implies a warranty that cannot be excluded, that warranty will, to the extent permitted by law, continue for no more than a period of five (5) days from the Effective Date.

6. Reserved.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Oversight Systems, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such

occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by

law, regulation or its bona fide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

OVERSIGHT SYSTEMS

OVERSIGHT SYSTEMS LICENSE, WARRANTY AND SUPPORT TERMS

DEFINITIONS.

Customer: Customer is Ordering Activity.

Manufacturer: Manufacturer is Oversight Systems. Designated Employees: The number of Customer's employees per Site who have received training from Oversight. Designated Employees may be changed by notice from Customer.

Documentation: Oversight's standard documentation including the specifications and configurations for the applicable Software and Support, as updated by Oversight from time to time.

Error: A failure of the Software to perform substantially in accordance with the Documentation.

Error Correction: Revisions, modifications, alterations, and additions to the Software, bug fixes, or workarounds provided by Oversight to Customer to resolve or address Errors.

License Term: The three (3) year period beginning on the Shipment of the Software unless earlier terminated as provided in Section 9 below.

Site: The physical location or locations that a System is deployed.

Software: All Oversight software, in executable form and Updates, if any.

Subscribers: Third-party end users of Customer's products or services.

Support: The specific support services provided by Oversight as described in the Documentation.

Support Fee: The fee payable for Support for the applicable Software during a Support Term. The Support Fee for the Initial Support Term is specified in a System Order.

Support Term: Annual or Initial Support Term, defined as follows:

Annual Support Term: Each one (1) year period following the Initial Support Term.

Initial Support Term: The one (1) year period beginning on the shipment of the Software.

System: Collectively, Software and Documentation, and all copies of any of the foregoing.

Updates: Periodic improvements or additions to the Software, including Error Corrections and minor enhancements, but excluding any new Software feature or substantial additional functionality which is subject to additional license fees and/or terms.

Version: The Software configuration identified by a number to the right of a decimal point (e.g., 5.0, 5.1). The then-current Version contains all Updates issued by Oversight.

SYSTEM LICENSE. Contractor hereby grants to Customer, and Customer accepts, a nonexclusive, non-assignable, and nontransferable limited license to use the System at the Site within the Territory, solely by Customer's employees and Subscribers in connection with Customer's business operations. Customer may make a reasonable number of copies of the Software for back-up, archival and testing purposes and of the Documentation for Customer's business purposes as granted herein. Term of Subscription License. Contractor grants the above-described license to Customer only for the License Term. At the expiration of the License Term the Customer shall have no further right to use the System

SUPPORT

Support. Contractor through the Manufacturer will provide Support to Designated Employees. Oversight will provide Customer Updates, that Oversight generally offers in its sole discretion to its supported customers and will use commercially reasonable efforts to provide Error Corrections.

Version Support. Contractor through the Manufacturer will provide Support for the then-current Version and for the immediately preceding Version for a period of six (6) months after the then-current Version is made generally available.

Exclusions. Notwithstanding Contractor's warranty and Support obligations hereunder, Contractor will have no responsibility or liability of any kind, whether for breach of warranty or otherwise, arising or resulting from:

a. Customer's failure to (i) report Errors promptly in writing in English; (ii) provide sufficient information to duplicate the circumstances indicating a reported Error, (iii) promptly incorporate Updates to the Software, or (iv) provide all reasonable cooperation and full information required for the providing of Support to Customer.

b. Customer's failure to prepare its environment prior to Software installation or to maintain the environment and other requirements as set forth in the Documentation.

c. Customer's failure to grant security authorization or to provide necessary dial-in communications mechanisms; or Internet connection problems.

d. Errors resulting from misuse, abuse, negligence or improper use of all or any part of the System, or problems to or caused by products or services not provided by Contractor or Manufacturer.

e. System modification, amendment, revision or change by any party other than Contractor, Oversight or Oversight's authorized representatives.

f. Data or data input, output, integrity, storage, and back-up, which will be deemed under Customer's exclusive control. Any use of or reliance on data or data output is Customer's sole responsibility.

LIMITED WARRANTY AND DISCLAIMERS.

Limited Performance Warranty. Contractor warrants to Customer that the Software as initially shipped under a System Order will operate substantially in accordance with the specifications in the Documentation for a period of ninety (90) days after its shipment.

Disclaimer. EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, CONTRACTOR MAKES NO (AND HEREBY DISCLAIMS ALL) OTHER WARRANTIES OR REPRESENTATIONS OR CONDITIONS, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO THE SUBJECT MATTER HEREOF, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. CONTRACTOR DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE.

Remedy. Customer's remedy for breach of the foregoing warranty or breach of its obligations under Attachment A will be for Oversight to use commercially reasonable efforts to either, in its sole discretion, provide Error Corrections or replace the nonconforming portion of the Software; provided, however, if Oversight cannot provide either remedy for an Error reported during the applicable period specified in (i) Attachment A, upon receipt of the nonconforming portion of the Software, Oversight will refund Customer the License Fee paid for such nonconforming portion of the Software; (ii) Attachment A, Oversight or Customer may terminate Support for the remaining period of the Support Term, by providing written notice the other party and, upon receipt of the nonconforming portion of the Software, Oversight will refund Customer the amount paid for the remaining period of the then current Support Term.

System Data. Customer hereby grants Oversight a license to access the System from time to time for the purpose of collecting System Data.

The Paciello Group, LLC
17757 US Hwy 19N #560
Clearwater, FL 33764

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached The Paciello Group, LLC (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law, including but not limited to GSAR 552.212-4 Contract Terms and Conditions-Commercial Items. To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.2I, as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.238-81, Modifications (Federal Supply Schedule) (April 2014) (Alternate I – JUN 2016) and (Alternate II – JUN 2016), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the Federal laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar Federal laws or regulations are enacted, to the extent allowed by Federal law, they will not apply to this Rider or the underlying Schedule Contract.

- f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
- g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
- h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under Federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates antideficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the AntiDeficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that immixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.

- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a Federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
- 3. Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

Master Subscription Service Agreement

It is agreed between the parties that:

1. **Definitions.**

In this Agreement the following defined terms shall have the meanings set forth below:

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control of a party.

"Control", for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of a party.

Section 8 - "AGREEMENT"

means this Master Subscription Service Agreement (including any exhibits and attachments), together with the underlying GSA Schedule Contract, Schedule Pricelist, any Order Forms and any other documents attached and incorporated herein.

"Business Hours" means Monday thru Friday 8:00 AM to 5:00 PM Eastern Time.

Section 9 - "CONFIDENTIAL INFORMATION"

means information relating to a party, its business or assets or that of any of its clients, customers, affiliates, subcontractors or other persons that is not generally known to the public, whether of a technical, business or other nature (including, without limitation, inventions, trade secrets, know-how, customer lists, business plans, promotional and marketing activities, and finances), that is or previously has been disclosed or otherwise comes into a party's possessions as a result of this Agreement; provided, that Confidential Information shall not include any information that: (i) is or becomes publicly available through publication, inspection of commercially available product, or otherwise without breach of this Agreement, unless further disclosure is otherwise prohibited by law; (ii) was known to the receiving party at the time of its receipt; (iii) is received from a third party without an obligation of confidentiality; or (iv) has been independently developed by the receiving party prior to the date hereof without the use or benefit of the disclosing party's Confidential Information or intellectual property.

"Customer" means the Ordering Activity under GSA Schedule contracts listed in an Order Form.

Section 10 - "DOCUMENTATION"

means the user guide, help information, content and/or other documentation and materials accompanying and associated with the Service, including associated media, printed materials and any "online" or electronic documentation provided by TPG for use with the Service.

"Effective Date" means the start date of this Agreement as set out in the first Order Form.

Section 11 - "END USER"

means Customer's employees, representatives, contractors or other individuals who are authorized by You to Use the Service. **"Fees"**

means the fees set out in each Order Form in accordance with the GSA Schedule Pricelist payable by You during the Subscription Term of each Order Form.

"Order Form" means the order form evidencing the initial subscription for the Services and any subsequent Order Forms specifying, among other things, the applicable Fees.

Section 12 - "PLANNED MAINTENANCE"

means maintenance, Upgrades, updates installation of new versions and repairs which are non -critical and not urgent, to hardware and software.

Section 13 - "SERVICE(S)"

means the products and services that are ordered by You under an Order Form or online purchasing portal, or provided to You free of charge or under a free trial, and made available online by TPG.

"Subscription Start Date" means the subscription start date as set out in each Order Form.

Section 14 - "SUBSCRIPTION END DATE"

means the subscription end date as set out in each Order Form.

"Term" means the term of this Agreement which start on the Effective Date and continues until the date on which all Subscription Terms included in all Order Forms have expired or been terminated.

"TPG"

Means the Paciello Group, LLC and its Affiliates

Section 15 - "UPDATES"

means subsequent versions or releases of the Service that are made available to Subscriber pursuant to this Agreement, but it does not include any releases or future products or other services TPG licenses or otherwise makes available separately or subject to a separate subscription arrangement.

Section 16 - "USE"

means to access and use the Service, as more fully described in an Order Form, solely in connection with a Customer's internal business operations.

Section 17 - "WEBSITE"

means a web page having the same letters and numbers to the left of the period adjacent to the top-level domain and after any period that precedes the period adjacent to the top-level domain. For example, "[abcdefg.com](https://www.abcdefg.com)" and "[abcdefg.net](https://www.abcdefg.net)" are

separate Websites. Further, distinct sub-domains are treated as their own separate Websites. For example, "abcdefg.com" and "mail.abcdefg.com" are their own Websites.

"You" or "Your" means the Customer named in the Order Form.

2. *Service.*

- i. TPG agrees to make the Service available to You from the Effective Date for the Term of this Agreement. The Services shall be provided to You as set forth in an Order Form subject to the terms of this Agreement.
- ii. TPG shall use best efforts to make the Services available 24 hours a day, 7 days a week, excluding Planned Maintenance and any unavailability caused by Force Majeure. TPG shall use best efforts to provide support for the Services during Business Hours.

3. *License to Use the Service.*

- i. Subject to your payment of the Fees, You are granted a limited, non-exclusive, non-transferable and non-sublicensable right to allow End Users to Use the Service from the Effective Date for the term of each Order Form for your own internal business operations. All rights and title in and full ownership of the Service that are not expressly granted by this Agreement are expressly reserved by TPG. You obtain no right, title or interest in the Service or any of the associated materials, or any right, title or interest to any intellectual property rights in the Service, other than as expressly set forth in this Agreement.
- ii. You may not Use the Service for any purpose other than those expressly set forth in this Agreement and any Order Form. You may not, and may not allow any third party to: (i) decompile, disassemble, decrypt, or reverse engineer the Service, attempt to derive the source code for any part of the Service, or modify or create derivative works of the Service (except that Subscriber's code written to Subscriber's systems to permit access to or interface with the Service will not be deemed a derivative work); (ii) make copies of the Documentation other than as expressly permitted by this Agreement; (iii) sell, lease, lend, or sublicense the Service to any third party, or permit the Service to be Used for timesharing or service bureau purposes; (iv) encumber any right in the Service in favor of a third party, whether by agreement, operation of law, or otherwise; (v) remove from the Documentation any product identification or proprietary rights notices; (vi) publish or disclose to any third party the results of any benchmark tests or other evaluation run on the Service without the prior written consent of TPG; or (vii) otherwise Use the Service except as expressly provided herein.

4. *Fees, Invoicing and Payments.*

- i. TPG shall charge you the Fees set forth in each Order Form in accordance with the GSA Schedule Pricelist.
- ii. All invoices shall be paid within 30 days after the receipt of an invoice.
- iii. In addition to all other remedies available in this Agreement, where payment of any Fee is not received within 30 days of the due payment date, TPG may, without liability to You, disable Your password, account and access to all or part of the Service and TPG shall be under no obligation to provide any or all of the Service while the invoice(s) concerned remains unpaid. TPG shall be entitled to charge interest on overdue Fees at the applicable statutory rate indicated by the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315.
- iv. All Fees are non-refundable and non-cancelable.
- v. All Fees exclude all applicable sales, use, consumption, VAT, GST and other taxes and all applicable export and import fees, customs duties and similar charges (other than taxes based on TPG's income) arising from the provision of Service and any other products or services provided by TPG, or the payment of fees, under this Agreement. You will make all payments without setoff of any kind and without reduction for any tax withholding.

5. *Termination.*

- i. Termination for Cause. Either party may terminate this Agreement if the other party defaults under any provision of this Agreement and the defaulting party fails to cure such default within thirty (30) days (fifteen (15) days for any non-payment of fees) after receiving written notice of such default from the non-defaulting party (or, if the default cannot be cured, immediately upon receipt of such notice). ii. TPG may terminate this Agreement or the provision of the Service immediately if You have used the Service, or permitted the use of the Service other than in accordance with this Agreement.
- iii. Upon any termination Your right to use the Service and possess any Documentation will immediately cease and You shall (i) immediately cease using the Service, and (ii) either promptly return to TPG or destroy (and provide prompt written certification of such destruction to TPG) all copies of any Documentation in Your possession.

6. *Warranties.*

- i. TPG warrants that during the applicable Term for which You have paid all applicable Fees for use of the Service, and while the Service provided by TPG hereunder is hosted by TPG, that the Service (excluding Updates for purposes of this Section 6) will conform in all material respects to TPG's then-current Documentation for the Service. In the event of any claim by Subscriber under this limited warranty, Subscriber must notify TPG in writing describing in reasonable detail the nature of the nonconformity and provide to TPG sufficient detail to allow TPG to reproduce the problem. The limited warranty contained in this section will not apply if, and to the extent that: (i) the Service is not used in accordance with this Agreement or the Documentation; (ii) the Service or any part thereof has been customized, modified, altered or changed (a) by any entity other than TPG or, (b) to meet Your unique

specifications; or (iii) a malfunction in the Service has been caused by any of Your equipment, any communications infrastructure used by You to connect to the Service, or any third-party software. ii. Except for the express limited warranty contained herein and to the maximum extent allowable by law, TPG provides the Service to You "as is" and with all faults, makes no other warranties related to the Service or the results to be obtained from the use of the Service, and provides the Service without any other warranties of any kind, either expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose.

7. *Indemnity.*

- i. TPG will indemnify, have the right to intervene to defend and hold You harmless notwithstanding any limit of liability based on or arising out of any claim or threatened claim that the Service or any part or use thereof infringes or violates any patent, copyright, trademark, trade secret, license or other property or proprietary right of any third party, provided that: (i) You notify TPG in writing within thirty (30) days of the claim; (ii) TPG receives reasonable assistance from You necessary to perform TPG's obligations hereunder; and (iii) TPG has control over the defense and all negotiations for a settlement or compromise.
- ii. The indemnity provided for above shall not apply with respect to the Service or portions or components thereof: (i) not provided by TPG; (ii) Used in a manner not expressly authorized by this Agreement; (iii) modified in accordance with Your specifications; (iv) if the alleged infringement or misappropriation results from any customizations, modifications, alterations or changes to the Service not developed or provided by TPG; or (v) combined with other products or services not provided by TPG where the alleged infringement would not exist but for such combination.
- iii. In the event that the Service is held by a court of competent jurisdiction to constitute an infringement or the use of the Service is enjoined (or TPG reasonably believes that any of the foregoing are reasonably likely to occur) TPG may, at its option: (i) procure for Subscriber the right to continue to Use the Service; (ii) provide a modification to the Service so that its use becomes non-infringing; (iii) replace the Service with services that are substantially similar in functionality and performance; or (iv) if none of the foregoing alternatives is reasonably available to TPG, TPG may terminate the subscription for the infringing Service and refund a pro-rated amount of the subscription fees actually paid by Subscriber for the Service. The prorated amount will be (i) the actual subscription fee paid multiplied by (ii) the percentage which is determined by dividing (a) the number of days remaining in the then-current term of this Agreement for which subscription fees have been paid to TPG (from the effective date of termination through the end of the then-current term) by (b) the total number of days for the then-current term for which such subscription fees have been paid. This Section 5 states TPG's sole liability and Subscriber's exclusive remedy for any claim by a third party that the Service, or any other good, service, or software provided by TPG pursuant to this Agreement infringes upon, violates, or misappropriates any right of a third party.
- iv. To the extent permitted under applicable law, You agree to indemnify and hold TPG and its affiliates and subsidiaries, and their respective officers, directors, employees, agents, representatives, successors, assigns, service providers and suppliers harmless from any and all claims, losses, demands, fines, penalties, costs, and expenses, including reasonable attorney fees and court costs ("Claims"), made by any third party in connection with or arising out of (i) bodily injury (including death) or damage to real property or tangible personal property; (ii) Your use of the Service or any information transmitted during Your use of the Service, (iii) Your breach or violation of any provision of this Agreement, and (iv) Your violation of applicable laws or any rights of another person or entity, to the extent such Claims do not result from the willful misconduct or gross negligence of TPG.

8. *Limitation of Damages.*

- i. To the fullest extent permitted by applicable law, regardless of whether or not any remedy set forth herein fails in its essential purpose, in no event will either party be liable to the other party for any consequential, incidental, indirect, special, punitive or other damages whatsoever (including, without limitation, damages for loss of business profits or information, business interruption, or any other pecuniary loss), arising out of or in any way related to their respective obligations under this Agreement and whether based on contract, tort, strict liability or otherwise, even if such party has been advised of the possibility of such damages. The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Licensor's negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.
- ii. Except for its indemnification and confidentiality obligations under this Agreement, the entire liability of TPG for any damages under any provision of this Agreement shall be limited to the actual fees paid to TPG by You under the order giving rise to the liability. As a limitation of damages may not be permitted by some states or jurisdictions, the foregoing provision may not apply to Subscriber.
- iii. Neither party shall have liability for any cause of action against the other which occurred more than six (6) years prior to the filing of a suit alleging such cause of action.

9. *Confidentiality.*

- i. Each party agrees to use Confidential Information solely in connection with this Agreement and not to use the Confidential Information for any other purpose whatsoever.
- ii. Each of the parties agrees to protect the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and Confidential Information, but in any event no less than a reasonable degree of care.
- iii. Each party may disclose Confidential Information of the other party to those of its employees and agents who need to know the Confidential Information for the purposes of this Agreement, but only if the

employee or agent is bound by confidentiality undertakings equivalent to those set out in this Agreement.

- iv. If a party is requested to disclose Confidential Information of the other party or the substance of this Agreement in connection with a legal or administrative proceeding or otherwise to comply with a requirement under the law, it will provide prompt notice of such request, unless prohibited by law, so that the other party may seek an appropriate protective order or other remedy, or waive compliance with the relevant provisions of this Agreement. The party's will cooperate with and assist reasonably in such efforts.
 - v. The Confidential Information of the parties will remain the exclusive property of the provider of the information and the receiving party will have no rights, by license or otherwise, to use the Confidential Information except for the purposes permitted hereunder and strictly in accordance with the terms of this Agreement. Except for any Confidential Information provided to TPG in connection with the provision of the Service and which is required by law or regulation to be retained by TPG for backup and/or record keeping purposes only, and for which TPG may retain a copy of such Confidential Information in compliance with such law or regulation, upon written request the parties will return or destroy (in a manner that it cannot be read or reconstructed) all Confidential Information it has received, together with all copies thereof.
 - vi. The parties shall promptly notify the other by telephone and in writing at the address set forth at the beginning of this Agreement (or as otherwise notified in writing by a party to the other party) if the Confidential Information has been stolen, destroyed, altered, lost, or accessed by unauthorized persons.
10. *Assignment.*
- i. You may not transfer, assign, or delegate any right or obligation under this Agreement without the prior written consent of TPG, which consent TPG will not unreasonably withhold, delay, or condition. Any transfer, assignment, or delegation in violation of this Agreement will be voidable at TPG's option.
11. *Notices.*
- i. TPG may give notice by means of a notice on the Service, electronic mail to Your email address on record in TPG's account information, or by written communication sent by first class mail or pre-paid post to Your address on record. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or prepaid post) or 12 hours after sending (if sent by email) or posting a notice on the Services.
 - ii. You may give notice to TPG (such notice shall be deemed given when received by TPG) at any time by any of the following: letter delivered by nationally recognized delivery service or first class postage prepaid mail to TPG at the following address: 17757 US Highway 19N, Suite 560, Clearwater, FL, 33764 addressed to the attention of: "Legal".
12. *Miscellaneous.*
- i. This Agreement shall be governed interpreted, construed and enforced in accordance with the Federal laws of the United States. The United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.
 - ii. You may not export, ship, transmit or re-export the Service in violation of any applicable law or regulation, including but not limited to, Export Administration Regulations issued by the U.S. Department of Commerce. Unless in compliance with applicable law and specifically authorized in writing by TPG, You shall not export the Service under any circumstances whatsoever. In any case, You will indemnify and hold TPG harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including reasonable attorney's fees) arising from, or relating to, any breach by You of Your obligations under this section.
 - iii. No failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. In the event that any one or more of the provisions of this Agreement are held to be invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired and enforced to the full extent permitted by law.
 - iv. Neither party hereto shall be liable for loss or damage resulting from any delay or non-performance, or be held to be in breach, nor shall the other party be entitled to terminate this Agreement, due to any cause or causes beyond its reasonable control, including an act of the other party, malfunctioning or nonfunctioning of equipment, a delay in transportation, acts of God, fire, flood, earthquake, storm, war, sabotage, riot, civil commotion, or because of any law, rule, regulation, order or other action by any public authority, provided the delayed party: (i) gives the other party written notice of such cause promptly; and (ii) uses its reasonable commercial efforts to correct such failure or delay.
 - v. Each of the parties agrees that in the event of a breach of any provision of this Agreement, then to the extent permitted by law the non-breaching party shall be entitled to seek and obtain injunctive or other equitable relief, or both, against the breaching party, in each case without the requirement to post any bond or other form of security, and without such act constituting an election of remedies or disentitling the non-breaching party to each and every remedy available at law or in equity for a breach of this Agreement.
 - vi. TPG's relationship to You is that of an independent contractor and all of the services provided by TPG under this Agreement shall be as an independent contractor.
 - vii. This Agreement, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), constitutes the entire agreement between You and TPG related to the Service and supersedes all prior or contemporaneous agreements, proposals, negotiations, representations and communications between You and TPG related to the Service. You acknowledge that it has not been induced to enter into this Agreement by

immixTechnology, Inc.

a subsidiary of  immixGroup

any representations or promises not specifically stated herein. The provisions of the Agreement shall be binding upon, and inure to the benefit of, the parties, their successors, and their permitted assigns.

- viii. Other than as specified herein, this Agreement may only be supplemented or modified by an amendment in a writing executed by the party against whom enforcement is sought.
- ix. If You are a government or public agency, instrumentality or institution, including without limitation a public educational, research or medical institution or body, and any terms in this Agreement (including by way of example, all or part of the termination, limitation of liability, exclusive remedies, limited warranty, and indemnification sections) are invalid or unenforceable against You because of applicable law, then those terms will be deemed excluded and unenforceable (as the case may be), and instead construed in a manner most consistent with applicable governing law. In addition, if the applicable governing law for this Agreement is precluded for You under laws of the country, state, province or other jurisdiction in which Your applicable law, then this Agreement will be governed and construed under the primary office is located.

IMPORTANT! BE SURE TO CAREFULLY READ AND UNDERSTAND ALL OF THE RIGHTS, OBLIGATIONS AND RESTRICTIONS SET FORTH IN THIS END USER LICENSE AGREEMENT (“EULA”). LICENSEE IS NOT AUTHORIZED TO USE THE JAWS INSPECT PROGRAM, UNLESS AND UNTIL LICENSEE ACCEPTS THE TERMS OF THIS EULA. BY AGREEING TO THE TERMS OF THIS EULA, LICENSEE SIGNIFIES ITS ACCEPTANCE OF AND INTENT TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS EULA. IF LICENSEE DOES NOT ACCEPT THE TERMS AND CONDITIONS OF THIS EULA, THEN DO NOT USE, INSTALL OR DOWNLOAD THE PROGRAM.

This EULA is entered into between **Freedom Scientific, Inc.** a Delaware corporation doing business as Vispero™, with an address at 11800 31st Court North, St. Petersburg, Florida 33716, U.S.A. (referred to as “Licensor”) and you, an Ordering Activity under GSA Schedule contracts identified in the Purchase Order, Statement of Work, or similar document, (referred to as “Licensee” or “Ordering Activity”) and shall be effective as of the date Licensee accepts the terms of this EULA by any of the means noted above (“Effective Date”).

1. DEFINITIONS

- 1.1 “Computer” means a computer, workstation, terminal or device.
- 1.2 “Documentation” means the user guide, help information, content and/or other documentation and materials accompanying and associated with the Software, including associated media, printed materials and any online or electronic documentation provided by Licensor for use with the Software.
- 1.3 “End User” means an employee or contractor who is authorized by an Organizational Licensee to use the Program.
- 1.4 “License” means the license to use the Program as set forth in this EULA, in any applicable Organizational License, and in any document or confirmation issued, agreed or otherwise confirmed by Licensor that contains the specifics of the type of license to use the Program granted to Licensee.
- 1.5 “Organizational License” means the separate software license agreement or other written understanding as may be entered into between Licensor and an Organizational Licensee, which provides for the licensing and use of the Program by the Organizational Licensee and its End Users.
- 1.6 “Organizational Licensee” means any business entity, enterprise, organization or governmental institution that receives an Organizational License to the Program from Licensor, subject to each individual End User agreeing to a EULA governing their use of the Program. An Organizational Licensee shall be responsible and liable for any and all use of the Program by individual End Users receiving and using the Program under an Organizational License.
- 1.7 “Program” means, collectively, the Software, Updates, all related Documentation, and any Upgrades provided under this EULA.
- 1.8 “Software” means any computer program (in object code) of Licensor provided to and downloaded, installed or accessed by an End User pursuant to this EULA.
- 1.9 “Term” means the term of the Subscription License and as more particularly set forth in Section 2.2, and the period when the Program operates in the Demonstration Mode as set forth in Section 2.3 below.
- 1.10 “Upgrade” means any new version of the Software delivered to Licensee pursuant to this EULA or an Organizational License.
- 1.11 “Update” means any patch, bug fix or any other update of the Software delivered to Licensee pursuant to this EULA or an Organizational License.

2. LICENSE TO THE PROGRAM

2.1 General Licensing Provisions and Grant of License.

Licensor provides Licensee with the Program Licensee has downloaded or received by other authorized means, for Licensee’s use in accordance with the terms and conditions this EULA. If Licensee is an End User who is an employee or contractor of an Organizational Licensee, Licensee’s use of the Program will also be subject to the terms and conditions of the applicable Organizational License between Licensor and such Organizational Licensee. The terms and conditions applicable to End Users in the applicable Organizational License are incorporated by reference into this EULA.

Subject to the terms and conditions in this EULA, Licensor grants to Licensee a limited, nonexclusive, nontransferable, non-sublicensable license to use the Program as an End User for the applicable Term.

2.2 Subscription License.

Licensor further defines and limits the License granted in Section 2.1 for Licensee as follows:

- A. The “Subscription License” is for use by a single End User, or by multiple End Users pursuant to the applicable Organizational License. Unless otherwise stated in the applicable Organizational License, the Subscription License is effective for a term of three hundred sixty-five (365) days from the Effective Date. Licensee will receive all Updates and Upgrades that Licensor makes generally commercially available during the Term of Licensee’s Subscription License.
- B. If Licensee is an individual, a single licensed copy of the Program may be loaded or installed on more than one Computer by Licensee, but use of the Program is limited to only one Computer at a time and not concurrently on more than one Computer or by more than one End User at a time. Licensee is permitted to use the Program on Licensee’s own Computer or a Computer of Licensee’s employer, but only for Licensee’s own personal use or for the internal business use of Licensee’s employer.
- C. If Licensee is using the Program as an employee or consultant of an Organizational Licensee, then Licensee may only use the Program for the commercial purposes of the business of the Organizational Licensee that licensed the Program, and only on a

Computer owned or provided by the Organizational Licensee. No Subscription License of an Organizational Licensee may be transferred to an individual.

- D. Access to the Program for a Subscription License purchased for multiple End Users is subject to the following additional limitations unless provided otherwise in the Organizational License:
- (i) access may be provided for individual End Users through individual, stand-alone keys to be input into an individual Computer, and an End User's use of the Program is limited to one Computer at a time; or alternatively
 - (ii) access to the Program may be provided via an internal network or storage device (such as a network server) and the Program can be used and deployed only on the identified server of the Organizational Licensee, so long as the concurrent number of End Users of the Program does not exceed the number concurrent users for which license rights to use the Program have been acquired and dedicated by the Organizational Licensee.

Licensee's rights as an individual End User under (i) or (ii) above immediately terminate when End User's employment or contract with the Organizational Licensee ends, or the License is otherwise terminated by the Organizational Licensee or as provided in this EULA.

2.3 Demonstration Mode.

The Demonstration Mode is provided as a limited functionality license mode of the Program, which can be used for a limited demonstration of how the Program works. In the Demonstration Mode the Program provides all functionality of the Software, but limits the numbers of assessments and reports that can be generated. Every Program that does not have an active license to use the Program (including, for example, after expiration of the Term of the Subscription License) will operate in this Demonstration Mode. The Demonstration Mode is not intended for commercial use other than use to evaluate the viability of the Program. If the Program reverts to the Demonstration Mode, an active license (or key) is required to return the Program to full capability.

2.4 Rights Reserved.

All rights to the Program not expressly granted to Licensee in this EULA are reserved by Licensor. All trademarks included in the Program or used with the Program, including without limitation JAWS® Inspect, are the property of Licensor. Any use of such marks shall inure to the benefit of Licensor.

2.5 License and Not Sale.

The Program is being provided by a non-exclusive license and not as a sale of the Program. Licensee should understand that it does not own the Program. Licensee is only licensed to use the Program for the Term of the applicable License. By virtue of the License, Licensee does not obtain or possess any ownership in the Program or any related copyright or other intellectual property rights in the Program.

2.6 Payment of License Fees.

Licensee's use of the Program is subject to payment of any License fee or renewal fee (if applicable) for any subsequent Term, or Organizational Licensee's payment of a License fee or renewal fee for an Organizational License under which Licensee is an End User. To maintain the License under this EULA, Licensee (or the Organizational Licensee responsible for payment of the applicable License fee) must timely pay any applicable License fee or renewal fee. Except as otherwise set forth in any applicable Organizational License, failure to pay any such applicable fee shall be grounds for termination of the License by Licensor without any notice required, and Licensee agrees that failure to timely pay the applicable License fee or renewal fee will result in termination of the License.

3. CHOOSING NOT TO ACCEPT THE LICENSE AGREEMENT

If Licensee chooses to not accept the terms of this EULA, then (i) if Licensee received a packaged copy of the Program, Licensee must promptly return the Program, or (ii) if Licensee received a copy of the Program as an electronic download, Licensee must promptly remove the Program (including the Software, and all related Documentation) from Licensee's Computer, network or other device on which the Program is saved, stored or copied. For copies of the Program obtained in a physical package, if Licensee does not accept the Program, the following items must be returned to Licensor: the Software, all Documentation that may have been included with the Software, and the receipt Licensee received when Licensee purchased the Program. Licensor will refund to Licensee the amount of money Licensee actually paid for the Program, minus shipping/handling fees if Licensee meets the above conditions.

4. THE PROGRAM

4.1 Use of the Program.

Licensee assumes sole responsibility for determining the appropriateness of the Program for achieving Licensee's intended results. Licensee further assumes sole responsibility and all risk for the installation and use of the Program, and all data and results obtained from such installation and use of the Program. Licensee assumes complete responsibility for the selection, installation, use, and placement of hardware with which Licensee uses the Program. Licensor does not warrant that the Program is suitable for Licensee's particular purpose or use. Nothing in this EULA shall prevent Licensee from using the Program in any disaster recovery and/or preproduction environment or process. Licensee may, from time to time, copy and use the Program for purposes of archival or emergency backup, including, but not limited to the testing and operation of disaster recovery plans or other similar contingencies. These copies and the original Program may be stored in the possession of another person, so long as the storage does not result in the Program being used in violation of these terms. Licensee's use of the Program as an End User must be consistent with these installation and use requirements.

4.2 Restrictions on Use of the Program.

Licensee may not use the Program for any purpose other than those expressly set forth in this EULA. Licensee may not, in whole or part: alter, modify, decompile, disassemble, reverse engineer, rent, lease, loan or sublicense the Program; create

derivative works from the Program, or, except as expressly permitted in this EULA or any applicable Organizational License, copy, reproduce, duplicate, transfer, distribute or provide others with the Program. Licensee also may not allow the Program to be transmitted or communicated over a network except as specifically permitted in this EULA or in an Organizational License. Licensee may not operate or provide the Program as a service bureau. In the event Licensee copies, transfers, decompiles, disassembles, or reverse engineers the Program or creates a derivative work for another person in any form, except as is specifically authorized, then Licensee's License to use the Program shall be automatically terminated.

4.3 Ownership of Intellectual Property.

Licensor represents and warrants that (i) it owns all right, title, and ownership of the copyrights, and other intellectual property rights in and to the Program, and (ii) it has all of the rights and licenses in any third party intellectual property embodied in the Program necessary to grant the rights to Licensee under this EULA. Licensor further represents and warrants that the Program does not and will not infringe the intellectual property rights of any third party and Licensor will indemnify, have the right to intervene to defend and hold Licensee harmless, notwithstanding any limit of liability, based on or arising out of any claim or threatened claim that the Program or any part or use thereof infringes or violates any patent, copyright, trademark, trade secret, license or other property or proprietary right of any third party; provided that Licensee notifies Licensor in writing within thirty (30) days of the claim, Licensor has control over the defense and all negotiations for a settlement or compromise, and Licensor receives reasonable assistance from Licensee necessary to perform Licensor's obligations hereunder. The foregoing indemnity shall not apply with respect to the Program, or portions or components thereof: (i) not provided by Licensor; (ii) used in a manner not expressly authorized by this EULA or any Organizational License; (iii) if the alleged infringement or misappropriation results from any customizations, modifications, alterations or changes to the Program not developed or provided by Licensor; or (iv) combined with other products or services not provided by Licensor where the alleged infringement would not exist but for such combination. In the event that the Program is held by a court of competent jurisdiction to constitute an infringement or the use of the Program is enjoined (or Licensor reasonably believes that any of the foregoing are reasonably likely to occur), Licensor may, at its option: (i) procure for Licensee the right to continue to use the Program; (ii) provide an Upgrade so that use of the Program becomes non-infringing; or (iii) replace the Program with software that is substantially similar in functionality and performance. The Program is protected by U.S. and international copyright laws and treaties. Except as may be expressly stated herein, this EULA does not grant to Licensee any rights to the Program (or accompanying Documentation) or any rights to use the Documentation apart from the Software. Whenever the Program (including Documentation) is reproduced, then the copyright notice must also be reproduced and displayed in its original or substantially original form.

4.4 Viruses.

Licensor shall ensure that the Program does not contain any "back door," "time bomb," "Trojan horse," "worm," "drop dead device," "virus," "preventative routines," "disabling code," "cookie" or other computer software routines or programming devices designed to (i) permit unauthorized persons to access the Program, (ii) intentionally disable, modify, destroy or damage the Program, and/or (iii) make the Program inaccessible or delayed.

5. TERM AND TERMINATION

5.1 Term.

This EULA shall be effective from the Effective Date and shall extend for the Term of the applicable License for the Subscription License or Demonstration Mode, or until otherwise terminated, and this EULA shall immediately terminate concurrently with the termination of any Organizational License in connection with which the License in this EULA is granted to Licensee.

5.2 Renewal.

Limited duration Licenses provided for in Section 2.2 will automatically terminate at the end of the initial Term (and any subsequent term), unless renewed pursuant to Licensor's then-current renewal requirements or as may be provided for in an Organizational License, including exercise of an option, or both parties executing a new purchase order in writing, and payment of all fees applicable to any renewal period. For limited duration Licenses, to keep Licensee's License in force, Licensee must timely pay the renewal fee, and failure to pay any required renewal fee, or any other required fee, shall be grounds for termination of the License by Licensor without notice.

5.3 Termination by End User.

Licensee may terminate the License at any time by removing or destroying all copies of the Program (including all copies of the Documentation), regardless of the form from Licensee's Computer or device, or otherwise in Licensee's possession or control.

5.4 Termination for Cause.

Except as otherwise provided in an Organizational License, Licensee's License to the Program and this EULA will automatically terminate under any of the following: (i) if Licensee breaches or fails to comply with any of the terms of this EULA; (ii) if Licensee removes from Licensee's Computer(s) and destroy all copies of the Program in Licensee's possession or under its control; or (iii) if Licensee's License Term ends, terminates or lapses including for failure to pay any renewal fee or pay any other applicable fee to extend or otherwise continue the Term of the License. For clarification under (i) above, this License is immediately terminated in the event the Licensee fails to comply with any term or condition of this EULA, whether or not Licensor has knowledge of the failure to comply.

5.5 Requirements upon Termination.

Upon termination of this EULA, Licensee is required to immediately cease use of the Program and destroy, delete or remove all copies of the Program from Licensee's Computer(s). Licensee agrees to destroy, delete and remove all copies of the Program (including all Documentation) regardless of form, at such time this EULA is terminated.

6. LIMITED WARRANTY

6.1 LIMITED WARRANTY.

LICENSOR WARRANTS THAT WHEN DELIVERED TO LICENSEE AND FOR NINETY (90) DAYS THEREAFTER, THAT THE SOFTWARE (EXCLUDING UPDATES FOR PURPOSES OF THIS SECTION 6.1) WILL CONFORM IN ALL MATERIAL RESPECTS TO LICENSOR'S THEN-CURRENT DOCUMENTATION FOR THE SOFTWARE. IN THE EVENT OF ANY CLAIM BY LICENSEE UNDER THIS LIMITED WARRANTY, LICENSEE MUST NOTIFY LICENSOR IN WRITING DESCRIBING IN REASONABLE DETAIL THE NATURE OF THE NONCONFORMITY, AND PROVIDE TO LICENSOR SUFFICIENT DETAIL TO ALLOW LICENSOR TO REPRODUCE THE PROBLEM. THE LIMITED WARRANTY CONTAINED IN THIS SECTION 6.1 WILL NOT APPLY IF, AND TO THE EXTENT THAT: (I) THE SOFTWARE IS NOT USED IN ACCORDANCE WITH THIS EULA OR THE DOCUMENTATION; (II) THE SOFTWARE OR ANY PART THEREOF HAS BEEN CUSTOMIZED, MODIFIED, ALTERED OR CHANGED BY ANYONE OTHER THAN LICENSOR; OR (III) A MALFUNCTION IN THE SOFTWARE HAS BEEN CAUSED BY ANY OF LICENSEE'S EQUIPMENT OR ANY THIRD-PARTY SOFTWARE.

6.2 AS-IS AND DISCLAIMER OF WARRANTIES.

EXCEPT FOR THE EXPRESS LIMITED WARRANTY IN SECTION 6.1 AND TO THE MAXIMUM EXTENT ALLOWABLE BY LAW, LICENSOR PROVIDES THE PROGRAM TO LICENSEE "AS IS" AND WITH ALL FAULTS, MAKES NO OTHER WARRANTIES RELATED TO THE PROGRAM OR THE RESULTS TO BE OBTAINED FROM USE OF THE PROGRAM, AND PROVIDES THE PROGRAM WITHOUT ANY OTHER WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR

PURPOSE. LICENSOR DOES NOT WARRANT, AND LICENSEE HEREBY WAIVES ANY WARRANTY, THAT USE OF OR ACCESS TO THE PROGRAM BY LICENSEE AS AN END USER WILL BE ERROR FREE. LICENSOR DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PROGRAM WILL MEET LICENSEE'S REQUIREMENTS.

6.3 OTHER LIMITATIONS.

LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES (AND EXPRESSLY DISCLAIMS ALL WARRANTIES) WITH RESPECT TO ANY HARDWARE, SOFTWARE, DATA OR INFORMATION NOT SUPPLIED BY LICENSOR, ANY INFORMATION, DATA, FORMULAS OR ALGORITHMS USED, ACCESSED BY OR INCORPORATED INTO THE PROGRAM, OR ABOUT ANY DEFECTS RELATED TO DOWNLOAD OR INTERNET CONNECTIVITY PROBLEMS DURING DOWNLOAD OF THE PROGRAM.

6.4 Use at Licensee's Sole Risk.

Licensee as an End User hereby acknowledges and agrees that use of the Program shall be at Licensee's sole and exclusive risk and subject to all applicable rules, regulations and applicable laws. Licensee hereby acknowledges that the Program may contain errors, inaccuracies and omissions. Licensee assumes any and all risks as to the results and performance of the Program, including any risk, damage, loss or harm from Licensee's use or downloading the Program.

6.5 Inapplicability of Exclusions.

As the exclusion of implied warranties is not permitted by some states or jurisdictions, the above exclusions may not apply to Licensee. In that case, any implied warranties are limited in duration to ninety (90) days from the earlier date of download or activation of the License.

7. LIMITATION OF REMEDIES

7.1 EXCLUSIVE REMEDY.

EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS UNDER THIS EULA, LICENSOR'S ENTIRE LIABILITY AND THE LICENSEE'S EXCLUSIVE REMEDY UNDER THE LIMITED WARRANTY DURING THE WARRANTY PERIOD SHALL BE THAT LICENSOR, AT ITS SOLE OPTION, WILL EITHER REPAIR OR REPLACE THE PROGRAM NOT MEETING LICENSOR'S LIMITED WARRANTY, OR ALLOW FOR FURTHER DOWNLOAD OR UPGRADE OF THE PROGRAM.

7.2 LIMITATION OF DAMAGES.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS IN ITS ESSENTIAL PURPOSE, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR

ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER DAMAGES WHATSOEVER (INCLUDING,

WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS OR INFORMATION, BUSINESS INTERRUPTION, OR

ANY OTHER PECUNIARY LOSS), ARISING OUT OF OR IN ANY WAY RELATED TO THEIR RESPECTIVE OBLIGATIONS UNDER THIS EULA AND WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS UNDER THIS EULA, THE ENTIRE LIABILITY OF LICENSOR FOR ANY DAMAGES UNDER ANY PROVISION OF THIS EULA SHALL BE LIMITED TO THE ACTUAL FEES PAID TO LICENSOR BY OR ON BEHALF OF LICENSEE FOR THE SINGLE LICENSE EXPRESSLY COVERED BY THIS EULA. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

7.3 Inapplicability.

As the exclusive remedy and limitation of damages may not be permitted by some states or jurisdictions, the provisions of Sections 7.1 and 7.2 may not apply to Licensee.

8. INDEMNIFICATION

To the maximum extent permitted under applicable law, Licensee agrees to indemnify and hold Licensor and its affiliates and subsidiaries, and their respective officers, directors, employees, agents, representatives, successors, assigns, service providers and suppliers harmless from any and all claims, losses, demands, fines, penalties, costs, and expenses, including reasonable attorney fees and court costs, made by any third party in connection with or arising out of: (i) any bodily injury (including death) or damage to real property or tangible personal property caused by Licensee; (ii) Licensee's breach or violation of any provision of this EULA or any applicable Organizational License; and (iii) Licensee's violation of applicable laws or any rights of another person or entity. Licensee shall be responsible for any acts and omissions of its End Users in connection with its obligation under this EULA.

9. OTHER PROVISIONS

9.1 Restrictions on Assignment and Transfer.

Except as permitted herein, Licensee may not sublicense, assign, or transfer this License or EULA to another party, and any attempt to sublicense, assign or transfer any of the rights, duties or obligations under this EULA shall be null and void and without any legal effect. Nothing in this Section shall prevent an Organizational Licensee from transferring or assigning this EULA in connection with any merger or consolidation of the Organizational Licensee, or a sale of all or substantially all of the assets of the Organizational Licensee.

9.2 Consent to Use of Information.

Information privacy is very important to Licensor, and by using the Program, Licensee agrees that the collection, use, and disclosure of any information Licensee provides to Licensor will be in accordance with Licensor's Privacy Policy available at <http://www.freedomsscientific.com/About/Index/PrivacyPolicy>.

9.3 Governing Law, Jurisdiction and Venue.

This EULA shall be governed, interpreted, construed and enforced in accordance with the Federal laws of the United States. The parties agree that no Uniform Computer Information Transactions Act or similar provision from any state or other jurisdiction shall apply to this EULA.

9.4 Export Restrictions.

Licensee may not export, ship, transmit or re-export the Program in violation of any applicable law or regulation, including but not limited to, Export Administration Regulations issued by the U.S. Department of Commerce. Unless in compliance with applicable law and specifically authorized in writing by Licensor, Licensee shall not export the Program under any circumstances whatsoever. In any case, Licensee will indemnify and hold Licensor harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including reasonable attorney's fees) arising from, or relating to, any breach by Licensee of Licensee's obligations under this section.

9.5 Waiver.

No failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

9.6 Severability.

In the event that any one or more of the provisions of this EULA are held to be invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired and enforced to the full extent permitted by law.

9.7 Injunctive Relief.

To the extent permitted under applicable law, the parties agree that in the event of a breach by either party of any provision of this EULA, the non-breaching party shall be entitled to seek and obtain injunctive or other equitable relief, or both, in each case without the requirement to post any bond or other form of security, and without such act constituting an election of remedies or disentiing the non-breaching party to each and every remedy available at law or in equity for a breach of this EULA by the other party.

9.8 Entire Agreement.

Except to the extent governed by an Organizational License, this EULA, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), constitutes the entire agreement between Licensee and Licensor related to the Program and supersedes all prior or contemporaneous agreements, proposals, negotiations, representations and communications between Licensee and Licensor related to the Program. Licensee acknowledges that Licensee has not been induced to enter into this EULA by any representations or promises not specifically stated herein.

9.9 Statutory Exceptions for Public Institutions.

If Licensee is government or public agency, instrumentality or institution, including without limitation a public educational, research or medical institution or body, and any terms in this EULA (including by way of example, all or part of the termination, limitation of liability, exclusive remedies, limited warranty, indemnification and injunctive relief sections) are invalid or unenforceable against Licensee because of applicable law, then those terms will be deemed excluded and unenforceable (as the case may be), and instead construed in a manner most consistent with applicable governing law. In addition, if the applicable governing law for this EULA set forth in Section 9.3 is precluded for Licensee under applicable law, then this EULA will be governed and construed under the laws of the country, state, province or other jurisdiction in which Licensee's primary office is located.

If Licensee has questions concerning this EULA, please contact Licensor for clarification at 11800 31st Court North, St. Petersburg, FL 33716, or phone (727) 803-8000.

Section 18 - MASTER CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT ("Agreement") is made as of the Date set forth in the Purchase Order, Statement of Work, or similar document (the "Effective Date") by and between the Ordering Activity under GSA Schedule contracts identified in the Purchase Order, Statement of Work, or similar document ("Company" or "Ordering Activity") and The Paciello Group, LLC a New Hampshire Limited Liability Company, with a place of business located at 17757 US Highway 19 North, Suite 560, Clearwater, Florida 33764 ("TPG"). Company and TPG are also sometimes referred to individually as a "party" and together as "parties."

WHEREAS, TPG has extensive expertise and experience with providing specialized consulting services; and

WHEREAS, Company desires to secure the benefit of TPG's expertise and experience with providing such services;

NOW, THEREFORE, in consideration of the mutual promises set forth below, it is agreed as follows:

1. Contract for Services

Company hereby contracts for, and TPG hereby agrees to provide from time to time at Company's request, the services as defined in a "Statement of Work" ("Services") which Statements of Work will attach to this Agreement (each, a "SOW" or "Statement of Work"), and be subject to the terms and conditions contained herein. In the event of any conflict or inconsistency between the provisions of the main body of this Agreement and the provisions of a SOW, the provisions of the main body of this Agreement shall control unless specific reference is made to overriding same in the respective SOW. All services or work hereunder shall be authorized only by the execution of a SOW by duly authorized representatives of the parties hereto. In no event shall Company be liable in any way for any services provided or work performed which is outside the scope of Services.

2. Fees

Company agrees to pay TPG the fees set forth in the applicable SOW for Services rendered in accordance with the GSA Schedule Pricelist. Unless a SOW states otherwise, TPG will invoice Company on a monthly basis and payment terms will be net 30 days from TPG's invoice date. Any invoiced amount not paid when due shall be subject to a service charge as indicated by the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315.

3. Business Expenses

Ordering Activity agrees to pay any travel expenses in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and funded under the applicable ordering document. Business expenses related to the completion of a SOW will be billed to Company on a monthly basis with appropriate documentation for verification. Prior written approval by the Company project manager is required for all expenditures sought for such reimbursement. Reimbursable expenses may not include any increase, mark up, burden or uplift and must be billed to Company at TPG's actual cost.

4. Independent Contractor

TPG is an independent contractor; TPG and its employees and contractors (if any) are not employees of Company. TPG shall perform the Services in a safe and professional manner. TPG must pay all applicable taxes and other costs associated with the Services, including, but not limited to, social security taxes, withholding or other income taxes, worker compensation charges, employer's liability insurance, and general liability insurance, in each case as is required by law and, as to such insurance, as is expressly required of TPG under this Agreement. TPG represents warrants and covenants that it will, as to each person performing Services on behalf of TPG hereunder, verify the identity and work authority of each such worker and/or consultant under the United States immigration laws. TPG further represents and warrants that each person performing Services on behalf of TPG shall, to TPG's knowledge, be eligible to be covered under a third party fidelity bond, and TPG shall have never been refused or had canceled coverage under a third party fidelity bond. TPG shall indemnify and hold Company harmless from and against any and all assessments, taxes, levies, claims, fines, penalties, losses, charges and expenses (including reasonable attorneys' fees) arising from TPG not complying with the preceding provisions of this Section 4. Neither TPG nor Company has any authority to bind or obligate the other party in any manner.

5. Term/Termination

This Agreement shall be in effect for a period of one year from the Effective Date and will continue thereafter until completion of any then incomplete SOW.

6. Confidentiality

Each party (for purposes of this Section 6, "Recipient") agrees that any information concerning the other party's (for purposes of this Section 6, "Discloser") business operations, systems, practices, computer systems (without limitation the programs and products used therein or related in any way thereto), products and programs (including without limitation all information whatsoever concerning or pertaining to (i) shareholders or security holders of securities issued by or serviced by clients of Discloser or (ii) clients of Discloser or such clients' customers and any documents, letters, memoranda, charts, graphs, programs and other writings or documents of any nature given to Recipient by Discloser or Discloser's agents, or obtained by Recipient (if TPG) in the course of performing a SOW or by Recipient (if Company) in connection with evaluating TPG prior to the Effective Date or in interacting with TPG in connection with this Agreement or Services, shall constitute confidential and proprietary information (the "Confidential Information"), and that Recipient, if TPG, shall use such Confidential Information of Company solely for the purpose of performing Services, and that Recipient, if Company, shall use such Confidential Information of TPG solely in connection with Company's use of the Services and Deliverables as permitted under this

- (b) *By Company.* Subject to Section 10, Company agrees to indemnify and hold harmless TPG, its officers, directors, employees, sub-contractors, agents, representatives, successors and assigns ("TPG Indemnified Parties") against and in respect of any Loss by reason of a third party claim brought against TPG arising from Company's use of the Services, provided, however, that Company shall have no indemnification obligation under this Section 9(b) or otherwise under this Agreement for any Loss by reason of such third party claim to the extent TPG has an indemnification obligation therefor under Section 9(a).

10. Limitation of Liability

WITH THE EXCEPTION OF BREACH OF SECTION 6 CONFIDENTIALITY, SECTION 16, EMPLOYEE DISCRIMINATION AND/OR THE INDEMNIFICATION OBLIGATIONS UNDER SECTION 4, INDEPENDENT CONTRACTOR, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF PROFITS, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, EXCEPT FOR TPG'S OBLIGATIONS SET FORTH IN SECTIONS 7, 16 AND/OR THE INDEMNIFICATION OBLIGATIONS UNDER SECTION 4, THE LIABILITY OF EITHER PARTY TO THE OTHER PARTY FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER, INCLUDING THE LIABILITY OF TPG FOR ANY PROPERTY DAMAGE, IN EXCESS OF ANY RECOVERY UNDER ANY INSURANCE POLICY UNDER WHICH A CLAIM IS PAID, SHALL NEVER EXCEED THE AMOUNT RECEIVED BY TPG FROM COMPANY UNDER THE APPLICABLE PURCHASE ORDER GIVING RISE TO SUCH CLAIM. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

11. Insurance

TPG shall, without further cost to Company, carry insurance as follows and provide evidence of such insurance whenever requested by Company:

- (a) Comprehensive or commercial general liability and property damage insurance with minimum limits of \$1 million per occurrence and \$2 million in the aggregate, and with respect thereto, umbrella policy or excess liability coverage endorsement or policy, in an amount of not less than \$2 million;
- (b) **Workers' Compensation in accordance with all federal and state statutory requirements and Employer's Liability in an amount of not less than \$1 million per accident for bodily injury and \$1 million per employee/aggregate for disease;**
- (c) **Professional Errors & Omissions Liability insurance covering liability incurred as a result of any error or omission in performing professional services with a limit of not less than \$1 million each claim; and**
- (d) Commercial Automobile Liability insurance in an amount of not less than \$1 million per occurrence combined single limit covering bodily injury (including death) and property damage for all owned, hired and non-owned vehicles used by TPG.

Company shall be named as additional insured as its interest may appear under the commercial general liability policy of insurance. It is expressly understood and agreed that Company does not in any way represent that the above specified limits of liability or policy forms are sufficient or adequate to protect TPG's interests or liabilities.

12. Intellectual Property

- (a) *Results.* TPG agrees that all data, calculations, interpretations, opinions and recommendations regarding the Services ("Results"), and all copyrights in Results, consistent with a "work made for hire" under 17 U.S.C. 101, are owned by Company, and, upon payment of any amounts owed to TPG under Section 2 with respect to same, are hereby assigned by TPG to Company. Company will have the right to use the Results of the Services in any manner deemed appropriate to Company's business interests, and as required by legal and business obligations, such as, without limitation, to provide any submissions to government regulatory agencies, or to satisfy other requirements of any government agency. Consistent with the Results being Confidential Information under Section 6, TPG agrees not to publish or otherwise disclose the Results or other information concerning the Services, without the express written consent of Company, which may be withheld or granted in Company's sole discretion.
- (b) *Inventions.* TPG will disclose promptly and fully in writing to an authorized representative of Company all information, discoveries, works of authorship, designs, software, and inventions, whether or not patentable, conceived or reduced to practice by TPG as a result of the Services ("Inventions"); *provided* that the term "Inventions" shall not include any Results (which Results shall be owned under Section 12(a) by Company). All Inventions will be the property of TPG subject to (i) as applicable, the license under Section 12(c) to Company to use the Inventions; and (ii) TPG remaining bound by its obligations under Section 6 with respect to any Confidential Information of Company.
- (c) *Retention of Rights.* Company agrees that nothing in this Agreement shall be deemed to prohibit or limit TPG's use, now or at any time, of ideas, concepts, know-how, methods, techniques, skill, knowledge and experience, in any way

whatsoever, that are used or developed in the performance of Services under this Agreement or any SOW, except to the extent such use is prohibited by Section 6, CONFIDENTIALITY. TPG retains all right, title, and interest in all modifications, enhancements, customizations, source code, acquired or developed during the performance of the Services under this Agreement or any SOW (excluding any Results), provided, however, that TPG shall not have any right to use with any of the foregoing, other than in performance of this Agreement, any Confidential Information. TPG hereby grants to Company a world-wide, non-exclusive, non-transferable (except as provided below), royalty-free, perpetual, worldwide license to use all deliverables provided to Company as part of performance of Services ("Deliverables"), such use solely for Company's internal uses. TPG shall have, at its sole cost and expense, the sole right to apply for, in its own name, patents, copyrights or other statutory or common law protections, worldwide, for any Deliverable or any portion thereof other than Results

(it being understood that TPG has no right to use Results other than as expressly provided in Section 12(a) or, solely for the benefit of Company, in performance of Services). Company shall have the right to transfer without TPG's consent, the above license, to its successor in connection with a sale of all or substantially all of the assets, including this Agreement, or of all, substantially all, or a controlling interest in, the equity or capital stock, as applicable, of Company, to its successor, whether by acquisition, sale or merger.

- (d) *Services Nonexclusive.* Subject to TPG's obligations under Section 6, this Agreement and SOWs hereto and the Services to be performed thereunder are not exclusive and TPG reserves the right to provide similar consulting services and its personnel to others.

13. Force Majeure

Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with its terms if such a failure arises out of causes beyond the control and without the fault or negligence of such party. Such causes may include, but are not restricted to, acts of God or of a public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform must be beyond the control and without fault or negligence by the party failing to perform.

14. Employee Solicitation

Each party agrees that it shall not solicit or offer employment to any of the other party's personnel for a period of twelve months after the completion of all then outstanding SOWs. Notwithstanding the foregoing, if an employee of a party responds to a general recruiting advertisement placed in a newspaper or magazine of general circulation or generally on the internet not targeting any employee of the other party, such conduct shall not be deemed to violate this Section 14.

15. Assignment, Waiver and Severability

This Agreement shall not be assigned, sublicensed or in any other manner transferred to any other person or entity by either party without the prior written consent of the other party. Such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that, in the case of an assignment or transfer by a party by operation of law, whether pursuant to a merger, consolidation, sale of all or substantially all of assignor's assets (including this Agreement), such consent by the other party shall not be required if the successor in interest to the assigning party assumes in writing all of the assigning party's duties and obligations under this Agreement.

No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of such provision or any other provisions hereof and no waiver shall be effective unless made in writing. In the event that any provision of this Agreement shall be determined to be illegal or otherwise unenforceable, such provision shall be severed and the balance of the Agreement shall continue in full force and effect; provided, however, that either party may terminate this Agreement if any material provision of this Agreement is determined to be illegal or otherwise unenforceable by giving 20 days written notice to the other party within 30 days after such determination.

16. Employee Discrimination

TPG shall comply with all applicable federal, state and local laws, regulations and ordinances concerning labor, employment, and employment discrimination, including without limitation laws relating to the protection of disabled individuals (collectively, the "Laws"). TPG shall indemnify and hold Company harmless from and against any and all claims, damages, liabilities, losses and expenses, however caused, which are brought by TPG's employees, personnel or agents and which arise from the violation or claimed violation of the Laws.

17. Release of Information

Each party agrees not to, without the prior written approval of either party, make any news release, public announcement, denial, or confirmation with respect to any part of this Agreement, or any portion of the Services, including, without limitation, any advertisement, publication or news release. Any materials developed for Company or containing Company-related information may not be used in a promotional or demonstrative capacity by TPG without the prior written consent of Company.

18. Governing Law

This Agreement shall be governed by the Federal laws of the United States.

19. Survival

All representations, warranties, covenants and obligations of a respective party made in this Agreement shall survive any termination or expiration of this Agreement to the extent necessary to give effect to such provision. Notwithstanding, any claim arising under this Agreement must be brought within one year after any termination or expiration of this Agreement.

20. Entire Agreement; Amendment; Counterparts

This Agreement, including the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s) and each SOW executed by both parties, sets forth the entire agreement between Company and TPG, and supersedes any and all prior agreements and understandings with respect to the subject matter hereof. Notwithstanding anything to the contrary, whether issuing or executing a purchase order, by accepting Services or Deliverables, or otherwise, Company agrees to be bound by and accept the terms and conditions contained in this Agreement. No additions, conditions, amendment, alterations, or modifications by Company or any other person, whether oral or contained in any other document submitted by Company to TPG will be binding upon TPG regardless of TPG's failure to object or TPG's provision of Services, unless and until executed in writing by both parties. This Agreement may be executed in multiple counterparts, each of which shall be effective upon delivery and, thereafter, shall be deemed to be an original, and all of which shall be taken as one and the same instrument with the same effect as if each party had signed on the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signature thereto and may be attached to another part of this Agreement identical in form hereto and having attached to it one or more additional signature pages. This Agreement may be transmitted by facsimile or by electronic mail in portable document format ("pdf") and signatures appearing on faxed instruments and/or electronic mail instruments shall be treated as original signatures. Any party delivering an executed counterpart of this Agreement by facsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement, but the failure to so deliver shall not affect the validity, enforceability or binding effect hereof.

Pegasystems, Inc.
101 Main Street
Cambridge, MA 02142

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Pegasystems, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such

occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by

law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A – PEGASYSTEMS INC.

MASTER SOFTWARE LICENSE, MAINTENANCE & PROFESSIONAL SERVICES AGREEMENT, rev 9/17/2019

This Agreement ("Agreement") describes the terms and conditions that will apply to licenses for Pegasystems' products that Customer purchases from time to time, and maintenance services and professional services and training from Pegasystems relating to those licensed products. This Agreement consists of specific terms and conditions relating to Licenses, Maintenance and Professional Services and Training, general terms and conditions relating to the relationship between the parties, the defined terms specified on Exhibit A, and the terms and conditions in any License Schedule.

Pegasystems' products include the Pega Platform for CRM and BPM applications, Artificial Intelligence for adaptive real-time decisioning, Robotic Automation for automating processes and assisting workforces, and strategic applications and components enabling specific solutions. Pega Platform products are composed of Pegasystems' provided RuleSets to use to develop Customer Applications. Customer Applications may be deployed on the Pega Cloud, a Customer-managed cloud or a partner-managed cloud, each as described in a Schedule to this Agreement. Customer may also obtain professional services and training under a separately issued order to this Agreement.

Subscription Services and License Terms

1. Subscription Services: Software License

- (a) If designated in an applicable Schedule, Pegasystems will provide Customer with the Subscription Services and/or Pega Cloud Collaboration Services in accordance with the Subscription Documentation to develop, test and/or deploy Customer Applications into production within the Scope of Use. Customer will be responsible for any third-party products that are installed and/or used by or on behalf of Customer in connection with the Subscription Services.
- (b) If designated in an applicable Schedule, Pegasystems will grant Customer a non-transferable, non-exclusive license to install the Software in a Customer Managed Cloud to develop, test and/or deploy Customer Applications into production within the Scope of Use. Software licensed for use in a Customer Managed Cloud will not include the Subscription Services.
- (c) Customer is responsible for configuring Guardrail Compliant Customer Application(s) in the Pega Cloud and for the performance of any Customer Application(s).
- (d) Customer will receive support, upgrades, and updates during the Term in accordance with the terms

- of the applicable Schedule and the Customer Support Handbook, as may be periodically updated.
- (e) During the Term, Customer grants to Pegasystems a worldwide license to host, copy, use, execute, transmit and display Customer's data, Customer Applications and any third-party products, as necessary to provide the Subscription Services. Customer agrees to allow Pegasystems to use anonymized information about Customer's use of the Subscription Services and Software to improve the Pega Cloud. Pegasystems will not acquire any right, title or interest from Customer in or to Customer's data or third-party products. In each Schedule, Customer will commit to purchase licenses for production use of each Customer Application at the time that development of the Customer Application begins.

2. Restrictions.

(a) Customer's use of the Subscription Services and/or Software will comply with the terms of this Agreement. Customer's use of the Subscription Services will comply with the Subscription Documentation, Customer Data Rights and Responsibilities, and Acceptable Use Policy. Customer agrees not to sell, resell, rent, outsource, timeshare, lease or sublicense the Subscription Services and/or Software to any third party or otherwise use it except as permitted under this Agreement and the applicable Schedule. Customer will not use shared User IDs to avoid or reduce the counting of individuals that use the Subscription Services and/or Software.

(b) Customer's use of the Subscription Services and/or Software will be in object code and/or RuleSet form. Unless specifically authorized by law, Customer may not reverse engineer, decompile, disassemble or otherwise attempt to determine source code or protocols from the Subscription Services and/or Software.

(c) Pegasystems retains all right, title and interest to the Subscription Services, Software and Background Materials. The Software will contain Pegasystems' copyright notice, and Customer will reproduce such notice in any permitted copy made by Customer.

3. Maintenance. In a License Schedule, Customer may purchase maintenance services as described in the applicable Maintenance Schedule. The following terms and conditions will apply to maintenance services:

(a) The maintenance term under each License Schedule may be renewed for successive annual terms, at the then current fees under such License Schedule in accordance with the GSA Schedule Pricelist. If Customer elects not to renew maintenance, the election must be for all of the Software licensed under the applicable License Schedule. In addition, if Customer cancels maintenance under any License Schedule, it agrees that it cannot use maintenance services that remain in effect under another License Schedule for the benefit of any Customer Application that is covered by the License Schedule for which maintenance was cancelled.

(b) If the Customer licenses the Software for additional use, the corresponding maintenance fee will be assessed at the applicable percentage of the license fee in accordance with the GSA Schedule Pricelist. Any such additional maintenance fee will be prorated to reflect the period of time remaining in the then-current term and will be payable from the date the additional usage is licensed.

(c) In the event that Customer elects not to renew maintenance, and then later elects to purchase maintenance, any reinstatement of maintenance services will be subject to the mutual agreement of the parties and Customer's payment to Pegasystems of all fees that would have been payable from the time that Customer discontinued maintenance to the time of its reinstatement.

Professional Services Terms

4. Performance of Services; Deliverables.

(a) Pegasystems may provide Professional Services to Customer under a mutually-agreed Work Order.

(b) All Deliverables that Pegasystems creates during the course of providing Professional Services for Customer under this Agreement will be a "work made for hire" and will become, effective upon payment by Customer in full, the exclusive property of Customer. Customer will also retain all right, title and interest in any new RuleSets that Customer develops for itself using the Software. So long

as Pegasystems has not used any Customer Confidential Information, Customer agrees not to challenge or make claims against Pegasystems' ability to provide its products and services to other customers.

- (c) Pegasystems may use its Background Materials in the course of providing Professional Services to the Customer. Background Materials will at all times remain the property of Pegasystems, and if Pegasystems incorporates any Background Materials in a Deliverable that is provided to Customer under a Statement of Work, Customer will receive a non-exclusive, non-transferable, fully paid-up license to use those Background Materials solely in connection with the Deliverables in which they were incorporated under the terms of the applicable Schedule.

General Terms and Conditions

5. Reserved.

6. Representations and Warranties.

- (a) Each party represents and warrants the following: (i) entering into and carrying out the terms and conditions of this Agreement will not violate any obligation binding upon it; (ii) each party will comply with all applicable laws in connection with its performance under this Agreement; and (iii) the executing persons have the authority to bind their respective parties.
- (b) Pegasystems warrants that (i) the Subscription Services and/or Software will operate substantially in accordance with its Documentation for a period of 90 days from initial delivery, (ii) no disruptive or corrupting software that would damage, disable or compromise the security of a Customer Application will be intentionally or knowingly introduced into the Subscription Services and/or Software by Pegasystems or its employees, and (iii) all Professional Services provided under this Agreement will be performed in a good and workmanlike manner, consistent with applicable industry standards. Pegasystems will, at its election, promptly repair the Software or Subscription Services to resolve any failure of the warranties described in (i) and (ii) above, which can be replicated or verified, or replace the Software or Subscription Services with alternative software that provides substantially the same functionality. These remedies will be Customer's exclusive remedy for any failures of these warranties. In order for Customer to invoke these remedies, Customer must provide written notice to Pegasystems within the warranty period, expressly outlining the nature of the alleged failure or breach.
- (c) The foregoing warranties will be void to the extent that any failure of such warranties is caused by (i) anyone other than a Pegasystems employee modifying the Subscription Services or Software (unless Pegasystems authorizes the specific change in writing), (ii) non-Pegasystems' service, software or hardware, or (iii) non-Guardrail Compliant Customer Applications.
- (a) (d) EXCEPT AS EXPRESSLY STATED IN THIS SECTION 6, PEGASYSTEMS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

7. Confidentiality.

- (a) "**Confidential Information**" means all non-public information provided by or on behalf of a party to the other party unique to the disclosing party's business, including but not limited to Subscription Services, Software, Software Documentation and Subscription Documentation. For the avoidance of doubt, Confidential Information also includes any information that is protected as confidential by applicable law, statute or regulation, including the Health Insurance Portability and Accountability Act and the Gramm-Leach Bliley Act.
- (b) Each party agrees that any Confidential Information it receives from the other is the exclusive proprietary property of the disclosing party or its licensors and may include trade secrets and other highly confidential information.
- (c) Subject to the Freedom of Information Act, 5 U.S.C. § 552, each party agrees to receive and hold any Confidential Information supplied by the other party in confidence and agrees:
 - (i) not to disclose or publish any such Confidential Information to third parties;
 - (ii) not to use any such Confidential Information except for those purposes specifically authorized

- (iii) to disclose such Confidential Information only to those of its officers, directors, agents and employees who have a need to know, have been advised of the confidential nature of the Confidential Information, and who are under obligations of confidentiality to the receiving party; and
- (iv) to follow the other party's reasonable on-site security procedures.
- (d) The above confidentiality provisions will not apply to information that:
 - (i) is in the public domain at the time of its disclosure;
 - (ii) is disclosed to a third party who is under no obligation to maintain the confidentiality of the information with the prior written consent of the disclosing party;
 - (iii) becomes known to the receiving party from a source other than the disclosing party, provided such source is legally entitled to have and disclose the information; or
 - (iv) is independently developed by a receiving party without use of the Confidential Information of the disclosing party, as demonstrated by written records of such receiving party; or
- (e) In the event that a receiving party is required by a court of law or by a governmental, regulatory or administrative agency, body or tribunal to disclose any of the Confidential Information of a disclosing party, the receiving party shall (i) provide the disclosing party with prompt prior written notice of such requirement so that the disclosing party may seek appropriate relief to prevent or limit such disclosure, and (ii) furnish only that portion of the Confidential Information which is legally required to be furnished or disclosed.
- (f) If, in connection with the Subscription Services and/or Software, Customer communicates suggestions for improvements to the Subscription Services and/or Software, Customer assigns to Pegasystems all of its right, title and interest (including all intellectual property rights) in such suggestions for improvements and Pegasystems will own all right, title, and interest in and to the same and shall be entitled use the same without restriction.

8. Data Protection.

- (a) If and insofar within the scope of this Agreement Personal Data is Processed by Pegasystems on behalf of Customer, Pegasystems shall: (i) Process the Personal Data only in accordance with instructions from the Customer (which may be specific instructions as are notified by the Customer to Pegasystems during the Term or instructions of a general nature as are set out in this Agreement); (ii) implement appropriate technical and organizational measures to protect the Personal Data against unauthorized or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm and/or reputational damage which might result from any unauthorized or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data and comply with the obligations in this sub-clause; (iii) take reasonable steps to ensure that all Pegasystems staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this sub-clause; and (iv) not publish, disclose or divulge any of the Personal Data to any third party except as described below or unless directed in writing to do so by the Customer.
- (b) Pegasystems will notify Customer in writing if it becomes aware of any breach of Personal Data or any claims in connection with such breach. Pegasystems shall inform Customer of all actions and measures taken to address such breach and/or claims.
- (c) Pegasystems will only transfer or provide direct access to Personal Data to Pegasystems' affiliates and subcontractor that (i) have agreed in writing to process the Personal Data consistent with the terms of this Agreement and (ii) (A) are located in a jurisdiction subject to Data Protection Legislation or with privacy laws considered to be adequate by the European Commission or (B) have entered into the EU standard contractual clauses for transfers of Personal Data to non-EU data processors, set out in European Commission Decision 2010/87/EC of 5 February 2010, to the extent necessary for Pegasystems to fulfill its obligations to Customer pursuant to this Agreement, unless and until Pegasystems has in place an alternative valid mechanism which is suitable for this purpose, including but not limited to binding corporate rules for Processors.

9. Indemnification.

- (a) Subject to 28 U.S.C. § 516, Pegasystems will indemnify Customer from, and defend Customer against, any third-party claim that the Subscription Services, Software, or a Deliverable infringe upon a United States, Australian, Canadian or European Union trademark, copyright, trade secret or patent (“IPR”). In the event that the Subscription Services, Software, or a Deliverable is found to be infringing or if Pegasystems deems it advisable as the result of a claim or threatened claim, Pegasystems will, in its reasonable discretion:
- (i) procure for Customer the right to continue using the Subscription Services, Software, or applicable Deliverable;
 - (ii) replace or modify the Subscription Services, Software or applicable Deliverable so that it becomes non-infringing; or
 - (iii) in the event that Pegasystems cannot reasonably do either of the foregoing in its discretion, terminate the particular Schedule to which the IPR infringement claim relates.
- These remedies will be Customer’s sole remedy for any IPR infringement claim.
- (b) Pegasystems will not indemnify Customer when the alleged infringement results from (i) content provided by Customer or developed for Customer as a Deliverable pursuant to written specifications or instructions provided by Customer; (ii) modifications made to the Subscription Services, Software, or applicable Deliverable by Customer or a third party; or (iii) any Customer Application (excluding unmodified Pegasystems provided RuleSets) or any other RuleSets created by Customer or a third party.
- (c) Subject to 28 U.S.C. § 516, Pegasystems shall indemnify Customer and defend Customer against any third party claim to the extent that it is attributable to bodily injury or to death of any person or to damage to or destruction of any property, resulting from the willful or grossly negligent acts of Pegasystems, its agents or employees.
- (d) Reserved.
- (e) In asserting any claim for indemnification, the relevant party must provide prompt written notice describing the claim, and cooperate fully with the indemnifying party. The indemnifying party will be entitled to control any proceedings or litigation for which it is indemnifying the other party, except that the indemnifying party will not, without the other party’s prior written consent (not to be unreasonably withheld), enter into any settlement that would require the other party to take any action, or refrain from taking any action, other than permitting the indemnifying party to pay money damages on its behalf.
- (f) Nothing contained herein shall be construed in derogation of the U.S. Department of Justice’s right to defend any claim or suit brought against the U.S. pursuant to its jurisdictional statute 28 U.S.C. § 516.
10. Limitation of Liability. This clause shall not impair the U.S. Government’s right to recover for fraud or crimes arising out of or related to this Contract under any federal fraud statute, including the False Claims Act, 31. U.S.C. §§ 3729-3733.

Recourse against the United States for any alleged breach of this agreement for non-intellectual property claims must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract.

All damages arising under, or related to, this Agreement (regardless of the type of damages, and whether for breach of contract, breach of warranty, tort or otherwise) will be limited to the amount of fees received by Pegasystems from Customer in connection with the Schedule(s) under which such damages arose, or to which such damages relate (except any claim by Pegasystems for payments owed by Customer will be limited to the amount owed plus any additional amounts owed for use that exceeds the Scope of Use).

11. Outsourcing. Customer will be permitted to allow a third party service provider to use the Software as part of a technology outsourcing arrangement or to assist Customer in the development of a Customer

Application, provided that: (a) such use is solely for the benefit of Customer and subject to the terms and conditions of this Agreement; and (b) Customer informs Pegasystems in writing and provides reasonable assurances that the requirements of this Section have been satisfied.

12. Inspection/Acceptance. The Contractor/reseller can only, and shall only tender for acceptance those items that substantially conform to the software manufacturer's ("Pegasystems") published specifications. Therefore, items delivered shall be considered accepted upon delivery. The Government reserves the right to inspect or test any supplies or services that have been delivered. The Government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. If repair/replacement or re-performance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights within the warranty period; and before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
13. Insurance. During the Term of any applicable Schedule, Pegasystems will maintain insurance from a company rated at least A- by A.M. Best's Rating Service or equivalent with limits no less than those set forth in the Certificate of Insurance that Customer may obtain directly from:
<https://online.marsh.com/marshconnectpublic/marsh2/public/moi?client=D133>
14. Additional Terms and Conditions.
 - (a) Reserved.
 - (b) Assignment or Delegation. Assignments are subject to FAR clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements. Notwithstanding the foregoing, neither party may assign or delegate any rights or obligations under this Agreement or any Schedule without the other party's prior written consent, except that, subject to Section 14(c), either party may assign the entirety of its rights and obligations under this Agreement (i) to its parent company or an Affiliate, or (ii) in connection with a merger or sale of a business unit or majority stock ownership provided that the successor party assumes the rights and obligations in writing and has adequate resources to meet its obligations and Customer notifies Pegasystems in writing prior to the assignment.
 - (c) Customer Combinations. In the event that Customer should merge with, acquire, or be acquired by another entity (collectively, a "**Combination**"), the resulting combined entity may only use the Subscription Services and the Software within the scope of the Customer's operations at the time immediately prior to the Combination. In addition, the parties will negotiate in good faith a proportionate adjustment to the scope of use and the fees due under the applicable Schedule as a result of the Combination.
 - (d) Non-Solicitation. Neither party will hire or contract with, either as an employee or an independent contractor (either directly or through a third party), any Covered Personnel of the other party. The term "Covered Personnel" of a party will mean that party's employees or any contractors retained by that party who are professional services personnel or who were involved in the performance of this Agreement within the preceding six-month period, or any person who would have been considered Covered Personnel but for having terminated employment or contractual relationship within the past six months. Breach of this paragraph will constitute a material breach of this Agreement and will be resolved in accordance with the Contract Disputes Act. Notwithstanding the foregoing, either party shall have the right to hire employees of the other that answer a general advertisement, respond to the posting of positions on the Internet, respond to any other general solicitation, or are referred by an employment agency that does not specifically target the employees of the other, provided that the hiring party did not actively solicit such employee in any other way.
 - (e) Export Compliance. The export and re-export of the Software and any Pegasystems technology is subject to export controls under the laws and regulations of the United States, including but not limited to the Export Administration Regulations, 15 C.F.R. Parts 730-774, and the Foreign Assets Control Regulations, 31 C.F.R. Parts 500-598. The export and re-export of the Software and any Pegasystems technology may also be subject to export and import controls under the laws and

regulations of other countries. Customer agrees, at all times, to comply fully with these controls, laws and regulations. Customer also agrees not to export, re-export, transport or otherwise make available the Software and any Pegasystems technology to any party, country or territory that is the target of United States sanctions, including Cuba, Iran, Syria, North Korea, and the Crimea region.

- (f) U.S. Government Contracts. *This subsection applies when any Software is acquired directly or indirectly by or on behalf of the United States Government:* The Software is a commercial product, licensed on the open market; developed entirely at private expense; and without the use of any U.S. Government funds. Use, duplication or disclosure by the U.S. Government is subject to restrictions as set forth in the clause at FAR 52.227-14.
- (g) Anti-Corruption. Pegasystems and Customer each represent and warrant to the other: (i) that it is aware of all anti-corruption legislation that applies to this Agreement and in particular the US Foreign Corrupt Practices Act 1977; (ii) it has implemented rules and procedures that enable it to comply with this legislation and adapt to any future amendments thereto; (iii) it has implemented appropriate rules, systems, procedures and controls for preventing the commission of Corrupt Acts, either by itself or its staff, and for ensuring that any evidence or suspicion of the commission of a Corrupt Act will be thoroughly investigated and unless prohibited by confidentiality or law, reported to the other party; (iv) its records relating to its business, including accounting documents, are maintained and kept so as to ensure their accuracy and integrity; and (v) it has not made or offered or received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of the other party's employees or agents in connection with this Agreement (reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction). If a party learns of any violation of the above restriction, it will use reasonable efforts to promptly notify the other party at the address for notices above.
- (h) Reserved.
- (i) Cooperation; Usage Validation. Subject to Customer's security policy and procedures, Pegasystems and Customer agree that each will execute and deliver documents, including confirmations to Pegasystems auditors, and take such other actions as may reasonably be requested to effect the transactions contemplated by this Agreement. Pegasystems reserves the right, upon reasonable prior notice, to validate Customer's usage of the Software and its compliance under this Agreement. Customer will provide usage logs generated by the Software in connection with this usage validation.
- (j) Force Majeure. Excusable delays shall be governed by FAR 52.212-4(f).
- (k) No Waiver. Neither a failure of a party to exercise any power or right under this Agreement, nor a custom or practice of the parties with regard to the terms or performance under this Agreement, will constitute a waiver of the rights of such party to demand full compliance with the terms of the Agreement.
- (l) Counterparts. This Agreement may be signed in counterparts, including facsimile or PDF counterparts or electronic signatures, each of which will be a legally binding method of execution of the Agreement.
- (m) Entire Understanding. This Agreement and its Schedules, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), constitute the entire understanding of the parties with respect to the Software and supersedes all previous agreements, statements and understandings from or between the parties regarding the subject matter of this Agreement. This Agreement also supersedes any conflicting language contained in any applicable past or future purchase order regarding the subject matter of this Agreement except as agreed in a negotiated Government Purchase Order signed on the Purchase Order document by both parties. In the event of any conflict between the terms of this Agreement and the terms of any Schedule, the terms of the applicable Schedule will control. This Agreement will not be modified except in a writing signed by an authorized representative of each party.
- (n) Enforceability. If any portion of this Agreement is declared by a court of competent jurisdiction to be overbroad or unenforceable, the remainder of this Agreement will be valid and enforceable to the fullest extent permitted.

EXHIBIT A

DEFINITIONS

For the purposes of the Agreement and any Schedule, the following definitions will apply, unless otherwise expressly stated:

“Acceptable Use Policy” means the policy as published from time to time at www.pegasystems.com/cloud-aup. Pegasystems will not modify the Acceptable Use Policy in a manner that would materially and adversely impact the Customer’s use of the Subscription Services without giving the Customer prior written notice of such proposed modifications.

“Affiliates” are those entities that control, are controlled by, or are under common control with a party to the Agreement. Affiliates may be entitled, subject to the terms of this Agreement and the applicable Schedule, to use the Subscription Services, Software, or purchase maintenance services or Professional Services. For the purpose of any Schedule to which an Affiliate is a party, the Affiliate will be additionally considered the Customer for purposes of the Agreement and such Schedule.

“Background Materials” means processes, methods, software (including but not limited to the Software), related documentation, designs and know-how which Pegasystems creates independently of the services for Customer. Background Materials also include all tangible and intangible materials created by Pegasystems that generally apply to other Pegasystems customers, products or services and which do not include any Customer Confidential Information.

(b) **“Cloud Data Storage”** means the storage of business data and rules data in the Pegasystems database that is available for the Production Environment only.

(c) **“Cloud File Storage”** means the storage of files associated with features such as archive/purge, large attachment handling and file transfer services that is available across all Environments.

“Connector” means an integration facility that permits the Software to call applications for data or processing.

“Corrupt Act” means any act of seeking, authorizing, offering, promising or granting a financial or other benefit (including a payment, loan, gift or transfer of anything of value) for the purpose of inducing a private person or public official to perform his or her duties dishonestly or in breach of his or her professional, legal or contractual obligations and/or to obtain or retain business for Pegasystems and or Customer in an undue or dishonest manner.

“Customer Application” means a unique collection of rules and processes as part of one or more new RuleSets that are created using the Software and that provide specific business function for the Customer.

“Customer Data” means any information received by or on behalf of Customer from its end customers or any personally identifiable information about Customer’s employees or agents that is stored, transferred, or processed by the Subscription Services.

“Customer Data Rights and Responsibilities” means the additional rights and obligations related to Customer data as published at: <https://community.pegasystems.com/knowledgebase/articles/customer-data-rights-and-responsibilities>. Pegasystems will not modify the Customer Data Rights and Responsibilities in a manner that would materially and adversely impact the Customer’s use of the Software without giving the Customer prior written notice of such proposed modifications.

“Customer Managed Cloud” means use of the Software in Customer or third party owned and controlled environments that are run within private clouds or running on infrastructure-as-a-service (IaaS) offerings delivered by third party providers.

“Customer Support Handbook” means the terms for Pegasystems’ provided support, upgrades, and updates located at: <https://community.pegasystems.com/knowledgebase/documents/support-pegasystems>, as may be periodically updated. Pegasystems will not modify the Customer Support Handbook in a manner that would materially and adversely impact the Customer’s use of the Software without giving the Customer prior written notice of such proposed modifications.

“Data Security Obligations” means Pegasystems’ obligations regarding the security of Customer Data available at: <https://community.pegasystems.com/knowledgebase/articles/pegasystems-cloud-security-standards>. Pegasystems will not modify the Data Security Obligations in a manner that would materially and

adversely impact the Customer's use of the Software without giving the Customer prior written notice of such proposed modifications.

"Deliverable" means RuleSets, documents and other tangible work product that are produced by Pegasystems for Customer during the course of the performance of Professional Services under a Statement of Work, excluding any Background Materials.

"Documentation" means, as applicable, the Subscription Documentation or Software Documentation.

"Environment" means one of the following Pega Cloud deployments provided by Pegasystems:

- **"Standard Sandbox"** means a service that is intended to be used for research and development, functional/unit testing, UAT testing of Customer Applications and training. A Standard Sandbox is scaled to support up to 15 developers/users with a storage limit of 50GB of Cloud Data Storage.
- **"Large Sandbox"** means a service that is intended to support pre-production, staging and testing of the Customer Applications. A Large Sandbox is scaled to support up to 45 developers/users with a storage limit of 100GB of Cloud Data Storage.
- **"Production Environment"** means a service that is designed, built and scaled to accommodate Customer Applications in order to process live and/or real-time data in connection with Customer's ongoing business operations and is deployed within a single geographic region. The Production Environment is scaled to support up to the licensed metrics defined in the Schedule.
- **"Production Mirror Sandbox"** means a replica of the scaled Production Environment that can be used for staging, scaled benchmark testing and load performance testing.

"Guardrail Compliant" means a Customer Application with no severe warnings flagged by the Software and with a guardrail weighted score generated by the Software that is within the range deemed compliant as specified in the Subscription Documentation.

"Pega Cloud" means a Pegasystems' managed, single-tenant, virtual private cloud (VPC) deployment of the Customer Application.

"Pega Cloud Collaboration Services" means multi-tenant, cloud hosting services for Pega Chat and Pega Co-Browse.

"Pega Cloud HIPAA Edition" means that the Customer's VPC will be serviced and deployed with HIPAA-eligible controls and infrastructure. The Pega Cloud HIPAA Edition supports the Customer in deploying a HIPAA-compliant Customer Application to store and process PHI within their Production Environment. Under the Pega Cloud shared responsibility and security model, the Customer is responsible for ensuring that the Customer Application adheres to all HIPAA controls.

"Professional Services" means professional services provided by Pegasystems pursuant to a Statement of Work for consulting, installation support, and access to training courses.

"RuleSet" is a named collection of configuration records created using the Software. For Pegasystems' provided RuleSets, the RuleSet names usually begin with "Pega" or the "&," "@" or ")" symbol.

"Scope of Use" means the purpose, metric and volume of use for the Subscription Services and the Software, in each case, as specified in the applicable Schedule.

"Service" means an integration facility that permits applications to call the Software for data or processing.

"Schedule" or **"Statement of Work"** means, respectively, an agreement signed by both parties for Customer to receive Subscription Services, Software, or purchase professional services from Pegasystems. Schedules and Statement of Works are referred to collectively as **"Schedules"**. Each Schedule will be non-cancelable and non-refundable for the applicable term, except to the extent expressly provided in this Agreement or such Schedule or under applicable law. If a scenario arises where a Schedule is terminated and refundable in accordance with this Agreement, a schedule, or under applicable law prior to the completion of the applicable term, Pegasystems shall refund the Ordering Activity a pro rata portion of the pre-paid fees for the amount of time/fees unused.

"Software" means the software listed in the applicable Schedule, including enhancements, updates, upgrades, modifications or other releases provided to Customer. Software may be managed by Pegasystems as part of the Subscription Services or deployed in a Customer Managed Cloud pursuant to the applicable Schedule. **The Software** includes Pegasystems' provided RuleSets.

"Software Documentation" consists of user manuals for the Software, which are provided to Customer in

electronic form at the time of delivery of the Software.

“**Subscription Documentation**” means the service catalog, product help files, operating guides, acceptable use policies, rights and responsibilities, support services, service level agreement and security policies related to the Pega Cloud as published from time to time at:

<https://community.pega.com/knowledgebase/pega-cloud>. Pegasystems will not modify the Subscription Documentation in a manner that would materially and adversely impact the Customer’s use of the Subscription Services without giving the Customer prior written notice of such proposed modifications.

“**Subscription Services**” means the Pegasystems Software which is made available to Customer for use on the Pega Cloud within the Scope of Use, including any enhancements, updates, upgrades, modifications, releases, Environments, data storage, or other services pursuant to an applicable Schedule.

“**Term**” is as defined in the applicable Schedule.

“**User**” is a person who uses the Software in a particular month.

1. A “**Sporadic User**” is a person that uses the Software during less than 10 hourly periods in a calendar month.
2. An “**Occasional User**” is a person that uses the Software during between 10 and 50 hourly periods in a calendar month.
3. Any person other than a Sporadic User or Occasional User that uses the Software in a calendar month, or that has the privilege to modify rules or processes, is a “**Regular User**”.

Regular Users, Occasional Users and Sporadic Users will be the unit of measurement for work done by customer staff. The number of Regular Users, Occasional Users and Sporadic Users will be measured each calendar month based on their actual usage of the Software in that month. The Software tracks only actual use, so a person who has a User ID but does not use the Software in a month will not be counted as a User for that month. Also, for the avoidance of doubt, merely being “logged in” is not counted as actual use during inactive hours.

NEW SUBSCRIPTION SERVICES CLIENTS: To access the Subscription Documentation URLs, first create an account by clicking this URL or pasting it into your browser: <https://accounts.pega.com/register>

EXHIBIT A-1

PEGA DECISIONING DEFINITIONS

For the purposes of the Agreement and any Schedule where Customer is licensed for Pegasystems’ decisioning Software, such as Pega Marketing or Customer Decision Hub, the following definitions will apply:

“**Batch/Bulk Decisions**” means a unit of work (measured in blocks of 500,000 records per 4-hour segment) to reach a judgment (for example, determining the best offer to include in an email campaign to be sent to a segment of customers). The processing time is counted from the time the decision batch process starts to the time it takes to complete processing, excluding the time to pre-process data before the batch run and the time to post process the output records and send/ship them to a fulfillment system. All batch/bulk processing must be configured by the customer to complete in a time window under 4 hours.

“**Cloud Data Storage**” means the storage of business data and rules data in any Pega-managed database. For the Pega Marketing and/or Pega Customer Decision Hub applications this is the storage location for Interaction History or the Pega Customer Movie store.

“**Cloud File Storage**” means the storage of files associated with features such as archive/purge, large attachment handling and file transfer services.

“**Decision Data Storage**” means the storage used for the Pega Marketing and/or Pega Customer Decision Hub applications for recoding decisions that are leveraged through the Adaptive Decision Manager (ADM) module.

“Real-time Decision” means a unit of work processed to reach a judgment (for example, determining the top five recommended offers for a customer/prospect). Each unit of work processed is known as a “decision” and the number of decisions that can be handled is measured in decisions per second (“DPS”). A unit of work must be configured by the customer to complete in a time window under 200 milliseconds. The time window is counted from start of the service call to when the service call completes, excluding the time for the called system to receive the start request and the time to return the results to the calling system.

“Streaming Events” is defined as ingesting and buffering data records, performing pattern detection, and writing or updating one summary record per event. Each data record is known as an “event” and the number of events that can be handled is measured in events per second (“EPS”). An event must be configured by the customer to complete in a time window under 0.4 milliseconds. The time window is counted from start of the ingesting of the data records to the writing of the summary record, excluding the time for the called system to receive the start request and the time to return the results to a calling system.

PREMIUM MAINTENANCE SCHEDULE

In the event of a conflict between the terms of the Agreements and the terms of this Maintenance Schedule, the terms of this Maintenance Schedule will control.

Subject to Customer purchase of such maintenance services, Pegasystems will provide Customer maintenance services comprising Problem Resolution, Software Updates, Upgrades and access to the Pega Discovery Network (together, “Support”). Pegasystems will provide Support in accordance with the procedures described in *Support @ Pega*, the Pegasystems customer support handbook, as updated from time to time. Pegasystems may not update the *Support @ Pega* document in a manner that would materially and adversely affect the rights of Customer to Support under this Maintenance Schedule.

Problem Resolution

Pegasystems will repair errors or problems with the Software so that the Software operates in substantial accordance with its Documentation. Problem Resolution includes:

- **Support:** Issues may be reported by Customer’s Designated Contacts via Pegasystems’ support portal or via telephone. Pegasystems will work with the Customer to provide relief and/or a permanent solution to all Support Requests (SRs).
- **Designated Contacts:** Customer will provide Pegasystems with designated people who may contract Pegasystems’ support. Customer may change these contacts upon written notice to Pegasystems, and it is the responsibility of Customer to update the contacts (e.g., if one of the designated contacts is no longer employed by Customer or authorized by Customer to contact Pegasystems’ support).
- **Access:** Access to Customer’s systems shall be controlled at all times by the Customer. Access shall be provided to Pegasystems on an as needed basis, as approved by Customer. Customer agrees to allow Pegasystems to use a software tool to view Customer’s desktop environment using a secure, encrypted connection in order to allow Pegasystems to provide real time response, access and resolution of issues or to promptly apply critical Software repairs. During any Support session in which Pegasystems has electronic access to Customer’s systems, access to such systems must include persistent connectivity with reasonable throughput and bandwidth available to perform all necessary functions. All changes by Customer to electronic access should be communicated to Pegasystems in a timely manner.

The scope of Problem Resolution is as described in Table A and Table B below:

Support Table A	
Problem Resolution Coverage	Premium
Coverage	<ul style="list-style-type: none"> • For Severity 1 (Down Production Emergencies): 24 X 7 • For all other Severity Levels: 9AM – 5PM standard business days, if: in the US, US ET; in Europe, GMT; in Asia Pacific, Australian ET

Number of Calls	Unlimited
Telephone support within coverage hours	Included
Secure access to Knowledge Base FTP site	Included
Severity 1 Initial Target Response Time	15 minutes **
Severity 2 Initial Target Response Time	1 hour *
Severity 3 Initial Target Response Time	4 hours *
Severity 4 Initial Target Response Time	8 hours *
* Initial response during standard business days	
** Initial response, 24x7	

Support Table B	
Severity Level	Severity Level Description
1	Severity 1 is used in instances in which the Pegasystems production system is down or the Software is otherwise unusable resulting in massive disruption of production use. Pegasystems' goal for providing initial relief (such as an alternative method to restore system operations) for Severity 1 cases is within 4 hours. The timeframe for providing a permanent resolution for Severity 1 issues is dependent upon the specific situation, and is typically jointly determined by Customer and Pegasystems' support manager. Severity 1 cases are eligible for continuous effort by Pegasystems support personnel, provided that Customer's resources are made similarly available, until relief is provided.
2	Severity 2 problems involve disruption of a major feature or function of the Software due to a defect and have a significant impact on production (but do not result in extended downtime), or severely impair development efforts. The time frame for providing a permanent resolution for Severity 2 issues is dependent on the specific situation, and is typically jointly determined by the Customer and Pegasystems' support manager.
3	Severity 3 is Pegasystems' default severity, and is always used for new cases unless otherwise requested by Customer. Severity 3 problems include those that involve the failure of a feature or function which results in the Software not working as described in the Documentation.
4	Severity 4 problems include general questions about Software usage/functionality that do not involve errors. Non-Software issues such as requests for support network web site access, problems using the support network, or other issues that do not impact usability of the Software also fall into this category.

Pegasystems is not responsible for errors caused by (a) non-Pegasystems' software or hardware, (b) unauthorized modifications to the Software, or (c) failure to follow the operating procedures described in the Software documentation, or those errors that Customer cannot reproduce under test conditions.

Software Updates

Software Updates support the evolution of the Software. They periodically consist of:

- Maintenance Level Updates: sets of modifications for published generally available Software releases primarily designed to address functional defects only.
- Documentation Updates: reflect changes to Software, documentation and help files.

Upgrades

(d) Upgrades provide new functionality and enhancements to the Software within the functional domain of the licensed components.

Installation of Software Updates and Upgrades by Pegasystems' personnel can be provided at Pegasystems' then-current hourly professional services fees, plus applicable expenses both in accordance with the GSA Pricelist.

Pega Discovery Network

The Pega Discovery Network ("PDN") is the primary technical resource for Customer's Software developers and system administrators. The PDN contains a broad range of technical articles including troubleshooting and "How-To" information, a comprehensive and searchable knowledgebase to help developers speed their application development, and a library of shared component examples, and copies of formal product documentation and PRPC Help systems. The PDN also enables members to access Pegasystems' on-line support resources in order to submit defect reports and enhancement suggestions, and to review all issues associated with the user's PDN account.

Escalation Process

- The Customer may request escalation for a Support Request (SR) when there is a concern about progress, or about the fitness or quality of the response. The details of the escalation process are documented in *Support @ Pega*, the customer support handbook.

STANDARD MAINTENANCE SCHEDULE

In the event of a conflict between the terms of the Agreements and the terms of this Maintenance Schedule, the terms of this Maintenance Schedule will control.

Subject to Customer purchase of such maintenance services, Pegasystems will provide Customer maintenance services comprising Problem Resolution, Software Updates, Upgrades and access to the Pega Discovery Network (together, "Support"). Pegasystems will provide Support in accordance with the procedures described in *Support @ Pega*, the Pegasystems customer support handbook, as updated from time to time. Pegasystems may not update the *Support @ Pega* document in a manner that would materially and adversely affect the rights of Customer to Support under this Maintenance Schedule.

(e) Problem Resolution

Pegasystems will repair errors or problems with the Software so that the Software operates in substantial accordance with its Documentation. Problem Resolution includes:

- **Support:** Issues may be reported by Customer's Designated Contacts via Pegasystems' support portal or via telephone. Pegasystems will work with the Customer to provide relief and/or a permanent solution to all Support Requests (SRs).
- **Designated Contacts:** Customer will provide Pegasystems with designated people who may contract Pegasystems' support. Customer may change these contacts upon written notice to Pegasystems, and it is the responsibility of Customer to update the contacts (e.g., if one the designated contacts is no longer employed by Customer or authorized by Customer to contact Pegasystems' support).
- **Access:** Access to Customer's systems shall be controlled at all times by the Customer. Access shall be provided to Pegasystems on an as needed basis, as approved by Customer. Customer agrees to allow Pegasystems to use a software tool to view Customer's desktop environment using a secure, encrypted connection in order to allow Pegasystems to provide real time response, access and resolution of issues or to promptly apply critical Software repairs. During any Support session in which Pegasystems has electronic access to Customer's systems, access to such systems must include persistent connectivity with reasonable throughput and bandwidth available to perform all necessary functions. All changes by Customer to electronic access should be communicated to Pegasystems in a timely manner.

The scope of Problem Resolution is as described in Table A and Table B below:

Support Table A	
Problem Resolution Coverage	Standard
Coverage	9AM – 5PM standard business days, if: in the US, US ET; in Europe, GMT; in Asia Pacific, Australian ET
Number of Calls	Unlimited
Telephone support within coverage hours	Included
Secure access to Knowledge Base FTP site	Included
Severity 1 Initial Target Response Time	1 hour *
Severity 2 Initial Target Response Time	1 hour *
Severity 3 Initial Target Response Time	4 hours *
Severity 4 Initial Target Response Time	8 hours *
* Initial response during standard business days	

Support Table B	
Severity Level	Severity Level Description
1	Severity 1 is used in instances in which the Pegasystems production system is down or the Software is otherwise unusable resulting in massive disruption of production use. Pegasystems' goal for providing initial relief (such as an alternative method to restore system operations) for Severity 1 cases is within 4 hours. The timeframe for providing a permanent resolution for Severity 1 issues is dependent upon the specific situation, and is typically jointly determined by Customer and Pegasystems' support manager. Severity 1 cases are eligible for continuous effort by Pegasystems support personnel, provided that Customer's resources, are made similarly available, until relief is provided.
2	Severity 2 problems include those that involve disruption of a major feature or function of the Software due to a defect and have a significant impact on production (but do not result in extended downtime), or severely impair development efforts. The time frame for providing a permanent resolution for Severity 2 issues is dependent on the specific situation, and is typically jointly determined by the Customer and Pegasystems' support manager.
3	Severity 3 is Pegasystems' default severity, and is always used for new cases unless otherwise requested by Customer. Severity 3 problems include those that involve the failure of a feature or function which results in the Software not working as described in the Documentation.
4	Severity 4 problems include general questions about Software usage/functionality that do not involve errors. Non-Software issues such as requests for support network web site access, problems using the support network, or other issues that do not impact usability of the Software also fall into this category.

Pegasystems is not responsible for errors caused by (a) non-Pegasystems' software or hardware, (b) unauthorized modifications to the Software, or (c) failure to follow the operating procedures described in the Software documentation, or those errors that Customer cannot reproduce under test conditions.

Software Updates

Software Updates support the evolution of the Software. They periodically consist of:

- Maintenance Level Updates: sets of modifications for published generally available Software releases primarily designed to address functional defects only.
- Documentation Updates: reflect changes to Software, documentation and help files.

Upgrades

(f) Upgrades provide new functionality and enhancements to the Software within the functional domain of the licensed components.

Installation of Software Updates and Upgrades by Pegasystems' personnel can be provided at Pegasystems' then-current hourly professional services fees, plus applicable expenses.

Pega Discovery Network

The Pega Discovery Network ("PDN") is the primary technical resource for Customer's Software developers and system administrators. The PDN contains a broad range of technical articles including troubleshooting and "How-To" information, a comprehensive and searchable knowledgebase to help developers speed their application development, and a library of shared component examples, and copies of formal product documentation and PRPC Help systems. The PDN also enables members to access Pegasystems' on-line support resources in order to submit defect reports and enhancement suggestions, and to review all issues associated with the user's PDN account.

Escalation Process

The Customer may request escalation for a Support Request (SR) when there is a concern about progress, or about the fitness or quality of the response. The details of the escalation process are documented in Support @ Pega, the customer support handbook.


Pitney Bowes Software Inc.
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Suite 500 Lanham, Maryland 20706-1890

Section 19 - IMMIXTECHNOLOGY RIDER TO PRODUCT SPECIFIC LICENSE TERMS AND CONDITIONS (FOR U.S. GOVERNMENT END USERS)

1. **Scope.** This Rider and the attached **Pitney Bowes Software Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("PBSI") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Ordering Activity") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the PBSI believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the Federal laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar Federal laws or regulations are enacted, to the extent allowed by Federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the PBSI does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the PBSI shall be liable for

default unless the nonperformance is caused by an occurrence beyond the reasonable control of the PBSI and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The PBSI shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the PBSI's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the PBSI's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **PBSI Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the PBSI are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. PBSI shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to PBSI or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as PBSI, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the PBSI to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.

- a subsidiary of  immixGroup
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the PBSI to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
- v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the PBSI of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
PBSI SUPPLEMENTAL PRICELIST INFORMATION AND TERMS
PITNEY BOWES SOFTWARE INC.**

PITNEY BOWES SOFTWARE INC. LICENSE, WARRANTY AND SUPPORT TERMS

Definitions. As used in this Attachment A, the following terms will have the meanings set forth below:

- "Application"** means the application, if any, identified in an Order;
- "Computer"** means the server or computer identified in an Order on which the Licensed Products are authorized to be installed and used;
- "Data Output"** means the maps, reports or other information generated by analyzing or processing Subscription Data, including geocode coordinates or address corrections appended to Ordering Activity database records.
- "Data Record"** means each separate, individual digital data record which is used, referenced or accessed by the Licensed Products;
- "Documentation"** means the current technical and user documentation for the Licensed Products, Support Guidelines and other specifications. The Documentation may be modified from time-to-time to incorporate Enhancements;
- "Enhancements"** means the updates, upgrades, modifications, new releases and corrective programming to the Software and Subscription Data that are provided as part of Maintenance Services;
- "Installation Site"** means the location identified in an Order where the Licensed Products are authorized to be installed;
- "Ordering Activity"** means Ordering Activity or the entity identified in an Order that is authorized to use the Licensed Products identified therein;
- "Licensed Products"** means the Software, Enhancements and Subscription Data;
- "Maintenance Services"** means the maintenance services described below and designated in the Contract Schedule as maintenance as a product;
- "MIPS"** means the processing speed of a computer expressed in millions of instructions per second;
- "MSU"** means the measurement of the amount of processing work a mainframe computer can perform in one hour expressed in million service units;

“**Order**” means the document pursuant to which an Ordering Activity licenses the Licensed Products and obtains related services, including Maintenance Services and Maintenance Services as a Service;

“**PBSI**” means Pitney Bowes Software Inc.;

“**Processor Cores**” or “**CPU Cores**” means the number of cores on each processor or CPU in the Computer;

“**Remote Access**” means access to and use of the Licensed Products, including, without limitation, the submission and/or receipt of data, documents or processing instructions, directly or indirectly via a server, Internet, independent software application or otherwise, to the Computer, from locations other than the Installation Site;

“**Service Provider**” means an Ordering Activity that uses the Licensed Products to perform services, including, without limitation, to verify address information and/or provide postal-related services; develop, design, archive, process and/or print bills, statements or other business documents; merge or convert print stream data; append geographic coordinates to address records or other data and/or perform other data processing services, for entities other than Ordering Activity;

“**Software**” means the commercial computer software identified in an Order;

“**Subscription Data**” means data files and updates thereto, including, but not limited to, postal, census, geographic, demographic, and other data, that are either identified in an Order or otherwise licensed with certain of the Licensed Products;

“**Support Guidelines**” means the then current technical support guidelines for the Licensed Products located at <http://www.pbinsight.com/resources/get/9898>;

“**Transaction**” means a record or user query that is submitted to the Licensed Products;

“**User**” means an individual authorized by Ordering Activity to use the Licensed Products in accordance with an Order regardless of whether the individual is actively using the Licensed Products at any given time; and

“**Warranty Period**” means the ninety (90) day period following initial delivery of the Software.

1. Grant of License. PBSI hereby grants to Ordering Activity a non-exclusive, non-transferable license to use the Licensed Products, subject to the terms and conditions of the Schedule Contract, these Manufacturer terms and all Orders.

Unless otherwise identified in an Order, the Subscription Data is licensed for twelve (12) month terms and the license to the Subscription Data may be renewed for additional twelve (12) month terms as part of Maintenance Services in accordance with the maintenance provision below. The grant of rights hereunder to the Licensed Products is not a sale of the Licensed Products. PBSI and its third party providers reserve all rights not expressly granted by Schedule Contract or these Manufacturer terms.

2. Use of Licensed Products.

a) Ordering Activity is permitted to use the Licensed Products and Data Output only for its own internal business purposes. The Licensed Products will be installed and used only at the Installation Site on the Computer containing up to the number of Processor Cores, MSUs or MIPS set out in the applicable Order and utilizing the operating system set out therein. If the Licensed Products are installed in a virtual environment, the number of Processor Cores within the environment that may be used, in whole or in any part, to access the Licensed Products will be set forth in the applicable Order. Remote Access to the Licensed Products and use of the Licensed Products as a Service Provider are prohibited unless otherwise authorized in the applicable Order. Additional terms of authorized use are as set forth in the applicable Order, and may include limitations on: (i) the number of Users; (ii) the Application authorized to access the Licensed

Products and use the Data Output; and (iii) the number of Transactions processed or Data Records accessed using the Licensed Products. Licensed Products licensed for desktop use by a specific number of Users may be installed on the number of devices equal to the specific number of User licenses purchased, or may be installed on multiple devices so long as the number of Users does not exceed the number of licenses purchased.

b) Ordering Activity may add additional Processor Cores, MSUs or MIPS to the Computer, transfer the Licensed Products to a different computer with more Processor Cores, MSUs or MIPS, utilize the Licensed Products with a different operating system, process additional Transactions or add Users or Applications upon PBSI written consent and the payment of applicable fees. If the Installation Site is located in the United States, such Installation Site may be changed to another location within the United States upon written notice to PBSI, but may not be changed to a location outside the United States absent PBSI's prior written consent. If the Installation Site set forth in the Order is located outside of the United, such Installation Site may be changed to another location within the original country upon notice to PBSI, but may not be changed to a different country absent PBSI's prior written consent.

c) Ordering Activity may make a reasonable number of copies of the Licensed Products and Documentation solely for back up or disaster recovery purposes. Ordering Activity must reproduce all copyright, trademark, trade secret and other proprietary notices in such copies. The back up or disaster recovery copies can only be used to perform disaster recovery testing or if the Computer becomes inoperative. If the Computer becomes inoperative, the Licensed Products can only be used on a back-up computer utilizing the same operating system with equal to or a fewer number of Processor Cores, MSUs or MIPS as the

Computer. Except to perform disaster recovery testing in accordance with Ordering Activity's disaster recovery procedures, Ordering Activity is not permitted to use the back up or disaster recovery copies of the Licensed Products for production or testing concurrently with the production or testing copies of the Licensed Products.

d) Ordering Activity may install, for a period not to exceed fifteen (15) days from date of installation, Enhancements in a test environment for the sole purpose of determining if such Enhancements will be deployed by Ordering Activity on the authorized Computer(s). Thereafter, Ordering Activity is permitted to install only the authorized number of licensed copies of the Licensed Products on the authorized Computers.

e) Ordering Activity may, in accordance with the Schedule Contract, permit its third party contractors and agents to access and use the Licensed Products solely on behalf of, and for the benefit of, Ordering Activity, so long as: (i) such third party(ies) agrees to comply fully with all terms and conditions of this Agreement and the applicable Order(s) as if they were Ordering Activity; (ii) Ordering Activity remains responsible for each contractor's compliance with Schedule Contract, these Manufacturer terms and the applicable Order(s) and any breach thereof; (iii) any User limitation includes User licenses allocated to such third parties; and (iv) the third party is not a competitor of PBSI or any PBSI affiliate. All rights granted to any third party hereunder terminates immediately upon conclusion of the services rendered to Ordering Activity that gives rise to such right. Upon termination of such rights, the third party(ies) must immediately cease all use of the Licensed Products, un-install and destroy all copies of the Licensed Products, Documentation and any other PBSI Confidential Information in its possession, and must certify in writing upon PBSI request of compliance with this section.

d) Certain of the Licensed Products require mandated flow down terms associated with their use and can be found in Exhibit 1 hereto. Any license by an Order Activity of such Licensed Products will include such terms and are incorporated herein.

3. General Use Restrictions.

a) Ordering Activity will not: (i) make derivative works of the Licensed Products; (ii) reverse engineer, decompile or disassemble the Licensed Products or any portion thereof; (iii) make copies of the Licensed Products or Documentation except as otherwise authorized in Sections 2(c), 4(b) or an Order; (iv) sublicense, rent, lease, lend, or host the Licensed Products to or for other parties; (v) attempt to unlock or bypass any initialization system, encryption methods or copy protection devices in the Licensed Products; (vi) modify, alter or change the Licensed Products; (vii) alter, remove or obscure any patent, trademark or copyright notice in the Licensed Products or Documentation; or (viii) use components of a Licensed Product independent of the Licensed Products they comprise.

b) Ordering Activity is prohibited from using the Licensed Products within or in conjunction with in-flight navigation or any vehicle navigation system providing turn-by-turn directions.

c) Ordering Activity will not use Data Output outside of the Application designated in the Order (if applicable), or disclose Data Output to third parties except as authorized in the applicable Order(s), including the longitude and latitude or "x,y" coordinates contained therein. Any authorized disclosure of Data Output to third parties must prohibit those third parties from selling, sublicensing or disclosing the Data Output to additional third parties and from using the Data Output for any purpose other than as authorized in the applicable Order(s). Ordering Activity may use Data Output to derive conclusions or recommendations that form part of Ordering Activity's services to its customers, but Ordering Activity may not provide Data Output as part of those services. Ordering Activity may translate Subscription Data into other data formats so long as use of the Subscription Data in all formats does not exceed the limits of this Agreement and the applicable Order(s).

4. Maintenance Services.

a) Ordering Activity will obtain Maintenance Services for Licensed Products for the initial period of performance set forth in the Order and for the fees set forth therein. Following such initial period of performance, Ordering Activity may elect to purchase additional Maintenance Services in twelve (12) month terms at the rates set out in the Schedule Contract.

b) Maintenance Services consist of: (i) reasonable amounts of telephone support to assist Ordering Activity with the use of the Licensed Products in accordance with the Support Guidelines; (ii) Enhancements provided to other licensees of the Licensed Products who have paid for Maintenance Services for the current maintenance term; (iii) Subscription Data or data updates, as applicable; and (iv) the correction of errors or non-conformities with the Licensed Products in accordance with the Support Guidelines. Telephone support is provided only to the individuals located at a single designated location. If PBSI is unable to correct a reported error or non-conformity that is classified in the Support Guidelines as a critical or high severity level problem within thirty (30) days following notice from Ordering Activity or an additional period of time reasonably agreed to by the parties, Ordering Activity may terminate Maintenance Services for such Licensed Products and receive, as its remedy, a pro-rata refund of the fees paid for Maintenance Services for the balance of the existing maintenance term. If Ordering Activity licenses multiple copies of the Licensed Products, PBSI will only provide Ordering Activity with one (1) copy of the Enhancements and Ordering Activity will make the authorized number of copies as necessary to install such Enhancements on the authorized Computers. Order Activity will reproduce any proprietary notices contained in any copies of the Enhancements.

d) If Ordering Activity terminates or declines to renew Maintenance Services for the Licensed Products and subsequently elects to renew Maintenance Services, Ordering Activity will pay to PBSI the fees for the subsequent twelve (12) month renewal

term plus the applicable fees for the total period of non-maintenance. Nothing in this section will be construed by the parties as a "future fee" or penalties".

5. Maintenance as a Service. (all fees due following completion of the applicable services in accordance with 31 USC 3324)

a) In consideration of the GSA fees for training set out in an Order, Ordering Activity may attend the training class identified therein. Order Activity must attend and, if the training is on-site at Ordering Activity's location, permit PBSI to perform the training course prior to the expiration date set out in the Order. If Ordering Activity fails to have personnel attend the training class or permit PBSI to perform the training class prior to such expiration date, PBSI will not provide Ordering Activity with a refund of the training fees or be obligated to perform the training. Unless otherwise specified in an Order, training will be provided at one of PBSI's regional offices. Ordering Activity Licensee agrees to pay any travel expenses in accordance with FTR/JTR, as applicable, Ordering Activity shall only be liable for such travel expenses as approved as by Ordering Activity and funded under the applicable ordering document.

b) In consideration of the GSA fees for Fast Start implementation services as set out in an Order, PBSI will provide the following:

i) **Description of Services:** PBSI will perform up to the number of hours set out in the Order of the following Fast Start implementation services (the "FS Services"). The FS Services will be performed at a location and at dates agreed to by the parties in accordance with the terms herein and will consist of the following:

- Install the Licensed Products and related databases on a single Computer;
- Review Ordering Activity's requirements for use of the Licensed Products;
- Analyze Ordering Activity's data file for initial job setup to the Licensed Products;
- Establish the initial job stream and all parameters to run the initial job stream;
- Execute the initial job stream and reviewing the results with Ordering Activity;
- Train Ordering Activity on the Licensed Products based on Ordering Activity's initial job stream; and
- Review the support procedure for the Licensed Products with Ordering Activity.

ii) **FS Services Exclusions:** The FS Services will NOT consist of the following:

- Integration of Licensed Products with any of Ordering Activity's other software applications (including, without limitation, modifying Ordering Activity's address capture programs to call the Licensed Products or integration of the Licensed Products into third party custom statement formats);
- Cross-platform or cross-language application migrations; or
- Process analysis, system and/or process replacement.

c) In consideration of the GSA fees for Audit services as set out in an Order, PBSI will provide the following:

Description of Services: PBSI will perform up to the number of hours set out in the Order of the following Audit services (the "Audit Services"). The Audit Services will be performed at a location and at dates agreed to by the parties in accordance with the terms herein and will consist of the following:

- Review Ordering Activity's requirements for use of the Licensed Product(s);
- Review Ordering Activity's current installation of the Licensed Product(s);
- Review the current job stream(s) and all parameter(s) to run the job stream(s);
- Review Ordering Activity's understanding and use of the Licensed Product(s); and
- Deliver a summary report on the findings from PBSI's review, including any recommendations found regarding usage of the Licensed Products and associated job stream(s) and parameter(s).

d) In consideration of the GSA fees for Fast Start Move Update services set out in the Order, PBSI will provide the following:

Description of Services: PBSI will perform up to the number of hours set out in the Order of the following Fast Start Move Update implementation services (the "Move Update Services"). The Move Update Services will be performed at a location and at dates agreed to by the parties in accordance with the terms herein and will consist of the following:

- Assist Ordering Activity with the completion of Required USPS forms (if needed);
- Define Ordering Activity 's hardware requirements for use of the Licensed Product;
- Review Ordering Activity's requirements for use of the Licensed Product;
- Install the Licensed Product and related databases on a single Computer;
- Set up Ordering Activity's company and user information in the Licensed Product;
- Download USPS Stage I test files, process file through Licensed Product, and verify test results;
- Copy USPS Stage II Certification test file supplied by the USPS, supervise the execution of the Stage II certification job;
- Verify results of the Stage II Certification test with the Ordering Activity and assist with gathering appropriate reports for submission to the USPS for final verification and certification;
- Analyze one Ordering Activity's existing production job for initial job setup to the Licensed Product;

- Establish the initial job stream and all parameters to run the initial job stream;
- Execute the initial job stream and review the results with Ordering Activity;
- Train Ordering Activity on the Licensed Product based on Ordering Activity's initial job stream;
- Review USPS monthly auditing procedures; and
- Review the support procedure for the Licensed Product with Ordering Activity.

e) Ordering Activity will provide PBSI with any assistance reasonably required by PBSI to perform the above services (collectively, the "Services").

f) The Services will be performed in a professional manner in accordance with generally accepted industry standards for the software consulting industry. If the Services fail to comply with this warranty, Ordering Activity will promptly notify PBSI in writing. The notice from Ordering Activity will specify in reasonable detail any alleged non-conformities in the Services and reasonable requirements for acceptance of the Services. Upon such notice, PBSI will, as Ordering Activity's sole and exclusive remedy, promptly re-perform any such Services. This warranty is effective for thirty (30) days following completion of the Services.

IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 U.S.C. 7101-7109.

g) Ordering Activity and PBSI will at all times be independent contractors for purposes of the Services and not agents, employees, co-venturers or partners. Each party will so represent itself to all other parties. Except as provided herein, neither party has granted to the other the right to bind it in any manner whatsoever. Each party assumes full responsibility for the actions of its personnel while performing services, herein, and will be solely responsible for their supervision, daily direction, control, and for the payment of all of their compensation and other employment related payments.

h) If the Services are performed as a time and materials engagement, PBSI does not represent that the Services will be completed within the number of hours specified herein. If Ordering Activity desires to retain PBSI to perform any additional services or Services in excess of the hours set out in the Order for the specific Services, PBSI and Ordering Activity will each execute a new statement of work or project change request.

6. Warranties; Disclaimers.

a) PBSI represents and warrants that it has the right to grant to Ordering Activity the rights granted hereunder.

b) PBSI represents and warrants that during the Warranty Period the Licensed Products will perform all material functions set out in the Documentation for such Licensed Products and will otherwise operate in substantial accordance with such Documentation. If during the Warranty Period the Licensed Products fail to comply with this warranty, Ordering Activity will notify PBSI in writing of any alleged errors or non-conformities with the Licensed Products. PBSI will have thirty (30) days from receipt of such notice or an additional period of time as reasonably agreed to by the parties to correct such errors or non-conformities in accordance with the Support Guidelines. If PBSI is unable to timely correct such errors or nonconformities, Ordering Activity may elect to terminate the license to such Licensed Products. If Ordering Activity terminates the license to such Licensed Products during the Warranty Period in accordance with this Section, Ordering Activity will, as its remedy, receive a refund of all fees previously paid for such Licensed Products.

c) PBSI DOES NOT WARRANT THAT THE LICENSED PRODUCTS WILL OPERATE ERROR-FREE OR THAT PBSI WILL CORRECT ALL PRODUCT ERRORS INCLUDING THOSE DESIGNATED AS MEDIUM OR LOW SEVERITY LEVEL ISSUES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THESE MANUFACTURER TERMS, THE LICENSED PRODUCTS ARE PROVIDED "AS IS" AND PBSI AND ITS THIRD PARTY SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED PRODUCTS AND SERVICES FURNISHED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RELIABILITY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE IN TRADE.

d) PBSI WILL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES CAUSED BY THE UNAUTHORIZED USE OF THE LICENSED PRODUCTS OR ACTS OF ABUSE OR MISUSE BY ORDERING ACTIVITY. IN ADDITION, PBSI WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE IN CONNECTION WITH OR ARISING OUT OF THE INTERRUPTION OR LOSS OF USE OF THE LICENSED PRODUCTS OR THE LOSS OR CORRUPTION OF ORDERING ACTIVITY'S DATA OR FILES PROCESSED OR STORED BY THE LICENSED PRODUCTS. THE FOREGOING EXCLUSION/LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM PBSI'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

e) THE LICENSED PRODUCTS MAY CONTAIN A DISABLING DEVICE OR DEVICE REQUIRING ENABLEMENT: (i) TO COMPLY WITH REQUIREMENTS OF REGULATORY AUTHORITIES; (ii) TO PREVENT USE OF THE LICENSED PRODUCTS BEYOND THE TERM OF A LICENSE IDENTIFIED IN AN ORDER OR ON A COMPUTER OTHER THAN THE COMPUTER AUTHORIZED IN AN ORDER; AND/OR (iii) TO PREVENT USE OF THE LICENSED PRODUCTS IN EXCESS OF ANY TRANSACTIONS (OR OTHER RESTRICTIONS) OR BY MORE THAN THE NUMBER OF USERS SET OUT IN AN ORDER.

f) THIS AGREEMENT SHALL NOT IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. 3729-3733. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT'S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE GSA SCHEDULE CONTRACT (E.G., CLAUSE 552.238-75 – PRICE REDUCTIONS, CLAUSE 52.212-4(H) – PATENT INDEMNIFICATION, AND GSAR 552.215-72 – PRICE ADJUSTMENT – FAILURE TO PROVIDE ACCURATE INFORMATION).

EXHIBIT 1

Flow Down Terms

19.1 1. BING Terms of Use

All use of the Microsoft Bing Service is subject to the following Microsoft Bing Terms of Use.

The following terms govern your use of the BING Service (the "Service"). By accessing or using the Service, you are agreeing to the terms of the [Microsoft Bing Maps and MapPoint Web Service Terms of Use](#) (the "EULA") and the additional terms set forth below (collectively, the "Agreement"). Terms of Use for the Embedded Map Service also apply if you use the Service in your web sites or applications. DO NOT USE THE SERVICE UNTIL YOU HAVE READ AND AGREED TO THIS AGREEMENT. IF YOU ARE NOT WILLING TO BE BOUND BY THE AGREEMENT, do not access or use the Service. Any conflict between the terms of the EULA and this license shall be resolved in favor of this license as it relates to Your use of the Service.

1. **Maintenance.** You may use the Service only with Licensed Products (as defined in the EULA) that are covered by a current maintenance agreement with PBSI.
2. **Limitations on Use of Virtual Earth.** You may not integrate Virtual Earth or any content of Virtual Earth with any Google or MapQuest mapping platform as the primary road mapping source. However, You may incorporate various data layers of types not available through the Services (for example, demographic or school location data).
3. **Limitations on sensor-based routing.** You shall not use the Service (a) to provide guidance based on the position or routing of multiple objects tracked using GPS or other sensor-generated methods (for example but without limitation GPS); or (b) to present or alert an end user to individual maneuvers of a route in any way that is synchronized with the end-user's sensor-based position along the route, (for example but without limitation, "realtime" route guidance that tracks end-user's position using GPS and communicates a maneuver as the end-user approaches the location for such maneuver).
4. **Limited Use of Birds Eye Imagery.** You may save, download, print, redistribute and transmit the bird's eye imagery in limited quantities. You may not reveal metadata from the bird's eye imagery, including the exact latitude, longitude, or altitude, to any third party. If you are any government entity, or agency or branch thereof (municipal, state, federal or other form of government and their equivalents in any jurisdiction) You may not use Bird's eye imagery of the United States unless you enter into an explicit agreement for such use, signed by a duly authorized representative.
5. **Limitations on Use of Road Traffic Data.** Road traffic data in the Services (the "Road Traffic Data") may only be used to calculate and/or derive Traffic Transactions (defined in this Section below) in order to deliver and display such Traffic Transactions on Internet-based web pages (or WAP or substantially similar wireless protocol-based pages, excluding messaging protocols such as email, SMS, MMS or other plain text or rich text messaging), subject to the following restrictions:
 - o Road Traffic Data may only be used in combination with the Services and not separately. You may not deconstruct or mix and match the Road Traffic Data with traffic data from another supplier or associate or add any traffic data to or in combination with the Road Traffic Data.
 - o You may only make available the Road Traffic Data for free, and only for the personal use of end users. o **ROAD TRAFFIC DATA MAY NOT BE LICENSED TO OR USED BY: (I) RADIO/TELEVISION Section 20 - STATIONS; (II) NEWSPAPER SERVICES; (III) ANY WEBSITES OWNED BY (I) AND (II); OR, (IV) ANY GOVERNMENT-SPONSORED TRAVELER INFORMATION SERVICES, INCLUDING, WITHOUT LIMITATION 511 SERVICES, CONSUMER WEBSITES, OR VARIABLE MESSAGE SIGNS ON ROADS.**
 - o Road Traffic Data may not be licensed or used: (i) for television or radio broadcast; (ii) as part of or in conjunction with weather related services; (iii) for animation; (iv) for storing or the provision of continuously updated traffic data or alerts to end users, or (v) to develop a standalone (traffic only) traffic application.
 - o Road Traffic Data may not be used on an Accurate Positioning Device. "Accurate Positioning Device" means a device or system with the capability to determine its physical location within a positioning accuracy of 200 meters or less. If a device which is not an Accurate Positioning Device based on the foregoing definition has the capability to transmit the Data to an Accurate Positioning Device, then such device will be considered an Accurate Positioning Device.

"Traffic Transaction" means the provision of any one of the following: (i) presentation of the Road Traffic Data on or related to a map which is presented through icon(s), text or voice; (ii) presentation of the Road Traffic Data in connection with driving directions, direct or indirect use of the Road Traffic Data to determine travel time for all or any portion of a route, and presentation of available traffic information along a route, all through icon(s), text or voice; (iii) direct or indirect use of the Road Traffic Data to calculate or create routes or alternate routes; and (iv) audio or textual presentation of the Road Traffic Data in a manner that does not involve use of a map or map information and which does not include (i) – (iii) above.

20.1

2. Business Points Terms

Customer will use the Business Points Data solely for market research and analysis, including analysis of Customer's market for opportunities or competitive threats, assigning sales territories, or building sales and marketing strategies. Customer will not use the Business Points Data for direct marketing activities including direct mailing, telemarketing, or cold calling.

20.2

3. Canada Post Terms

The following terms apply solely to your use of the Canada Post ("CP") data that is provided under license from the Contractor. These additional terms amend the Schedule Contract ("Agreement") between Contractor and the applicable licensee as indicated in the Agreement ("You"). Absent a signed Agreement, Your use of the CP Data constitutes acceptance of the terms set forth herein. Capitalized terms used herein and not otherwise defined have the meaning assigned to them in the Agreement. The terms and conditions set forth below supersede any conflicting terms and conditions in the Agreement.

- a) The Point of Call Address Database and any updates, materials, know-how, computer code, and technical information (hereinafter collectively, the "CP Data") are confidential and proprietary to CP and shall remain the property of CP. You shall maintain the CP Data in strict confidence in accordance with the terms of the Agreement.
- b) You may only use the CP Data for the purpose of: (i) validating and correcting mailing addresses; and (ii) addressing mail for delivery by CP and providing corresponding statements of accuracy only for the purpose of providing the same to CP in relation to such addressed mail when deposited with CP for delivery.
- c) You are prohibited from: (i) modifying, improving, correcting, or enhancing the CP Data in any way; (ii) using the CP Data separate from the Licensed Product with which the CP Data is provided to you; or (iii) "service scrape" or "bulk download" CP Data or extract raw readable data from the CP Data.
- d) You may only use the CP Data in batch processing. You are prohibited from using the CP Data in any real-time, single address verification such as a call center, on-line purchase application, as a component of any interactive voice response application or for any other interactive application where individual addresses are validated and/or corrected.
- e) You may use only the most updated version of the CP Data. You agree to immediately cease use and delete all copies of expired CP Data upon receipt of updated CP Data files.
- f) You agree and acknowledge that CP retains all right, title and interest in the CP Data, and all trademarks, trade dress, service marks, trade secrets, copyrights, patents and other intellectual property rights related thereto.
- g) THE CP DATA IS PROVIDED "AS IS" WITH NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED. NEITHER PITNEY BOWES SOFTWARE INC. OR CONTRACTOR NOR CP SHALL BE LIABLE FOR ANY DESIGN, PERFORMANCE OR OTHER FAULT OR INADEQUACY OF THE CP DATA. This disclaimer is in addition to any other disclaimers of warranties set out in the Agreement.
- h) Subject to applicable law, including the Contracts Dispute Act, as applicable, You shall promptly reimburse Contractor to full amount of awarded damages or other claims that Contractor is required to pay to CP which are a result of Your failure to comply with any of the obligations set out in these provisions .
- i) Notwithstanding anything to the contrary elsewhere in the Agreement or any applicable order, the CP Data is not licensed on a perpetual basis, and may only be licensed for the limited term set out in the applicable order. You may elect to renew Your term license the CP Data to the extent Contractor continues to offer a license to the CP Data, for an additional term upon executing a new Purchase Order. Your license to the CP Data may be terminated if CP requires Contractor to terminate or suspend Your license if You are in breach of any the provisions set out herein. In the event a claim of breach, to the extent the CP regulations otherwise prohibit, Contractor will continue to perform under this Agreement pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement.

20.3

4. Demographic Data Terms

If you are acquiring a license to any demographic Data Product, including but not limited to PSYTE Segmentation Data, you hereby represent that you are not an automobile manufacturer or dealer and are not an owner or marketer of lists of names and addresses or a provider of "list hygiene" services.

20.4

5. MapInfo Manager Terms

Your license to MapInfo Manager permits installation only for the number of licensed copies, however, You are granted for each licensed copy of MapInfo Manager one (1) administrator license and three (3) editor licenses. You are permitted an unlimited number of users limited to viewing the catalog generated using the MapInfo Manager. Additional copies of MapInfo Manager, or additional administrator and/or editor licenses will be granted for an additional fee.

20.5

6. Royal Mail Data Terms

Definitions: For purposes of these Royal Mail Terms, the following definitions will have the following meanings:

“Bureau Service” means use of the PAF® Data, including, but not limited to, for purposes of Data Cleaning of a third party’s database or other processing services on behalf of a third party;

“Data Cleansing” means the processing of existing data records using PAF® Data:

- (a) including validating, reformatting, correcting or appending additional data to those records, and (b) including the use of PAF® Data within address capture applications, but
- (c) not including Data Extraction (whether carried out by an address capture application or otherwise), and **Cleansed** shall be read accordingly;

“Data Extraction” means the extraction of PAF® Data or any part of it for the generation of new address records in a new or existing database;

“End User” means the Licensee set out in the Pitney Bowes license agreement;

“Extracted Data” means data generated as a result of Data Extraction;

“PAF® Data” means Royal Mail’s database known as PAF®, and including the database known as the “Alias File”;

“Solution” means the Pitney Bowes product or service or other solution which benefits from or includes PAF® Data (including the provision of PAF® Data itself), in whatever form, however produced or distributed and whether or not including other functionality, services, software or data;

“Substantially All Database” means a database which on its own or as part of another database comprises all or substantially all the addresses in the United Kingdom or any of England, Wales, Scotland or Northern Ireland; and

“User” means an individual authorised by an End User to use a Solution.

20.6 **1. End Users’ permitted use of Solutions**

End Users may *freely* use PAF® Data in Solutions in accordance with these End User Terms and the Pitney Bowes license agreement.

20.7 **2. Conditions of use**

- (a) End Users must not remove any notice relating to Royal Mail’s intellectual property rights in PAF® Data. You acknowledge Royal Mail is the owner of the PAF® Data.
- (b) End Users may use PAF® Data for Data Extraction but Extracted Data: (i) may only be accessed by Users, and
 - (ii) must not be supplied or any access to it provided to any third party.
- (c) End Users may provide Cleansed data to third parties provided that:
 - (i) where that supply is a Bureau Service, the End User and the customers of the End User acting as a Bureau Service comply with the restrictions in Exhibit 1 hereto, and (ii) if such databases are Substantially All Databases:
 - (A) such databases are not represented or held out as a master, original or comprehensive address database or other similar description,
 - (B) the access is provided in the course of the End User’s normal data supply or routine business activities and is not carried on as a business in its own right, and
 - (C) the provision includes a prominent notice that the relevant Cleansed data has been cleansed against PAF® Data.
- (d) End Users must not permit access to, display or communicate to the public any Solutions, except for the purposes of capturing or confirming address details of third parties.
- (e) Except as set out in these End User Terms or the Pitney Bowes license agreement, End Users must not:
 - (i) transfer, assign, sell or license Solutions or their use to any other person,
 - (ii) use Solutions to create a product or service distributed or sold to any third party which relies on any use of PAF® Data, including copying, looking up or enquiring, publishing, searching, analysing, modifying and reformatting, or copy, reproduce, extract, reuse or publish Solutions or any of them.
 - (iii) advertise or promote Solutions as endorsed or approved by Royal Mail.

20.8 **3. Royal Mail’s IPR notice**

The End User acknowledges that Royal Mail is the owner of the intellectual property rights in PAF® Data and the PAF® brand and it does not acquire and is not granted any rights to use those intellectual property rights other than as set out in these End User Terms.

20.9 **4. Cessation of use of PAF® Data**

End Users must cease use of PAF® Data if their right to use PAF® Data is terminated and also destroy any copies of PAF® Data they hold.

End Users must ensure that:

- (a) these End User Terms bind their Users,
- (b) only their Users exercise the use rights of Solutions and PAF® Data granted to End Users further to these End User Terms, and in the event of termination or expiry of End Users' rights to use Solutions and PAF® Data, the rights of Users to use them also terminate.

Section 21 - BUREAU

SERVICES

1. End Users performing Bureau Services further are subject to the terms and restrictions set out below and must ensure that they are observed by customers of the Bureau Service End User.
2. End Users must not supply or provide access to a Cleansed customer database to any person other than the relevant customer of the Bureau Service End User.
3. End Users may only supply or provide access to Cleansed customer databases to customers of the Bureau Service End User subject to the restriction on use of Cleansed data set out in paragraph 2(c)(ii) of the End User Terms and any terms set out in the Pitney Bowes license agreement.
4. The End User and a customer of the Bureau Service End User may use the following statement on its publicity and marketing material: "[Name] processes databases against Royal Mail's PAF® databases" provided that such use is reasonable.
5. The names of customers of the Bureau Service End User must be provided to Royal Mail on its request.

21.1 **7. TomTom 6 Digit Canadian Postal Codes**

The 6 digit alphanumeric Canadian Postal Codes ("Postal Codes") contained in any Licensed Products cannot be used for bulk mailing of items through the Canadian postal system. Furthermore, the Postal Codes must be wholly contained in the Licensed Products and will not be extracted or exported from any application to be utilized in the creation of any other data set or application. Notwithstanding the above, You may optionally correct or derive Postal Codes using the Licensed Products, but only as part of the address information for locations (e.g. of delivery points and depots) that have been set up in the Licensed Products, and optionally extract data for fleet management purposes.

21.2 **8. UAM Loqate Terms**

Except where You have been specifically licensed to do so, and without limiting disclaimer set out in the warranty provision of the Schedule Agreement, You will not (a) use this Universal Addressing Module Loqate with any products, systems, or applications installed or otherwise connected to or in communication with vehicles, capable of vehicle navigation, positioning, dispatch, real time route guidance, fleet management or similar applications; or (b) with or in communication with any positioning devices or any mobile or wireless-connected electronic or computer devices, including without limitation cellular phones, palmtop and handheld computers, pagers, and personal digital assistants or PDAs.

21.3 **9. USPS Terms – DPV/LACS and SuiteLink Product**

The following terms apply solely to Your use of the United States Postal Service ("USPS") data that is provided under license from Contractor. These additional terms amend the Schedule Contract ("Agreement") between Contractor and the applicable licensee as indicated in the Agreement ("You"). Absent a signed Agreement, Your use of the USPS Data constitutes acceptance of the terms set forth herein. Capitalized terms used herein and not otherwise defined have the meaning assigned to them in the Agreement. The terms and conditions set forth below supersede any conflicting terms and conditions in the Agreement.

- a) The delivery point validation (the "DPV Product"), LACSLink and SuiteLink and any updates, materials, knowhow, computer code, and technical information (hereinafter collectively, the "USPS Data") are confidential and proprietary to the USPS and shall remain the property of USPS. You shall maintain the USPS Data in strict confidence in accordance with the terms of the Agreement.
- b) You are prohibited from: (i) modifying, improving, correcting, or enhancing the USPS Data in any way; (ii) combining the USPS Data, or any portion thereof, with other information, data, software or the like to create any derivative product of the USPS Data; or (iii) making or reducing to practice any invention, idea or concept, whether patentable or not, on or relating to the USPS Data, or any portion thereof, without the prior written approval of USPS.
- c) You shall not: (i) use the USPS Data or any of its technology to compile a list of delivery points not already in Your possession or to otherwise create a mailing list or portion thereof; (ii) rent, sell, distribute or otherwise provide any of your proprietary address lists, service products, or other system of records that contain address attributes derived or updated through the use of the USPS Data; or (iii) in addition to the foregoing, use SuiteLink for any purposes other than for improving business delivery addresses in multi-occupation buildings for use on letters, flats, postcards, packages, leaflets, magazines, advertisements, books and other printed material, and any other item that will be delivered by USPS.
- d) You are not permitted to export the USPS Data outside the United States or its territories.
- e) You agree and acknowledge that USPS retains all right, title and interest in the USPS Data, and all trademarks, trade dress, service marks, trade secrets, copyrights, patents and other intellectual property rights related thereto.
- f) Reserved.

- g) NEITHER PITNEY BOWES SOFTWARE INC ("PBSI"), CONTRACTOR, NOR THE USPS SHALL BE LIABLE FOR ANY DESIGN, PERFORMANCE OR OTHER FAULT OR INADEQUACY OF THE USPS DATA. This disclaimer is in addition to any other disclaimers of warranties set out in the Agreement.
- h) To satisfy USPS requirements THE DPV PRODUCT SHALL CONTAIN DISABLING DEVICE(S) DESIGNED TO PREVENT USE NOT PERMITTED BY THIS LICENSE. PBSI shall document all disabling devices to You. In the event You encounter the "Stop DPV Processing" function, You shall contact PBSI in order to restore DPV processing capability. PBSI shall immediately notify USPS of Your name and address. At the sole discretion of the USPS, PBSI may not have the right to restore Your DPV processing capability.
- i) You shall promptly reimburse PBSI to the full amount of any damages or other claims that Contractor is required to pay which are a result of Your failure to comply with any of the obligations set out in these provisions.
- j) Notwithstanding anything to the contrary elsewhere in the Agreement or any applicable order, the USPS Data is not licensed on a perpetual basis, and may only be licensed for the limited term set out in the applicable order. You may elect to renew Your term license the USPS Data to the extent Contractor continues to offer a license to the USPS Data, for an additional term upon payment of the applicable renewal fees. Contractor shall have the right to terminate Your license to the USPS Data if (i) the USPS cancels PBSI's right to distribute the USPS Data, (ii) You are in breach of any of the foregoing provisions; or (iii) the Agreement or Order is terminated.

21.4

10. VeriMove/VeriMove Express Terms

1. Your Obligation.

- a) You will comply with all applicable laws, rules and regulations with respect to the use of VeriMove or VeriMove Express (collectively, "VeriMove") and the data provided with VeriMove. You will also comply with any other requirements that may be imposed by the United States Postal Service ("USPS") with respect to NCOA/Link and Your use of VeriMove in conjunction with NCOA/Link.
- b) You will provide any assistance reasonably requested by Contractor to confirm Your compliance with the obligations set out in the terms set forth herein.

2. License Restrictions.

- a) VeriMove will be used by You only in conjunction with the USPS' NCOA/Link data product to update a list, system, group or other collection of at least 100 unique names and addresses (herein "Mailing Lists") used for addressing letters, flats, postcards, packages, leaflets, magazines, advertisements, books and other printed material, and any other deliverable item handled by the USPS (herein "Deliverables") for delivery by the USPS.
- b) You have no right to develop or use VeriMove or any NCOA/Link product, service, interface, or any related item or technology to compile or maintain a list or collection of names and addresses or addresses only of new movers or to create other products or data bases or collections of information concerning new movers, histories of address changes, lists or histories of residents, or other informational or data sources based upon information received from or through the NCOA/Link data or technology for the purpose of renting, selling, transferring, disclosing, making available or otherwise providing such information to an entity unrelated to You.
- c) For the purposes of communicating with addressees on Your Mailing Lists and for the purpose of recordkeeping, however, You are permitted to retain updated addresses so long as not used in violation of Section 2(b) above, for individuals and entities with whom it has or has had a business relationship, in connection with which it will use the updated address; however, these updated addresses may only be used by You and You may use them only for carrying out Your organizational purposes in connection with that individual or entity and may not transfer, disclose, license or distribute to, or be used by any other entity or individual whatsoever.
- d) No proprietary Mailing List that contains both old and corresponding updated address records, or any service product or system of lists that can be used to link old and corresponding updated address records, if updated by use of NCOA/Link, will be rented, sold, transferred, disclosed, made available, or otherwise provided, in whole or in part to Your customers or any other individual or entity.
- e) VeriMove will only be used inside the United States. You will only use VeriMove to update Mailing Lists used to prepare Deliverables that will be deposited with the USPS.
- f) You acknowledges:
- (i) that USPS owns the NCOA/Link data, technology, and system in its entirety including that used in the development of VeriMove;
 - (ii) that USPS owns and retains rights in the trademark of NCOA/Link and in the registered trademarks UNITED STATES POSTAL SERVICE®, POSTAL SERVICE®, US POSTAL SERVICE®, AND USPS® ;
 - (iii) that Contractor is providing VeriMove to You solely for use with the USPS' NCOA/Link Product under a nonexclusive, limited distribution license from the USPS; and
 - (iv) that the rights You obtains in this license are derived from PBSI's agreement with USPS and You obtain from Contractor no broader right than PBSI obtains from USPS, except as to Your specific right to use VeriMove to access the NCOA/Link data.
- g) You acknowledges and agrees that You has no right to sublicense, sell, distribute, reproduce, or display USPS trademarks or sell VeriMove or other products under USPS' trademarks;

3. Termination.

- a) Your license to VeriMove may be terminated if (i) Your authorization code, issued by the USPS, as described herein, has expired or (ii) the USPS requires Contractor to terminate or suspend Your license if You are in breach of any the provisions set out herein. In the event a claim of breach, to the extent the USPS regulations otherwise prohibit,

Contractor will continue to perform under this Agreement pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement.

b) Upon termination of the license to VeriMove, You will immediately cease use of VeriMove, purge VeriMove from its computer systems and return VeriMove to PBSI, including any copies, media, documentation thereto and technical related material thereof.

4. Limitation of Liability. Neither PBSI, Contractor nor the USPS will be liable for any design, performance or other fault or inadequacy of the NCOA/Link Product or for damages of any kind arising out of or in any way related to or connected with such fault or inadequacy. This disclaimer is in addition to any other disclaimers of warranties set out in the Schedule Contract.

5. Reimbursement. You will promptly reimburse Contractor to the full amount of any damages or other claims that Contractor is required to pay which are a result of Your failure to comply with any of the obligations set out herein.

21.5 **11. Infutor Data Attribute Terms**

- You will not resell the Infutor Data Attributes (the "Infutor Data") without Contractor's prior written consent.
- Under no circumstances will the Infutor Data be used (a) as a source for modeling of, or determination of, consumer credit worthiness, consumer credit approval, a customer's eligibility for employment or insurance; nor (b) to advertise, sell or exchange any products or services that involve sexual paraphernalia; drug paraphernalia; adult films; adult recordings or adult magazines; weapons; credit repair services or other illegal or illicit activities.
- You will not use the Infutor Data as part of an application that provides names or phone number lookups to any entities which provide live-operator directory assistance services.

21.6 **12. SAP HANA**

Spectrum Spatial and HANA are licensed as a bundle, and HANA cannot be used independently of Spectrum Spatial. HANA may be used with an unlimited number of Data Sources, however, all data extracted from all Data Sources stored or used with HANA must either be consumed or used by Spatial prior to use with HANA, as part of Licensee's business intelligence and analytics solutions. "Data Sources" means any software products and/or database instances for which Ordering Agency has secured an appropriate license.

21.7 **13. World Postcode Points (MBI data)**

- You will refrain from modifying the World Postcode data set in such a way that these become suitable for navigation-systems or telematics applications.
- Denmark data – You are not allowed to use the Denmark data within the World Postcode data set to generate maps for printed or digital telephone directories or for products that are similar to printed or digital telephone directories.
- Norway Data- You are not allowed to use the Norway data within the World Postcode data set to generate printed or digital maps that are similar to the base national products of the Norwegian Mapping Authority.
- Unless expressly set out in the specific order under which the World Postcode data set is licensed, You are prohibited from using the World Postcode data set to process the data of third parties.

21.8 **14. Reserved 15. GeoTAX, GeoTAX Matrix and Enterprise Tax Module**

The U.S. address coding software that is provided to You with the GeoTAX or Enterprise Tax Module (the "Tax Software") is licensed for use solely in conjunction with the Tax Software and will not be used independently of the Tax Software.

21.9 **16. CODE-1 PLUS INTERNATIONAL/UAM International and UAM Enhanced International**

The global database to the international addressing software product (the "Global Database") consists of data provided to Contractor by entities located in various countries and is provided by Contractor "AS IS" and "WHERE IS." Contractor does, however, warrant that it will provide to You each calendar quarter the most current Global Database it has available regarding each country for which You are otherwise entitled to receive such updates.

CONTRACTOR DISCLAIMS ANY WARRANTY CONCERNING THE ACCURACY OF THE GLOBAL DATABASE OR ANY PORTION THEREOF. IN NO EVENT WILL PBSI OR CONTRACTOR BE LIABLE TO YOU FOR ANY DELAY IN DELIVERING UPDATES TO THE GLOBAL DATABASE OR ANY PORTION THEREOF OR FOR ANY FAILURE TO DELIVER THE MOST CURRENT GLOBAL DATABASE FROM ANY PARTICULAR COUNTRY RESULTING FROM THE ACTIONS OF ANY THIRD PARTY.

17. Point Level Data.

Upon expiration of the license term for any point level data sets licensed by You, unless the term is extended in accordance with the Schedule Contract or applicable Order, You will purge any data points appended to address records as derived from Points Data Set(s)

21.10 **18. The World Geocoding data set**

The World Geocoding data set contains data licensed from the GeoNames Project (www.geonames.org) provided under the Creative Commons Attribution License ("Attribution License") herein below. Your use of the GeoNames data (described in the Spectrum User Manual) is governed by the terms of the Attribution License, and any conflict between your agreement with Contractor and the Attribution License will be resolved in favor of the Attribution License solely as it relates to your use of the GeoNames data.

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21.11 1. Definitions

- a. **"Adaptation"** means a work based upon the Work, or upon the Work and other pre-existing works, such as a translation, adaptation, derivative work, arrangement of music or other alterations of a literary or artistic work, or phonogram or performance and includes cinematographic adaptations or any other form in which the Work may be recast, transformed, or adapted including in any form recognizably derived from the original, except that a work that constitutes a Collection will not be considered an Adaptation for the purpose of this License. For the avoidance of doubt, where the Work is a musical work, performance or phonogram, the synchronization of the Work in timed-relation with a moving image ("synching") will be considered an Adaptation for the purpose of this License.
 - b. **"Collection"** means a collection of literary or artistic works, such as encyclopedias and anthologies, or performances, phonograms or broadcasts, or other works or subject matter other than works listed in Section 1(f) below, which, by reason of the selection and arrangement of their contents, constitute intellectual creations, in which the Work is included in its entirety in unmodified form along with one or more other contributions, each constituting separate and independent works in themselves, which together are assembled into a collective whole. A work that constitutes a Collection will not be considered an Adaptation (as defined above) for the purposes of this License.
 - c. **"Distribute"** means to make available to the public the original and copies of the Work or Adaptation, as appropriate, through sale or other transfer of ownership.
 - d. **"Licensor"** means the individual, individuals, entity or entities that offer(s) the Work under the terms of this License.
 - e. **"Original Author"** means, in the case of a literary or artistic work, the individual, individuals, entity or entities who created the Work or if no individual or entity can be identified, the publisher; and in addition (i) in the case of a performance the actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret or otherwise perform literary or artistic works or expressions of folklore; (ii) in the case of a phonogram the producer being the person or legal entity who first fixes the sounds of a performance or other sounds; and, (iii) in the case of broadcasts, the organization that transmits the broadcast.
 - f. **"Work"** means the literary and/or artistic work offered under the terms of this License including without limitation any production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression including digital form, such as a book, pamphlet and other writing; a lecture, address, sermon or other work of the same nature; a dramatic or dramatico-musical work; a choreographic work or entertainment in dumb show; a musical composition with or without words; a cinematographic work to which are assimilated works expressed by a process analogous to cinematography; a work of drawing, painting, architecture, sculpture, engraving or lithography; a photographic work to which are assimilated works expressed by a process analogous to photography; a work of applied art; an illustration, map, plan, sketch or three-dimensional work relative to geography, topography, architecture or science; a performance; a broadcast; a phonogram; a compilation of data to the extent it is protected as a copyrightable work; or a work performed by a variety or circus performer to the extent it is not otherwise considered a literary or artistic work.
 - g. **"You"** means an individual or entity exercising rights under this License who has not previously violated the terms of this License with respect to the Work, or who has received express permission from the Licensor to exercise rights under this License despite a previous violation.
 - h. **"Publicly Perform"** means to perform public recitations of the Work and to communicate to the public those public recitations, by any means or process, including by wire or wireless means or public digital performances; to make available to the public Works in such a way that members of the public may access these Works from a place and at a place individually chosen by them; to perform the Work to the public by any means or process and the communication to the public of the performances of the Work, including by public digital performance; to broadcast and rebroadcast the Work by any means including signs, sounds or images.
 - i. **"Reproduce"** means to make copies of the Work by any means including without limitation by sound or visual recordings and the right of fixation and reproducing fixations of the Work, including storage of a protected performance or phonogram in digital form or other electronic medium.
- 2. Fair Dealing Rights.** Nothing in this License is intended to reduce, limit, or restrict any uses free from copyright or rights arising from limitations or exceptions that are provided for in connection with the copyright protection under copyright law or other applicable laws.
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- a. to Reproduce the Work, to incorporate the Work into one or more Collections, and to Reproduce the Work as incorporated in the Collections;
 - b. to create and Reproduce Adaptations provided that any such Adaptation, including any translation in any medium, takes reasonable steps to clearly label, demarcate or otherwise identify that changes were made to the original

Work. For example, a translation could be marked "The original work was translated from English to Spanish," or a modification could indicate "The original work has been modified.";

- c. to Distribute and Publicly Perform the Work including as incorporated in Collections; and,
- d. to Distribute and Publicly Perform Adaptations.
- e. For the avoidance of doubt:
 - i. **Non-waivable Compulsory License Schemes.** In those jurisdictions in which the right to collect royalties through any statutory or compulsory licensing scheme cannot be waived, the Licensor reserves the exclusive right to collect such royalties for any exercise by You of the rights granted under this License; ii. **Waivable Compulsory License Schemes.** In those jurisdictions in which the right to collect royalties through any statutory or compulsory licensing scheme can be waived, the Licensor waives the exclusive right to collect such royalties for any exercise by You of the rights granted under this License; and,
 - iii. **Voluntary License Schemes.** The Licensor waives the right to collect royalties, whether individually or, in the event that the Licensor is a member of a collecting society that administers voluntary licensing schemes, via that society, from any exercise by You of the rights granted under this License.

The above rights may be exercised in all media and formats whether now known or hereafter devised. The above rights include the right to make such modifications as are technically necessary to exercise the rights in other media and formats. Subject to Section 8(f), all rights not expressly granted by Licensor are hereby reserved.

4. Restrictions. The license granted in Section 3 above is expressly made subject to and limited by the following restrictions:

- a. You may Distribute or Publicly Perform the Work only under the terms of this License. You must include a copy of, or the Uniform Resource Identifier (URI) for, this License with every copy of the Work You Distribute or Publicly Perform. You may not offer or impose any terms on the Work that restrict the terms of this License or the ability of the recipient of the Work to exercise the rights granted to that recipient under the terms of the License. You may not sublicense the Work. You must keep intact all notices that refer to this License and to the disclaimer of warranties with every copy of the Work You Distribute or Publicly Perform. When You Distribute or Publicly Perform the Work, You may not impose any effective technological measures on the Work that restrict the ability of a recipient of the Work from You to exercise the rights granted to that recipient under the terms of the License. This Section 4(a) applies to the Work as incorporated in a Collection, but this does not require the Collection apart from the Work itself to be made subject to the terms of this License. If You create a Collection, upon notice from any Licensor You must, to the extent practicable, remove from the Collection any credit as required by Section 4(b), as requested. If You create an Adaptation, upon notice from any Licensor You must, to the extent practicable, remove from the Adaptation any credit as required by Section 4(b), as requested.
- b. If You Distribute, or Publicly Perform the Work or any Adaptations or Collections, You must, unless a request has been made pursuant to Section 4(a), keep intact all copyright notices for the Work and provide, reasonable to the medium or means You are utilizing: (i) the name of the Original Author (or pseudonym, if applicable) if supplied, and/or if the Original Author and/or Licensor designate another party or parties (e.g., a sponsor institute, publishing entity, journal) for attribution ("Attribution Parties") in Licensor's copyright notice, terms of service or by other reasonable means, the name of such party or parties; (ii) the title of the Work if supplied; (iii) to the extent reasonably practicable, the URI, if any, that Licensor specifies to be associated with the Work, unless such URI does not refer to the copyright notice or licensing information for the Work; and (iv) , consistent with Section 3(b), in the case of an Adaptation, a credit identifying the use of the Work in the Adaptation (e.g., "French translation of the Work by Original Author," or "Screenplay based on original Work by Original Author"). The credit required by this Section 4 (b) may be implemented in any reasonable manner; provided, however, that in the case of a Adaptation or Collection, at a minimum such credit will appear, if a credit for all contributing authors of the Adaptation or Collection appears, then as part of these credits and in a manner at least as prominent as the credits for the other contributing authors. For the avoidance of doubt, You may only use the credit required by this Section for the purpose of attribution in the manner set out above and, by exercising Your rights under this License, You may not implicitly or explicitly assert or imply any connection with, sponsorship or endorsement by the Original Author, Licensor and/or Attribution Parties, as appropriate, of You or Your use of the Work, without the separate, express prior written permission of the Original Author, Licensor and/or Attribution Parties.
- c. Except as otherwise agreed in writing by the Licensor or as may be otherwise permitted by applicable law, if You Reproduce, Distribute or Publicly Perform the Work either by itself or as part of any Adaptations or Collections, You must not distort, mutilate, modify or take other derogatory action in relation to the Work which would be prejudicial to the Original Author's honor or reputation. Licensor agrees that in those jurisdictions (e.g. Japan), in which any exercise of the right granted in Section 3(b) of this License (the right to make Adaptations) would be deemed to be a distortion, mutilation, modification or other derogatory action prejudicial to the Original Author's honor and reputation, the Licensor will waive or not assert, as appropriate, this Section, to the fullest extent permitted by the applicable national law, to enable You to reasonably exercise Your right under Section 3(b) of this License (right to make Adaptations) but not otherwise.

21.12 5. Representations, Warranties and Disclaimer

THIS SOFTWARE WILL, FOR A PERIOD OF SIXTY (60) DAYS FROM THE DATE OF YOUR RECEIPT, PERFORM SUBSTANTIALLY IN ACCORDANCE WITH SOFTWARE WRITTEN MATERIALS ACCOMPANYING IT. EXCEPT AS JUST STATED, UNLESS OTHERWISE MUTUALLY AGREED TO BY THE PARTIES IN WRITING, LICENSOR OFFERS THE WORK AS-IS AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND CONCERNING THE WORK, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR THE ABSENCE OF LATENT

OR OTHER DEFECTS, ACCURACY, OR THE PRESENCE OF ABSENCE OF ERRORS, WHETHER OR NOT DISCOVERABLE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO SUCH EXCLUSION MAY NOT APPLY TO YOU.

6. Limitation on Liability. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL LICENSOR BE LIABLE TO YOU ON ANY LEGAL THEORY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF THIS LICENSE OR THE USE OF THE WORK, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from Licensor's negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

21.13 7. Termination

- a. Recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer. Individuals or entities who have received Adaptations or Collections from You under this License, however, will not have their licenses terminated provided such individuals or entities remain in full compliance with those licenses. Sections 1, 2, 5, 6, 7, and 8 will survive any termination of this License.
- b. Subject to the above terms and conditions, the license granted here is perpetual (for the duration of the applicable copyright in the Work). Notwithstanding the above, Licensor reserves the right to release the Work under different license terms or to stop distributing the Work at any time; provided, however that any such election will not serve to withdraw this License (or any other license that has been, or is required to be, granted under the terms of this License), and this License will continue in full force and effect unless terminated as stated above.

21.14 8. Miscellaneous

- a. Each time You Distribute or Publicly Perform the Work or a Collection, the Licensor offers to the recipient a license to the Work on the same terms and conditions as the license granted to You under this License.
- b. Each time You Distribute or Publicly Perform an Adaptation, Licensor offers to the recipient a license to the original Work on the same terms and conditions as the license granted to You under this License.
- c. If any provision of this License is invalid or unenforceable under applicable law, it shall not affect the validity or enforceability of the remainder of the terms of this License, and without further action by the parties to this agreement, such provision shall be reformed to the minimum extent necessary to make such provision valid and enforceable.
- d. No term or provision of this License shall be deemed waived and no breach consented to unless such waiver or consent shall be in writing and signed by the party to be charged with such waiver or consent.
- e. This License, together with the underlying GSA Schedule Contract, Schedule Pricelist and Purchase Order(s), constitutes the entire agreement between the parties with respect to the Work licensed here. There are no understandings, agreements or representations with respect to the Work not specified here. Licensor shall not be bound by any additional provisions that may appear in any communication from You. This License may not be modified without the mutual written agreement of the Licensor and You.
- f. The rights granted under, and the subject matter referenced, in this License were drafted utilizing the terminology of the Berne Convention for the Protection of Literary and Artistic Works (as amended on September 28, 1979), the Rome Convention of 1961, the WIPO Copyright Treaty of 1996, the WIPO Performances and Phonograms Treaty of 1996 and the Universal Copyright Convention (as revised on July 24, 1971). These rights and subject matter take effect in the relevant jurisdiction in which the License terms are sought to be enforced according to the corresponding provisions of the implementation of those treaty provisions in the applicable national law. If the standard suite of rights granted under applicable copyright law includes additional rights not granted under this License, such additional rights are deemed to be included in the License; this License is not intended to restrict the license of any rights under applicable law.

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Except for the limited purpose of indicating to the public that the Work is licensed under the CCPL, Creative Commons does not authorize the use by either party of the trademark "Creative Commons" or any related trademark or logo of Creative Commons without the prior written consent of Creative Commons. Any permitted use will be in compliance with Creative Commons' then-current trademark usage guidelines, as may be published on its website or otherwise made available upon request from time to time. For the avoidance of doubt, this trademark restriction does not form part of this License. Creative Commons may be contacted at <https://creativecommons.org/>

19. GFK Data

1. Unless specifically agreed or if the license is defined as a SINGLE-USER license, the license shall only apply to one user, i.e. for use of the data at the work place of one person. Work place is a computer (PC) or a terminal or an environment of a user (user account) restricted by the operating software on one computer. If the license is designated as **multiple license** or a

multiple user license, it shall be valid for the number of users specified. Multiple licenses or multiple user licenses shall not be concurrent user licenses.

2. If the product is designated as an update or upgrade, the user may only use it in connection with an existing license. The update or upgrade license is only an extension of the existing license and only entitles utilization within its limits.

3. You are entitled to process data only under the following provisions in order to establish its own documents using said data and additional own data, texts or other contents.

(i) In direct correlation with the maps produced using the map data of PBSI, the remark: "Map basis GfK GeoMarketing" and in direct correlation with maps, diagrams etc produced using other data of PBSI, the remark: "Data basis GfK GeoMarketing" must be provided in these documents unless such a remark is already contained in the graphic produced,

(ii) It is prohibited to make any changes to the basic data outside the utilization to generate own documents, in particular to convert the licensed data into other formats or to extract parts of the data for use which is exceeding the license and to remove copyright marks, names, trademarks or other symbols or typical company designs of GfK Geomarketing.

4. If the licensed purchased is designated as "IN-HOUSE license" or if nothing more specific has been determined, for the use of own documents generated said own documents may only be duplicated for internal company purposes and only made accessible in-house. Any further distribution or making the documents generated publicly accessible, in particular passing them on to third parties (other than third party consultants, auditors, advisors and/or governmental and/or regulatory authorities), commercial marketing or publication in magazines, books or any other form and as one's own work, is prohibited. The documents may only be duplicated or made accessible through an internal network beyond the work place in a way which does not enable the licensed basic data of the graphics or images generated, in particular of vector data to be read out.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Planview, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such

occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by

law, regulation or its bona fide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

PLANVIEW, INC.

PLANVIEW LICENSE, WARRANTY AND SUPPORT TERMS

1. **DEFINITIONS.** Capitalized terms in this Attachment A have the following meanings. Exhibits and transaction documents may define additional terms applicable to specific transactions.

Code means computer program code, in Source and Object form. "Object Code" means Code, other than Source Code, substantially in binary form, which is intended to be executable by a computer after suitable processing or linking but without the intervening steps of compilation or assembly. "Source Code" means Code that may be printed out or displayed in a form readable and understandable by a programmer of ordinary skill.

Designated Location means the location to which the Licensed Software is to be shipped or Services provided, as designated by Ordering Activity from time to time.

Documentation means user manuals that describe the functions, operation, and use of the Licensed Software, and that PlanView makes generally available to licensees of such Licensed Software. Documentation includes Specifications.

Error means any material error or defect in the Licensed Software that causes the Licensed Software not to conform in material respects with the Specifications.

Error Corrections are modifications that correct Errors.

Fixed Tangible Deliverable is a type of Work Product delivered by PlanView to Ordering Activity in connection with the provision of Professional Services.

Improvements are enhancements, extensions, modifications, and new releases to the Licensed Software (other than Error Corrections) that PlanView elects to incorporate into and make a part of such Licensed Software, and for which PlanView does not charge an additional fee.

Knowledge-Based Consulting Services refers to the provision of Professional Services consisting primarily of knowledge transfer by PlanView to Ordering Activity. Examples include general implementation assistance, project planning and administration, informal or formal training, process and procedure development assistance, product installation, testing and configuration, and business needs analysis and documentation.

Licensed Software means whole or partial copies of: (a) Object Code (including Error Corrections and Improvements); and (b) related licensed materials in any form (including, but not limited to, Documentation). Licensed Software does not include Materials or Work Product.

Materials include, but are not limited to, subscription-based materials, e-learning courses, and PlanView PRISMS™.

Professional Services means the performance of Knowledge-Based Consulting and the delivery of Work Product, including Fixed Tangible Deliverables, by PlanView to or for Ordering Activity, as specifically described in a Statement of Work.

Services means both Professional Services and Support Services.

Specifications means the functional and technical portion of the Documentation that provides information specific to the Licensed Software.

Specified Operating Environment means the hardware and software with which the Licensed Software is designed to operate, as described in the Specifications for such Licensed Software.

Statement of Work means the document that describes the Professional Services to be provided by Contractor through PlanView to Ordering Activity.

Support Services means PlanView's standard support and maintenance Services for the Licensed Software.

Work Product means works of authorship (other than the Licensed Software and Materials) that PlanView delivers to Ordering Activity in the course of providing Professional Services. Work Products may be created during performance of the Services or otherwise (such as those that pre-exist provision of the Services). Examples include Fixed Tangible Deliverables, interface and other customized Code, specialized or tailored training curriculum and course materials, custom reports, logic, and design.

2. WARRANTY.

Limited Warranty. Any warranties provided by Contractor for Licensed Software or a Service are set forth in Exhibit A, B, and/or C below.

Warranty Disclaimer. Except for the express warranties specifically set forth in an Attachment, Contractor does not make any other warranties, express or implied. The warranties of title, non-infringement, merchantability, and fitness for a particular purpose are expressly excluded. Contractor does not warrant that the operation of the Licensed Software will be uninterrupted or error-free or that the Licensed Software will be suitable for or meet the requirements of Ordering Activity. This disclaimer also applies to any of Contractor's independent contractors, suppliers or program developers (collectively, "Suppliers"). Some jurisdictions do not allow the exclusion of certain warranties, so some of the above exclusions may not apply to Ordering Activity.

Items Not Covered by Warranty. Materials, non-PlanView products, and non-PlanView services are provided on an "AS IS" basis. However, non-PlanView manufacturers, suppliers, and publishers may provide their own warranties to Ordering Activity.

EXHIBIT A – LICENSED SOFTWARE AND MAINTENANCE SUPPORT SERVICES

1. LICENSED SOFTWARE

LICENSE GRANT

Grant of License. Contractor grants to Ordering Activity a perpetual, non-exclusive, non-transferable, non-sublicenseable, worldwide license to install and use the Licensed Software together with the Documentation solely for purposes of Ordering Activity's internal operations and those of its Affiliates. Ordering Activity agrees to ensure that anyone who uses the Licensed Software does so only for Ordering Activity's authorized use as specified in, and in compliance with, this Attachment A. Ordering Activity may make one (1) copy of the Licensed Software solely for internal testing, development, and archival purposes.

Restrictions on Use. Unless otherwise authorized in this Attachment A, Ordering Activity agrees not to: (i) disassemble, reverse engineer, decompile, modify, or translate the Licensed Software except as otherwise expressly permitted by applicable law that is incapable of exclusion by agreement between the parties; (ii) provide or grant any rights in the Licensed Software in any form to any third party whether by lease, sublicense, rental, transfer, assignment, or other distribution, including in a hosting, service bureau or other commercial time-sharing environment; or (iii) copy the Licensed Software. Ordering Activity agrees to keep the Licensed Software free and clear of all claims, liens, and encumbrances.

Proprietary Notices. Ordering Activity will not alter, change or remove any proprietary notices or confidentiality legends placed on or contained within the Licensed Software. Ordering Activity will include such notices and legends in all copies of any part of the Licensed Software made pursuant to this Attachment A.

MAINTENANCE SUPPORT SERVICES FOR LICENSED SOFTWARE. COMMENCING ON THE EFFECTIVE DATE, CONTRACTOR THROUGH PLANVIEW WILL PROVIDE ORDERING ACTIVITY WITH THE TYPE OF MAINTENANCE SUPPORT SERVICES SELECTED BY ORDERING ACTIVITY FROM THOSE MADE AVAILABLE BY PLANVIEW FOR THE ANNUAL CHARGE SPECIFIED IN THE APPLICABLE ORDERING SCHEDULE TO THIS ATTACHMENT A. ORDERING ACTIVITY MUST ENROLL ALL LICENSED SOFTWARE AT THE SAME SUPPORT SERVICE LEVEL. LICENSES TO LICENSED SOFTWARE PURCHASED SUBSEQUENT TO ORDERING ACTIVITY'S INITIAL PURCHASE WILL BE CO-TERMINATED TO THE SUPPORT SERVICES TYPE AND TERMS APPLICABLE TO THE LICENSED SOFTWARE INITIALLY PURCHASED BY ORDERING ACTIVITY. ALL MAINTENANCE AND SUPPORT SOLUTIONS, INCLUDING

ERROR CORRECTIONS AND IMPROVEMENTS, CONSTITUTE LICENSED SOFTWARE AND ARE SUBJECT TO THE TERMS OF THIS ATTACHMENT A.

Customer Obligations. Ordering Activity agrees to notify Contractor through PlanView of any material failure, malfunction or error in the Licensed Software that Customer detects, to follow the problem determination, problem analysis, and service request procedures that PlanView specifies, including testing and verifying any suspected errors in the Licensed Software, and to provide PlanView with a description of the problem and the conditions under which it occurred. Ordering Activity is also responsible for maintaining procedures external to the Licensed Software for reconstruction of lost or altered files, data, or programs to the extent it deems necessary, and for performing any such reconstruction. Ordering Activity acknowledges that its failure to promptly implement all solutions, Error Corrections, and Improvements supplied by PlanView may render the Licensed Software unusable or nonconforming to PlanView's standard specifications.

2. MATERIALS

License Grant. Contractor (or its licensors) has all right, title, and interest (including ownership of copyright) to all Materials. Contractor grants Ordering Activity the non-exclusive, worldwide, fully paid-up, royalty-free license to use copies of each such Materials solely in connection with its use of the Licensed Software to the same extent and pursuant to the same terms and conditions as provided in this Attachment A for such Software.

3. WARRANTIES; WARRANTY EXCLUSIONS AND LIMITATIONS

Warranties

For the Licensed Software. Contractor warrants that it has the right to license the Licensed Software as provided in this Attachment A. Contractor further warrants that for a period of ninety (90) days from the date the first copy of the Licensed Software is initially installed at a Ordering Activity location, the Licensed Software will perform substantially in accordance with the then-current applicable Specifications. If the Licensed Software fails to perform as warranted, and Ordering Activity reports such failure to Contractor in writing promptly following the appearance of such failure, Contractor will correct or replace such Licensed Software (or relevant portion thereof) as soon as practicable. The provisions of this Section constitute Ordering Activity's remedy, and Contractor's liability, for breach of the warranty for Licensed Software.

For Support Services. Contractor warrants that it will provide Support Services in a workmanlike manner so that the Licensed Software will continue to perform substantially in accordance with the then applicable Specifications. If the Licensed Software fails to perform as warranted and Ordering Activity promptly reports such failure to Contractor in writing, Contractor will use commercially reasonable efforts to correct or replace such Licensed Software (or relevant portion thereof) as soon as practicable. The provisions of this Section constitute Ordering Activity's remedy, and Contractor's liability, for breach of the warranty for Support Services.

Warranty Exclusions, and Conditions and Limitations of Services. Contractor's obligations to render warranty and Support Services for the Licensed Software are subject to the following conditions and limitations:

Errors and Problems in the Use of the Licensed Software. Contractor has no obligations or responsibilities of any kind with respect to: (i) problems which are not caused by defects in the Licensed Software; (ii) problems caused by the failure to implement and operate the Licensed Software in the Specified Operating Environment in accordance with the applicable Specifications and any other written instructions supplied by PlanView; (iii) problems resulting from the failure to implement solutions, Error Corrections, and Improvements supplied by PlanView to the Licensed Software; (iv) problems in the use or functioning of the Licensed Software caused by any hardware or software product (other than the Licensed Software) but not including problems which are the result of incompatibility of the Licensed Software with such hardware or software if the Software was designed to work with such hardware or software as specified in the Documentation; (v) use of the Licensed Software inconsistent with the Documentation; or (vi) any modifications or other alterations of the Licensed Software by any person or entity other than one authorized by PlanView. Installation or implementation of the Licensed Software by any person or entity other than one authorized by PlanView will void the warranty for Licensed Software in its entirety.

Maintenance of Current Releases of Licensed Software. Contractor provides Support Services only for: (i) the current major release of the Licensed Software; and (ii) for a period of eighteen months subsequent to the release date of the current major release, the immediately preceding major release. A major release is designated by the version number immediately to the right of the decimal point, i.e. X.1.X where the 1 is the major release designator. Contractor has no support obligation where Ordering Activity is using a version of the Licensed Software that is not a then-supported release.

EXHIBIT B – PROFESSIONAL SERVICES

1. DEFINITIONS

Change Order is a document which sets forth changes proposed to a Statement of Work. Each Change Order will be in the form specified by Contractor, a copy of which will be provided to Ordering Activity upon request.

Customer Materials means any materials provided by Ordering Activity: (a) for incorporation into a Fixed Tangible Deliverable; (b) which will be modified or customized; or (c) which will otherwise enable PlanView to provide Professional Services to Ordering Activity. Customer Materials will be identified in the applicable Statement of Work.

Engagement is a unit of Professional Services, as specifically defined in a Statement of Work. For Statements of Work which involve the provision of Knowledge-Based Consulting Services, an Engagement is limited in duration to one workweek (5 contiguous business days). For Statements of Work which involve the delivery of Fixed Tangible Deliverables, an Engagement may be of any duration. In either case, a unique Statement of Work will be issued for each Engagement.

Designated Representative means either the PlanView Designated Representative or the Ordering Activity Designated Representative. PlanView Designated Representative means the individual assigned by PlanView to manage the Professional Services performed for Ordering Activity by PlanView. Ordering Activity Designated Representative means the individual appointed by Ordering Activity as its project manager with respect to the PlanView Professional Services.

Person-day means the services of one person full-time for one eight (8) hour workday.

Person-hour means the services of one person for one (1) full hour.

System means the computer hardware and software, either at Ordering Activity's or PlanView's site, as indicated in the Statement of Work, and the communications network which links the site to Ordering Activity's or PlanView's Affiliates (and, where appropriate, clients and customers of either Ordering Activity or PlanView), as described in the applicable Statement of Work.

2. DESCRIPTION OF PROFESSIONAL SERVICES. Contractor through PlanView will make available to Ordering Activity custom Professional Services to enable implementation of the Licensed Software in Ordering Activity's environment, integration of such Products with other third party tools, training and other education, development of new software, and other specialized consulting services.

Statement of Work. Each time Ordering Activity requests Professional Services from Contractor, Contractor through PlanView will provide Ordering Activity with a Statement of Work which describes the Professional Services to be supplied by PlanView. Each Statement of Work may also set forth, as applicable, objectives to be accomplished, assumptions upon which the Statement of Work is based, the responsibilities of the parties, a description of any items to be delivered, functional specifications defining functionality to be contained in Fixed Tangible Deliverables, the technical and management resources required to complete the Services, an estimated schedule (including commencement date and duration of Services), projected billable effort to provide the Professional Services, and other applicable information. If a Statement of Work contains an estimated schedule, each party agrees to make reasonable efforts to carry out its responsibilities according to that schedule.

Change Management Procedures. Either party may propose a modification to a Statement of Work by notifying the other as described in this Section.

Knowledge-Based Consulting Services. In the case of Professional Services involving Knowledge-Based Consulting Services, Contractor through PlanView will transmit to Ordering Activity a revision to the Statement of Work describing the nature of the change. Ordering Activity accepts the revised terms when Ordering Activity's Designated Representative (or designee) acknowledges agreement to such revised terms via e-mail or in another form of writing or uses (or allows others to use) the Services described in such revised terms.

Fixed Tangible Deliverables. In the case of Professional Services involving Fixed Tangible Deliverables, a written Change Order must be signed by both parties in accordance with the following procedures:

- The party wishing to modify or add to a Statement of Work which involves a Fixed Tangible Deliverable will submit a written Change Order to the other along with an explanation of reasons that such modification is necessary or desirable. Contractor will provide Ordering Activity with detail regarding the impact of the change on the estimated billable effort involved in providing the Services, delivery schedule, and any other areas which, in the opinion of Contractor, are likely to be affected by the requested change.
- Within five (5) business days of the submission of a Change Order (the "Change Order Processing Period"), the party receiving the Change Order will provide written notification to the party submitting such Change Order of acceptance or rejection of such Change Order.
- During the Change Order Processing Period, Contractor through PlanView will continue to work in accordance with the existing Statement of Work, unless Ordering Activity issues an order to stop work (a "Stop Work Order") specifically regarding the Statement of Work to which the Change Order applies. To facilitate change management and avoid unnecessary work as a result of a pending Change Order, Ordering Activity may issue such Stop Work Order verbally to the PlanView Designated Representative provided that Ordering Activity follows such verbal Order with written confirmation within one (1) business day. PlanView will cease work under the affected Statement of Work within one (1) business day of receipt of the verbal Stop Work Order. A Stop Work Order is only valid during the Change Order Processing Period.
- If both parties agree in writing to the proposed Change Order, then Contractor will issue a revised Statement of Work which must be signed by both parties.

3. **Ordering Activity Materials.** ORDERING ACTIVITY WILL PROVIDE PROMPT AND TIMELY DELIVERY OF ANY REQUIRED ORDERING ACTIVITY MATERIALS. ORDERING ACTIVITY HEREBY GRANTS CONTRACTOR A NON-EXCLUSIVE, ROYALTY-FREE LICENSE TO USE, COPY, MODIFY AND CREATE DERIVATIVE WORKS OF THE ORDERING ACTIVITY MATERIALS SOLELY FOR THE PURPOSE OF PROVIDING SERVICES TO ORDERING ACTIVITY UNDER THIS ATTACHMENT A.
4. **OWNERSHIP OF WORK PRODUCT.** Contractor (or its licensors) has all right, title, and interest (including ownership of copyright) to all Work Product. Contractor will deliver one (1) copy of each Work Product deliverable to Ordering Activity, and hereby grants Ordering Activity the non-exclusive, worldwide, fully paid-up, royalty-free license to use copies of each such Work Product solely in connection with its use of the Licensed Software to the same extent and pursuant to the same terms and conditions as provided in this Attachment A for such Software.
5. **WARRANTY FOR PROFESSIONAL SERVICES.** Contractor warrants that it will perform the Professional Services in a workmanlike manner. If Contractor fails to provide the Services as warranted, and Ordering Activity reports such failure to Contractor within ten (10) days after the performance of such Services, Contractor will re-perform the Services. The provisions of this Section constitute Ordering Activity's remedy, and Contractor's liability, for breach of the warranty for Professional Services.

EXHIBIT C - SAAS

1. **DEFINITIONS.** Capitalized terms in Exhibit C have the following meanings:

"Change" means any change, modification or enhancement to a Statement of Work.

"Change Order" means a written document that describes Changes to a Statement of Work and is signed by both parties.

"Consulting Services" means the services described in one or more Statements of Work attached to and incorporated into this Agreement.

"Customer Data" means all pre-existing or electronic data or information submitted by Ordering Activity to the SaaS Service.

"Designated Location" means the location within the United States of America to which the SaaS Services are to be provided, as designated by Ordering Activity from time to time.

"Documentation" means the online user manuals for the SaaS Service, as updated from time to time, that describe the functions, operation, and use of the SaaS Service, and that Planview makes generally available to subscribers of the SaaS Service. Documentation includes Specifications.

"Error" means any material error or defect in the SaaS Service that causes it not to conform in material respects to the Specifications.

"Error Corrections" means modifications that correct Errors.

"Improvements" means enhancements, extensions, modifications, and new releases to the SaaS Service (other than Error Corrections) that Planview elects to incorporate into and make a part of such, and for which Planview does not charge an additional fee.

"Person-day" means the services of one person full-time for one eight (8) hour workday.

"Person-hour" means the services of one person for one (1) full hour.

"SaaS Service" means the online web-based business application Software hosted and provided by Planview hereunder. Planview shall host the SaaS Service and may update the content, functionality and user interface thereof with Error Corrections, Improvements and other modifications from time to time at its discretion.

"SaaS Service Availability Target" means the provision of availability to the SaaS Service by Planview.

"Software" means computer programs in machine-readable object code form to which access is provided to as part of the SaaS Service.

"Specifications" means the functional and technical portion of the Documentation that provides information specific to the SaaS Service.

"Statement of Work" means any subsequent Statements of Work for purchases of SaaS Services or Consulting Services agreed to between the parties in writing from time to time, that are executed hereunder and deemed incorporated into this Attachment A from time to time and that specify, among other things and as appropriate, the services to be provided, the number of subscriptions ordered, the subscription term, the scope of work, and the applicable fees.

"Users" means Ordering Activity's employees who are authorized to use the SaaS Service and have been supplied user identifications and passwords by Ordering Activity (or by Planview at Ordering Activity's request).

"Work Product" means works of authorship (other than Software) that Planview delivers to Ordering Activity in the course of providing Consulting Services. Work Products may be created during performance of the Consulting Services or otherwise (such as those that pre-exist provision of the Consulting Services). Examples include tangible deliverables, interface and other customized code, specialized or tailored training curriculum and course materials, custom reports, logic, and design.

2. LICENSE GRANTS; PROVISION OF SAAS SERVICE; USERS.

SaaS Service License Grant. Subject to the terms hereof, Contractor grants Ordering Activity during the term of this Attachment A the non-exclusive, non-transferable, non-sublicensable, and terminable license to access and use the SaaS Service, together with the Documentation, solely for Ordering Activity's internal business operations and those of its Affiliates, provided such operations shall not include hosting, service bureau use, outsourcing, lease, sub-license, renting, or time-sharing the SaaS Service. The rights granted hereunder are provided to Ordering Activity on the condition that Ordering Activity does not (and does not allow any third party to) copy, modify, create a derivative work or, reverse engineer, disassemble, decompile, translate, discover any source code, modify the SaaS Service in any manner or form, or use unauthorized modified versions of the SaaS Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to the SaaS Service.

Consulting Services License Grant. Contractor or its licensors have all right, title and interest and all intellectual property rights, to the Consulting Services. Contractor grants Ordering Activity the non-exclusive, worldwide, paid-up, royalty-free license to use copies of such solely in connection with its use of the SaaS Service and to the same extent and pursuant to the same terms and conditions as provided in this Attachment A for such SaaS Service. Any rights not expressly granted herein are reserved by Contractor.

Provision of SaaS Service. Contractor through Planview shall make the SaaS Service available to Ordering Activity pursuant to the terms and conditions set forth in this Attachment A and any and all Statements of Work therefore which may be executed hereunder from time to time. During the term of this Attachment A, (i) the SaaS Service shall perform materially in accordance with the Documentation, and (ii) the functionality of the SaaS Service will not be materially decreased from that available as of the Effective Date. Ordering Activity agrees that its purchase of subscriptions is not contingent upon the delivery of any future functionality or features nor is it dependent upon any oral or written public comments made by Contractor with respect to future functionality or features.

SaaS Service Additional Users. User subscriptions are for named Users and cannot be shared or used by more than one User but may be reassigned from time to time to new Users replacing former Users who have terminated an employment or some other prior relationship with Ordering Activity, changed job status or function, or otherwise no longer require ongoing use of the SaaS Service. Unless otherwise specified in the relevant Statement of Work (i) additional User subscriptions must be added in minimum increments; (ii) the term of the additional User subscriptions shall be coterminous with the expiration of the then current subscription term; and (iii) pricing for the additional User subscriptions shall be the same as that for the pre-existing subscriptions, prorated for the remainder of the then current subscription term.

3. USE OF THE SAAS SERVICE; CONSULTING SERVICES.

Contractor Responsibilities. Contractor shall: (i) not use, edit or disclose to any party other than Ordering Activity the Customer Data; (ii) maintain the security and integrity of the SaaS Service and the Customer Data; (iii) provide telephone and online standard support to Ordering Activity's Users, at no additional charge; and (iv) use commercially reasonable efforts to make the SaaS Service generally available to meet the SaaS Service Availability Target. Contractor through Planview will configure the SaaS Service to reflect Ordering Activity's portfolio management process and Planview's PRISMS, as agreed by the parties in the relevant Statement of Work. Planview will system test the configuration of the SaaS Service to confirm that it appropriately reflects the combined Ordering Activity portfolio management process and Planview's PRISMS, and provides appropriate response times, as determined by mutual agreement of the parties.

Ordering Activity Responsibilities. Ordering Activity is responsible for all activities that occur under Ordering Activity's User accounts. Ordering Activity acknowledges that the ability of Contractor through Planview to provide the SaaS Service requires the co-operation of Ordering Activity in providing Planview with timely responses to requests for information, and the prompt and timely performance by Ordering Activity of its obligations. Planview shall be excused from performing the SaaS Services to the extent that Ordering Activity delays or refuses to perform its obligations or provide Planview with such requested assistance or information. Ordering Activity agrees with respect to SaaS Services: (i) to provide the technology and facilities, including access to the Internet, as required to use them; (ii) to complete the implementation and set-up process as required by Planview to access them; (iii) that it is responsible for maintaining the confidentiality of passwords and account information required for access to them, and for all acts that occur in connection with Ordering Activity's account; (iv) to immediately notify Planview of any unauthorized use of Ordering Activity's account, breach of security, or loss or theft of user names or passwords; (v) that use of the SaaS Services is limited to use by employees of Ordering Activity for which applicable fees have been paid and that such use does not include the right to resell or sublicense such; (vi) to abide by all applicable local, state, national and international law and regulations, and not to use the SaaS Services for any purpose that is unlawful, not contemplated or prohibited under this Attachment A; and (vii) that while the security of Ordering Activity's account will be maintained through the

use of passwords, it is possible for Ordering Activity's account to be accessed by unauthorized third parties via communication between Ordering Activity and Planview using the Internet, other network communications, facilities, telephone, or any other electronic means. Ordering Activity may purchase additional seats to the SaaS Service; however, adding additional seats may result in added fees hereunder.

Ordering Activity shall assist Planview, as reasonably requested by Planview, in connection with the configuration and implementation of the SaaS Service. This assistance includes providing Planview with the information and Ordering Activity systems reasonably required by Planview to enable it to provide the SaaS Service. Ordering Activity shall also: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the SaaS Service, and notify Planview promptly of any such unauthorized use and cooperate to remedy the situation; and (iii) comply with all applicable local, state, federal, and foreign laws in using the SaaS Service and, if using it outside of the United States, not use the Service in a manner that would violate any federal or state laws of the United States if conducted therein.

Ordering Activity agrees to notify Planview of any material failure, malfunction, error in the SaaS Service that the Ordering Activity detects and to assist Planview in its attempts to test and verify the suspected error.

Use Guidelines & Restrictions. Ordering Activity shall use the SaaS Service solely for its internal business purposes as contemplated by this Attachment A and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the SaaS Service available to any third party, other than as contemplated by this Attachment A; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iv) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (v) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (vi) attempt to gain unauthorized access to the Service or its related systems or networks. Ordering Activity shall not (i) modify, copy or create derivative works based on the SaaS Service or Planview technology; (ii) create Internet "links" to or from the SaaS Service, or "frame" or "mirror" any content forming part of the Service, other than on Ordering Activity's own intranets or otherwise for its own internal business purposes; or (iii) disassemble, reverse engineer, or decompile the SaaS Service or Planview technology, or access it in order to (a) build a competitive product or service, (b) build a product or service using similar ideas, features, functions or graphics of the SaaS Service, or (c) copy any ideas, features, functions or graphics of the SaaS Service.

Consulting Services; Other Responsibilities of the Parties. Contractor through Planview is responsible for the supervision, direction, and control of its personnel engaged in providing SaaS Services and Consulting Services under this Attachment A. Planview will try to honor requests by Ordering Activity regarding the assignment of Planview's personnel in performing Consulting Services. However, Planview reserves the right to determine the assignment of its personnel. Planview may subcontract a service, or any part of it, to subcontractors selected by Planview. Ordering Activity agrees to provide Planview, at no charge, with safe and sufficient access to and use of its facilities including a suitable technical environment and royalty-free license and rights to use, copy, and modify necessary materials and software and use communications resources; system and user documentation; office space; personnel; and services as reasonably required by Planview to enable it to fulfill its obligations under this Attachment A. Planview's performance of services is contingent upon Ordering Activity's timely and effective performance of its responsibilities, decisions, and approvals, and Planview may rely on Ordering Activity decisions and approvals. Ordering Activity is responsible for the results obtained from the use of the services.

4. PROPRIETARY RIGHTS.

Reservation of Rights. Ordering Activity acknowledges that in providing the SaaS Service, Contractor through Planview utilizes (i) the Planview.com name, the Planview logo, the Planview.com domain name, the product and service names associated with the SaaS Service, and other trademarks and service marks; (ii) certain audio and visual information, documents, software and other works of authorship; and (iii) other technology, Software, software, hardware, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information and that such is covered by intellectual property rights owned or licensed by Planview. Ordering Activity acknowledges and agrees that Planview owns all right, title and interest in and to the Software and SaaS Service and all intellectual property rights in the Software and SaaS Service. Any rights not expressly granted herein are reserved by Planview. Other than as expressly set forth in this Attachment A, no license or other rights in or to the foregoing are granted to Ordering Activity, and all such licenses and rights are hereby expressly reserved.

Work Product. Contractor (or its licensors) has all right, title, and interest (including ownership of copyright) to all Work Product. Contractor will deliver one (1) copy of each Work Product deliverable to Ordering Activity, and hereby grants Ordering Activity the non-exclusive, worldwide, fully paid-up, royalty-free license to use copies of each such Work Product solely in connection with its use of the Services to the same extent and pursuant to the same terms and conditions as provided in this Attachment A for such Software.

Customer Data. As between Contractor and Ordering Activity, all Customer Data input into the SaaS Service is owned exclusively by Ordering Activity. Customer Data shall be considered Confidential Information subject to the terms of this Attachment A. Contractor through Planview may access Ordering Activity's User accounts, including Customer Data, solely to respond to service or technical problems or at Ordering Activity's request.

Suggestions. Contractor through Planview shall have a royalty-free, worldwide, perpetual license to use or incorporate into the SaaS Service any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Ordering Activity or its Users relating to the operation of the SaaS Service.

5. WARRANTIES; REMEDY & DISCLAIMERS.

Warranties. Each party warrants that it has the status, authority and capacity to enter into this Attachment A. Contractor warrants that (i) it will provide the SaaS Service in a manner consistent with general industry standards reasonably applicable to the provision thereof; (ii) that the SaaS Service will be available in accordance with the SaaS Service Availability Target and (iii) it owns or otherwise has sufficient rights to the SaaS Service to grant the rights and licenses granted herein. Contractor warrants that it will perform the Consulting Services in a workmanlike manner.

Exclusions. Contractor has no obligations or responsibilities of any kind related to the SaaS Service with respect to: (i) problems in the use or functioning of the SaaS Service or Software caused by any hardware or software product, but not including problems which are the result of incompatibility of the Software with such hardware or software if the Software was designed to work with such hardware or software as specified in the Documentation; (ii) use of the SaaS Service inconsistent with the Documentation. If Contractor provides warranty or Consulting Services for any problem caused by any of the foregoing or for troubleshooting with respect to any of the foregoing, or if Contractor's services efforts are increased as a result, Contractor may impose charges at its then standard commercial rates for all such services, including travel and per diem expenses. The Contractor customer service engineer will notify a caller as soon as the billable status of the call is determined. The caller may terminate the call at that time without charge.

Remedies. In the event Contractor fails to meet the SaaS Service Availability Target, Contractor will issue a credit to Ordering Activity. Any eligible credit to be applied to Ordering Activity's account will be reflected in the invoice which next follows Contractor's receipt of the credit notification. If Contractor fails to provide the Consulting Services as warranted, and Ordering Activity reports such failure to Contractor within ten (10) days after the performance of such, Contractor through Planview will re-perform such Consulting Services. The provisions of this Section constitute Ordering Activity's remedy, and Contractor's liability, for breach of the warranty for Consulting Services.

Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, CONTRACTOR MAKES NO REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. CONTRACTOR HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS WARRANTIES, OR CONDITIONS INCLUDING ANY REPRESENTATION, WARRANTY OR CONDITION OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTRACTOR DOES NOT WARRANT THAT THE OPERATION OF THE SAAS SERVICE OR SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THEY WILL BE SUITABLE FOR OR MEET THE REQUIREMENTS OF ORDERING ACTIVITY.

- 6. RETURN OF CUSTOMER DATA.** Upon request by Ordering Activity made within 30 days of the effective date of termination, Contractor through Planview will make available to Ordering Activity for download a file of Customer Data in a mutually-agreed format. After such thirty (30) day period, Planview shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Pragma Systems, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such

occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by

law, regulation or its bona fide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

PRAGMA SYSTEMS, INC.

PRAGMA SYSTEMS, INC. LICENSE, WARRANTY AND SUPPORT TERMS

SOFTWARE LICENSE:

- a) **LICENSE GRANT.** Subject to the terms set forth in this license, Contractor, as LICENSER, grants to you the Ordering Activity (herein also referred to as "LICENSEE"), a non-exclusive right to use this copy of Pragma Systems Software Program ("the Software") only on a single computer. Licensee may copy the Software solely for the purpose of installing it on Licensees computer, loading the Software into RAM or creating a single backup or archival copy.
- b) **KEY CODES.** Upon acceptance of this Attachment A with respect to the Software, Licensee will receive a key code that will enable Licensee to activate or operate the Software. Licensee may not relicense, reproduce or distribute any key code except with the express written permission of Contractor. Licensees agree that Licensee will not attempt to "hack," "crack" or otherwise override this activation key.
- c) **ADDITIONAL RESTRICTIONS.** Licensee MAY NOT Transfer or Rent the Software, or use, copy or modify the Software or the documentation, in whole or in part, except as expressly permitted in this Attachment A. Contractor reserves all rights not expressly granted to Licensee. Without limiting the generality of the foregoing, Licensee shall not: (i) disassemble, de-compile, reverse engineer, or otherwise attempt to reconstruct or discover the source of this Software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation, or (ii) modify or create derivative works based upon the Software, or (iii) commercially distribute, sublicense, resell or otherwise transfer this Software, or (iv) rent, lease, lend, or use the Software for commercial timesharing or bureau use; or (v) allow a third party to copy, access or use the Software. IF LICENSEE DOES ANY OF THE FOREGOING, LICENSEES RIGHTS UNDER THIS LICENSE WILL AUTOMATICALLY TERMINATE. SUCH TERMINATION SHALL BE IN ADDITION TO AND NOT IN LIEU OF ANY CRIMINAL, CIVIL, OR OTHER REMEDIES AVAILABLE TO Contractor through Pragma Systems.

LIMITED WARRANTY. Contractor MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE OR ITS QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. THE SOFTWARE IS LICENSED AND DELIVERED "AS IS". Contractor warrants that the disk on which the product is recorded is free from defects in materials and workmanship under normal use and service for a period of sixty (30) days from the date of delivery as evidenced by a copy of the purchase receipt or invoice. Contractor or its Dealers' liability and Licensees remedy shall be replacement of the disk which is returned to Contractor with a copy of your receipt or invoice. If failure of the disk has resulted from accident, abuse, or misapplication, then Contractor shall have no responsibility to replace the disk.

Contractor does not warrant that the Software is error free. TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL Contractor NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION, OR DELIVERY OF the Software BE LIABLE FOR ANY LOSS, INCLUDING TIME, MONEY, GOODWILL AND SPECIAL OR CONSEQUENTIAL OR DIRECT, INCIDENTAL OR INDIRECT DAMAGES, WHICH MAY ARISE FROM THE PRODUCT OR ITS USE, OPERATION OR MODIFICATION EVEN IF Contractor HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH

DAMAGES. (Some states do not allow the exclusion or limitation of implied warranties or limitations of liability, so the above limitation may not apply to Licensee).

THE ABOVE ARE THE ONLY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE, THAT ARE MADE BY Contractor CONCERNING THIS SOFTWARE OR THE DOCUMENTATION. NO VERBAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY Contractor, ITS RESELLERS, DEALERS, DISTRIBUTORS, AGENTS, OR EMPLOYEES SHALL CREATE A WARRANTY OR ADD TO THIS WARRANTY.

SOFTWARE MAINTENANCE SERVICES:

1. Updates. Contractor through Pragma Systems will provide Licensee with Updates for the two (2) most current releases of the PRAGMA Software.
2. Software Maintenance Services and Technical Support for Licensee. Contractor through Pragma Systems shall provide to Licensee, at no additional charge, reasonable technical support and consultation from Pragma Systems' designated offices by way of telephone, bulletin boards or other electronic means, to assist Licensee in the resolution of problems encountered by Licensee or Licensee Customers in the operation, configuration, implementation and support of PRAGMA Software during standard CST business hours. Such support shall include best efforts by Pragma Systems to verify, diagnose and correct errors and defects in the PRAGMA Software in accordance with the support and escalation procedures set forth in this Attachment A. Pragma Systems, by itself or using its third party suppliers, will provide Licensee with technical support services for the two (2) most current releases of the PRAGMA Software in accordance with the following terms and conditions:
 - (a) Priority Codes. Contractor through Pragma Systems will provide phone support for the PRAGMA Software according to the severity of the issue, and not necessarily in the order in which the issue was received. Licensee will report the problem and Licensee will determine the call priority in accordance with the following priority codes:
 - (1) Critical. A critical priority is given to an issue adversely affecting the delivery of patient care or causing financial liability due to operational or information deficiency. In the event that Pragma Systems personnel is required to travel to a Licensee or Licensee facility to fix a critical issue problem, Pragma Systems will send such personnel at no additional out-of-pocket expense to Licensee, provided such problem is a result of PRAGMA Software or actions of an Pragma Systems employee, agent or subcontractor.
 - (2) High. A high priority is given to an issue that is not adversely affecting the delivery of patient care or causing financial liability, but is repeatedly affecting a Licensee's or Licensee's usage of the PRAGMA Software or data integrity.
 - (3) Standard. A standard priority is given to an issue that does not impact the operation or use of the PRAGMA Software.
 - (b) Priority Code Responses.
 - (1) Contractor through Pragma Systems will respond to a Critical priority within one (1) hour after Licensee has reported the problem to Pragma Systems and Pragma Systems will diligently work to resolve the problem and will follow up with Licensee every hour until resolution of the problem. If the Critical priority problem is not resolved in a commercially reasonable time, but in any event no longer than three (3) days, Pragma Systems will, at Licensee's request, provide qualified resources on-site at a Licensee or Licensee facility to resolve the problem. Licensee will not be responsible for any out-of-pocket expenses incurred by Pragma Systems to resolve such problem.
 - (2) Pragma Systems will respond to a High priority within four (4) hours after Licensee has reported the problem to Pragma Systems and Pragma Systems will diligently work to resolve the problem and will follow up with Licensee every 4 hours or until the next scheduled contact time.
 - (3) Pragma Systems will respond to a Standard priority within the same business day after Licensee has reported the problem to Pragma Systems and will diligently work to resolve the problem and Pragma Systems will follow up with Licensee on the next scheduled contact time.
3. Defined Support Levels. Licensee shall be responsible for Level 1 & 2 and Contractor through Pragma Systems shall be responsible for Level 3 as further defined below.
 - (a) "Level 1 Support" includes providing on a dedicated end user support line first-call support to end users technical support staff to answer technical inquiries from end users regarding the Integrated Software troubleshooting assistance to end users and implementation support if applicable.
 - (b) "Level 2 Support" includes providing on a dedicated end user support line specialist-level technical support to end users in which the technical support staff: (a) perform problem isolation and replication; (b) implement solutions for problems that are not the result of PRAGMA Software functionality errors; and (c) in the case of a PRAGMA Software functionality error identify the source of the error create a reproducible test case and document the details of the error for referral to Pragma Systems.
 - (c) "Level 3 Support" includes using commercially reasonable efforts to provide Licensee's technical support staff with fixes patches and/or workarounds for the PRAGMA Software functionality errors only.

ImmixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

- 1. Scope.** This Rider and the attached PTC Inc. ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
- 2. Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
- 3. Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.21, as may be revised from time to time.
- 4. Changes to Work and Delays.** Subject to GSAR Clause 552.238-81, Modifications (Federal Supply Schedule) (April 2014) (Alternate I – JUN 2016) and (Alternate II – JUN 2016), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
- 5. Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
- 6. Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
- 7. Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar Federal laws or regulations are enacted, to the extent allowed by Federal law, they will not apply to this Rider or the underlying Schedule Contract.
- 8. Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
- 9. Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
- 10. Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such

occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

11. **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
12. **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under Federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
13. **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
14. **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
15. **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
16. **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
17. **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable Federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
18. **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
19. **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
20. **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
21. **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
22. **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

23. **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a Federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
24. **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
25. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

PTC CUSTOMER AGREEMENT

CUSTOMER (full legal name): _____

PTC and the Customer identified above ("Customer") agree that the terms and conditions of this Agreement will govern each order for and the use of Licensed Products and/or Support Services submitted by Customer and accepted by PTC. This Agreement will apply in lieu of any clickwrap or shrinkwrap license agreement.

1. **Definitions.**

As used herein, the following terms have the following meanings:

"Designated Country" - the country of purchase unless otherwise specified in writing on the order documentation at the time of purchase.

"Designated Server" - the computer server located in the Designated Country that has one unique instance of the applicable installed Licensed Product application.

"Documentation" - the applicable Licensed Product user manuals provided or made available by electronic means by PTC at the time of shipment of the Licensed Product.

"Error" - a failure of the Licensed Product to conform substantially to the applicable Documentation, provided that Customer informs PTC of such failure in writing.

"License" - the non-exclusive, non-transferable right, without any right to sub-license, to install and use a Licensed Product (in object code form).

"License Term" - the time period during which the License for the applicable Licensed Products shall be in effect as specified in the part name of the Licensed Product or in the applicable Quote. In the absence of a stated license term, the License Term shall be perpetual, except that the License Term for evaluation Licenses shall be no longer than thirty days. The License Term of a "subscription" License is as specified in the Quote and/or the invoice.

"Licensed Products" - the computer software products identified in the applicable Quote and associated Documentation.

"Licensing Basis" - the "Licensing Basis" document, entitled the PTC Software Products Licensing Basis, [which is hereby incorporated herein as SCHEDULE A to this Agreement](#), which specifies the licensing basis of PTC's different products and states certain additional product-specific terms and conditions.

"New Release" - a modified or enhanced version of a Licensed Product that is designated by PTC as a new release of that product and that PTC makes generally available to its Support Services customers.

"Permitted User" - an individual who is authorized by Customer to use the Licensed Products, such use to be solely in accordance with the terms and conditions of this Agreement. Permitted Users are limited to Customer's employees, consultants, subcontractors, suppliers, business partners and customers who (i) are not competitors of PTC or employed by competitors of PTC and (ii) are directly involved in the utilization of the Licensed Products solely in support of Customer's internal business purposes.

"PTC" - PTC Inc., unless Customer is located in Canada, in which case PTC means PTC (Canada) Inc.

"Quote" - the product schedule, quote, or other written agreement provided to, or signed by, Customer in connection with the purchase of the applicable Licensed Products and/or Support Services.

"Reseller" - a third-party authorized by PTC to resell any Licensed Products and/or Support Services to Customer. For purposes of this Agreement, Reseller is immixTechnology, the contract holder of the underlying GSA Schedule to which this Agreement is made a part.

"Support Services" - the provision of New Releases and, depending on the level of Support Services ordered, may also include telephone support, web-based support tools, and correction of Errors.

"Uplift Fee" - a fee based upon the difference between the License fee applicable to installation of the applicable Licensed Product in the original Designated Country and the License fee applicable to the installation of such Licensed Product in the Designated Country to which Customer wishes to move that Licensed Product.

"Warranty Period" - for perpetual software licenses, the ninety day period commencing on PTC's initial shipment of the Licensed Product to Customer or Customer's designee. For subscription licenses, the Warranty Period is the same as the term of the subscription.

2. Orders and Payment.

2.1. Customer may order Licensed Products and/or Support Services by submitting to PTC or a Reseller a completed Quote and such other order documentation as is required by PTC. PTC may accept or reject an order in its sole discretion. CUSTOMER MAY NOT CANCEL AN ORDER ONCE PTC HAS ACCEPTED IT. Other than the line items that serve to order Licensed Product(s) and/or Support Services, in no event shall any other terms of any Customer purchase order modify this Agreement or become binding on PTC.

2.2. Customer shall be obligated to pay the applicable fees for the Licensed Products and/or Support Services ordered. All fees and other charges due hereunder are due and payable in full within thirty (30) days of the date of the invoice to Customer, or later if specified on the invoice. Unless otherwise exempt under applicable law, Customer shall be responsible for all sales, use, VAT, transfer and other taxes and duties imposed by any federal, state, municipal or other governmental authority relating to the Licenses granted or the Support Services provided hereunder, exclusive, however, of taxes based on the net income of PTC. Customer shall pay interest at the rate set forth in the Prompt Payment Act on all sums due under this Agreement which remain unpaid thirty (30) days after due, such interest to commence on the due date.

3. License.

3.1 License Grant. Upon PTC's acceptance of an order for Licensed Products, PTC grants to Customer a License to install and use the Licensed Products identified in the Quote during the applicable License Term, solely for Customer's internal business purposes and solely in accordance with this Agreement and the applicable usage and license-type restrictions identified in the Quote and the Licensing Basis document in SCHEDULE A to this Agreement. Notwithstanding the foregoing, if the Licensed Product is being provided by PTC on an "evaluation" or "trial" basis, such License will be instead to install and use the Licensed Product solely to evaluate such Licensed Products, and Customer agrees not to use the Licensed Product in any commercial applications or for productive purposes. Also, if the Licensed Product is sold on a "demo and test" or "non-production" basis (or similar designation), such Licensed Product may not be used in a production environment.

3.2 Designated Country/Servers. Except in the case of Global or Restricted Global Licenses, Customer may only install and operate Licensed Products on the applicable Designated Server situated in the applicable Designated Country. Customer may, from time to time, change the Designated Server and/or the Designated Country in which Customer seeks to install or operate a Licensed Product, provided that in each case (i) Customer shall give prior written notice to PTC of any such change, and (ii) upon moving the Licensed Products to a different Designated Country, Customer shall pay all applicable Uplift Fees.

In addition, for Licensed Products that are licensed on a Concurrent User basis, except for "Global" and "Restricted Global" licenses, such products may be used only by persons physically located in the Designated Country. However, where a person who is normally located in that country is traveling abroad, that person may check out the license for a limited period of time (for most products two weeks), during which time period such license will not be available on Customer's network. Permitted Users who are not employees of Customer may use PTC products licensed on a Concurrent User basis only while physically located at a Customer site.

3.3 Additional Restrictions on Use. Customer shall not permit any persons who are not Permitted Users to access or use the Licensed Products. Customer shall not and shall not permit any third party(ies) to:

- (i) modify or create any derivative work of any part of the Licensed Products;
- (ii) rent, lease, or loan the Licensed Products;
- (iii) use the Licensed Products, or permit them to be used, for third-party training, to deliver software implementation or consulting services to any third parties, or for commercial time-sharing or service bureau use;
- (iv) disassemble, decompile or reverse engineer the Licensed Products or the file format of the Licensed Products, or otherwise attempt to gain access to the source code or file format of the Licensed Products;
- (v) sell, license, sublicense, loan, assign, or otherwise transfer (whether by sale, exchange, gift, operation of law, or otherwise) to any third party the Licensed Products, any copy thereof, or any License or other rights thereto, in whole or in part, without in each case obtaining PTC's prior written consent, except to the extent that any of the foregoing are explicitly authorized in the Quote and/or the Licensing Basis in SCHEDULE A;**
- (vi) alter, remove, or obscure any copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices on or in any copies of the Licensed Products; and
- (vii) copy or otherwise reproduce the Licensed Products in whole or in part, except (a) as may be required for their installation into computer memory for the purpose of executing the Licensed Products in accordance with this Section 3, and/or (b) to make a reasonable number of copies solely for back-up purposes (provided that any such permitted copies shall be the property of PTC and Customer shall reproduce thereon all PTC copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices contained in the original copy of the Licensed Product obtained from PTC).

3.4 Third Party Components and Bundled Third Party Products. Certain of the Licensed Products may contain embedded third party software components for which additional terms apply. The current additional terms are set forth in the document entitled the PTC Schedule of Third Party Terms, which is hereby [incorporated herein as SCHEDULE B to this Agreement](#).

3.5 Additional Restriction(s). Additional product-specific provision(s) and terms applicable to third party components included in or with the Licensed Products may apply to particular Licensed Products, as specified at the Licensing Basis in SCHEDULE A.

4. Support.

4.1 Support Services Plan; Levels of Support Services. Upon PTC's acceptance of Customer's order for a subscription license or for Support Services in respect of the Licensed Products, PTC and/or its authorized subcontractors shall provide Support Services in accordance with these terms for a time period of twelve (12) months or for such other period specified in Customer's order accepted by PTC (a "Support Services Plan"). For Support Services that are not provided as part of a subscription license, if Customer at any time discontinues Support Services and subsequently wishes to obtain Support Services, Customer must, in such subsequent order under a separate contract action, include (i) the then current fees for Support Services and (ii) the fees for Support Services for any period for which Customer has not purchased Support Services; provided, however, that Customer will be required in such subsequent order to purchase new licenses if the Support Services lapse period exceeds twelve months. The then current levels of Support Services offered and Support terms are specified in the [document entitled the PTC Support Services Terms and Conditions, which is hereby incorporated herein as SCHEDULE C to this Agreement](#).

4.2 A Support Services Plan may not be cancelled by Customer following PTC's acceptance of an order for such Support Services Plan. If Customer elects Support Services for a particular Licensed Product that is licensed on the basis of Registered Users (as defined in the Licensing Basis in SCHEDULE A, all of Customer's licenses of such Licensed Product must be on Support Services.

In addition, partial Support orders or partial renewals are not permitted. For example, if Customer has 50 Creo licenses and 50 Windchill licenses on a Support Services plan, when those licenses are up for renewal, all or none of such licenses must be renewed.

5. Compliance.

5.1 License Usage Assessments. To confirm Customer's compliance with the terms and conditions of this Agreement, Customer agrees that PTC may perform usage assessments with respect to Customer's use of the Licensed Products. Subject to Customer's facility security policies and applicable regulations, including any security clearance required for PTC personnel, Customer agrees to provide PTC access to Customer's facilities and computer systems, and cooperation from Customer's employees and consultants, as reasonably requested by PTC in order to perform such assessments, all during normal business hours, and after reasonable prior notice from PTC.

5.2 Reports. Upon written request from PTC, Customer agrees to provide to PTC an installation and/or usage report with respect to the Licensed Products (and in the case of Registered User Products, as specified in the Licensing Basis in SCHEDULE A, such report shall include a list of all individuals for whom Customer has issued a password or other unique identifier to enable such individual to use the Registered User Product). Each such report shall be certified by an authorized representative of Customer as to its accuracy within ten (10) business days after receipt of PTC's written request. For any period in which Customer's use of the Licensed Products exceeds the number and/or the scope of the Licenses in effect during such period for such Licensed Products, Customer agrees to pay for any such excess usage, including applicable license and Support Services fees, and without limiting any other rights or remedies to which it is entitled, failure to pay shall be grounds for termination in accordance with Section 10.1 hereof.

6. Intellectual Property. PTC and its licensors are the sole owners of the Licensed Products and of any copies of the Licensed Products, and of all copyright, trade secret, patent, trademark and other intellectual or industrial property rights in and to the Licensed Products. All copies of the Licensed Products, in whatever form provided by PTC or made by Customer, shall remain the property of PTC, and such copies shall be deemed to be on loan to Customer during the License Term. Customer acknowledges that the License granted hereunder does not provide Customer with title to or ownership of the Licensed Products or any copies thereof, but only a right of limited use consistent with the express terms and conditions of this Agreement. Customer shall have no rights to the source code for the Licensed Products and Customer agrees that only PTC shall have the right to maintain, enhance, or otherwise modify the Licensed Products, subject to written consent from Customer.

7. Warranty; Disclaimer of Warranties.

7.1 Warranty. PTC warrants to Customer that PTC is authorized to grant the License(s). PTC further warrants that the Licensed Products will be free from Errors during the Warranty Period. PTC shall have no warranty obligations hereunder with respect to any (i) Errors attributable to any modifications or customizations of the Licensed Products, (ii) Licensed Products that are provided by PTC free of charge to Customer, and/or (iii) Bundled Third Party Products (as defined in the Schedule of Third Party Terms). PTC's issuance of a New Release will not re-start a Warranty Period that has expired.

7.2 Sole Remedy. PTC's and its licensors' entire liability and Customer's exclusive remedy for any breach by PTC of the warranty given in the second sentence of Section 7.1 above shall be, at PTC's sole discretion, either to (a) replace the Licensed Product(s) that contains the Error, or (b) use diligent efforts to repair the Error. PTC's obligations set forth in the preceding sentence shall apply only if notice of the Error is received by PTC within the Warranty Period and Customer supplies such additional information regarding the Error as PTC reasonably requests. If PTC does not replace the applicable Licensed Product(s) and/or does not repair the Error (either by providing a bug fix, a workaround or otherwise) within a reasonable time after PTC receives written notice of the Error and associated information from Customer, upon return of such Licensed Product(s) and any copies thereof, PTC will provide a refund of: (i) the perpetual license fees paid by Customer for the Licensed Product(s) that contains the Error, and/or (ii) the prepaid subscription fees for the remainder of the subscription term for the Licensed Product(s) that contains the Error, in each case upon return of such Licensed Product(s) and any copies thereof.

7.3 No Additional Warranties. No third party, including any employee, partner, distributor (including any Reseller) or agent of PTC or any of its Resellers or sales agents is authorized to give any representations, warranties or covenants greater or different than those contained in this Agreement with respect to any Licensed Products or Support Services, except as specifically set forth in a written agreement signed on behalf of Customer by an authorized officer and on behalf of PTC by its legal counsel.

7.4 Disclaimer of Warranties. EXCEPT AS EXPRESSLY STATED IN THIS SECTION 7, PTC DISCLAIMS (AND CUSTOMER WAIVES) ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING ANY WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND/OR ANY WARRANTY THAT CUSTOMER WILL ACHIEVE ANY PARTICULAR RETURN ON INVESTMENT. CUSTOMER IS SOLELY RESPONSIBLE FOR ANY RESULTS OBTAINED FROM USING THE LICENSED PRODUCTS, INCLUDING THE ADEQUACY OF INDEPENDENT TESTING OF RELIABILITY, SECURITY AND ACCURACY OF ANY ITEM DESIGNED USING LICENSED PRODUCTS. PTC DOES NOT WARRANT THAT THE OPERATION OR OTHER USE OF THE LICENSED PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE OR WILL NOT CAUSE DAMAGE OR DISRUPTION TO CUSTOMER'S DATA, COMPUTERS OR NETWORKS

8. Indemnification; Infringement.

8.1 PTC's Obligation to Indemnify Customer. PTC, at its own expense, will defend any action brought against Customer based on a claim that any Licensed Product infringes a United States, European Union, Japanese or other patent, copyright or trademark and, at its option, will settle any such action or will pay any final judgment awarded against Customer, provided that: (a) PTC shall be notified promptly in writing by Customer of any notice of any such claim; (b) subject to the authority of and in cooperation with the Department of Justice, PTC shall have the control of the defense of any action on such claim and all negotiations for its settlement or compromise and shall bear the costs of the same (unless one or more of the exclusions in Section 8.3 applies); and (c) Customer shall cooperate fully at PTC's expense with PTC in the defense, settlement or compromise of such claim. This Section states PTC's sole and exclusive liability, and Customer's sole remedy, for any and all claims relating to infringement of any intellectual property right.

8.2 PTC's Right to Act to Prevent a Claim. If a claim described in Section 8.1 hereof occurs or, in PTC's opinion, may occur, Customer shall permit PTC, at PTC's option and expense to: (a) procure for Customer the right to continue using the Licensed Product; (b) modify the Licensed Product so that it becomes non-infringing without materially impairing its functionality; or (c) terminate the applicable Licenses, accept return of the applicable Licensed Products and grant Customer a credit thereon. For Licenses purchased with a perpetual License Term, such credit shall be equal to the license fees paid by Customer for such Licensed Product depreciated

on a straight-line, five year basis. For Licenses purchased on a term license or subscription basis, such credit shall be equal to the prepaid license or subscription fees for the remainder of the License Term.

8.3 Exclusions from PTC's Obligation to Indemnify Customer. PTC shall have no liability to Customer under Section 8.1 hereof or otherwise to the extent that any infringement or claim thereof is based upon: (a) use of the Licensed Product in combination with equipment or software not supplied hereunder where the Licensed Product itself would not be infringing; (b) use of other than a current release of the Licensed Product(s) provided to Customer; or (c) modification of the Licensed Product by anyone other than PTC or its employees or agents.

9. Limitation of Liability.

9.1 The warranty and indemnification provisions of Sections 7 and 8 hereof state the entire liability of PTC, its subsidiaries and affiliates, and each of their respective directors, officers, employees or agents, with respect to the Licensed Products and Support Services, including (without limitation) any liability for breach of warranty, or for infringement or alleged infringement of patent, copyrights, trademarks, trade secrets and other intellectual or proprietary rights by the Licensed Products, or their use.

9.2 EXCEPT FOR PTC'S INDEMNIFICATION OBLIGATIONS IDENTIFIED IN SECTION 8.1 ABOVE, THE MAXIMUM LIABILITY OF PTC AND ITS AFFILIATES, RESELLERS, DISTRIBUTORS AND LICENSORS ARISING OUT OF, OR RELATING TO, THE CREATION, LICENSE, FUNCTIONING, USE OR SUPPLY OF THE LICENSED PRODUCTS OR THE PROVISION OF SUPPORT SERVICES OR OTHERWISE RELATING TO THIS AGREEMENT, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, OR OTHERWISE, SHALL NOT, (I) FOR LICENSES PURCHASED ON A PERPETUAL BASIS, EXCEED THE FEES PAID BY CUSTOMER FOR THE LICENSED PRODUCTS OR SUPPORT SERVICES THAT GAVE RISE TO THE CLAIM, AND (II) FOR LICENSES PURCHASED ON A TERM OR SUBSCRIPTION BASIS, EXCEED THE FEES PAID BY CUSTOMER FOR THE LICENSED PRODUCTS OR SUPPORT SERVICES THAT GAVE RISE TO THE CLAIM IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO DAMAGES.

9.3 IN NO EVENT SHALL PTC AND ITS AFFILIATES, RESELLERS, DISTRIBUTORS AND LICENSORS OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR: (A) ANY LOSS OF PROFIT, LOSS OF USE DAMAGES, LOSS OF GOODWILL, LOSS OF BUSINESS OPPORTUNITY, LOSS OF SALES, LOSS OF REPUTATION OR LOSS OF ANTICIPATED SAVINGS; (B) ANY LOSS OR INACCURACY OF DATA OR BUSINESS INFORMATION OR FAILURE OR INADEQUACY OF ANY SECURITY SYSTEM OR FEATURE; AND (C) SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED; IN EACH CASE EVEN IF PTC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.4 Customer agrees not to bring any suit or action against PTC, and/or its subsidiaries and affiliates, PTC's licensors and/or any of their respective directors, officers, employees or agents for any reason whatsoever more than six (6) years after the cause of action arises. The limitations and exclusions set forth in this Section 9 shall not apply to any claim in respect of death or personal injury.

10. Term and Termination of Licenses or Support Services.

10.1 Events Causing Termination. Any disputes relating to this Agreement shall be resolved in accordance with the Contracts Disputes Act (the "CDA") and the underlying GSA Schedule contract. Customer acknowledges that PTC, as licensor of the Licensed Products, and/or Reseller shall have the standing on behalf of PTC to submit a claim under the CDA. If any such claim specifying a breach of this Agreement is made and is not promptly remedied to PTC's reasonable satisfaction, and termination of this Agreement is granted after conclusion of the CDA process, or is otherwise ordered by a U.S. Federal Court, this Agreement and all Licenses and the provision of Support Services on Licensed Products will terminate as specified in such decision or order. .

10.2 Effects of Expiration or Termination. Upon expiration of a given License Term and/or any expiration or termination of this Agreement, Customer shall promptly pay all sums owed by Customer, return to PTC the original copies of all Licensed Products for which the License Term has expired or has been terminated, destroy and/or delete all copies and backup copies thereof from Customer's computer libraries, storage facilities and/or hosting facilities.

10.3 Survival. Sections 1, 2.2, and 5 through 11 shall survive expiration or termination of this Agreement.

11. General.

11.1 Governing Law and Jurisdiction. All disputes arising under, out of, or in any way connected with this Agreement shall be governed by and construed in accordance with United States law (specifically excluding the Uniform Computer Information Transactions Act). The parties hereby expressly disclaim the application of the U.N. Convention for the International Sale of Goods. All disputes arising under, out of, or in any way connected with this Agreement shall be subject to the Contracts Disputes Act. Notwithstanding the foregoing or anything to the contrary, PTC shall have the right to bring a claim in any court of competent jurisdiction to enforce any intellectual property rights and/or protect any confidential information. The parties agree that a final judgment in any such action or proceeding shall be conclusive and binding and may be enforced in any other jurisdiction.

11.2 Notices. Any notice or communication required or permitted under this Agreement shall be in writing. Any notice provided under this section shall be deemed to have been received: (a) if given by mail, five (5) business days after posting; (b) if given by express courier service, the second business day following dispatch; or (c) if given by fax, upon receipt thereof by the recipient's fax machine.

11.3 Assignment, Waiver, Modification. Neither party may assign, transfer, delegate or sublicense any rights or obligations hereunder (including without limitation by operation of law or by sale of Customer assets, whether directly or by merger, and a change in control of Customer shall be deemed to be an "assignment" for purposes of the foregoing) without the other party's prior written consent, and any such attempted delegation, assignment, transfer or sublicense shall be void and a breach of this Agreement. No waiver, consent, modification, amendment or change of the terms of this Agreement shall be binding unless in writing and signed by PTC and Customer. PTC reserves the right to charge a transfer fee for any proposed assignment, transfer or sublicense of this Agreement, as set forth in the GSA PriceList.

11.4 Compliance with Laws.

(i) Each party shall be responsible for its own compliance with applicable laws, regulations and other legal requirements relating to the conduct of its business and this Agreement. Further, Customer represents and warrants that it will use the Licensed Products, as well as related technology and services, in full compliance with applicable laws and regulations.

(ii) Customer hereby warrants and represents that neither Customer nor any of Customer's directors, officers or affiliates are listed on the U.S. Commerce Department's Denied Persons List, Entity List, or Unverified List, the U.S. State Department's Nonproliferation Sanctions List, the U.S. Treasury Department's List of Specially Designated Nationals and Blocked Persons or the Sectoral Sanctions Identifications (SSI) List (collectively, the "Restricted Party Lists"). Customer acknowledges and agrees that the Licensed Products and related technical data and services are subject to the export control laws and regulations of the United States and any country in which the Licensed Products or related technical data or services are developed, received, downloaded, used, or performed. Further, Customer understands and acknowledges that the release of software or technology to a non-U.S. person within the United States or elsewhere abroad is deemed to be an export to the non-U.S. person's home country or countries, and that the transfer of the Licensed Products or related technology to Customer's employees, affiliates, or any third party, may require a license from the United States Government and possibly other applicable authorities. Customer shall be solely responsible for determining whether Customer's use or transfer of the Licensed Products or related technology or services requires an export license or approval from U.S. or other authorities, and for securing all required authorizations.

11.5 **Severability.** The unenforceability or invalidity of any provision shall not affect the validity of the remaining provisions, and such provisions determined to be invalid shall be deemed severed from this Agreement and replaced with terms which as closely as possible approximate the intent of such invalid provisions.

11.6 **Entire Agreement.** This Agreement, the attachments, and the underlying GSA Schedule contract are the complete and exclusive statement of the contract between PTC (and/or its Reseller) and Customer with respect to the subject matter hereof. No waiver, consent, modification, amendment or change of this Agreement shall be binding unless in writing and signed or otherwise expressly acknowledged by PTC and Customer.

11.7 **Third Party Beneficiaries.** It is agreed by the parties to this Agreement that PTC's third party licensors are intended beneficiaries of this Agreement and have the right to rely upon and directly enforce its terms with respect to the products of such licensors.

11.8 **Marketing.** PTC agrees that it shall not, except as otherwise authorized in writing by Customer, identify Customer as a customer/end-user of the PTC software and services (as applicable) that are furnished under this Agreement in public relations and marketing materials.

11.9 **Government Licensees.** If Customer is a United States Governmental entity, Customer agrees that the Licensed Products are "commercial computer software" under the applicable Federal Acquisition Regulations and are provided with the commercial license rights and restrictions described elsewhere herein. If Customer is acquiring the Licensed Product(s) under a United States Government contract, Customer agrees that Customer will include all necessary and applicable restricted rights legends on the Licensed Products to protect PTC's proprietary rights under the FAR or other similar regulations of other Federal agencies. Customer agrees to always include such legends whenever the Licensed Products are, or are deemed to be, a deliverable under a government contract

PTC SOFTWARE PRODUCTS LICENSING BASIS

Scope of this Document

This document sets out the licensing basis and restrictions for each of PTC's Licensed Products. In most cases, this document is incorporated into the legal documents governing the Customer's use of software licensed from PTC. In the event of inconsistency between this document and either the license agreement for PTC Licensed Products (the "License Agreement") in the underlying GSA Schedule or the order pursuant to which the Customer purchased the licenses (the "Order"), the Order and the License Agreement shall govern. For example, this document may identify that a product is licensed in a particular way, but if the product name on the Order specifies a different licensing basis, the Order shall govern. Likewise, in the event that a licensing basis is described in this document differently than in the License Agreement, the description in the License Agreement shall govern.

DESCRIPTION OF COMMON LICENSING BASES

"Concurrent User" (CU): Each Concurrent User product license may be used by one individual person at any given time.

Concurrent User products are generally "floating," except:

- **Designated Computer (DC):** Where the product name contains the words "fixed," "locked," or "node-locked", and for all "Kepware" and "KepServerEx" products, such products are licensed to operate solely on the designated computer on which they are installed.
- **License Locked (L):** Where the part number contains the suffix "L", such products may only be used with another PTC product to which the product is an extension and the License Locked Product will assume the licensing basis of such other product.
- **Multiple Instances:** An individual using multiple instances of Concurrent User products at a particular time will in most cases consume that number of licenses. That is, for example, if a user opens two instances of Creo Elements/Direct, that user will be consuming two licenses, not one.

"Designated Server" (DS): Each Designated Server product may only be used on the computer server that is designated by the Customer in connection with the initial installation of the product and that has one unique instance of the applicable installed product application. In the event a computer server is partitioned in any manner (physically, logically or otherwise), the reference in the preceding sentence to "computer server" shall mean each partition of such server, and such Designated Server product may only be used on one of such partitions.

There is a variation of the Designated Server model referred to as "Designated Server (per CPU)". For these products, the license is limited to a server with only one central processing unit (CPU); an additional license is required for each additional CPU.

“Per Core” (PCO): For Per Core products, a license is required for each core of a processor within a system with which the applicable product is executed, as reported by the operating system running the applicable product. For example, if a device is executing PTC software that is licensed on a Per Core basis, assuming each device has two multi-core processors, each with two cores that all execute the software, four licenses would be required. Likewise, if the device had three single-core processors that all execute the software, three licenses would be required. If the operating system that runs the applicable product is within a virtual system (such as VMware) with two virtual cores allocated to the operating system running the applicable product, two licenses are required.

“Per Instance” (PI): For Per Instance products, one license is required for each instance of a system to which the applicable product connects. For example, if an adapter that is licensed on a Per Instance basis enables Windchill to connect to an ERP system and a CRM system, two licenses of such adapter will be required.

“Registered User” (RU): Registered User products may only be used by individual, named registered users on a password basis. The Customer may add and/or substitute from time to time new registered users as long as the aggregate number of registered users does not exceed at any point in time the number of licenses in effect at such time for that particular product and, provided further, that if a person who was previously a registered user returns to registered user status, a new license fee must be paid to PTC at PTC’s then current rates. Note that, whereas Concurrent User products can only be accessed by users located in the “Designated Country” as defined below (unless they are “Global” or “Restricted Global” licenses), this restriction does not apply to Registered User products.

A License is required for each individual who accesses a Registered User product or the data contained therein, whether directly or through a web portal or other mechanism for “batching” or otherwise achieving indirect access to the Licensed Product or such data. Generic or shared log-ins are not permitted.

“Site License” (S): Products licensed on a “Site License” basis require a license for each Customer location at which such product will be used.

“Demo and Test”: Products licensed on a “demo and test” or “non-production” basis (or similar designation), such Licensed Software may not be used in a production environment.

Packages (P): The licensing basis for each component of a PTC product package shall be the same as if such component were being licensed separately, except that the components of each package may only be used with the base seat in the package. For example, the Windchill PDMLink and Windchill ProjectLink Registered User Licenses bundled with the Creo Enterprise XE Package are Licensed on a Registered User basis and must be assigned in combination to a single Creo user.

Bundles (B): Each PTC Bundle contains several different PTC Licensed Products and the licensing basis for each such Licensed Product may differ from the other Licensed Products included in that Bundle. See below for the licensing basis of each component of a Bundle.

LICENSE RESTRICTIONS COMMON TO MULTIPLE PRODUCTS

Subscriptions: A “subscription” is a license type that includes a license for a term as specified in the product name, Order and/or the invoice, and such license includes Support Services during such license term at no additional fee.

Virtualization Technologies: Although in some cases it may be possible through the use of virtualization technologies to circumvent the license control mechanisms that PTC employs in order to enforce the above licensing schemes, or to circumvent the intent of such licensing schemes, such practices violate the Customer’s License Agreement with PTC. Without limiting the foregoing, Customers may not install or access Designated Computer licenses (also sometimes referred to as “node locked licenses”) on or through virtualization technologies.

Third Party Terms: Various PTC products contain or consist of technology from third parties. See the Schedule of Third Party Terms in ATTACHMENT 2 for additional restrictions and terms that apply to such third party technology.

Upgrades: For PTC software licensed as an upgrade from a previous version, the Customer must first be licensed for the software identified by PTC as eligible for the upgrade and Customer must be active on Support Services for such software at the time Customer purchases the relevant upgrade. After installing the upgrade, the software licensed as an upgrade replaces and/or supplements the product that formed the basis of the Customer’s eligibility for the upgrade and the Customer may no longer use the original software that formed the basis for the Customer’s upgrade eligibility.

Interoperability Tools/Toolkits. PTC interoperability tools (e.g., Pro/TOOLKIT, or J-Link, Pro/Web.Link and application programming interfaces) are provided solely for purposes of enabling the Customer (itself or with the assistance of a third party) to cause the Licensed Products to interoperate with the Customer’s other computer systems and programs. Customer shall not distribute to any third party all or any part of any such interoperability tool or use such interoperability tools to develop an integration for distribution to third parties. The foregoing does not apply to PTC’s MKS toolkit.

Home Use Licenses/Portable License Enabler Licenses:

If the Customer’s license is a “home use” license, such license is only for use within the home of an employee or contractor of the Customer who is a primary user of a separate non-home-use license of the same product. More information about home use entitlements and restrictions is located at <http://www.ptc.com/legal-agreements/support-documents>.

PTC Windchill and Service Intelligence

The following use restrictions apply to the Business Reporting functionality in Windchill and in the Service Intelligence Product, depending on the license type:

- (i) Each license of Windchill (i.e., PDMLink and add-on modules such as MPMLink and RequirementsLink) and each license of PTC's "i" products (i.e., iWarranty, iService, iOwn, iPart and iSupport) includes a license to use the base Business Reporting functionality to: (a) select reports, view reports and set personal preferences (for languages, time zones etc.); and (b) run and schedule reports created by a person using Windchill Business Reporting Author, Service Intelligence Professional Author or Service Intelligence Advanced Business Author, or created by any of the means of report generation which are consistent with these use restrictions, interact with prompts, output the reports to other formats such as PDF and CSV, subscribe to a scheduled report, create and manage report folders and portal pages, personalize standard reports, and receive notifications, and (c) use the Business Insight to create interactive dashboards. One of these licenses may also be used for administration of the Business Reporting Software, with the additional permission to setup, deploy, configure and manage the Business Reporting software and components within the Customer's environment, use the Framework Manager to define and publish metadata, and in the case of Service Intelligence Administrators, to use Portal, Query Studio, Report Studio, Analysis Studio, Business Insight and Business Insight Advanced to author, publish, generate and view sophisticated and interactive reports, analysis, queries and dashboards.
- (ii) A "Windchill Business Reporting Author" or "Service Intelligence Professional Author" license allows for the same functionality as clause (i) above, except that, in addition, the Customer may permit the specified number of Registered Users to use the Business Insight Advanced, Query Studio and Report Studio module and functionality and to model metadata via the Framework Manager.
- (iii) A "Service Intelligence Advanced Business Author" license allows for the same functionality as clause (i) above, except that, in addition, the Customer may permit the specified number of Registered Users to use the Business Insight Advanced, Query Studio and Analysis Studio module and functionality and to model metadata via the Framework Manager.
- (iv) A "Windchill Business Reporting Monitor" license means the Customer may permit the specified number of Registered Users to use the Event Studio module.

The Customer is required to configure the Business Reporting functionality to ensure that each user will be restricted from using any reporting functionality other than that licensed, as specified above. The Business Reporting functionality is only permitted to be used only with PTC products and not independent thereof.

GEOGRAPHICAL RESTRICTIONS ON INSTALLATION AND/OR USE OF PTC PRODUCTS

Restriction on Installation Location. Except for "Global" licenses (as specified in the product name), all of PTC's products are restricted such that they may only be installed in the country of installation specified in writing by Customer to PTC at the time Customer places its order of the Licensed Products (referred to in the License Agreement as the "Designated Country"). Where Customer desires to change the country of installation, Customer is required to notify PTC and, where the list prices for such licenses are higher in the proposed new country of installation, uplift fees are required based on the difference.

Restrictions on User Location (Concurrent User Products). Except for "Global" and "Restricted Global" licenses, PTC products that are licensed on a Concurrent User basis may only be used by persons physically located in the country where the products are installed. However, where a person who is normally located in that country is traveling abroad, that person can "borrow" the license for a limited period of time (for most products two weeks), during which time period such license is not available on Customer's network. Users who are not employees of the Customer may use PTC products licensed on a Concurrent User basis only while physically located at a Customer site. **THE RESTRICTIONS IN THIS PARAGRAPH APPLY ONLY TO CONCURRENT USER PRODUCTS, NOT TO PTC PRODUCTS THAT ARE LICENSED ON A DIFFERENT BASIS THAN CONCURRENT USER.**

Global/Restricted Global Licenses.

Global Licenses. A "Global" License allows the Customer to install, operate and use such Licensed Product at any of the Customer's site(s) throughout the world, notwithstanding any restrictions in the License Agreement in relation to limiting use of Licensed Products to the country of installation, but subject to compliance with all applicable export laws and regulations.

Restricted Global Licenses. A "Restricted Global" License allows the Customer to install, operate and use such Licensed Product at any of the Customer's site(s) located in the Designated Country and/or in any Permitted Country, notwithstanding any restrictions in the License Agreement in relation to limiting use of Licensed Products to the country of installation. "Permitted Countries" means China, India, Russia, the Czech Republic, Poland, Hungary, Malaysia, South Africa, Israel, Mexico, Brazil, Argentina, and Romania.

LICENSING BASIS TABLES

PTC Creo and other MCAD and Simulation Products

Licensed Product Name	Licensing Basis
Creo Family of Products (except as noted)	Concurrent User
Creo Extensions	Concurrent User or Designated Computer (as designated in the part number)
Creo Application Programming Toolkit	Registered User
Creo View (2)	Registered User or Concurrent User

Licensed Product Name	Licensing Basis
Creo Elements/Direct Family of Products (except as noted)	Registered User (1)
Creo Elements/Direct Modeling Personal Edition	Registered User (except that, after this Licensed Product is assigned to a Registered User, the License may not be re-assigned to any other user even if the original Registered User ceases to be employed by the Customer)
CADDS	Concurrent User (Usage License Fees apply, except in Germany, Austria and Switzerland)
Rights Management User Licenses	Registered User

Licensed Product Name	Licensing Basis
Creo View Adapters	Designated Server or Registered User
Creo View Toolkits	Per Instance
SD/Fast	Designated Computer

Licensed Product Name	Licensing Basis
Creo View Express	See note (3) below
Creo Illustrate	As specified in the product name for perpetual licenses

(1) **PTC Creo Elements/Direct:**

- o If the Customer owns or purchases Creo Elements/Direct license(s) and purchases portable license enabler(s), Customer may check out Creo Elements/Direct licenses in Customer's host license server for up to thirty (30) days and such portable (checked out) licenses may be used on Customer-owned computer(s) (laptop etc.) that are disconnected from Customer's host license server. The portable (checked out) software license(s) shall only be used by each individual operator of each Customer-owned computer. Customer may use the portable (checked out) software license(s) in any country throughout the world, excluding restricted countries designated by the United States export authorities. Customer shall notify PTC prior to the use in a country other than the country in which the original Creo Elements/Direct license(s) was delivered or purchased.
- o Creo Elements/Direct may not be installed on servers with more than 4 sockets. In addition, Customer must purchase a minimum of 5 licenses per processor on the server on which Creo Elements/Direct is installed.

(2) **PTC Creo View ECAD:** Whenever a Unix version of Creo View ECAD software incorporates Mainssoft's MainWin Dedicated Libraries, the following additional terms apply:

- o A 3 to 1 ratio may not be exceeded between the number of users with access to the Creo View ECAD software and the number of licenses purchased; and
- o Mainssoft's proprietary rights and the Libraries are protected to the same degree as the terms and conditions of the Agreement and PTC makes no representations or warranties on behalf of Mainssoft. Microsoft Corporation is a third party beneficiary of this License Agreement.

(3) **PTC Creo View Express:** PTC makes Creo View Express available for download free of charge on www.ptc.com. Notwithstanding anything to the contrary in the License Agreement, Customer may embed Creo View Express in products Customer makes available to its customers and thereby distribute Creo View Express to such customers.

PTC Mathcad Products

Licensed Product Name	Licensing Basis
Mathcad	Concurrent User or Registered User, based on the name of the product and/or as shown on the PTC Order Student Edition is always Registered User and notwithstanding anything to the contrary elsewhere in this document, may not be re-assigned to any other user even if the original Registered User ceases to use the product.
Mathcad Gateway	This product is licensed on a Designated Server Basis, and in addition is limited to the specified number of submissions to the server for calculation per subscription year. For example, a license of this product for 5,000 submissions will entitle the Customer to install the product on one server and to have up to 5,000 submissions of calculations to the underlying worksheet(s) on that server per subscription year. Unused submissions expire at the end of each subscription year. Each license of Mathcad Gateway includes three Concurrent User licenses of Mathcad - one for production, one for test, and one for development. The development license may also be used for worksheet authoring purposes. The other two are to be used to run Mathcad Gateway in production and in test, and cannot be used for worksheet authoring purposes.
Mathcad Server	This product is licensed on a Designated Server Basis, and is not limited to a specified number of submissions to the server for calculation per subscription year. Each license of Mathcad Server includes three Concurrent User licenses of Mathcad - one for production, one for test, and one for development. The development license may also be used for worksheet authoring purposes. The other two are to be used to run Mathcad Server in production and in test, and cannot be used for worksheet authoring purposes.

PTC Arbortext Products

Licensed Product Name	Licensing Basis
Arbortext Family of Products	Concurrent User for perpetual licenses (except as noted below)
Arbortext Publishing Engine	Designated Server (per CPU)
Arbortext Content Manager	Registered User
Arbortext Adapter to Oracle Content Manager	Designated Server (per CPU)
Arbortext Adapter to Oracle CM/SDK	Per Instance
Arbortext IETP Viewer - S1000D	Designated Server (per CPU)
Arbortext LSA Interface	Designated Server

Licensed Product Name	Licensing Basis
Arbortext Provisioning Transaction Manager	Concurrent User
Arbortext Learning Content Manager - S1000D	Designated Server
Arbortext IsoView Distribution Kit	Site License (1)
Arbortext Dynamic Link Manager	Designated Server
Structured Product Labeling	Designated Server
Arbortext Advanced Print Publisher – Enterprise	Designated Computer, Designated Server or per CPU, as specified in the product name
Arbortext CSDB - S1000D	Concurrent User
Web Access/Expert Users	Registered User

(1) **PTC Arbortext IsoView Distribution Kit:** Notwithstanding anything to the contrary in the License Agreement, a Distribution Kit License of the Arbortext IsoView Licensed Product permits the Customer to: (i) use Arbortext IsoView in a single building or group of buildings that share a common physical address to develop Interactive Electronic Technical Manuals ("IETM") or a software application that must have significant additional functionality to the functionality of the Licensed Products and/or significant additional and primary

content (e.g., an IETM) (Application), and (ii) sublicense to Customer's end-users, without the right to further sublicense and subject to the terms of this paragraph, the applicable installation program files and included runtime components, as bundled in an IETM or other significant content or an Application, solely for use in connection with such IETM/significant content or Application. The right to sublicense Customer's end-users shall not apply unless an Application has significant additional functionality and significant additional and primary content. If Customer installs such installation program files on Customer's webpage(s) for presentation of illustrations such installation programs files must be protected by requiring the use of a restricted password. Any such sublicense may only be granted to Customer's end users who agree to abide by all of the terms and conditions of the License Agreement with respect to such use. Customer shall not remove any proprietary notices or labels contained in the Arbortext IsoView Licensed Products and shall include a valid copyright notice with each copy of the IETM and Application. If Customer uses or distributes runtime components or their copies as part of the Arbortext IsoView installation file, Customer shall indemnify and hold PTC and Microsoft Corporation harmless from all and any claims caused by this distribution and use by its end users.

PTC SLM/Servigistics Products

Licensed Product Name	Licensing Basis	Licensed Product Name	Licensing Basis
<p><u>Third Party Products (1)</u></p> <p>Informatica</p> <p>Intellicus</p> <p>Navteq</p> <p>Google Maps</p>	<p>Each license entitles Customer to use Informatica on up to 8 cores</p> <p>Designated Server or Concurrent Report Limited (2)</p> <p>Registered User</p> <p>Unlimited geo-coding and 250,000 annual page views</p>	<p><u>Service Knowledge and Diagnostics</u></p> <ul style="list-style-type: none"> • Servigistics Service Knowledge and Diagnostics - includes 5 Advisor Studio and 5 Advisor for Analytics* • Servigistics Advisor for Self Service - B2C • Servigistics Advisor for Contact Center • Servigistics Advisor for Field Service • Servigistics Advisor Offline • Servigistics Advisor for Analytics - 5 Pack • Servigistics Advisor Studio • Servigistics Advisor Service Session for Call Center • Servigistics Advisor Service Session for Field Service <p>* For Subscription offerings, Servigistics Advisor Studio and Advisor for Analytics in are included in the Site License</p>	<p>Package</p> <p>Site License</p> <p>Registered User</p>
Field Service Management	All Registered User, except for the base package, which is Site License	<ul style="list-style-type: none"> • Servigistics Remote Service • Servigistics Connected Field Service 	CSLM (see note 3)

The Service Parts Management family of products are licensed based on the following two models

1. If the Order specifies "PMI" as the licensing basis for this product, in such case the license is limited by the value of inventory that is being managed by the software. It is sold in blocks of US\$1 million (or such other currency as may be specified in the Quote), with each quantity unit ordered representing US\$1 million of Customer inventory. Additional restrictions (e.g., geographic, divisional, etc.) may be specified in the order documents. Customer will be required from time to time upon request to inform PTC of the value of the inventory being managed by the software.
2. If the Order refers to "PLP" as the licensing basis for this product, in such case the Customer may manage up to 50,000 part/location pairs ("PLPs") per license. The calculation of the number of PLPs under management by this software shall be determined by multiplying the number of part numbers in the software times the number of locations in the software. For example, without limiting the foregoing, if Customer uses the software to manage inventory of 10,000 part numbers, and such part numbers are stored in 4 locations, Customer will be managing 40,000 "PLPs".

Service Parts Pricing is licensed based on the annual Customer revenue from the sale of service parts that are being managed by the software. It is sold in blocks of US\$1 million (or such other currency as may be specified in the Order), with each quantity unit representing US\$1 million of annual Customer revenue. Additional restrictions (e.g., geographic, divisional, etc.) may be specified in the order documents. Customer will be required from time to time upon request to inform PTC of the annual revenue from the inventory being managed by the software.

Service Network Management family of products

Perpetual licenses for this family of products are licensed based on the number of locations (Customer or third party) where inventory is stored that is managed using the Licensed Product. The "Foundation" license includes 25 locations. Additional locations can be added by "additional location" licenses.

Subscription licenses for this family of products are licensed based on PMI (as described above).

Warranty & Contract Management	Designated Server (5)
Warranty Analytics (4)	Registered User (5)
Warranty products	Concurrent User (5)
Warranty Web Access	Designated Server (5)
Warranty Registration	Designated Server (5)

Service Center	Designated Server
iService	Concurrent User
iSupport	Concurrent User
iParts	Concurrent User
InService	Per instance of the InService system, except InService Viewers and Public Access, which are Registered User

(1) The Servigistics third party products are subject to restrictions and terms and conditions that PTC is required to flow down to Customer, as set forth on the PTC Schedule of Third Party Terms in ATTACHMENT 2 . PTC hereby assigns to Customer all assignable warranties and indemnities granted to PTC by the third party providers of the applicable third party products as set out in such third party terms.

(2) "Concurrent Report Limited" means that the Product is limited in how many reports can be generated at a given time. Thus, for example, if Customer purchases a "5-Pack" of this Product, only five reports can be generated at any given time.

(3) For the Servigistics Remote Service product and the Servigistics Connected Field Service product, there are two versions of this product: (i) the Upgrade version for Customers who already own ThingWorx, and (ii) the "Powered by ThingWorx" version for Customers who do not. For both versions, there are two components required: (i) a Base Fee is required on a Designated Server basis, and (ii) a license is required on a Registered User basis for each individual who receives access to Servigistics Remote Service product or the Servigistics Connected Field Service product.

The "Powered by ThingWorx" versions of these products are also subject to the following limitations. This version of these products may only be used for the following purposes:

1. to install the ThingWorx server for the sole purpose of delivering: (a) PTC Servigistics Remote Service components to view information from solutions sold by PTC, or (b) PTC Servigistics Connected Field Service components to view information from solutions sold by ServiceMax. The application components include only the gadgets, widgets, shapes and templates as part of PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service.
2. to use the ThingWorx Composer and administration capabilities to configure the application components (Widgets, shapes and templates) as part of PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service.
3. to use the ThingWorx platform integration capability to acquire information from systems not sold by PTC and to include this acquired information in the context of components as part of PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service.
4. to use the ThingWorx capabilities that are packaged with PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service.

Customer has no right to use any functionality not included in the list above. For the sake of clarity, without limitation, the Powered by ThingWorx versions of the PTC Servigistics Remote Service license and/or PTC Servigistics Connected Field Service license, as applicable, specifically does not authorize Customer to:

1. create information in solutions sold by PTC other than PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service.
2. use the ThingWorx platform integration capability to:
 - a. Export information from one PTC solution to another system (including a file system)
 - b. Create or edit information in a system
 - c. Build integrations with systems that require components other than those part of PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service.
3. use the ThingWorx platform to create new components (gadgets, widgets, shapes or templates) in addition to those part of PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service.
4. use the ThingWorx platform to create new applications that include components (widgets, shapes and templates) other than those part of PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service.
5. directly access ThingWorx or the PTC Solution Extension layers which are used by PTC Servigistics Remote Service and/or PTC Servigistics Connected Field Service to communicate with solutions sold by PTC.

(4) The Service Intelligence bundle includes 1 Administrator, 2 Advanced Business Authors, and 1 Professional Author. Note that additional Advanced Business Authors can also be purchased under this product name.

(5) See page 3 of this document for additional terms relating to the Service Intelligence functionality in PTC's Warranty products.

PTC Windchill Products (1) (11) (12)

Licensed Product Name	Licensing Basis
Windchill Family of Products (except as noted)	Registered User
Windchill Enterprise Systems Integration (except as noted)	Designated Server

Licensed Product Name	Licensing Basis
Windchill Quality FRACAS, FMEA, FTA and Prediction	Concurrent User
Windchill FlexPLM	Registered User (2)

Windchill Enterprise Systems Integration Adapters	Per Instance (4)
Windchill Info*Engine Adapters	Per Instance
PTC Materials Compliance	See below (5)
GDx Connector Subscriptions	See below (5)
UDI Solution	UDI (7)
MPMLink	Registered User (8)
MPMLink View and Print	Active User (9)
Windchill Bulk Migrator	Site License

PTC's Retail IoT ADK (Application Developer Kit)	Registered User (3)
Pro/INTRALINK Family of Products (except as noted)	Concurrent User
Pro/INTRALINK Toolkit Access	Registered User
Windchill PDM Essentials	Registered User (6)
Windchill External Server Access	
Navigate Author Application Development Kit	Registered User (1)
GPD Packages	See below (10)
Windchill Service Information Manager	See below (13)
Windchill Platform Structures	Active Daily User (14)

(1) Integrations. If the Customer creates an interface or otherwise enables access between a Windchill implementation and a non-PTC system, for each user with access to Windchill Customer must purchase a license of either Navigate Author Application Development Kit or Windchill External Server Access.

(2) Windchill FlexPLM

FlexPLM "Light User" licenses may only be assigned to users who do not have substantial duties within the following organizations or functional areas within the Customer's organization: System Administrators, Technical Designer, Designer, Fabric Development, Color Development, Fit Specialist, Merchandising, Product Quality, and Sourcing ("Light Users"). The Customer may not assign (or reassign) Light User licenses to persons who are not Light Users unless and until Customer pays the applicable upgrade fee(s) for software and Support Services.

FlexPLM "Supplier Licenses" or "External User Capacity" licenses may be assigned only to users who are vendors, third parties and others external to the Customer and its affiliates ("External Users"). External User licenses may be reassigned to another External User at no additional license fee, except that an External User license may not be used by more than one External User during any calendar month.

Registered Users of FlexPLM also receive entitlements to use certain role-based applications (e.g., the FlexPLM TechPack Access App). These applications are limited to use by Registered Users of FlexPLM and may only be used for the following purposes:

1. to execute applications to view and print information from solutions sold by PTC and delivered through the components bundled with the role-based applications.
2. to install the ThingWorx server for the sole purposes of accessing FlexPLM data as applicable to the role-based applications and configuring details required for the role-based applications.

(3) ADK. PTC's Retail IoT ADK (Application Developer Kit) product may be used by Customer only to connect to PTC's FlexPLM product and to other enterprise systems (e.g., Oracle ERP, SAP, CRM systems, etc.). It cannot be used to access data from devices – which can include but is not limited to connected products, wearables, production machinery, and physical assets – and any edge servers or services that devices are connected to. It also cannot be used to connect to manufacturing systems, processes, and/or operations belonging to the Customer's internal production facilities or the Customer's suppliers' production facilities.

(4) ESI Adapter. For use of an ESI Adapter in a non-production environment, up to 75 of the Customer's developers may have desktop access to the ESI Adapter solely for testing, pre-production implementation and support of the ESI Adapter.

(5) PTC Materials Compliance. PTC Materials Compliance solution is licensed as follows:

- The "process adaptor" is required where Customer integrates Materials Compliance to another system where Materials Compliance publishes data to such other system. The process adaptor is limited to use on one Designated Server per license and also the product name specifies the limit on the number of users of the system to which Materials Compliance is integrated. A license is not required where the integration only permits data to be published from the other system into Materials Compliance.

- Other than GDx subscriptions (see below), the other licenses of PTC Materials Compliance are licensed on either a Designated Server basis (where the name of the product includes the word "Server") or on a Registered User basis. For the Registered User version of these products, there are two types of licenses as specified in the product name – "author" licenses and "access" licenses:

- An "author" license permits use of the full functionality of the relevant data in Materials Compliance for the purpose specified by the name of the applicable module. For example, a Materials Compliance Author License permits the user to request, create, modify, approve content/data in Materials Compliance for Materials Compliance purposes. Notwithstanding the foregoing, the Conflict Minerals RCOI Author License does not permit the user to create parts or BOMs or to generate BOM Conflict Minerals Reports. Where the Materials Compliance software is hosted by PTC for the Customer, a "subscription author" license is required, which is the same as an "author" license except that a license is required for each Registered User for each server such Registered User accesses.

- An "access" license permits the user only to search and view the relevant data in Materials Compliance, and to generate reports, for the purpose specified by the name of the applicable module. For example, a Materials Compliance Access license permits the user to search and view Materials Compliance information in Materials Compliance. Where the Materials Compliance software is hosted by PTC for the Customer, a "subscription access" license is required, which is the same as an "access" license except that a license is required for each Registered User for each server such Registered User accesses.

(6) PTC Windchill PDM Essentials

- Microsoft SQL Server Standard Runtime Edition is bundled and is automatically installed and configured in a PTC Windchill PDM Essentials deployment. No other database or database configuration may be used. PTC's license from Microsoft for SQL Server does not permit Customer to use SQL Server independently from Windchill PDM Essentials, and Customer may not do so.
- Physical or virtual deployment of PTC Windchill PDM Essentials may be used only on a **single** Windows Server machine. No other configuration may be used. For example, the default deployment cannot be modified to include multiple front-end webserver machines or separate database servers or database clusters.
- A version of Creo Parametric is installed on the server exclusively to enable publishing of 2-D and 3-D viewables and representation formats such as PDF and IGES. The Creo installation on the server cannot be used interactively (e.g., as an additional design seat).
- The following Windchill functionality is specifically **excluded** and cannot be used with a PTC Windchill PDM Essentials deployment:
 - Replication (i.e., Customer cannot set up replica servers or replica vaults in a PTC Windchill PDM Essentials deployment)
 - Parts (EPM Documents and WT Documents may be used but WT Part objects may not be used)
 - Changes (no change objects can be used—only promotion requests may be used)
 - Advanced Configuration Management (options, variants or part baselines may not be used)
 - Catia, Unigraphics, CADDs workgroup managers (These Workgroup managers are not installed for download on the server may not be used with PTC Windchill PDM Essentials)
 - ECAD workgroup managers (The ECAD workgroup managers are not installed and may not be used with PTC Windchill PDM Essentials)
 - Indexed search (Database attribute-based search is configured out of the box and may be used but SOLR Search is not configured and therefore no indexed search may be used)
 - PDMLink module add-ins (PDMLink modules such as Windchill ProjectLink, Windchill MPMLink, Windchill PartsLink, Windchill Quality) cannot be added to this product. The Customer must first upgrade to PDMLink before the add-on modules can be deployed)
 - ERP integration
 - Cognos Reporting integration
 - ESI integration
 - Packages (for exchanging data among systems)
 - Security labels and agreements
- Customer is not allowed to use Windchill Info*Engine with Windchill PDM Essentials except in the following cases:
 - Use of the JNDI adapter is allowed to enable directory services integrations such as with Microsoft Active Directory. No other Info*Engine adaptors may be used.
 - Use of Info*Engine queries and tasks to export data for read-only use in external systems (such as in ERP or MRP systems) is allowed. The ESI and ERP integrations may not be used and bi-directional integration with any external system other than a directory service may not be created.

(7) UDI Solution. For PTC's UDI Solution, two different licenses are required – core system licenses and agency submittal licenses:

- Core system licenses enable management, replication and approval of UDI data.
- Agency submittal licenses enable UDI regulation compliant submission, as well as submission retention and monitoring and auditing capabilities, and also include user training specific to UDI usage.

Each UDI license covers up to the number of Devices indicated in the product name. Thus, for example, without limiting the foregoing, if Customer has 30,000 actively-marketed Devices registered with the U.S. FDA and 10,000 actively-marketed Devices registered with the UK Medicines and Healthcare products Regulatory Agency, then in that case:

- If all 10,000 Devices registered with the in the UK are a subset of the 30,000 registered in the U.S., Customer would need 3 "10,000 Device" core system licenses and 16 "2,500 Device" agency licenses (12 for the U.S. FDA and 4 for the UK Medicines and Healthcare products Regulatory Agency) (assuming the 10,000 Devices registered).
- If there is no overlap, then Customer would need 4 licenses of the core system and 16 of the agency licenses.

A "Device" means a product make or model that Customer has registered with any regulatory agency and that is being actively marketed by Customer.

(8) MPMLink. For MPMLink part #5405-F, the ESI functionality incorporated therein may only be used for integration with GEIP's MES Systems, and for no other purposes.

(9) MPMLink View and Print. "Active User" means that a license is required for each Permitted User who accesses the product in a given calendar month solely for purposes of viewing and/or printing data stored in the product; provided, however, that the restriction in the License Agreement against generic log-ins is not applicable for this license type where a number of individuals are sharing a workstation in a manufacturing environment (e.g., on a shop floor or an assembly line). This View and Print license is limited to the Permitted User viewing and printing information related to the creation and support of the manufacturing plan (e.g., mBOMs, eBOMs, manufacturing plans, operations, resources, 2D or 3D representations, tooling requirements and quality documentation).

(10) PTC GPD Packages

PTC GPD Package I - Limitations of Use

- The following Windchill functionality is specifically **excluded** and cannot be used with a PTC GPD Package I deployment:
 - Parts (EPM Documents and WT Documents can be created but WT Part objects cannot be created or managed)
 - Changes (no change objects can be used—only promotion requests can be used)
 - Advanced Configuration Management (options, variants, or part baselines)
 - Packages (for exchanging data among systems)
 - Security labels and agreements
- The following workgroup managers **are** included with PTC GPD Package I and any of these workgroup managers can be used by any, heavy Registered User at any time. Other workgroup managers are not included in the PTC GPD Package I and may be purchased separately.
 - AutoCAD

- Inventor
- NX
- SolidWorks
- PTC Windchill Info*Engine Adapters cannot be used with the PTC GPD Package I with the following exceptions (PTC Windchill Info*Engine server and access licenses can be separately purchase to enable full use of PTC Windchill Info*Engine capabilities):
 - Use of the JNDI adapter is allowed to enable directory services integrations such as with Microsoft Active Directory. No other Info*Engine adaptors may be used.
 - Use of Info*Engine queries and tasks to export data for read-only use in external systems (such as in ERP or MRP systems) is allowed. The ESI and ERP integrations may not be used and bi-directional integration with any external system other than a directory service may not be created.

PTC GPD Package II – Limitations of Use

The PTC GPD Package II allows a Registered User to use the PTC Windchill ProjectLink collaboration capabilities only. The following project planning, scheduling and resource management features are *excluded* from this package:

- All actions associated with creating and managing a project plan (no creation or management of project activities, assignments, timelines, milestones or deliverables is permitted)
- All actions associated with managing project resources
- Advanced Configuration Management features for Options & Variants (these capabilities require a Platform Structures license).

(11) Heavy/Light/External User/View & Print (not applicable to Windchill Flex PLM or MPMLink View and Print)

Windchill "Light User" licenses may only be assigned to Registered Users who primarily work within the following organizations or functional areas within the Customer's organization ("Light Users"): manufacturing, production; purchasing; finance; quality; sales; service and support; and marketing. However, any Registered User who has substantial duties within the following areas shall not be considered a Light User: product engineering; application engineering; product management; Windchill system administration; program office; technical publications and procurement engineering. Light User licenses may not be assigned (or reassigned) to persons who are not Light Users unless and until the Customer pays the applicable upgrade fee(s) for software and Support Services. Windchill "External User" licenses may be assigned only to Registered Users who are vendors, third parties and others external to the Customer and its affiliates ("External Users"). External User licenses may be reassigned to another External User at no additional license fee, except that an External User license may not be used by more than one External User during any calendar month.

Windchill "View/Print License" means that the License is limited to the following basic Windchill capabilities: (a) ability to perform full-text searches using the Windchill search engine to locate Windchill managed objects via matches against keywords found in metadata and content data, (b) the ability to perform database searches to locate Windchill managed objects via matches against metadata, (c) the ability to traverse cabinet/folder information classification structures to find Windchill-managed objects, (d) for any managed object found via any of the foregoing methods, the ability to view a "Properties" page that outlines metadata properties of the Windchill-managed object and provides the ability to download file content should any content exist as part of the object, (e) the ability to print objects, and (f) the ability to open viewables in Creo View and to view and measure the viewables in 3D but not to mark up the viewables. Without limitation, the following functionality is specifically excluded from View/Print Licenses: (1) the ability to participate in workflows and lifecycle action items, (2) the ability to upload content files or to modify metadata in any fashion, and (3) the ability to create or modify data.

(12) See page 3, PTC Windchill and Service Intelligence, for additional terms relating to the Business Reporting functionality in PTC's Windchill products.

(13) Windchill Service Information Manager

Windchill Service Information Manager "Standard" means that the user is restricted to the following capabilities: Publication Structures, Translation Capabilities, version control, XML, illustrations, and graphics management, along with actions required to create, manage, update and delete information. Without limitation, the following functionality is specifically excluded from Standard Licenses: Information Structures, Change Management, graphical navigation authoring, Options and Variants, Effectivity / Service Effectivity.

Windchill Service Information Manager "Reviewer" means that the user is restricted to the following capabilities: read-only access to content with the ability to review information (in supported viewers), add comments/annotations, and complete assigned review and approval tasks.

The PTC Windchill Service Information Manager - S1000D Module license grants user to a subset of Platform Structures capabilities. Namely, the S1000D license enables users to Create Options and list-based Choices, assign these Options and list-based Choices to S1000D data modules using the "Manage applicability" actions. This S1000D license shall also permit users to filter the S1000D information structure using Saved Filter and Variant Specification tools. System administrators may also programmatically import variant specifications to filter and manage these information structures. Other Platform Structure license capabilities such as defining and managing rules, or importing eBOMs shall require a full Platform Structures license.

(14) Windchill Platform Structures. "Active Daily User" means that the product is licensed on the basis of the number of unique users who access Platform Structures content at any time during a 24 hour calendar day. For example, if a user accesses Platform Structures content 3 times on a Monday and 2 times on the following Friday, then the user is counted as a single active user on both Monday and Friday only. The 24 hour period is defined using the time zone set for the connected Windchill server. Platform Structures content is defined as any content that includes configurable parts.

ThingWorx Core Products

PTC has three licensing models for ThingWorx core products: (i) the ThingWorx Smart Connected Products model, (ii) the ThingWorx Smart Connected Operations model, and (iii) the ThingWorx Legacy Model. Each of these licensing models is described below.

ThingWorx Smart Connected Products ("ThingWorx SCP")

The ThingWorx SCP model allows Customers to license the PTC IoT Platform for connecting Customer's products, and for building and running IoT applications generally, using the Property Writes consumption-based model.

The licensing basis for each Licensed Product in the ThingWorx SCP model is detailed in the table below:

Licensed Product Name	Licensing Basis
ThingWorx SCP Platform Edition (1) (7)	SCP
Named Users (2)	IoT
Property Writes (3)	PW
DSE Storage (4)	Per Core (can only be purchased with the Enterprise Edition)
ThingWorx Analytics (5)	Per Core
ThingWorx Utilities (6)	UTL

(1) There are different ThingWorx SCP Platform “Editions”: Standard Edition, Professional Edition, and Enterprise Edition. Each ThingWorx SCP Platform Edition includes one Instance for production usage and an unlimited number of Instances for non-production use only. Each ThingWorx SCP Platform Edition includes a designated number of Named Users, Property Writes, and ThingWorx SCP Platform Edition-specific features as set forth in the table at Note 7, below. The ThingWorx SCP Platform can be installed on the Customer’s physical premises or at the Customer’s designated hosting provider. An “Instance” means a dedicated deployment of application servers and the corresponding shared database. Each ThingWorx SCP Platform Edition includes the “ThingWorx agents” or “Edge Microservers” and a ThingWorx SDK used by the Customer to add connectivity into the Customer’s run-time applications. The “ThingWorx agents,” “Edge Microservers,” and Customer’s applications created with a ThingWorx SDK are unlimited and distributable with connected products, but only for use with ThingWorx products.

(2) “Named User” means anyone that accesses an Internet of Things Licensed Product or an application built using such Licensed Product directly or via an intermediate application and who is logged into the Software more than 5 hours per month for more than 2 months in a rolling 12-month period. This licensing basis is a variant of the Registered User licensing basis, however, in this case, a User may have a log-in, or might be someone (e.g., a factory-floor employee) who accesses data through another system or through a shared log-in or screen. Users are counted on an individual basis, not on a concurrent basis.

(3) “Property Writes” means a discrete value or location written to the ThingWorx SCP Platform. For example, a transmission of a temperature reading transmitted twice would be two Property Writes. A Property Write is consumed when a discrete value or location is written to the ThingWorx SCP Platform, and cannot be reused during the subscription year in which the Property Write is consumed. Unused Property Writes will expire at the end of each subscription year and will not rollover to the next subscription year.

(4) “DSE Storage” (DataStax Enterprise) is an optional technology component that may be licensed for use in conjunction with the ThingWorx SCP Platform Enterprise Edition, only. DSE Storage may be added to an Enterprise Edition on a Per Core basis. Customer may use their own DSE licenses with the ThingWorx SCP Platform Enterprise Edition, however these “bring your own” DSE licenses are not entitled to PTC technical support.

(5) “ThingWorx Analytics” enables machine learning capabilities and other analytic services for the Internet of Things. ThingWorx Analytics may be licensed for use in conjunction with the ThingWorx SCP Platform Professional and Enterprise Editions, only. ThingWorx Analytics is licensed on a Per Core basis. Analytics Server may be run in single-server or distributed mode. In distributed mode, only CPU cores running ThingWorx analytics code (e.g., API interface, analytics workers) require a Per Core license.

Each Named User that accesses the ThingWorx Analytics UI functions must be licensed as a Named User on the SCP platform. Any installed component that delivers analytic computational functionality as indicated in the table above requires a ThingWorx Analytics Per Core license for each physical or virtual CPU core as reported by the operating system on which such component is installed. If the Customer exceeds the compute capacity of the included ThingWorx Analytics cores, the Customer can purchase additional core licenses for additional compute capacity on any of instance running components that deliver computational functionality.

(6) “ThingWorx Utilities” (UTL) is used in combination with ThingWorx Foundation, and provides device management capabilities to define, monitor, manage, and optimize the performance of connected products.

(7) Each Smart Connected Products Platform Edition comes with the entitlements specified in the table below:

	Standard Edition	Professional Edition	Enterprise Edition
Property Writes	150,000	150,000	300,000
Named Users	5	5	5
ThingWorx Analytics cores	-	8	16
ThingWorx Utilities	-	-	Included
Starter/Standard Success Plan	Included with each Edition; access is limited to number of licensed Named Users		
eLearning (Registered User)	5 Seats	5 Seats	5 Seats
ThingWorx Foundation	Included	Included	Included

ThingWorx Smart Connected Operations (“ThingWorx SCO”)

The ThingWorx SCO model allows Customers to license the PTC IoT Platform for connecting and monitoring Customer’s internal manufacturing systems, processes, and/or operations related to the production of Customer products, using a Named User-based model. The licensing basis for each Licensed Product in the ThingWorx SCO model is detailed in the table below:

Licensed Product Name	Licensing Basis
ThingWorx SCO Platform Edition (1) (2)	SCO
Named Users (4)	IoT
Assets (5)	Asset
ThingWorx Manufacturing Apps	See Note 3 below
DSE Storage (6)	Per Core (can only be purchased with the Enterprise Edition)
ThingWorx Analytics (7)	Per Core
ThingWorx Utilities (8)	UTL

(1) There are different ThingWorx SCO Platform “Editions”: Free Edition, Standard Edition, Premium Edition and Enterprise Edition. Each Edition includes one Instance for production usage (but unlimited for the Free Edition) and an unlimited number of Instances for non-production use only (except where PTC is hosting the Licensed Products for Customer, in which case the entitlement is one non-production Instance). Each Edition includes a designated number of Named Users, Assets, and Edition-specific features as set forth in the table in Note 2, below. An “Instance” means a dedicated deployment of application servers and the corresponding shared database. Each Edition includes the “ThingWorx agents” or “Edge Microservers” and a ThingWorx SDK used by the Customer to add connectivity into the Customer’s run-time applications. The “ThingWorx agents,” “Edge Microservers,” and Customer’s applications created with a ThingWorx SDK are unlimited and may be used only with ThingWorx Assets.

(2) Each ThingWorx SCO Platform Edition comes with the entitlements specified in the table below:

	Free Edition	Standard Edition	Premium Edition	Enterprise Edition
Assets (maximum)	Unlimited	500	500	2,500
Named Users (included, more may be purchased separately)	Unlimited	5	10	15
ThingWorx Analytics	May not use Analytics with this version	Anomaly detection functionality only	Anomaly detection functionality included (remainder of functionality purchased separately)	8 cores included
ThingWorx Manufacturing Apps	See Note 3 below			
Starter/Standard Success Plan	Not included	Included with each Edition; access is limited to number of licensed Named Users		
eLearning (Registered Users)	Not included	1 license included with each Named User		
ThingWorx Foundation	Not included	Included but limited per Note 3 below	Included	Included

(3) For each of the ThingWorx Manufacturing Apps (currently Controls Advisor, Production Advisor and Asset Advisor, collectively the “Manufacturing Apps”), each Edition includes the functionality entitlements and obligations specified below:

Tier	Licensing Model	Functionality Restrictions	Data Sharing Obligation	Data Retention
Free Edition	Free offering that can be used in production, with no limits on the number of Instances or users.	Customer is prohibited from: (i) editing the out-of-the-box mashups or creating new mashups, (ii) integrating the Manufacturing Apps with other systems, or (iii) exporting any data from the Manufacturing Apps.	Customer is required for each instance to periodically send usage data with PTC at such intervals as PTC requires.	All time series data in the Free Edition is purged after seven days.
Standard Edition	<ul style="list-style-type: none"> Base Fee per application on a per Instance basis. However, the Base Fee for Controls Advisor is waived if Customer purchases one or more other Manufacturing Apps. Per user fee on Named User basis (5 included with the Base Fee paid for each Manufacturing Apps) 	Customer may edit the mashups provided with the out-of-the-box Manufacturing Apps, but is prohibited from creating new mashups (either directly or by excessive editing the existing mashups). Customer may integrate the Standard version with other systems but only for read-only purposes. Customer is prohibited from exporting any data from the Manufacturing Apps.	Not applicable (except as required by the applicable license agreement)	No automatic purging
Premium/Enterprise Editions	Manufacturing Apps are included subject to the Named User and Asset limitations of the edition	Above restrictions do not apply to these editions.	Not applicable (except as required by the applicable license agreement)	No automatic purging

(4) “Named User” means anyone that accesses an Internet of Things Licensed Product or an application built using such Licensed Product directly or via an intermediate application. This licensing basis is a variant of the Registered User licensing basis, however, in this case, a User may have a log-in, or might be someone (e.g., a factory-floor employee) who accesses data through another system or through a shared log-in or screen. Users are counted on an individual basis, not on a concurrent basis.

(5) “Asset” (also sometimes referred to in the product itself or elsewhere as a “Device” or a “Thing”) means a sensor, device, machine, system, web service, etc. that is modeled (represented) and/or registered as an asset (or “device” or “thing” within the Licensed Product) or any separately defined part of the foregoing if it is being treated as a separate asset within the software. For example, without limitation, an Asset could be a brake press, industrial dryer, another computer system, or a set of individual components within those machines if modeled or registered as a separate asset in the software), etc. The quantity of Assets included with each Edition, as specified above in

Note 2, is also the maximum number of Assets that a Customer may connect to each ThingWorx SCO Platform Edition, and Customer must purchase an additional ThingWorx SCO Platform Edition if Customer exceeds the Asset limitation.

(6) “DSE Storage” (DataStax Enterprise) is an optional technology component that may be licensed for use in conjunction with the Enterprise Edition, only. DSE Storage may be added to Enterprise Edition on a Per Core basis. Customer may use their own DSE licenses with the Enterprise Edition, however these “bring your own” DSE licenses are not entitled to PTC technical support.

(7) “ThingWorx Analytics” enables machine learning capabilities and other analytic services for the Internet of Things. ThingWorx Analytics may be licensed for use as specified in Note 2 above. ThingWorx Analytics is licensed on a Per Core basis. Analytics Server may be run in single-server or distributed mode. In distributed mode, only CPU cores running ThingWorx analytics code (e.g., API interface, analytics workers) require a Per Core license.

Each Named User that accesses the ThingWorx Analytics UI functions must be licensed as a Named User on the SCO platform. Any installed component that delivers analytic computational functionality as indicated in the table above requires a ThingWorx Analytics Per Core license for each physical or virtual CPU core as reported by the operating system on which such component is installed. If the Customer exceeds the compute capacity of the included ThingWorx Analytics cores, the Customer can purchase additional core licenses for additional compute capacity on any of instance running components that deliver computational functionality.

(8) “ThingWorx Utilities” (UTL) is used in combination with ThingWorx Foundation, and provides device management capabilities to define, monitor, manage, and optimize the performance of connected equipment. ThingWorx Utilities may be licensed for use in conjunction with the Enterprise Edition, only.

Legacy Model

PTC’s legacy licensing model is set forth below. This model is only available for Customers who are expanding existing subscription licenses of the applicable Licensed Product(s), and it not available for Customers who do not already have existing licenses of the applicable Licensed Product(s).

PTC’s legacy model involves three (and sometimes four) components: (i) a “Base Fee” for use of the platform generally, (ii) “User” licenses, (iii) “Asset” licenses, and (iv) in the case of ThingWorx products, also “Developer” licenses. The licensing basis for each of these license types is in the table below. In addition, there are other add-on functionalities that can be purchased, as specified in the table below.

Licensed Product Name	Licensing Basis	Licensed Product Name	Licensing Basis
Base Fee (1)(7)	Per Core for ThingWorx Enterprise (2) Designated Server for ThingWorx non-Enterprise (2) “AXB” for Axeda (3)	ThingWorx Additional Server	Designated Server
“User” licenses (4)	IoT (see below)	“Developer” licenses	Registered User
ThingWorx Utilities	Designated Server	“Asset” licenses (6)(7)	IoT (see below)
Axeda Connected Reporting (5)	Each license entitles Customers to 2 Advanced Business Authors and 1 Professional Author	Axeda Additional Sandbox Environment (8)	SBX
Axeda Wireless Console	Unlimited but only for use with Axeda products	ThingWorx Analytics	Designated Server but limited to four cores
ML Server	Designated Server but limited to four cores. The ThingWorx Foundation technology that is included in this product, and all ThingWorx Analytics functionality running on the ThingWorx Foundation Server, may only be used to operate the ML Server product and for no other purpose.		

(1) There are different base fees depending on the Base Fee’s Asset and User capacity limits (as designated in the name of the “Base Fee” item description). For Base Fees designated in the product name as “limited”, such Base Fee must be upgraded to a non-limited Base Fee if Customer exceeds the maximum number of Users and/or Assets as set forth in the product name. For example, if a Customer purchases a limited Base Fee with a maximum User amount of 50 Users and a maximum Asset amount of 250 Assets, and the Customer purchases 10 Users and 50 Assets, but the Customer’s future use increases such that the Customer has more than 50 Users or more than 250 Assets, then at such time Customer must upgrade to a non-limited Base Fee. User and Asset quantities specified in a product name are capacity limitations only, and such Users and Assets are not included with any Base Fee unless such Users and/or Assets are designated as “included” in the product name.

(2) The Base Fee for ThingWorx is sold in two ways.

The “Enterprise” Base Fee is sold on a “per Core” basis. This version of the product includes:

- Two ThingWorx instances (one production, one test/development)
- DSE connectors for the 2 ThingWorx instances
- 20 cores of DSE to run Cassandra and Solr nodes in production
- DSE Ops Console (no DSE cores required)
- DSE development cores supporting Cassandra and Solr for the development instance
- 2 cores of ThingWorx Analytics for evaluation purposes only (and not to be used in production)

The non-Enterprise Base Fee is licensed on a Designated Server Basis. The non-Enterprise ThingWorx Base Fee includes one test/development license, one production license and two cores of ThingWorx Analytics for evaluation purposes only (and not to be used in production). The ThingWorx Base Fee also includes the “agents” or “Edge Microservers”, which are unlimited and distributable with Assets but only for use with the ThingWorx and/or Axeda products. The ThingWorx Base Fee also includes ThingWatcher, which is distributable with Assets but only for use with the ThingWorx products.

(3) “AXB” means that the Customer is entitled to one test/development environment (also referred to as “Sandbox”) with up to 100 Assets and 10 Users, and one production environment. AXB includes Axeda agents, Axeda Policy Server, Axeda Deployment Utility and executable (run-time) components in Customer agents developed with Axeda or ThingWorx agent development tools, all of which are unlimited and distributable with Assets but only for use with ThingWorx and/or Axeda products. AXB also includes Axeda codecs (device

specific translators), and also includes the right for Customer to copy and install development tools supplied with the Axeda product on any server within the Customer's control.

(4) "User" licenses (designated by "IoT") are licensed based on the number of Users. "User" means anyone that accesses a ThingWorx or Axeda product or an application built using such product directly or via an intermediate application. This licensing basis is a variant of the Registered User licensing basis, however, in this case, a User may have a log-in, or might be someone (e.g., a factory-floor employee) who accesses data through another system or through a shared log-in or screen. Users are counted on an individual basis, not on a concurrent basis. A "Frequent User" license is required for any User who is logged into the software more than 20 hours per month for more than 2 months in a rolling 12 month period.

(5) An Advanced Business Author is authorized to use the Query Studio and Workspace Advanced features of Axeda Connected Reporting. A Professional Author is authorized to use those same features and also the Report Studio feature.

(6) "Asset" licenses (designated by "IoT") are licensed based on the maximum number of authorized Assets, as defined below.

(7) The Base Fee and Asset licenses for Axeda include the Axeda Remote Service applications.

- "Asset" (also sometimes referred to in the product itself or elsewhere as a "Device" or a "Thing") means a sensor, device, machine, system, web service, etc. that is modeled (represented) and/or registered as an asset (or "device" or "thing" within the software) or any separately defined part of the foregoing if it is being treated as a separate asset within the software. For example, without limitation, an Asset could be a car, a toothbrush, another computer system, weather service, a helicopter (and/or a helicopter engine, if that engine is modeled or registered as a separate asset in the software), etc.

- Asset licenses are categorized in different "Asset Classes," each based on the number of Data Items associated with such Assets. A "Data Item" means a discrete value or location transmitted by an Asset. For example, a transmission of a value of 98 degrees Fahrenheit, transmitted twice, would be two Data Items. Data Items are calculated based on the monthly total, measured based on the entire set of Customer's Assets (i.e., not on a per Asset basis). For example, if Customer has licenses for 100 Class 1 Assets, the Data Item limitation will be 12,500 total Data Items per month. Customer will be required to upgrade to the applicable higher Asset Class if Customer exceeds the monthly Data Item limitation two times in any rolling twelve month period.

	Asset Class 1	2	3	4	5	6
Data Item Limitation (Per Asset/ Month)	125	1,100	9,000	90,000	180,000	720,000

(8) "SBX" means an additional Axeda test/development environment.

Other ThingWorx Products

ThingWorx Analytics

"ThingWorx Analytics" enables machine learning capabilities and other analytic services for the Internet of Things. ThingWorx Analytics is licensed on a Per Core basis. Analytics Server may be run in single-server or distributed mode. In distributed mode, only CPU cores running ThingWorx analytics code (e.g., API interface, analytics workers) require a Per Core license.

Each Named User that accesses the ThingWorx Analytics UI functions must be licensed as a Named User on the SCO platform. Any installed component that delivers analytic computational functionality as indicated in the table above requires a ThingWorx Analytics Per Core license for each physical or virtual CPU core as reported by the operating system on which such component is installed. If the Customer exceeds the compute capacity of the included ThingWorx Analytics cores, the Customer can purchase additional core licenses for additional compute capacity on any of instance running components that deliver computational functionality.

ThingWorx Industrial Connectivity/Keppure

ThingWorx Industrial Connectivity and KEPServerEX are sold on a Designated Computer basis and also Customer must be licensed for the drivers and other functionalities/features being used.

ThingWorx Studio

ThingWorx Studio consists of the ThingWorx Studio Experience Creator, the ThingWorx Experience Service, Tokens and the ThingWorx View App. ThingWorx Studio can be purchased a-la-carte or on a bundled "starter package" basis. ThingWorx Studio licenses allow Customer to access and use the ThingWorx platform for user administration purposes only; any additional use cases require purchase of a ThingWorx IoT platform edition.

A-la-carte

ThingWorx Experience Service is licensed on a Designated Server basis.

A "Token" is a presentation of a mix of textual, numeric and 3D data that is presented to a user by the ThingWorx View application. The Token may include augmented reality interaction and/or "live" data from Things via ThingWorx. A Token has a definite "entry point" which is invoked via a user action to select the Token. This may be by selecting a "bookmarked" experience or following a scan of a ThingMark. There is no definite "exit point" other than exiting ThingWorx View or requesting another Token. Invoking the same Token within 15 minutes will count as a single Token. Examples of Tokens include, without limitation:

- A service experience to instruct a service technician how to perform a service procedure
- A marketing experience to present capabilities of a product to consumers
- A monitoring experience to display live data streaming from a machine

The ThingWorx Studio experience creator and the ThingWorx View App are included with each subscription.

Where the Customer engages PTC to hosting ThingWorx Studio for the Customer, PTC's hosting will be governed by the Cloud/SaaS Service Terms and Conditions set forth at <http://www.ptc.com/legal-agreements>.

Starter Packages

The ThingWorx Studio Starter Package is licensed the same way as the a-la-carte version, except that in the first year of the term (not including any renewals), Customer will not be charged for Token overage unless and to the extent that Customer uses more than 100,000 Tokens in a contract year (in which case Customer will be required to pay for the additional Tokens used at the overage rate specified in the Order).

ThingWorx Navigate

The licensing basis for ThingWorx Navigate is Registered User for the “Author” license. For the “View” and “Contribute” and View Application Development Kit and Author application development kit licenses, the licensing basis is either Registered User or Active Daily User, as specified in the Order. “Active Daily User” means that the product is licensed on the basis of the number of unique users who access a ThingWorx Navigate application at any time during a 24 hour calendar day. For example, if a user accesses a ThingWorx Navigate application 3 times on a Monday and 2 times on the following Friday, then the user is counted as an active user for Monday and Friday only. The 24 hour period is defined using the time zone set for the connected ThingWorx server.

Customers using ThingWorx Navigate licenses with Windchill products must associate all user and groups entitled to use the Navigate licenses with the Windchill License provide associated with the license. For example, all users for whom a ThingWorx Navigate Author license is purchased must be a member of a group associated with a Windchill Author License Profile.

The ThingWorx Navigate – View license grants the Customer the right:

1. to execute applications to view and print information from solutions sold by PTC and delivered through the components bundled with the ThingWorx Navigate apps.
2. to install the ThingWorx server for the sole purpose of delivering ThingWorx Navigate components to view information from solutions sold by PTC. The application components include only the gadgets, widgets, shapes and templates bundled with the ThingWorx Navigate apps.
3. to use the ThingWorx Composer and administration capabilities to configure the application components (Widgets, shapes and templates) bundled with the ThingWorx Navigate apps.
4. to directly log into the PLM enterprise application with view privileges without the need to purchase an additional PLM View and Print license.

Customer may not use any functionality not included in the list above. For the sake of clarity, without limitation, the ThingWorx Navigate – View license specifically does not authorize Customer:

1. to create information in solutions sold by PTC.
2. to use the ThingWorx platform integration capability to:
 - a. export information from one PTC solution to another system (including a file system)
 - b. acquire information from non-PTC solutions (a separate ThingWorx Navigate View or Author Application Development Kit license is required for this purpose)
 - c. create or edit information in a system
 - d. build integrations with systems that require components other than those bundled with the ThingWorx Navigate apps.
3. to use the ThingWorx platform to create new components (gadgets, widgets, shapes or templates) in addition to those bundled with the ThingWorx Navigate apps.
4. to use the ThingWorx platform to create new applications that include components (widgets, shapes and templates) other than those bundled with the ThingWorx Navigate apps.
5. to directly access ThingWorx or the PTC Solution Extension layers which are used by the ThingWorx Navigate apps to communicate with solutions sold by PTC.
6. to use the ThingWorx platform to create applications that directly or indirectly acquire information from and/or control physical Assets (for example, physical devices, equipment, and products). A separate ThingWorx Platform license is required to develop applications for physical asset connectivity.

ThingWorx Navigate – Contribute

This license supports all the capabilities included under a ThingWorx Navigate View license as well as those exposed in the Windchill Contribute License profile.

In addition to the collaboration capabilities exposed in the Windchill Contribute License Profile, this license also enables a user to use the Navigate Manage Traces apps. Each user of the Navigate Manage Traces App must have both a PLM license to create or edit content in Windchill (such as a Navigate Contribute license) and an ALM solution license (such as an Integrity Lifecycle Manager license).

ThingWorx Navigate – Author

This license supports all the capabilities included under a ThingWorx Navigate View license as well as those exposed in the Windchill Author License profile.

ThingWorx Navigate – View Application Development Kit (ADK)

This license can only be added to a user with a Thingworx Navigate View, Contribute or Author license or a Windchill or Integrity base license. This license entitles a user to use the ThingWorx Composer and ThingWorx Mashup Builder to create custom apps and to connect to and acquire information from PTC and 3rd Party systems. Each user of a custom viewing app must have view privileges to the content from PTC solutions and 3rd Party solutions that is exposed in the custom viewing app. Each user who uses a custom Navigate viewing app must have this license in addition to a base ThingWorx Navigate View, Contribute or Author license (or Windchill or Integrity base license).

ThingWorx Navigate – Author Application Development Kit (ADK).

This license can only be added to a user with a Thingworx Navigate View, Contribute or Author license or a Windchill or Integrity base license. This license entitles a user to use the ThingWorx Composer and ThingWorx Mashup Builder to create custom apps and connect to PTC and 3rd Party systems to both view as well as to create and update information in the connected systems. Each user of the custom app must have the requisite view, create and update privileges to the content of connected PTC solutions and 3rd Party solutions that is exposed in the custom authoring app. Each user who uses a custom Navigate authoring app must have this license in addition to a base ThingWorx Navigate View, Contribute or Author license (or Windchill or Integrity base license).

The ThingWorx Navigate View and ThingWorx Navigate Author Application Development Kit (ADK) may be used by Customer only to connect to PTC's Windchill and Integrity products and to other enterprise systems (e.g., Oracle ERP, SAP, CRM systems, etc.). It may not be used to access data from devices – which can include but is not limited to connected products, wearables, production machinery, and physical assets – and any edge servers or services that devices are connected to. It also may not be used to connect to manufacturing systems, processes, and/or operations belonging to the Customer's internal production facilities or the Customer's suppliers' production facilities.

PTC ALM Products (1)(2)(3)

Licensed Product Name	Licensing Basis	Licensed Product Name	Licensing Basis
Integrity Lifecycle Manager Server family of products (Integrity Lifecycle Manager Server, Integrity Lifecycle Manager Federated Server, Integrity Lifecycle Manager Agent, Integrity Lifecycle Manager Integration Platform, etc.)	Designated Server (except as noted below)	Integrity Lifecycle Manager family of products (Integrity Lifecycle Manager, Integrity Lifecycle Manager Source, Integrity Lifecycle Manager integrations (Eclipse, Visual Studio, Word, Excel, MATLAB, etc.))	Registered User or Concurrent User ⁽⁴⁾
Model Based Systems Engineering and Model Based Software Engineering	Concurrent User ⁽⁴⁾	Integrity Requirements Connector	Concurrent User ⁽⁴⁾
Implementer and Implementer Receiver	Designated Server	Integrity Modeler	Concurrent User ⁽⁴⁾
Integrity Process Director	Concurrent User ⁽⁴⁾	Integrity Asset Library	Concurrent User ⁽⁴⁾ Designated Server
Integrity Process Check	Concurrent User ⁽⁴⁾	PERC, APEXADA, ADAWORLD, OBJECTADA, TELEUSE, X32 and MKS Toolkit	As specified in the license agreement
Requirements and Validation Package	Registered User or Concurrent User (as specified in the product name), except that for the Concurrent User version, each Concurrent User license entitles Customer to four Registered User eLearning licenses ⁽⁵⁾	Global Software Development Package	Registered User or Concurrent User (as specified in the product name), except that for the Concurrent User version, each Concurrent User license entitles Customer to four Registered User eLearning licenses ⁽⁶⁾

(1) Integrity/Implementer Licenses: Notwithstanding anything to the contrary in the License Agreement, (a) use of Integrity and Implementer software is not restricted to persons located in the Designated Country and (b) for these licenses Customer may not substitute one Registered User for another, except that a Registered User who ceases to be employed by Customer or who permanently ceases to use the license may be replaced with another Registered User.

(2) For Integrity licenses, if the name of the product includes the word "Enterprise", then the Customer may use Integrity to publish and synchronize documents (Requirements and Test Documents) from Integrity to Windchill, allowing the user to publish or re-publish a document and its related content from Integrity to Windchill using the Integrity Integration Platform technology. Once published, PDMLink licensed users can establish traceability / associativity between the documents or content and a relevant set of PDMLink objects. If the product does not include the word "Enterprise", such functionality may not be used.

(3) Permitted Users of PTC ALM solutions may use the PTC Navigate View apps to access solution information in such ALM solutions without the need to separately purchase an additional PTC Navigate license.

(4) For these Concurrent User licenses, the restriction in the License Agreement that the user must be located in the country of installation is not applicable, unless the name of the product includes the words "single site" or the equivalent. The server version of the same product is a pre-requisite to use of these licenses.

(5) Requirements and Validation Package – Limitations of Use

The Requirements and Validation Package allows users to use only the following functionality:

- Integrity Lifecycle Manager:
 - Management and change of requirements and specifications
 - Management and change of test cases, steps, sessions, and results
- Baseline, review and approval processes for requirements, specifications, and tests
- Validation and verification of requirements, as understood by traditional industry practices
- Administer system configuration, delivery, and deployment
- Integrity Requirements Connector:

- o Exchange requirements between Integrity Lifecycle Manager and IBM Rational DOORs or standard file exchange format (ReqIF and RIF)

- o Administer system configuration, delivery, and deployment

Users are not allowed to use any functionality not listed above. For example, without limitation, the following functionality is not authorized to be used:

- Integrity Lifecycle Manager:
 - o Software change configuration management
 - o Software build management
 - o Issue or defect management
 - o Agile or other software process management offerings
- Integrity Requirements Connector:
 - o Exchange requirements between IBM Rational and IBM Rational DOORs or standard file exchange format (ReqIF and RIF)
- Windchill integration:
 - o Any offerings related to Windchill Integrations to Embedded Software
 - o Any integrations related to software (source code, build artifacts) or BOM configurations
 - o Any related change management processes between Windchill and Integrity Lifecycle Manager

The Customer's system administrator is responsible for configuring the above software so that only the included functionality is visible/accessible to the user. Instructions for such configuration are provided by PTC.

(6) Global Software Development Package – Limitations of Use

The Global Software Development Package includes functionality of the Integrity Requirements Connector product, users are only authorized to use the following Integrity Requirements Connector functionality:

- Integrity Requirements Connector:
 - o Exchange requirements between Integrity Lifecycle Manager and IBM Rational DOORs or standard file exchange format (ReqIF and RIF)
 - o Administer system configuration, delivery, and deployment

Users are not authorized to use the following functionality of Integrity Requirements Connector:

- Integrity Requirements Connector:
 - Exchange requirements between IBM Rational and IBM Rational DOORs or standard file exchange format (ReqIF and RIF)

Training Products and Instructor-Led Training

Training Products

Licensed Product Name	Licensing Basis
All eLearning software licenses (e.g., Pro/FICIENCY, Create, Control, Collaborate, Coach, etc.)	Registered User
Individual Public Training Subscription	Registered User
PTC University Expert Model Analysis Desktop	Designated Computer
Creo eLearning "Extension" licenses	Concurrent User

e-learning Licenses: Customer has the option to host its e-learning software for Customer's internal use on Customer servers. Notwithstanding anything to the contrary in the License Agreement, (a) use of e-learning software is not restricted to persons located in the country of installation and (b) for e-Learning licenses Customer may not substitute one Registered User for another, except that a Registered User who ceases to be employed by Customer may be replaced with another Registered User.

Instructor Led Training

PTC reserves the right to cancel classes five (5) business days or more before the class start date. In such unfortunate circumstances, PTC will endeavor to re-enroll the student in a similar class. However, certain classes in select regions are subject to a special "guaranteed to run" policy that ensures the class will not be cancelled, even if there is only one student enrolled. These classes are marked with an "*" on the schedule search results page. Any classes that are not rescheduled will result in a full refund of the fees paid for the class.

Note: Customer may substitute the learner assigned to the class registration at any time with no additional charge.

If payment information or PO is not received within 5 business days of registration, the registration may be cancelled and Customer will nonetheless be held responsible for payment.

For all instructor-led training courses to be delivered at a Customer site, Customer will provide a dedicated classroom/lab area with adequate seating and desk space during the full duration of the course and Customer will provide a dedicated whiteboard and projector for classroom use. Unless purchasing PTC's Mobile Classroom, Customer is responsible for providing all computer hardware and all hardware preparations including software installation prior to the class. Customer will reimburse PTC for the actual Travel and Lodging expenses incurred by the resource while delivering the above services unless otherwise documented. All onsite courses have a capped number of students allowed. Additional students above this cap will be charged an additional fee.

Individual Public Training Subscription

An Individual Public Training Subscription entitles one Registered User to access unlimited PTC University online content and classes for the duration of the purchased subscription term, except as set forth below:

- Maker Lab sessions are excluded.
- Registered User shall be entitled to access only classes and materials available in the applicable region or geography in which the Registered User is located.

- Due to limited class sizes, a Registered User may enroll in only one session of a particular class in any given 90 day period (i.e., a Registered User may not enroll in multiple sessions of the same class in order to hold the seat until he/she determines which session to take). To effectively un-enroll in a class, PTC must be notified in writing at least 11 business days prior to any class start. The Registered User may not enroll in that same class for 90 days if he or she fails to provide the required notice.
- Materials and classes may not be copied or shared.

Registered User log-in IDs and passwords may not be shared between users. Registered Users may be substituted free of charge (a) within the initial 6 months of any subscription, provided there has been no enrollment or consumption of materials at the time of substitution or (b) at the end of each annual subscription term. Otherwise, substitution of a Registered User will result in a transfer fee of 25% of the then-current subscription local list price. Customer must provide PTC with notice at least 15 days prior notice of any substitution request.

Education/Intern Products

The following Licensed Products may only be used for educational purposes; use for other purposes, in particular for commercial or productive purposes or by regular personnel of Customer, is not permitted and represents a violation of the terms of the License Agreement.

Education/Academic Licenses

If the Licensed Product is identified as “University Plus,” “Priced for Education,” “Professor’s Edition/Version,” “Academic Edition/Version,” “Classroom,” or “Student” or if the name otherwise indicates that it is intended for academic or education purposes, Customer must be enrolled in or employed by an academic institution and must use the Licensed Product solely for educational purpose. If Customer does not meet one of these qualifications, Customer has no right to use such Licensed Products. Without limitation, non-educational research or funded educational research conducted using the facilities of an academic institution or under an academic name does not qualify as “educational purposes” and use of educational software for such purposes and represents a violation of the terms of the License Agreement.

For any educational “site license”, such license will be limited to the following number of seats: University – 500; Schools Advanced (Europe Only) – 35; Schools Edition – 300; Windchill – 100 Registered Users. A PTC certified trained teacher with up to date credentials (as may be established by PTC from time to time) in the use of the Licensed Product must be on staff in order to use a Schools Edition Site License. Customer agrees that it shall require each student to whom the Customer provides a Schools Edition license to sign PTC’s then-current Student License Agreement form, and the Customer will provide copies of such agreements to PTC upon request

Research License

If the Licensed Product is identified as “Research”, despite anything to the contrary in the License Agreement, Customer must be a college, university, university-owned research lab or center, or teaching hospital and may only use the Licensed Products for research purposes. In no event shall the Licensed Products be used for commercial purposes, including but not limited to the sale of intellectual property rights generated by the research or the creation of training materials for resale using the Licensed Products.

Intern/Apprentice Licenses

If the Licensed Product is identified as “Intern” or “Apprentice” or if the name otherwise indicates that it is intended for use by interns or apprentices, the Customer shall limit the use of the Licensed Product solely for training of interns or apprentices of Customer (i.e., temporary personnel who are still engaged in a course of study but working at Customer in order to gain practical experience in their field of study). Such training may only be conducted by employees of Customer, and not by employees of any third parties.

Examples	Academic License	Research License	Internship License	Commercial License
K – 12 Projects, Undergraduate research projects (*)	X			
Student enrolled in K-12 program or university/college (*)	X			
Graduate student research projects – non-funded	X			
Curriculum development (for internal use only)	X			
Undergraduate research projects – paid or generating IP		X		
Publication of research results in open source platforms		X		
University owned research lab/center		X		
Graduate student projects – funded with deliverables (IP remains property of university)		X		
Curriculum development – open source sharing		X		
Academic non-profits or consortiums		X		
Teaching Hospital			X	
Commercial enterprise uses employees to train undergraduate or graduate interns			X	
Commercial enterprise uses interns to develop commercial IP				X
National Laboratories				X
Start-up commercial enterprises				X
Individual consulting				X
Curriculum development for resale				X

(*) In countries where K-12 is not applicable, references to it above mean primary and secondary education.

Support Service Plans may be purchased directly from PTC or through authorized PTC resellers. This document applies when PTC is providing the technical support. Technical support being provided by third party authorized technical support providers may be subject to different terms. 24 x 5 Telephone Support, PLATINUM Support, GOLD^{plus} Support and Premium Support Options may not be available from all Technical Support Provider partners. Subscription licenses of PTC products include Support Services, which services are governed by this document and the applicable license agreement. Please review the additional special notes below related to support for recently acquired products, the PTC product support lifecycle, Extended Support option and special

***Final Resolution to any Support case depends on the nature of the inquiry and cannot be guaranteed**

For additional Service Level Target details, please visit the Customer Support Guide, Assisted Support section

Notes from table above:

ⁱ For all licenses of the same general product category (e.g., PTC Windchill) at a particular site or that are supported by a common Customer IT organization, Customers must purchase the same level of Support Package (i.e., GOLD, GOLD^{plus} or PLATINUM).

ⁱⁱ (a) The GOLD^{plus} Support Package is an optional upgrade for Customers with an annual Support investment that is equivalent to \$150K USD or greater; (b) The PLATINUM Support Package is an optional upgrade for Customers with an annual Support Services investment that is equivalent to \$500K USD greater; (c) A TSAM purchase is required for the PLATINUM Support Package. However, a TSAM will be included for PLATINUM Customers with an annual Support investment that is equivalent to \$1 million USD annually or greater, for the products that are covered by PLATINUM; (d) The Performance Advisor access is for those PTC products for which the tool is available. Select Advanced features are included for software under a subscription agreement or at a premium service level as available.

The GOLD^{plus} and PLATINUM Support services are not available for all products, including, but not limited to, PTC Arbortext Advanced Print Publisher (formerly 3B2), PTC Arbortext S1000D (formerly LBS), PTC Windchill Service Information Module for S1000D, PTC CADDs, PTC Optegra, PTC Windchill Quality Solutions (formerly Relex and NetRegulus), PTC Windchill Product Analytics (formerly InSight), PTC Pro/INTRALINK 3.x, PTC Implementer and PTC MKS Toolkit (former MKS products), PTC 4CS, PTC Creo China 2D GB Standards Extension and ThingWorx Analytics. ThingWorx and Axeda Products are not available at PLATINUM but are available at GOLD^{plus} except as noted in the IoT-specific area below.

The following products are serviced in the GOLD^{plus} or PLATINUM Support packages with 24 x 5 Technical Support Engineer availability and 2 hour response time: PTC Creo Direct, PTC Creo Elements/Direct, PTC Mathcad, PTC Windchill PartsLink and PTC Windchill MPMLink.

ⁱⁱⁱ PTC Technical Phone Support is offered in English only during non-business hours. For purposes hereof, “business hours” are Monday through Friday, 8 AM – 5 PM local time. See pages 4 – 7 for specific hours for PTC Arbortext S1000D (formerly LBS), PTC Windchill Service Information Module for S1000D, PTC Windchill Quality Solutions (including former Relex and NetRegulus products), PTC Windchill Product Analytics (formerly InSight), PTC Implementer and PTC MKS Toolkit (former MKS products), PTC 4CS, and PTC Creo China 2D GB Standards Extension.

For GOLD^{plus} and PLATINUM Customers, weekend support is limited to cases of severity level 0 (Enterprise Down) and severity level 1 (Business critically impacted). Internet of Things (IoT): ThingWorx and Axeda, PTC Servigistics InService weekend support is limited to severity level 0 (Enterprise Down) only.

^{iv} Final resolution to any support call depends on the nature of the inquiry and cannot be guaranteed. See sections below for product-specific response targets.

^v Customers with active eLearning Support are entitled to the newest versions of training material.

^{vi} Planned Weekend Support typically applies to update, upgrade and migration events and must be planned at least two weeks in advance to ensure proper weekend coverage. GOLD^{plus} includes two planned weekends.

^{vii} Available for eligible products only as shown in the PTC Product Release Calendar.

^{viii} A minimum of 2 days notice is required. 12 days of onsite support are included for Japan and China.

General Provisions

PTC is obligated to provide Support Services only during periods for which Customer has paid the applicable Support Services fee and only in accordance with the level of Support Services Customer has purchased.

If Customer elects Support Services for a product that is licensed on the basis of registered users, all of Customer’s licenses of such product must be on Support Services. In addition, if Customer would like to renew Support Services for any products on a PTC Support Sales Order Number (SSON), all products on such SSON must be renewed.

If customer at any time discontinues Support Services and subsequently wishes to obtain Support Services, Customer must pay (i) the then current fees for Support Services and (ii) the fees for Support Services for any period for which Customer has not purchased Support Services; provided; however, that Customer will be required to purchase new licenses if the Support Services lapse period exceeds twelve months.

Subject to different terms for particular products set forth below in this document, following shipment of a New Release of a product, only that new release and the immediately previous release shall remain “current” for support purposes.

Exclusions:

(1) PTC is not obligated to perform investigation and/or repair of Errors (i) found by PTC to be in other than a current (as described above), unaltered release of the products; (ii) caused by changes to the Customer’s operating systems, environment, databases or other system components which adversely affect the products; (iii) caused by Customer’s modification of the product or use thereof in combination or interconnection with software not provided by PTC; (iv) use of the product on a computer, operating system, software or peripherals other than a computer, operating system, software or peripherals for which such product was designed for and licensed for use on; (v) caused by improper or unauthorized use of

the products; (vi) due to external causes such as, but not limited to, power failures or electric power surges; or (vii) due to a failure by the Customer to implement recommendations in respect of solutions to Errors previously provided by PTC to Customer.

(2) PTC is not obligated to perform any Support Services with respect to modifications or customizations of the products, nor with respect to any developments resulting from Customer's use, development or customization of functionality contained within the products, all of which are Customer's sole responsibility.

Product-specific Support Services

PTC Windchill Product Analytics (formerly InSight)

PTC Windchill Product Analytics (including PTC Windchill Materials & Substances, PTC Windchill Compliance, PTC Windchill Cost and PTC Windchill LCA) technical phone support is available in English only between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time zone of the contiguous United States, Monday through Friday, except holidays. Response will be provided within 1 working day of when the issue is logged. No more than two designated individuals may contact PTC/Synapsis for telephone support and such two individuals shall be identified within 14 days of purchase of Support services.

PTC Arbortext S1000D (formerly LBS)

PTC Arbortext S1000D technical phone support is available in English only between the hours of 9:00 a.m. and 5:00 p.m. in the United Kingdom time zone, Monday through Friday, except holidays. A response will be provided within 1 working day of when the issue is logged, during the hours noted above.

PTC Windchill Service Information Module for S1000D

PTC Windchill Service Information Module for S1000D technical phone support is available in English only between the hours of 9:00 a.m. and 5:00 p.m. in the United Kingdom time zone, Monday through Friday, except holidays. A response will be provided within 1 working day of when the issue is logged, during the hours noted above.

PTC Windchill Quality Solutions (formerly NetRegulus)

Technical phone support is available in English only between the hours of 9:00 a.m. and 5:00 p.m. in the Mountain Time zone of the United States, Monday through Friday, except holidays. A response will be provided within 1 working day of when the issue is logged, during the hours noted above.

PTC Windchill Quality Solutions (formerly Relex)

Technical phone support is available in English only between the hours of 8:00 a.m. and 5:00 p.m. in the United States Eastern Time zone, Monday through Friday, except holidays. A response will be provided within 1 working day of when the issue is logged, during the hours noted above.

PTC Servigistics

As of June 17, 2013, PTC transitioned the Servigistics Technical Support systems to the standard PTC systems. Cases are supported for releases of the currently available version and the most recent previous release. Technical Support is available in English only with the exception of Customers in Japan.

Per the Support Packages chart on Page 1, pre-acquisition Servigistics Customers have been mapped to one of the three PTC Support packages that most closely represents the former Servigistics support levels.

As of October 1, 2013, PTC Servigistics products are eligible for GOLD*plus* and PLATINUM Support with the following service exceptions:

1. Cases will be routed to the best available technical support engineer for your case, however there is no separate GOLD*plus* or PLATINUM Support Desk.
2. Technical Support is available on weekends. However, Planned Weekend support is not available. Typically, a professional services engagement is the appropriate solution with Technical Support providing assistance as required.
3. Onsite Support is not available.
4. Extended Support is not available.

The following pertains to modifications, customizations and integrations of PTC Servigistics products:

1. Support Services include Technical Support and Software releases and fixes for standard, out-of-the-box PTC products.
2. Support Services do not cover modifications or customizations of the products, integrations that feed, extract, and transform data to/from the PTC product or development or customization of functionality contained within the products, all of which are the Customer's sole responsibility.
3. Upon receipt of a case, PTC Technical Support will diagnose the case to determine whether the issue is being caused by a standard product or a modification, customization and/or integration.
4. If the issue is not being caused by an error or problem within a standard PTC product, the Customer would be responsible for any further troubleshooting or resolution of that issue.

There are additional offerings PTC has available to help cover the troubleshooting of customizations, data feeds, extracts, or transformations such as an SLA based services agreement to troubleshoot and resolve issues, adds, and changes to

customizations and integrations. If you are interested in more information about these offerings, please contact your PTC Client Manager.

Former MKS Products: PTC Integrity and PTC Implementer

R&D and Technical Support will provide development and resolutions for the most current version and release or the immediately preceding version and its latest release (including any service packs) only. Customer is responsible for having the appropriate version installed on all applicable computer systems.

Former MKS Product: Integrity

Per the Support Packages chart on Page 1, Technical Support is available at the GOLD level for former MKS "Essential" support level Customers. Customers who were formerly MKS "Essential Plus" and "Elite" Customers receive the PTC GOLD^{plus} support level.

Former MKS Product: Implementer

Technical Support is available for normal business hours, Eastern Time Zone, in English 8am to 6pm.

Former MKS Product: PTC MKS Toolkit

For support resources, please visit the [eSupport Portal](#) and navigate to the "PTC Developer Tools" product tab. To request a software update, please visit <http://mksoftware.com/support/updates.asp>.

Former 4CS Products

Technical Phone Support is available in English only between the hours of 9:00 a.m. and 6:00 p.m. in the Eastern Time Zone, Monday through Friday, except U.S. holidays. A response will be provided within 2 hours of when the issue is logged, during the hours noted above.

PTC Creo China 2D GB Standards Extension

Technical Phone Support is available from PTC's Global Services Organization in Chinese only between the hours of 8:00 a.m. and 5:00 p.m. in the China Time Zone, Monday through Friday, except holidays. A response will be provided within 1 business day of when the issue is logged, during the hours noted above. Support does not include: PTC authored Knowledgebase articles, Proactive Support Alerts or Planned Weekend Support. Onsite Support is available for an additional fee in the form of a Professional Services engagement.

Atego MBSE-related Products (now PTC Integrity)

Technical Phone Support is available by phone as shown below. Response time is within 4 hours of case submission during normal business hours. Online support is available through the Atego Support Portal.

Technical Support Call Center Hours: North America: 9:00 AM – 5:00 PM PST CET: 9:00 AM – 6 PM

Internet of Things (IoT): ThingWorx, ThingWorx Analytics and Axeda

Extended Support and Planned Weekend Support are not available for IoT products. The GOLD^{plus} offering for IoT products includes 24x7 critical weekend support for Severity 0 – Enterprise Down cases only. The GOLD^{plus} offering is not available for ThingWorx Analytics and support for ThingWorx Analytics is available in English only.

The following Support Services are available for trained ThingWorx & Axeda developers only; Customers who purchased from a "Powered by ThingWorx" partner receive support directly from that partner. For more detailed descriptions, visit the [Customer Support Guide](#), Assisted Support Section.

- **Platform Support:** IoT Platform Support provides assistance with installation and configuration of the IoT Platform.
- **Developer Support:** IoT Developer Support will assist you in the "how-to" usage of the developer environment. End-to-end application support is not included.
- **Connectivity Support:** Connectivity support provides "how-to" answers for connecting things to the IoT Platform.

21.15 ThingWorx and Axeda

- **Maintenance Releases:** Software updates, fixes and maintenance releases, when made available, are for the releases described in the [PTC Product Calendar](#).
- **Customization Support:** Support Services do not cover modifications or customizations of the Licensed Products, integrations that feed, extract, and transform data to/from the PTC Licensed Product or development or customization of functionality contained within the Licensed Products, all of which are the Customer's sole responsibility

21.16 ThingWorx Analytics

- **Maintenance Releases:** Software updates, fixes and maintenance release, when made available, are for the current release and one release back.
- **Customization Support:** Support Services do not cover modifications or customizations of the Licensed Products, integrations that feed, extract, and transform data to/from the PTC Licensed Product or development or customization of functionality contained within the Licensed Products, all of which are the Customer's sole responsibility

The following Support is available to pilot users of Vuforia Studio Enterprise. Support is provided through the on-line forum of the Vuforia Developer Portal.

- English language Support only
- One business day initial response time

Home Use Policies

For the products listed below in this "Home Use Policies" section, home use licenses may be used by Customers who have subscription licenses and/or perpetual licenses on active support in the quantities indicated below. The home use licenses expire at the end of the current subscription/support period. If the Customer renews their subscription license or support agreement, Customer may obtain new home use license(s). Home use licenses are restricted to the same user(s) accessing the purchased license(s), and are to be installed on personal computers not located or used in the workplace. Home use licenses are not allowed to be used in the workplace. Permitted users are allowed to perform commercial/production work with home use licenses on their personal computers not while located in the workplace.

Creo Engineer and Essentials subscription

- Node Locked – One
- Floating/Global – Two

Mathcad Professional subscription (*)

- Individual – Two
- Floating/Global – Three

Mathcad Professional perpetual (*)

- Individual – One
- Floating/Global – Two

Mathcad Education

- Student Edition – Zero
- Professor Edition – One
- University Edition – One professor home use per every ten (10) licenses purchased

(*) For Mathcad licenses that are packaged within a Pro/ENGINEER, Creo Elements/Pro and Creo packages, there are no home use licenses provided for such Mathcad licenses.

PTC Software Support Lifecycle Program

The Support periods described below are designed to help Customers plan updates and migrations to new releases understanding the available Support Services in each period.

PTC Standard Support: PTC products are in the Standard Support period starting from the first Customer ship date (FCS). Standard Support refers to the period during which active GOLD, GOLD^{plus} or PLATINUM Customers can submit Technical Support cases, have access to SPR fixes via maintenance releases, have access to critical patch sets and have access to new versions of PTC software for the products they own. Each product in the [PTC Product Release Calendar](#) specifies when the Standard Support period ends. For specific PTC Windchill products, Standard Support is available for 4 years from FCS.

PTC Sustained Support: At the expiration of the Standard Support period, Sustained Support is in effect for as long as the products are included in a Support agreement. Sustained Support includes online, self-help technical support, access to pre-existing patches, maintenance releases and SPR fixes. PTC will provide the ability to request and receive assisted technical support, both electronically and by telephone, for two years after the expiration of the Standard Support period. The Sustained Support period does not provide Customers access to new maintenance releases, temporary patches or SPR fixes if created for Customers who purchase the optional Extended Support service described below.

Extended Support: For qualified PTC Windchill products and releases (including PTC FlexPLM), Customers may extend their Support coverage for a product release by purchasing Extended Support for 1 additional year. Extended Support refers to the period during which PTC provides many of the same services as Standard Support for an additional fee. Extended Support is only available for certain PTC products and software releases and includes SPR fixes via special releases. For qualified contracts, Extended Support may be renewed for one additional year.

Extended Support may not include updated support for newer versions of 3rd party products or platforms. For information about 3rd party products and versions supported during the extended support period, Customers should view the platform support matrix for the last regularly scheduled maintenance release that was delivered during the Standard Support period. During the Extended Support period, PTC's ability to support these older versions of 3rd party products may be limited due to the support periods offered by these third party applications.

- Purchasing Extended Support for one PTC product does not entitle Customers to the same level of support for a separate related/compatible PTC product. For example, purchasing Extended Support for Windchill does not extend support for a PTC Creo release that is beyond the Standard Support period.

Table of Contents

Section/Subsection	Applies to:
Scope of this Document	
SECTION I. Third Party Component Terms	
Open Source Components	All PTC Products
Oracle Components	Windchill, Prolntralink, Integrity, CADDs and Optegra Products, and Creo Elements Direct
IBM Cognos Components	Windchill and Service Intelligence Products
Microsoft Components	Windchill PDM Essentials and Arbortext IsoView
Adobe Components	Windchill, Creo View and Mathcad Products
Neo Components	ThingWorx "Server" Products
Telerik Components	Social Product Development Products
Monotype Components	Creo Parametric
DataStax Components	ThingWorx
SECTION II. Bundled Third Party Product Terms	
Oracle Sun Java Products	Windchill Products
Oracle JDBC Drivers	Integrity Products
Intellicus	Intellicus (typically purchased with PTC Servigistics Products)
Google	Google (typically purchased with PTC Servigistics Products)
Navteq	Navteq (typically purchased with PTC Servigistics Products)
Informatica	Informatica (typically purchased with PTC Servigistics Products)
McGraw Hill Components	Mathcad
Other Bundled Third Party Products	Integrity, Creo and Arbortext Products
Attachments	
Attachment	Applies to
ATTACHMENT 1: Bundled Third Party Product Licenses	Various PTC Products identified in this SCHEDULE B
ATTACHMENT 2: License Notifications for Axeda Release(s)	PTC Axeda Products

21.17 Scope of this Document

This document addresses terms and conditions relating to Third Party Component Terms and Bundled Third Party Products. Third Party Components are software components that PTC includes in the Licensed Products, and Bundled Third Party Products are software components or items that PTC makes available, in most cases without charge and as a convenience to Customer². In most cases, Customer would be able to obtain, or may have already obtained, licenses to Bundled Third Party Products directly from the vendor or licensor thereof.

Third Party Components

Third Party Components are governed by the PTC License Agreement and are covered by the warranties, support services and indemnification provisions thereof. Third Party Components are identified in SECTION I below.

Bundled Third Party Products

Bundled Third Party Products are licensed directly from the vendor thereof and are not covered by the PTC warranties, Support Services or indemnification provisions. Bundled Third Party Products are identified in SECTION II below.

A Customer, including the U.S. Government, may acquire Bundled Third Party Products directly from the manufacturer and/or publisher of such products under separately negotiated and federally-compatible agreements. The terms and conditions of such agreements for separately acquired Bundled Third Party Products will supersede the terms and conditions described in this SCHEDULE B for such products. If the Customer at its option chooses to use any Bundled Third Party Products, such use shall be governed by the applicable license terms stated in this Schedule B to the extent such terms are consistent with Federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. § 7101 *et seq.*) and DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ)).

21.18 Third Party Component Terms

Third Party Components may not be used apart from the Licensed Products of which they are components.

1. Open Source Components (applies to all PTC products)

Except for Axeda products as provided below, if any open source software is included in the Licensed Products, such open source software is identified in the notices which accompany the Licensed Products. For PTC Axeda products, see ATTACHMENT 2 to this SCHEDULE B for the release specific list of open source and other third party software included in the Licensed Products. The warranty

² Exceptions to this include Informatica, Google, Intellicus and Navteq, for which PTC serves as a reseller.

and support services provided under the License Agreement apply to such open source software and are provided by PTC alone and not by the original licensor. The original licensor of the open source software provides it on an “as is” basis and without any liability whatsoever to Customer. Nothing in the PTC License Agreement restricts Customer’s right to copy, modify, and distribute such open source software nor grants Customer rights that supersede the terms of any open source license. If Customer uses open source software independent of the Licensed Products or accesses and/or modifies source code to the open source software, such use is subject to the terms of the applicable open source license or such other license agreement as Customer may separately enter with the licensor of the open source software. Where open source software is included as a Third Party Component in a PTC Licensed Product, PTC’s Support Services obligations, if any, shall only apply to the unmodified Licensed Products. Contact opensource@ptc.com in order to obtain a copy of any of the various license agreements that govern open source components in PTC products and/or for the open source list for any PTC Licensed Product.

2. Oracle Components (applies only to Windchill, ProIntralink, Integrity, CADDs and Optegra products)

PTC embeds Oracle databases and other technologies in various products. The following terms apply to software and documentation provided by Oracle Corporation (“Oracle”) to the extent any Oracle software or documentation is included in or with the Licensed Products (the “Oracle Software”): Customer understands and agrees that the Oracle Software may only be used in conjunction with the Licensed Products and that Customer will not modify the Oracle Software or publish the results of any benchmark tests run on the Oracle Software. Oracle is a third party beneficiary of the License Agreement. Use of Oracle Software is limited to the legal entity that purchased the same and its wholly-owned subsidiaries, provided that (i) such wholly-owned subsidiaries agree in writing to be bound by the terms and conditions of the applicable ordering document and the License Agreement or (ii) the Customer warrants that it has bound such wholly-owned subsidiary to the terms and conditions of the applicable ordering document and the License Agreement and hereby agrees to be responsible for any breach of such terms and conditions by such wholly-owned subsidiary. Oracle or its licensor retains all ownership and intellectual property rights to the Oracle Software. Oracle disclaims, to the extent permitted by applicable law, Oracle’s liability for (a) any damages, whether direct, indirect, incidental, special, punitive or consequential, and (b) any loss of profits, revenue, data or data use, arising from the use of the Oracle Software. Technical support, if ordered from Oracle, is provided under Oracle’s technical support policies in effect at the time the services are provided. Oracle’s technical support policies can be accessed at <http://oracle.com/contracts>. Any third party firms retained by the Customer to provide computer consulting services are independent of Oracle and are not Oracle’s agents, and Oracle is not liable for nor bound by any acts of any such third party firm. Customer acknowledges that it has not relied on the future availability of any hardware, programs or updates in entering into PTC’s License Agreement. Oracle Software may specify in its documentation that certain third party software is appropriate or necessary for use with such Oracle Software and may be governed by a third party license agreement specified in such documentation. Customer agrees that PTC may perform audits of Customer’s use of the Oracle Software and Customer agrees to provide reasonable assistance and access to information in the course of such audit. Furthermore, Customer shall permit PTC to report such audit results to Oracle, or Customer shall permit PTC to assign its right to audit the Customer’s use of the Oracle Software to Oracle. Oracle shall not be responsible for any of PTC’s or the Customer’s costs incurred in cooperating with the audit, where PTC assigns such right to audit to Oracle. Customer acknowledges and understands that some Oracle Software may include source code that Oracle may provide as part of its standard shipment of such Oracle Software, which source code shall be governed by the terms of the License Agreement.

3. IBM Cognos Components (applies only to Windchill and Service Intelligence products)

The following use restrictions apply to the Business Reporting functionality in Windchill and in the Service Intelligence Product, depending on the License type:

- (v) Each license of Windchill (i.e., PDMLink and add-on modules such as MPMLink and RequirementsLink) and each license of PTC’s Servigistics “Warranty”, “Service Center” and “i” products (i.e., iService, iOwn, iParts and iSupport) includes a license to use the base Business Reporting functionality to: (a) select reports, view reports and set personal preferences (for languages, time zones etc.); and (b) run and schedule reports created by a person using Windchill Business Reporting Author, Service Intelligence Professional Author or Service Intelligence Advanced Business Author, if appropriately licensed, or created by any of the means of report generation which are consistent with these use restrictions, interact with prompts, output the reports to other formats such as PDF and CSV, subscribe to a scheduled report, create and manage report folders and portal pages, personalize standard reports, and receive notifications, and (c) use the Business Insight to create interactive dashboards. One license may also be used for Administration of the Business Reporting Software, with the additional permission to setup, deploy, configure and manage the Business Reporting software and components within the Customer’s environment, use the Framework Manager to define and publish metadata, and in the case of Service Intelligence Administrators, to use Portal, Query Studio, Report Studio, Analysis Studio, Business Insight and Business Insight Advanced to author, publish, generate and view sophisticated and interactive reports, analysis, queries and dashboards.
- (vi) A “Windchill Business Reporting Author” or “Service Intelligence Professional Author” license allows for the same functionality as clause (i) above, except that, in addition, the Customer may permit the specified number of Registered Users to use the Business Insight Advanced, Query Studio and Report Studio module and functionality and to model metadata via the Framework Manager.
- (vii) A “Service Intelligence Advanced Business Author” license allows for the same functionality as clause (i) above, except that, in addition, the Customer may permit the specified number of Registered Users to use the Business Insight Advanced, Query Studio and Analysis Studio module and functionality and to model metadata via the Framework Manager.
- (viii) A “Windchill Business Reporting Monitor” license means the Customer may permit the specified number of Registered Users to use the Event Studio module.

The Customer is required to configure the Business Reporting functionality to ensure that each user will be restricted from using any reporting functionality other than that licensed, as specified above. The Business Reporting functionality is only permitted to be used only with PTC products and not independent thereof.

4. Microsoft Components (applies to PDM Essentials and Arbortext IsoView products)

Arbortext IsoView - To the extent any Microsoft Components are included in or with Arbortext IsoView, Customer agrees to: (i) distribute the Extended Use Redistributable Code in object code only in conjunction with and as a part of a software application

product developed by Customer that adds significant and primary functionality to the Extended Use Redistributable Code; (ii) not use Microsoft's name, logo, or trademarks to market the End-User Application; (iii) include a valid copyright notice on the End-User Application; and (iv) not permit further distribution of the Extended Use Redistributable Code by the user of the End-User Application.

PDM Essentials – PDM Essentials includes SQL Server components from Microsoft. Such components are governed by the license terms of the “Microsoft® SQL Server® 2008 R2 Standard” runtime license included in ATTACHMENT 1 to this Schedule B. Customer may not use PDM Essentials in any application or situation where the product's failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage. Customer agrees that Microsoft is not providing any (and has disclaimed any and all) warranties and that Microsoft shall have no liability (whether direct, indirect, incidental or consequential) to Customer in connection with Customer's use or installation of PDM Essentials, to the extent permitted by applicable law. Customer consents to PTC's providing information about Customer (including without limitation identity, address and number of licenses ordered) to Microsoft for purposes of verifying the royalties PTC pays to Microsoft.

5. **Adobe Components** (*applies to Windchill, Creo View and Mathcad products*)

The Adobe PDF Creation Add-On embedded in certain PTC products may include various applications, utilities and components, may support multiple platforms and languages and may be provided to Customer on multiple media or in multiple copies. Nonetheless, such software is designed and provided to Customer to be used as a single product. Customer is not required to use all component parts of such software, but Customer may not unbundle the component parts of such software for use on different computers. Customer may not unbundle or repackage such software for distribution, transfer or resale.

Customer shall not use the Adobe software for the purposes of document encryption, usage controls, or optical character recognition and any other functionality not permitted in the License Agreement.

The creation of a PDF file using the AEM Forms software as permitted (“PDF Generation”) will be used for the sole purposes of publishing documents to PDF under Windchill control for the sole purpose of and use within the view/print/watermark and collaboration functions within Creo View. Within this limited PDF Generation use case described above, the Adobe InDesign Server CC component shall only be accessed or executed through the Adobe Experience Manager Forms component and shall only be used for the generation of PDF format documents from pre-existing Adobe Illustrator format files or Adobe Photoshop format files. The Adobe InDesign Server CC component shall never be executed or accessed on a standalone basis or directly by the Customer or Authoring-capable Users. Authoring-capable Users is defined as a user who is authorized (based on the license type purchased) to create PDF documents using the PDF Generation functionality, which may be triggered either manually through a direct instruction to Windchill, or automatically through submission of a document to Windchill by such Customer, which is then automatically converted.

Customer agrees that use of the Adobe software shall be restricted to licensed Authoring-capable Users only.

The use of Mathcad PDSi viewable support is limited to use only with native files produced by Mathcad, and the Mathcad PDSi viewable support shall not be used as a conversion solution to convert other non-native file formats into PDF format.

The Adobe Acrobat software that is included as part of the Creo View PDF Collaboration Option in versions prior to version 10.0 may not be used other than as an embedded component within Creo View.

The Adobe Acrobat, LiveCycle PDF Generator and Reader Extensions software that is included as part of the Creo View PDF Adapter in Windchill 10.0 may not be used other than as embedded components within the Windchill/Creo View PDF publishing products.

6. **Neo Components** (*applies to ThingWorx “Server” products*)

PTC's ThingWorx “Base Fee” and “Additional Server” products typically include a Neo Enterprise Server graph database component (the “Neo Components”) embedded therein. Customer acknowledges that the vendor, Network Engine for Objects in Lund AB (“Neo Technology”), makes no warranties to any person or entity with respect to the Neo Components or any derivative works thereof, or any services, and disclaims all implied warranties, including without limitation warranties of merchantability, fitness for a particular purpose, title and non-infringement of third party rights. In no event, including under any breach of agreement, warranty or representation, or otherwise, shall Neo Technology have any liability to Customer, and Neo Technology will not be liable for any indirect, punitive, special, incidental or consequential damage in connection with or arising out of or relating to the Neo Components (including loss of business, revenue, profits, use, data or other economic advantage), however it arises, whether for breach or in tort (including negligence), even if that party has been previously advised of the possibility of such damage. Liability for damages shall be limited and excluded, even if any exclusive remedy provided for falls of its essential purpose.

7. **Telerik Components** (*applies to Social Product Development products*)

Customer may not use the Telerik Components in PTC's Social Product Development products in design-time without acquiring a Developer license therefor from Telerik.

8. **Monotype** (*applies to Creo Parametric*)

Customer may not convert the Monotype font software programs contained in PTC products (“Monotype Software”) into a different format. Customer may not alter or modify the Monotype Software in any manner which results in the Monotype Software having different or enhanced functionality than when it was delivered to Customer as part of the PTC product.

9. **DataStax** (*applies to ThingWorx*)

Customer shall not and shall not permit others under its control to: (1) use the software, data, and other materials made available to Customer by DataStax ("DataStax Software") for uses such as the operation of nuclear facilities, air traffic control, or life support systems, where the use or failure of the DataStax Software could lead to death, personal injury, or environmental damage; (2) use the DataStax Software to create, deliver training on, improve (directly or indirectly) or offer a substantially similar product or service; or (3) use the included ODBC driver to connect to other distributions of the components of the DataStax Software.

If Customer provides any suggestions or feedback regarding the DataStax Software, DataStax Support, and/or other DataStax Services, then DataStax may use that information without obligation to Customer, and Customer hereby irrevocably assigns to DataStax all right, title, and interest in that feedback or those suggestions.

Customer agrees that its purchase of DataStax licenses and support is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by DataStax, including any roadmaps or target release dates, with respect to future functionality or features.

Customer agrees not to distribute, sublicense, or otherwise make available the DataStax Software on a standalone basis.

SECTION II.

Bundled Third Party Product Terms

The third party products identified below are provided with the Licensed Products identified as a convenience to the Customer and are included for use at the Customer's option ("**Bundled Third Party Products**"). The Customer may have already obtained a license to such Bundled Third Party Products directly from the vendor or licensor thereof under separate agreement. If the Customer chooses to use the Bundled Third Party Products, such use shall be governed by the applicable third party license agreement. Customer agrees and acknowledges that, to the extent that any such Bundled Third Party Products are provided with the Licensed Products: (i) such Bundled Third Party Products are provided on an "as-is," pass-through basis, and as such are provided to Customer without warranty, indemnification, support or other representation by PTC; (ii) PTC bears no liability with respect to such Bundled Third Party Products and Support Services for such software will be provided at PTC's discretion; and (iii) PTC has no obligation to provide new versions of such Bundled Third Party Products to Customer. Customer may acquire new versions of such Bundled Third Party Products as they become available and supported by their respective manufacturer.

Currently the following Bundled Third Party Products are provided by PTC with certain of the Licensed Products as integrated components or as optional applications by separate purchase. New Releases of PTC Licensed Products may be accompanied by additional Bundled Third Party Products.

- Oracle Sun Java Products (*applies only to Windchill products*)

The following terms apply to Sun software and documentation provided by Oracle ("Oracle") to the extent any Sun software or documentation ("Sun Software") is included in the Licensed Products, including without limitations Java™ Runtime Environment, Java Naming and Directory Interface™, JavaMail™, JavaBeans™ Activation Framework, Java™ Secure Socket Extension, and Java™ Software Developers Kit:

Customer may not modify the Java Platform Interface ("JPI", identified as classes contained within the "java" package or any subpackages of the "java" package), by creating additional classes within the JPI or otherwise causing the addition to or modification of the classes in the JPI.

In the event that Customer creates an additional class and associated API(s) which (i) extends the functionality of a Java platform and (ii) is exposed to third party software developers for the purpose of developing additional software which involves such additional API, Customer must promptly publish broadly an accurate specification for such API for free use by all developers.

Sun Software is confidential copyrighted information of Oracle and title to all copies is retained by Oracle and/or its licensors. Sun Software is not designed, licensed or intended for use in the design, construction, operation or maintenance of any nuclear facility and Oracle expressly disclaims any implied warranty of fitness for such uses.

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- Oracle JDBC Drivers (*applies to Integrity products*)

Reference is made to the "Oracle Technology Network License Agreement" of Oracle Corporation (the "Oracle License") that is included in ATTACHMENT 1 to this SCHEDULE B. PTC has accepted the terms of such license and has certain related obligations. The Integrity Licensed Products include the Oracle JDBC drivers and use of the same requires that Customer be bound by the Oracle License and specifically to, and Oracle's rights under, the provisions set forth under the headings "Programs Redistribution", "License Rights and Restrictions," "Ownership," "Export Controls," "Disclaimer of Warranties; Limitation of Liability," "No Technical Support," "Relationship Between the Parties," and "Source Code for Open Source Software." Customer may not distribute the Oracle JDBC drivers without a license from Oracle. Oracle is an intended third party beneficiary of the provisions of this paragraph.

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- Intellicus *(applies only if Customer has purchased a license to Intellicus software or hosting for the same from PTC)*
 1. **Restricted License:** The Intellicus Professional Reporting Tool (“Intellicus”) embedded in the Servigistics Licensed Products shall be used exclusively with and is limited to use with the Servigistics Licensed Products accompanying it.
 2. **Restrictions on Use.** The default version of Intellicus embedded in the Servigistics Licensed Products is restricted to usage of not more than 5 concurrent threads, but may be used on servers with an unlimited number of CPUs. PTC may provide optional software upgrades for use of either 10 concurrent threads or unlimited concurrent threads, as specified in the Quote.
For purpose of clarification, “threads” refers to the number of reports in parallel execution. Five threads mean that five reports can run in parallel. If a sixth comes into the mix at any point of time, it is put in a queue until one of the five threads is released. The user sending the sixth request may experience a slow response but will not receive a denial of service. This applies only to reports being actively run by users, and not to scheduled reports as they would be run from a different thread pool. This license type is more appropriate than a “concurrent user” license, as there may be users that are only viewing reports but not running them actively, in which case their threads do not count. This number of available threads is determined by the license grant and is configured at the time of the product installation.
 3. **Ownership.** Customer acknowledges and agrees that: (a) Intellicus software provided with the Servigistics Licensed Products is the property of Intellicus, and not Customer; and (b) Customer will use the Intellicus software, including its documentation, only under the terms and conditions described in the License Agreement and the Quote.
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 7. **Assignment.** Notwithstanding the foregoing, PTC shall have the right to permit the transfer of Intellicus by Customer in connection with the assignment of the License Agreement to a successor in interest to all or substantially all of Customer’s assets or stock.

- Google *(applies only if Customer has purchased a license to Google software or hosting for the same from PTC)*
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Applicable Terms and Conditions from the Google Agreement/License

1. Google Maps for Enterprise Software License and Use Agreement. This Google agreement (“Google-Agreement”) sets forth the terms and conditions under which Customer may use the Google Map product(s) with the Servigistics Licensed Products and/or Hosted Solution Services.
2. Definitions. The following capitalized terms shall have the meanings set forth below:
 - 2.1. **“Google-Agreement”** means this Google-specific section of the agreement.
 - 2.2. **“Effective Date”** means the date Customer orders Servigistics Licensed Products and/or PTC Hosted Solution Services.
 - 2.3. **“End Users”** in this Google-specific section means the individual, human end users who use the Google Map Services.
 - 2.4. **“Geocode(ing)”** means the online assigning of a longitude/latitude coordinate to an address in relation to the licensed Products by means of interpolation or information in the form of either the street address or intersection of streets at which a point of interest or address is located, and additionally may include a raster image depicting such location on a map.
 - 2.5. **“Images”** means the images contained in and produced by the Google Map product.
 - 2.6. **“License Key”** means the alphanumeric key assigned to Customer’s PTC solution by Google that is uniquely associated with the Google account and the URL of Customer’s solution, and which is required for use of the Software.
 - 2.7. **“Map Draw”** means a raster image depicting the Earth, streets or related information on a map, Geocode, or Route for a predetermined or End User-specified geographical area.
 - 2.8. **“Product”** in this Google-specific section means the Google Maps software and documentation.
 - 2.9. **“Route”** means one or more textual, audible, and/or visual routing directions between a single origin and one or more destinations, the travel time and/or distance for all or any portion of that route.
 - 2.10. **“Software”** in this Google-specific section means the Google proprietary application program interface (“API”), in JavaScript form or as otherwise specified by the documentation, identified in a Quote or

Order Form for the Google Maps for Enterprise product, which permits Customer to display Images according to the terms and conditions herein, but not to access underlying map data, any services provided by Google in connection with its map service (not limited to local search), or any other Google service.

- 2.11. **"Google Map Service"** means the Google Maps Service, the Images, and the Product provided through the PTC Servigistics Workforce Management software application.
- 2.12. **"Territory"** means the current list of territories located at http://gmaps-samples.googlecode.com/svn/trunk/mapcoverage_filtered.html.
- 2.13. **"Transaction"** means a single distinct use of the Google Maps solution to perform a single Map Draw, Geocode, or a Route.
- 2.14. **"Transaction Year"** means each consecutive twelve month period commencing from the Effective Date, or any subsequent renewals.

3. License. Subject to the terms and conditions of this Google-Agreement, Google is providing to Customer through PTC a non-sublicensable, non-transferable, non-exclusive, terminable, limited license to use the Product solely with the Google Map Services through the PTC Hosted Solution Services. Customer may not distribute or sell any Images or data provided with or generated by the Google Map Services.

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5. Ownership; Restricted Use.

5.1. Intellectual Property Rights; Title. For purposes of this Google-Agreement, **"Intellectual Property Rights"** means any and all rights existing from time to time under patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide. Customer acknowledges that all right, title and interest, including without limitation all Intellectual Property Rights in and to the Google Map Service, remain in Google and/or its third party licensors and suppliers, and that Customer shall not acquire any right, title, or interest in or to the Google Map Service, except as expressly set forth in this Google-Agreement.

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http://www.maps.google.com/help/legalnotices_maps.html

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Restrictions. Except where Customer has been specifically licensed to do so by PTC to use their PTC Hosted Solution, and without limiting the preceding paragraph, Customer may not (a) use this Data with any products, systems, or applications installed or otherwise connected to or in communication with vehicles, capable of vehicle navigation, positioning, dispatch, real time route guidance, fleet management or similar applications; or (b) with or in communication with any positioning devices or any mobile or wireless-connected electronic or computer devices, including without limitation cellular phones, palmtop and handheld computers, pagers, and personal digital assistants or PDAs.

Warning. The Data may contain inaccurate or incomplete information due to the passage of time, changing circumstances, sources used and the nature of collecting comprehensive geographic data, any of which may lead to incorrect results.

No Warranty. This Data is provided to Customer "as is," and Customer agrees to use it at its own risk. PTC and its licensors (and their licensors and suppliers) make no guarantees, representations or warranties of any kind, express or implied, arising by law or otherwise, including but not limited to, content, quality, accuracy, completeness, effectiveness, reliability, fitness for a particular purpose, usefulness, use or results to be obtained from this Data, or that the Data or server will be uninterrupted or error-free.

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Disclaimer of Liability: PTC AND ITS LICENSORS (INCLUDING THEIR LICENSORS AND SUPPLIERS) SHALL NOT BE LIABLE TO CUSTOMER: IN RESPECT OF ANY CLAIM, DEMAND OR ACTION, IRRESPECTIVE OF THE NATURE OF THE CAUSE OF THE CLAIM, DEMAND OR ACTION ALLEGING ANY LOSS, INJURY OR DAMAGES, DIRECT OR INDIRECT, WHICH MAY RESULT FROM THE USE OR POSSESSION OF THE INFORMATION; OR FOR ANY LOSS OF PROFIT, REVENUE, CONTRACTS OR SAVINGS, OR ANY OTHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF CUSTOMER'S USE OF OR INABILITY TO USE THIS INFORMATION, ANY DEFECT IN THE INFORMATION, OR THE BREACH OF THESE TERMS OR CONDITIONS, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, EVEN IF PTC OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Some States, Territories and Countries do not allow certain liability exclusions or damages limitations, so to that extent the above may not apply to Customer.

Export Control. Customer agrees not to export from anywhere any part of the Data provided to Customer or any direct product thereof except in compliance with, and with all licenses and approvals required under, applicable export laws, rules and regulations.

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- **Informatica** (applies only if Customer has purchased a license to Informatica software or hosting for the same from PTC)

1. SCOPE OF LICENSE GRANTED

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Section 22 - 2. INFORMATICA WARRANTY.

Informatica warrants that the Informatica Products will operate substantially in conformity with prevailing specifications as defined by the current standard user documentation (except for minor defects or errors which are not material to PTC's solution) for a period of 90 days from the date of Customer's completion of implementation of the Licensed Products ("Warranty Period"). If an Informatica Product does not perform in accordance with such specifications during the Warranty Period, Informatica will correct any deficiencies in the Informatica Product so that it will perform in accordance with or substantially in accordance with such specifications. Customer's sole remedy in the event of nonconformity of an Informatica Product with the foregoing warranties will be the correction of the condition making it nonconforming. THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

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NEITHER MCGRAW-HILL NOR ITS LICENSORS WARRANT THAT THE INFORMATION CONTAINED IN THE MCGRAW-HILL CONTENT IS IN EVERY RESPECT ACCURATE OR COMPLETE, AND THEY ARE NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS OR THE RESULTS OBTAINED FROM THE USE OF SUCH INFORMATION. CUSTOMERS ARE ENCOURAGED TO CONFIRM THE INFORMATION CONTAINED IN THE MCGRAW-HILL CONTENT WITH OTHER SOURCES. NEITHER MCGRAW-HILL NOR ITS LICENSORS SHALL BE LIABLE TO SUBSCRIBER OR TO ANY USER OR ANYONE ELSE FOR ANY INACCURACY, DELAY, INTERRUPTION IN SERVICE, ERROR OR OMISSION, REGARDLESS OF CAUSE, OR FOR ANY DAMAGES RESULTING THEREFROM.

IN NO EVENT WILL MCGRAW-HILL OR ITS LICENSORS, BE LIABLE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST TIME, LOST MONEY, LOST PROFITS OR GOOD WILL, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEN OR UNFORESEEN WITH RESPECT TO ANY USE OF THE MCGRAW-HILL CONTENT.

Other Bundled Third Party Products

The PTC Licensed Products identified below are provided with the Bundled Third Party Products. The third party software licenses are attached in ATTACHMENT 1 to this SCHEDULE B.

PTC Integrity

- Oracle JDBC Drivers (licensed under the "Oracle Technology Network License Agreement")
- Java Runtime Environment (licensed under the "Oracle Binary Code License Agreement for the Java SE Platform Products and JavaFX")

PTC Creo Parametric

- Java runtime environment (licensed under the "Oracle Binary Code License Agreement for the Java SE Platform Products and JavaFX")
- Microsoft C runtime libraries (licensed under the "Microsoft Software License Terms, Microsoft Visual Studio 2010 Professional and Trial Edition")

PTC Creo View

- Microsoft Visual C++ 2010 Redistributable Package (x86) and (x64); and
- Microsoft Visual C++ 2008 SP1 Redistributable Package (x86) and (x64)) (licensed under the "Microsoft Software License Terms, Microsoft Visual Studio 2010 Professional and Trial Edition")

PTC Arbortext Editor / Styler / Publishing Engine

- Microsoft Visual Studio C++ Runtime 2005 SP1 and
- Microsoft Visual Studio C++ Runtime 2008 SP1 (licensed under the "Microsoft Software License Terms, Microsoft Visual Studio 2010 Professional and Trial Edition")
- Java Runtime Environment 1.6 (Windows) (licensed under the "Oracle Binary Code License Agreement for the Java SE Platform Products and JavaFX")
- Rhino Javascript (licensed under the "Mozilla Public License Version 2.0")
- Saxon 6.2 (licensed under the "Mozilla Public License Version 2.0")
- Perl 5.8 (subset only) (licensed under the "Artistic License 2.0, Open Source Initiative")
- Apache Tomcat (licensed under the "Apache License Version 2.0")

PTC Arbortext ISOView / ISODraw

- Java Runtime Environment (licensed under the "Oracle Binary Code License Agreement for the Java SE Platform Products and JavaFX")

PTC Arbortext for Aerospace and Defense

- Microsoft Access 2007 Runtime (licensed under the "Microsoft Software License Terms, Microsoft Office Access 2007 Runtime")
- Java Runtime Environment 1.5 and 1.6 (Windows) and
- Java Runtime Environment 1.6 (Linux) (licensed under the "Oracle Binary Code License Agreement for the Java SE Platform Products and JavaFX")
- Apache Tomcat 7.0.42 (Windows) (licensed under the "Apache License Version 2.0")
- Microsoft Visual Studio C++ Runtime 2008 SP1 (licensed under the "Microsoft Software License Terms, Microsoft Visual Studio 2010 Professional and Trial Edition")
- Oracle Data Access Components for .net - 11.2.0.1.2 (licensed under the "Oracle Technology Network License Agreement")
- Microsoft XML Parser 4.0 SP2 and Microsoft XML Parser 6.0 SP1 (licensed under the "Microsoft Public License, MSXML License: MSDN Code Gallery Licenses")

PTC Arbortext Advanced Print Publisher

- Perl 5.8 (licensed under the "Artistic License 2.0, open source initiative")

PTC Arbortext Digital Media Publisher

- Java Runtime Environment 1.4 for linux, solaris, solaris x86, hpux and itanium, and 1.5 for linux, solaris, solaris x86, Windows, hpux and itanium, and 1.6 for Windows (licensed under the "Oracle Binary Code License Agreement for the Java SE Platform Products and JavaFX")

PTC Cloud/SaaS Services Terms and Conditions

These Cloud/SaaS Services Terms and Conditions ("Services Terms") set forth the terms and conditions pursuant to which PTC provides Cloud Services and/or SaaS Services (collectively, "Services") to the Ordering Activity under GSA Schedule contracts ("Customer"), as specified in a quote from PTC or a PTC Reseller to Customer that references these Services Terms ("Quote"). Capitalized terms used in this Agreement but not defined in the body of these Services Terms have the meanings set forth in Exhibit A.

1. Documents Making Up this Agreement

This agreement ("Agreement") consists of the following documents:

- The Quote
- The Cloud and SaaS Offering Specific Provisions and the Licensing Basis Document
- Additional/Different Cloud/SaaS Terms for Customers Outside of the United States of America
- These Services Terms
- The PTC Services Security and Support Document

In the event of conflict between the above documents, the documents higher in the list above shall supersede those lower in the list.

2. Services

(a) Services. During the Service Period PTC will: (i) manage the Hosted Software and the Hosted Data on the Hosted System and make it available to Customer via remote internet access, and (ii) allow Users to access and modify the Hosted Data, and store additional Hosted Data, through Customer's use of the Hosted Software. If a Quote identifies a Service or environment as being "developer", "development", "sandbox", "demo", "evaluation" or similar non-production service or environment, then Customer will use such Service or the applicable environment only for non-production purposes.

(b) Use of the Services. Customer may access and use the Services only to the extent of authorizations acquired by Customer, as specified in the Quote. Customer is responsible for use of the Services by all Users that access the Services with Customer's account credentials. The Services may not be used for unlawful, obscene, offensive or fraudulent content or activity. If there is a complaint or notice of violation, use and access may be temporarily suspended until resolved. Customer shall not and shall not permit any third party(ies) to: (i) use the Services, or permit them to be used, for third-party training, to deliver software implementation or consulting services to any third parties, or for commercial time-sharing or service bureau use; or (ii) copy, download or otherwise reproduce the Hosted Software in whole or in part.

3. Availability SLA

(a) PTC shall monitor the availability of the Hosted System 24/7. The availability of the production environment(s) of the Services will be 99.5% of each calendar quarter, excluding Excused Downtime.

(b) PTC's and its licensors' entire liability and Customer's exclusive remedy for any breach by PTC of the obligation in Section 3(a) shall be to credit to Customer a portion of its fees for the quarter during which such breach of obligation occurred, which credit shall be equal to the fees under this Agreement for such quarter multiplied by the Downtime Percentage. Such credit will be applied against any outstanding or future fees due under these Service Terms during the then current Service Period. If Customer fails to make a written request for a credit under this provision within ten business days after the end of the applicable Transaction Outage, no credit shall be due to Customer.

4. Fees, Billing and Payment

(a) Committed Fees. Customer shall pay PTC (through Contractor) the committed fees (e.g., the set-up fees and the committed recurring fees) specified in the Quote in accordance with the GSA Pricelist.

(b) Overages. PTC shall measure Customer's usage of the Services (e.g., number of Users by User type, amount of inventory managed, or such other fee basis as is applicable to the Services purchased by Customer) on a monthly basis. If the peak usage exceeds the quantity purchased, Customer shall be invoiced and shall pay within thirty days of receipt of invoice the applicable monthly fee for such excess usage as set forth in the Quote in accordance with the GSA Pricelist.

(c) Storage Overage. PTC shall monitor Customer's Storage. In any month where Customer's peak Storage exceeds the committed Storage amount, Customer shall be invoiced the applicable fee(s) for the Storage overage at the rates specified in the Quote in accordance with the GSA Pricelist.

(d) Taxes. PTC shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

(e) **Overdue Amounts.** Customer shall pay interest at the rate set forth in the Prompt Payment Act on all sums due under this Agreement which remain unpaid thirty (30) days after due, such interest to commence on the due date.

(f) **Purchase Orders.** Other than the line items that serve to order the Services, in no event shall any other terms of any purchase order or other document issued by the Customer modify or become part of this Agreement or become binding on PTC, unless expressly agreed to in writing and signed by both parties.

5. Indemnification. PTC, at its own expense, will defend any action brought against Customer based on a claim that the Services and/or Hosted Software infringe a third party patent, copyright or trademark and, at its option, will settle any such action or will pay any final judgment awarded against Customer, provided that: (i) PTC shall be notified promptly in writing by Customer of any notice of any such claim; (ii) subject to the authority of and in cooperation with the Department of Justice, PTC shall have the control of the defense of any action on such claim and all negotiations for its settlement or compromise and shall bear the costs of the same; and (iii) Customer shall cooperate fully at PTC's expense with PTC in the defense, settlement or compromise of such claim. If a claim described in this Section 5 occurs or, in PTC's opinion, may occur, PTC may terminate the Services and grant Customer a credit equal to the unused, prepaid Services fees paid for the applicable terminated portion of the Services. This Section 5 states PTC's sole and exclusive liability, and Customer's sole remedy, for any and all claims relating to infringement of any intellectual property rights. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or suit brought against the U.S. pursuant to its jurisdictional statute 28 U.S.C. § 516.

6. Ownership and Confidentiality. Ownership of the Hosted Software and Services, any related documentation, copies, modifications and derivatives of the foregoing or documentation (in whole or in part), and all related copyright, patent, trade secret and other proprietary rights, are and will remain the exclusive property of PTC and/or its licensors. Customer shall not and shall not attempt to (a) reverse engineer the Hosted Software or derive its algorithms from its use; (b) create derivative works of the Hosted Software; or (c) authorize or permit a third party to access the Services using Customer issued logins or passwords. All non-public information regarding the Hosted Software and its performance, including any analyses and benchmarking that Customer may perform, shall be deemed the confidential information of PTC and Customer shall not disclose to any third party or use for any purpose other than exercising its rights hereunder. PTC recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by the vendor.

7. Hosted Data

(a) PTC shall take commercially reasonable steps, or cause such commercially reasonable steps to be taken, designed to prevent security breaches. Customer agrees that the Hosted Data will not include: (i) any information, or documents or technical data that are classified, ITAR controlled or otherwise have been determined by the United States Government or by a foreign government to require protection against unauthorized disclosure for reasons of national security (provided, however, that this restriction shall not apply with respect to ITAR controlled data if the Quote so specifies), and/or (ii) any data that is "protected health information, including any medical, demographic, visual or descriptive information that can be used to identify a particular patient/individual" and/or any other data subject to the U.S. "Health Insurance Portability & Accountability Act of 1996" and regulations promulgated under that Act (collectively "HIPAA").

(b) PTC shall treat all Hosted Data as confidential and shall only use the Hosted Data to (i) provide the Services (including reporting to Customer on their use of the Services), (ii) monitor Customer's use of the Services for security and technical support purposes and for validating Customer's compliance and usage limitations, and for purposes of otherwise complying with PTC's obligations to Customer, and (iii) share with any PTC subcontractors who need to know such information in order to provide the Services, provided that they are bound by similar confidentiality obligations. For purposes of clarity, PTC's obligation to keep such Hosted Data confidential shall not apply to information that PTC is required to disclose by law (but only to the extent of such required disclosure).

(c) Customer acknowledges that the information Customer enters into the Hosted Software and Hosted System may be transferred outside the European Economic Area for the purposes of data processing by PTC, its subsidiaries, and its affiliated Companies. All personal data received, or collected by PTC in connection with the performance of the Hosted Services will be processed in accordance with PTC's privacy policy (<http://www.ptc.com/policies/privacy>). Any personal data received or collected by PTC's affiliates in the European Union (EU) shall be processed in accordance with the EU Data Protection legislation. PTC Inc. and PTC's EU affiliates have entered EU Standard Model Clauses for the transfers of personal data by PTC's affiliates to PTC Inc. and PTC's non-EU affiliates. PTC Inc. has certified to the Safe Harbor Framework between the United States and the European Union, and to the Safe Harbor Framework between the United States and Switzerland. Where the personal information is that of a third party, Customer certifies that it has obtained that information pursuant to applicable data protection laws and has obtained all necessary authorizations and consents with respect to such information.

8. Term and Termination

(a) The initial Services Period and any renewal provisions shall be as specified in the Quote. Any disputes relating to this Agreement shall be resolved in accordance with the Contracts Disputes Act (the "CDA") and the underlying GSA Schedule contract.

(b) Sections 4 through 10 shall survive termination or expiration of the Services.

9. Warranty/Disclaimer of Warranty/Limitations of Liability

(A) PTC warrants that the Hosted Software shall function substantially in accordance with the then applicable documentation accompanying the Hosted Software. In the event of any breach of this warranty, PTC's sole obligation, and Customer's sole remedy, shall be for PTC to use commercially reasonable efforts to (a) fix or replace the Hosted Software so that it conforms to this warranty; (b) identify or make available a work-around or alternative approach that achieves substantially the same result or functionality; or, if PTC fails to resolve as described in (a) or (b) above, then for PTC to terminate this Agreement and refund Customer the monthly or other reoccurring Service fees paid by Customer for the period after the date Customer reported such breach of warranty to PTC.

(B) EXCEPT AS EXPLICITLY STATED HEREIN, PTC DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING ANY WARRANTY OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT, AND/OR ANY WARRANTY WITH RESPECT TO THE SECURITY OF THE SERVICES OR THAT HOSTED DATA WILL NOT BE DESTROYED, LOST, INTERCEPTED, OR ALTERED BY UNAUTHORIZED PERSONS. PTC DOES NOT WARRANT THAT THE OPERATION OR OTHER USE OF THE HOSTED SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE OR WILL NOT CAUSE DAMAGE OR DISRUPTION TO HOSTED DATA.

(C) EXCEPT UNDER SECTION 5 ABOVE, PTC'S AND ITS LICENSORS' MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS OR LIABILITIES ARISING HEREUNDER OR OUT OF, OR RELATING TO, THE CREATION, LICENSE, SUPPLY, FAILURE TO SUPPLY OR USE OF THE SERVICES OR OTHERWISE RELATING TO THESE SERVICES TERMS, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE CONTRACT PRICE PAID TO PTC FOR THE SERVICES PRIOR TO THE EVENTS THAT GAVE RISE TO THE APPLICABLE CLAIM. IN NO EVENT SHALL PTC, ITS SUBSIDIARIES OR AFFILIATES, ITS LICENSORS OR ANY OF THEIR DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF USE OF DATA AND ANY LOSS CAUSED BY THE INTERRUPTION, TERMINATION OR FAILED OPERATION OF THE INTERNET, THIRD PARTY TELECOMMUNICATION SERVICES OR THIRD PARTY SECURITY FEATURES OR SYSTEMS), EVEN IF PTC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER AGREES NOT TO BRING ANY SUIT OR ACTION AGAINST PTC AND/OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS FOR ANY REASON WHATSOEVER MORE THAN SIX YEARS AFTER THE CAUSE OF ACTION ARISES. THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SECTION 9 SHALL NOT APPLY TO ANY CLAIM IN RESPECT OF DEATH, FRAUD OR PERSONAL INJURY IF CONTRARY TO ANY APPLICABLE LAW.

10. General

(a) Governing Law and Jurisdiction. All disputes arising under this Agreement shall be governed by and construed in accordance with United States Federal law and the Contracts Disputes Act.

(b) Force Majeure. PTC shall not be in default of its obligations to the extent its performance is delayed or prevented by causes beyond its control in accordance with FAR 52.212 -4 (f) Excusable delays.

(c) Export. Customer hereby warrants and represents that neither Customer nor any Users are listed on the U.S. Commerce Department's Denied Persons List, Entity List, or Unverified List, the U.S. State Department's Nonproliferation Sanctions List, or the U.S. Treasury Department's List of Specially Designated Nationals and Blocked Persons or the Sectoral Sanctions Identifications (SSI) List (each a "List", and collectively the "Restricted Party Lists"). The Restricted Party Lists can be found at: http://export.gov/ecr/eg_main_023148.asp. Customer shall not export or re-export, directly or indirectly, or provide to any other person or entity for export or re-export, or provide access to, the Services without first complying with all U.S. and applicable foreign export control regulations, including, without limitation, obtaining any necessary export or re-export consent from the U.S. Department of Commerce or other governmental authority.

(d) Marketing. PTC agrees that it shall not, except as otherwise authorized in writing by Customer, identify Customer as a customer/end-user of PTC software and services (as applicable) in public relations and marketing materials.

(e) Notices. Notices under this Agreement shall be in writing and, if to PTC, delivered to PTC's General Counsel, and if to Customer, to the address specified in the Quote.

(f) Assignment, Waiver, Modification. Neither party may assign, transfer, delegate or sublicense any rights or obligations under these Services Terms without the other party's prior written consent. Any such attempted delegation, assignment, transfer or sublicense shall be void and a breach of these Services Terms.

(g) Entire Agreement; Severability. This Agreement and the underlying GSA Schedule Contract, Schedule Pricelist, and Purchase Order(s) constitutes the entire agreement between the parties, and supersedes all prior discussions, representations, and understandings, with respect to the subject matter hereof. If any provisions of this Agreement, or the application thereof, shall for any reason and to any extent be determined to be invalid or unenforceable, the remaining provisions of this Agreement will remain binding and enforceable, and shall be interpreted so as best to reasonably effect the intent of the parties.

Exhibit A - Definitions

"Additional/Different Cloud/SaaS Terms for Customers Outside of the United States of America" refers to the document of that name available at <https://www.ptc.com/en/documents/legal-agreements/cloud-terms>.

"PTC Cloud and SaaS Offering Specific Provisions" refers to the document of that name available at <https://www.ptc.com/en/documents/legal-agreements/cloud-terms> and attached hereto.

"Cloud Services" means PTC providing hosting services so that Customer may access the Hosted Software via the internet, along with certain IT administration and application administration support services, as specified in this Agreement. For Cloud Services, the Customer is purchasing (or previously purchased) the licenses for the Hosted Software (under a separate PTC Customer Agreement or other software license agreement between the parties) which are being made available to the Customer via the Hosted System, and the Customer purchases support for such Hosted Software (either directly or as part of a subscription license).

"Designated Technical Support Personnel" means the technical contacts that are trained subject matter experts on the Hosted Software and who have been identified in writing to PTC by Customer.

The "Downtime Percentage" shall equal the result obtained by dividing (1) the aggregate number of minutes of Transaction Outages during such quarter by (2) the aggregate number of minutes in such quarter.

"Excused Downtime" means any and all of the following:

- (i) Force majeure events as set forth in Section 10(b) of the Services Terms.

- (ii) Data transmission failures outside the control of PTC not caused by PTC's negligence or willful misconduct.
- (iii) Downtime resulting from applications developed for or by Customer that are running on or interacting with the Hosted System.
- (iv) Downtime resulting from third party software utilized by the Customer that is not Hosted System and/or third party software integrations developed by or for Customer.
- (v) Downtime due to failure of the internet or failure of Customer's network.
- (vi) Maintenance outages (including emergency maintenance outages), for which PTC will endeavor to give Customer as much notice as is reasonably practicable under the circumstances.

"Hosted Data" means the data transmitted to, loaded into, or stored in, the Hosted Software or on the Hosted System by Customer and Users or otherwise through use of the Hosted Software.

"Hosted Software" means the standard commercially available PTC software for which PTC is providing the Services, as specified in the Quote.

"Hosted System" means the servers and computer network on which PTC and/or its contractors provide Customer and other PTC customers remote access to the Hosted Software and Hosted Data.

"Licensing Basis Table" refers to the document of that name available at <https://www.ptc.com/en/documents/legal-agreements/on-premise-license-agreements> and attached hereto.

"PTC" means, as applicable, PTC Inc. or the applicable PTC subsidiary, as specified in the Additional/Different Cloud/SaaS Terms for Customers Outside of the United States of America document.

"PTC Cloud/SaaS Security and Support Document" refers to the document of that name attached hereto.

"SaaS Services" means PTC providing SaaS services so that Customer may access the Hosted Software via the internet, along with certain IT administration and application administration support services, as specified in this Agreement. For SaaS Services, the Customer does not purchase (and has not previously purchased) the licenses for the Hosted Software being made available to the Customer as a service via the Hosted System.

"Service Period" means the term that PTC commits to perform the Services (i.e., the initial term and any renewal terms), per Section 8 of these Services Terms.

"Storage" means the amount of disk storage used by the Customer across the applicable environment.

"Transaction Outage" means any period (measured in minutes) during which the Hosted System, and the connections for such servers to the Internet, do not have adequate bandwidth capacity and speed to meet the peak demands of Users accessing the Hosted Software and Hosted Data, resulting in such Permitted Users being denied access or experiencing unavailable or interrupted access due to lack of capacity or speed of the Host Servers or of the Host Servers' Internet connections, excluding Excused Downtime.

"User" means persons who are employees or consultants of either Customer or of a subcontractor, supplier, business partner, or customer of Customer, and whom Customer authorizes to access the Hosted Software and Hosted Data.

PTC CLOUD AND SaaS

OFFERING SPECIFIC PROVISIONS

Scope of this Document

This document sets out various terms and conditions that are specific to particular Cloud and SaaS offerings from PTC. In the event of inconsistency between this document and the PTC quote(s) pursuant to which the Customer purchased the Services (the "Quote"), the Quote shall govern.

If PTC is hosting software products that aren't identified in this document, the licensing parameters specified in the PTC Licensing Basis Table (available at <http://www.ptc.com/legal-agreements/on-premise-license-agreements>) govern Customer's use of such products.

PTC PLM Cloud Offering

The PTC PLM Cloud is available in two service packages:

- **PTC PLM SaaS – Premium:** This offering provides Customers with a PTC Windchill environment that is dedicated to the Customer, support deeper customization (such as with custom workflow processes and custom types) and where the user has more control over timing of upgrades. A minimum of 15 users is required for this dedicated option.
- **PTC PLM SaaS – Enterprise:** This offering provides Customers with a PTC Windchill environment that is dedicated to the Customer, includes the most comprehensive set of PLM capabilities and supports the deepest possible levels of customization and that supports integration with external on premise and cloud systems such as ERP and CRM. A minimum of 15 users is required for this dedicated option.

PTC PLM SaaS is currently offered in the following geographies:

- Americas
- Europe
- India
- Japan, Singapore, Australia, New Zealand

Additional information about the capabilities in the tables in the following pages.

Data Export: Upon approaching the end of the Services term (the “Service End Date”), Customer can request up to two data exports: (1) prior to Service End Date an export for purposes of testing the input of that data into Customer’s system, and (2) final export at Service End Date. Customer shall coordinate such requests with PTC. The data export includes the information required to redeploy the software in another environment. Depending on the solution purchased, this may include: Database schema export, Directory LDIF export or similar user list export, Enterprise LDAP LDIF export, External file vault(s) contents. Customer may contract with PTC for additional non-standard data export. Fees are quoted respective of each occurrence. PTC will retain Customer’s Hosted Data for approximately 30 days following the last extraction, and then another approximately 60 days on backups.

Type	Capability	Premium	Enterprise
Viewer	Viewers can view content created by others but are unable to create or edit any content <i>(same behavior as Windchill PDMLink view & print)</i>		
	View all web pages with content created in system	✓	✓
	Search across fields and indexed content and user-defined searches and search using part classifications	✓	✓
	Open for view or print any 2-D or 3-D representation in Creo View Light (cannot save annotations)	✓	✓
	Download any office content and any representations created from CAD formats (Native CAD content cannot be downloaded)	✓	✓
	View created reports	✓	✓
	View drawings, part CAD document and document information using out of the box Kinex Navigate View apps. <i>Custom viewing apps can also be used but must be approved by PTC cloud services prior to deployment in production.</i>	✓	✓
	View complaints and non-conformances		✓
	View suppliers, supplier status, preferred parts and preferred suppliers		✓
Contributor	Contributors have all Viewer capabilities plus the following: Create and manage office documents.		
	<i>The Microsoft Office Desktop Integration capabilities can be used but must be optionally enabled on request when the cloud instance is configured. Partners are responsible for assisting the customer with configuration of clients and in training for the use of desktop integration functionality.</i>	✓	✓
	Create folders, links	✓	✓
	Open and complete project and workflow tasks	✓	✓
	Create discussion forum postings	✓	✓
	Create and save markups/annotations in Creo View Light	✓	✓
	Create and edit problem reports (but not other change objects)	✓	✓
	Participate in change process tasks (such as review and approval)	✓	✓
	Participate in project planning activities (update and complete assigned activities)	✓	✓
	Create and complete action items and create subscriptions for notification	✓	✓
Create Non-Conformances and participate in CAPA processes (but not initiate CAPA)		✓	
Author	Authors have all Contributor capabilities plus the following: Create and manage CAD documents using Creo, AutoCAD, Inventor, SolidWorks and NX workgroup managers for supported CAD versions	✓	✓
	<i>See Creo Version compatibility here</i>		
	<i>See AutoCAD, Inventor, SolidWorks and NX version compatibility here</i>		
	Create and manage document configurations and baselines	✓	✓
	Manage simple release through promotion request process	✓	✓
	Create and manage collaboration projects	✓	✓
	Create and edit change items (change requests, change notices, problem reports, deviations and waivers)	✓	✓
	Create and edit parts and part structures	✓	✓
	Create and manage part structure configurations and baselines	✓	✓
	Create and edit project plans, activities, milestones and action items	✓	✓
	Create and manage team resources	✓	✓
	Create and manage suppliers and supplier parts		✓
	Create and manage complaints, Corrective and preventative actions and non-conformances		✓
	Create and manage security labels and agreements		✓
Create and manage lot, serial and date effectivities		✓	
Web-based Training	Web-based end user training accessible from PTC PLM SaaS services (all user types). Topics include: CAD data management, document management, product structure management, change management and project collaboration & management	✓	✓
Publishing	Creo format publishing (3-D Viewables, PDF, IGES, PDES, STL...)		
	1 CAD Worker instance is included which supports up to 50 Author Users	✓	✓
	(additional Creo CAD worker must be purchased for each additional 50 Author users)		
	AutoCAD format publishing (No CAD worker required)	✓	✓
SolidWorks publishing (CAD Worker instance and SolidWorks node-locked license required)			
(1 SolidWorks CAD Worker instance is required for each 50 SolidWorks Author users)	Additional cost	Additional cost	

	NX publishing (CAD Worker instance NX dedicated license required) (1 NX CAD Worker instance is required for each 50 NX Author users)		
	Inventor publishing (CAD Worker instance Inventor node-locked license required) (Inventor CAD Worker instance required for each 50 Inventor Author users)		
	Automated PDF generation using Adobe LiveCycle	<i>Additional cost</i>	<i>Additional cost</i>
Languages	English, French, German, Spanish, Italian, Russian, Korean, Japanese, Chinese	✓	✓
Committed Author minimum	Customers must commit to pay each month for a minimum number of Author users	15	15
Storage	Storage included per committed user (Authors & Contributors only)	<i>Committed Authors</i> 30 GB	<i>Committed Authors</i> 50 GB

Category	Capability	Premium	Enterprise
Supported Configurations	Choose custom version schemes	✓	✓
	Define custom attributes (only for the system supported types)	✓	✓
	Define saved searches	✓	✓
	Define groups, roles and teams with custom access rules	✓	✓
	Define object initialization rules	✓	✓
	Configure lifecycle schemes	✓	✓
	Configure OOTB Navigate view apps for up to 10 roles with OOTB role-based configurations	✓	✓
	Define subtypes with type-specific attributes	✓	✓
Supported Customizations	All customizations must be documented, submitted for review to PTC Cloud Services prior to production release. All customization must comply with Extended Cloud Services (ECS) policies.		
	Custom workflow processes		
	Workflow customizations must be reviewed and accepted by PTC Cloud services. Workflow customizations which create or edit information may not be accepted to prevent a compromise to data integrity and/or security, they should be implemented as custom helper services	✓	✓
	Custom publishing rules		
	Only those publish rules that are created by PS / Partner, in compliance with the OOTB "PublishRulesSchema.xsd" schema, will be accepted, based on review and approval by PTC Cloud Services. Additional information about Publish Rules can be found in the Windchill Help Center.	✓	✓
	Query-builder supported queries	✓	✓
	Customizations using out of the box Info*Engine tasks	✓	✓
	Customizations using out of the box Info*Engine to create or edit information will be carefully reviewed by PTC Cloud Services and must be approved prior to deployment.	✓	✓
	Custom Navigate Apps (custom mashups)	✓	✓
	Custom Navigate Apps that integrate with other on premise or cloud enterprise systems (e.g., ERP)		✓
	Customizations using custom Info*Engine tasks		✓
	Customizations using custom Info*Engine to create or edit information will be carefully reviewed by PTC Cloud Services and must be approved prior to deployment.		✓
	Customer directory integrations (e.g., LDAP)		✓
	There is a cost associated with setting up and maintaining a VPN for this integration.		✓
	Customizations requiring code additions		✓
Custom Solr indexing policies/rules (default indexing included for all)		✓	
Systems integrations (to on premise or cloud systems)		✓	

Category	Capability	Premium	Enterprise
	Systems integrations are a supported option but there are additional costs associated with middleware, ESI module, setting up and on-going support of the integrations.		
Environments	1 – Dedicated Dev environment (non-scalable, non-clustered) w Creo CAD Worker	✓	✓
	1 – Production environment (scalable, clustered, multi-zone RDS)	✓	✓
Not Supported	The following is not supported for all offerings:		
	Site administration access in production system		
	Full organization administration access in production system		
	Direct application of customizations to production system		
Optional Services Supported	Custom ThingWorx apps that connect to physical devices		
	Set up Dev/Test clone of production environment	✓	✓
	Data loading (e.g., CAD and document files—partner provided service)	✓	✓
(Fee-based services provided by partner and/or PTC)	Content replication (setup of local file servers at other AWS Regions)	✓	✓
Data Extraction	Full File content extraction of all versions	✓	✓
	Full database extraction/dump	✓	✓

PTC Windchill Quality Management Cloud Offering

Windchill Quality Management (WQM) Cloud is a SaaS offering for bringing medical products to market. The Validation Accelerator Package (VAP) covers the use of the out of the box processes and is built and supported by PTC's third-party validation partner, USDM. User acceptance testing of the system and validation is to be performed by the Customer in coordination with USDM. Any change in scope to the WQM software's intended use is likely to require additional validation effort and may incur additional validation fees.

Solution Scope:

The PTC WQM offering, provides the following processes in a preconfigured, validation-ready Cloud environment:

- Design Control
- Document Control
- CAPA/SCAR
- Nonconformance Management
- Complaint Management

The infrastructure for production use by customers will be hosted at the Amazon Web Services (AWS) Region supported by PTC Cloud nearest to where the order was placed to PTC.

Licensing Model:

WQM Cloud is licensed based on a "Monthly Active User" basis. A Monthly Active User is defined as any unique user who accesses the system during a particular month. A commitment of a minimum of 30 Author users is required for this offering.

There are two types of Licenses: Authors and Contributors. A Contributor user may not be logged into the system for more than forty hours per month and may be subject to limitations in the system on particular functionality that they can access. There is no restriction on the amount of time in a given month or the functionality of the system that the Author user can access.

The standard offering includes two environments, one for development (non-scalable, non-clustered and including a Creo CAD Worker application), and one for production (scalable, clustered, multi-zone RDS).

The standard offering includes one CAD Worker instance which supports up to 30 Author users. Third-party CAD Workers must be quoted separately for each additional CAD tool requiring automated publishing of viewables. The Customer may also be required to secure licensing for 3rd party CAD to support the CAD Worker functions.

Service Model:

The WQM Cloud offering supports additional configuration, customization, and integration capabilities that are available in Windchill. In case of customizations and integrations, the Customer will be required to pay to PTC additional Extended Cloud Service (ECS) fees for run-time support, maintenance and upgrade of such customizations and integrations. Additional information about configuration and customization is provided in the Cloud Configuration table below:

Category	Capability
Supported Configurations (included as part of offering)	Choose custom version schemes
	Define custom attributes (only for the system supported types)
	Define saved searches
	Define groups, roles and teams with custom access rules
	Define object initialization rules
	Configure lifecycle schemes
	Define subtypes with type-specific attributes
Customizations	Customizations are not included and are not performed by PTC. Separate Extended Cloud Service contract and fee is required for support of these customizations
Not Supported	Site administration access in production system
	Full organization administration access in production system
	Direct application of customizations to production system
	Custom ThingWorx apps that connect to physical devices
Optional Services Supported Fee-based services provided by a partner and / or PTC	Set up Dev/Test clone of production environment
	Data migration/loading (e.g., CAD and document files—partner provided service)
	Data extraction services (in addition to the end-of-contract data export provided for below)
	Content replication (setup of local file servers at other AWS Regions)

Data Storage Entitlements:

Each Author user is entitled to use up to 30 GB of storage. Additional storage can be purchased.

Overages:

- **User Overage:** When more Active Users access the WQM Cloud service than the committed number of users in a month, Customer will be billed for the additional active users in arrears.
- **Data Storage Overage:** When the total storage used by the Customer exceeds the sum total of the storage entitlements of the committed Authors, Customer will be billed overage on the storage in arrears. Customer can buy additional storage separately at additional cost.

Data Backup: Application and data managed in the application will be backed up daily and the backups will be made available for recovery for up to thirty (30) days locally and 90 days remotely.

Data Export: Upon approaching the end of the Services term (the “Service End Date”), Customer can request up to two data exports: (1) prior to Service End Date an export for purposes of testing the input of that data into Customer’s system, and (2) final export at Service End Date. Customer shall coordinate such requests with PTC. The data export includes the information required to redeploy the software in another environment. Depending on the solution purchased, this may include: Database schema export, Directory LDIF export or similar user list export, Enterprise LDAP LDIF export, External file vault(s) contents. Customer may contract with PTC for additional non-standard data export. Fees are quoted respective of each occurrence. PTC will retain the Customer’s Hosted Data for approximately 30 days following the last extraction, and then another approximately 60 days on backups.

PTC FlexPLM SaaS and Other Retail SaaS Offerings

PTC FlexPLM SaaS

The PTC FlexPLM SaaS offering is available in two service packages:

- **PTC FlexPLM SaaS – SMB:** This offering is made available through PTC resellers and provides access to a pre-configured FlexPLM environment. This offering is ideal for smaller customers who have 100 or less internal users and/or who don't need customization. A minimum of 10 internal users is required for this option.
- **PTC FlexPLM SaaS – Enterprise:** This offering provides Customers with a PTC FlexPLM environment that is dedicated to the Customer, supports the deepest possible levels of customization and that supports integration with external on-premise and cloud systems such as ERP and CRM.

Additional information about the capabilities is set forth in the table on the following page.

The FlexPLM “External Capacity User” license, which is available for both service levels, may be assigned only to users who are vendors, third parties and others external to the Customer and its affiliates (“External Users”). External User licenses may be reassigned to another External User at no additional license fee, except that an External User license may not be used by more than one External User during any calendar month.

Registered Users of FlexPLM also receive entitlements to use certain role-based applications (e.g., the FlexPLM TechPack Access App). These applications are limited to use by Registered Users of FlexPLM and may only be used for the following purposes:

- to execute applications to view, print, create, and/or update information from solutions sold by PTC and delivered through the components bundled with the role-based applications.
- to install the ThingWorx server for the sole purposes of accessing FlexPLM data as applicable to the role-based applications and configuring details required for the role-based applications.

Overage Fees: PTC will count Customer usage of SaaS services on users’ access – i.e. number of unique users who login to the system in a given month. Overages beyond the quantity purchased will be charged based on overage fees specified in the Quote in accordance with the GSA Pricelist.

Data Export: Upon approaching the end of the Services term (the “Service End Date”), Customer can request up to two data exports: (1) prior to Service End Date an export for purposes of testing the input of that data into Customer’s system, and (2) final export at Service End Date. Customer shall coordinate such requests with PTC. The data export includes the information required to redeploy the software in another environment. Depending on the solution purchased, this may include: Database schema export, Directory LDIF export or similar user list export, Enterprise LDAP LDIF export, External file vault(s) contents. Customer may contract with PTC for additional non-standard data export. Fees are quoted respective of each occurrence. PTC will retain Customer’s Hosted Data for approximately 30 days following the last extraction, and then another approximately 60 days on backups.

PTC FlexPLM SaaS Offerings – Included Capabilities		
Capability	SMB	Enterprise
Create and manage seasons, including the ability to copy, carryover, and move products and colorways from season to season	✓	✓
Create and manage Season Plans (aka assortment plans) and placeholders. Associate products to placeholders and adopt the associated products		✓
Create and manage product development tasks and milestones via calendar templates, calendar instances, and calendar dashboards	✓	✓
Create and manage season line boards	✓	✓
Create and manage products and their colorways	✓	✓
Create and manage colors	✓	✓
Create and manage materials, their suppliers, their color combinations, and their pricing.	✓	✓
Create and manage palettes and associate colors & materials to palettes	✓	✓
Create and manage suppliers	✓	✓
Create and manage change activities		✓
Create and manage environmental sustainability via product analytics (incurs additional costs)		✓
Create and manage documents and image pages	✓	✓
Create and manage product imagery via Adobe Illustrator integrations (incurs additional costs)	✓	✓

Create and manage product specifications, including Sizing, BOMs, Measurements, and Construction information. Generate Tech Packs from product specifications	✓	✓
Create and manage product and material samples	✓	✓
Create and manage 3D CAD documents and engineering parts and product structures		✓
Create and manage product sourcing configurations	✓	✓
Create and manage product cost sheets	✓	✓
Create and manage product & material test specifications and results		✓
Storage included	2 GB per Registered User	2 GB per Registered User
Ability to customize system look & feel and/or application logic		✓

PTC Canvas SaaS

The PTC Canvas SaaS offering is available in three different service packages:

- **PTC Canvas – Core Capabilities:** This offering provides access to PTC’s Canvas application. Canvas is a concept management and collaboration offering that allows retailers and brand owners to capture ideas, trends, and other product development information and share those ideas with internal and external users.
- **PTC Canvas – Trend Packs:** This offering provides access to trending imagery from social media platforms. The imagery is provided within Canvas and can be tailored to a retailer or brand owner’s specific needs.
- **PTC Canvas – Advanced PLM Integration:** This offering provides the ability for Customers using Canvas to retrieve data from a connected FlexPLM environment and create data in FlexPLM using Canvas as the means to capture that data initially.

All of the PTC Canvas service packages specified above are sold on the basis of the number of users who access such service package in a given month. Additional information about the capabilities is set forth below:

PTC Canvas – Core Capabilities

- Create projects and boards within a project
- Upload images and video to boards
- Add web page hyperlinks to boards
- Create text and other annotations (e.g. drawn shapes) within boards
- Create color swatches within boards
- Share boards with internal and external users
- Create discussions with users to review feedback at project, board, and board item levels
- Review streams of trending imagery (aka Trend Streams) from social media platforms. Several streams will be provided out of the box. Streams feature is only accessible by internal users. Images from streams can be placed into boards.
- Export boards to PDF
- Export boards to a connected FlexPLM environment, where each board will be represented as an Inspiration Page within FlexPLM.

Storage:

- 2GB of storage is provided per user

PTC Canvas – Trend Packs

Trend Packs are packs of four tailored Trend Streams and Customer must pay the per Trend Pack fee for each user leveraging any of the tailored Trend Streams within a Trend Pack in the applicable month. Tailored Trend Streams are streams that are customized to show imagery based on a category or topic provided by the Customer. For example, a Customer may want to see trending imagery for sports-related performance outerwear. In this case, a tailored Trend Stream would be created that collects relevant images and that Trend Stream would be delivered to the Customer via Canvas.

PTC will work with a Customer to establish a tailored Trend Stream and then refine that Trend Stream over a three-month period. During this period, the Customer can provide feedback to PTC that enables PTC to adjust the image search mechanism so it can provide more relevant images. No adjustments to the tailored Trend Streams will be made after the end of the three-month period. If Customer desires additional or different Trend Streams, additional Trend Packs would need to be purchased.

As an example of how usage is counted for Trend Packs, if a Customer purchases one Trend Pack and, in a given month, each of the four Trend Streams in such Trend Pack has 10 unique active users, Customer would need to pay for (either as committed users or as overage users) forty active users.

PTC Canvas – Advanced PLM Integration

- Retrieve data (e.g. Materials, Colors) from a connected FlexPLM environment for use on a board
- Create data (e.g. Products) in a connected FlexPLM environment from within Canvas

Cloud Migration Service for PLM

Cloud Migration Service (CMS) for PLM is a service to migrate to PTC Cloud the Customer's on premise Windchill or FlexPLM deployment with its configurations, customizations, integrations as-is, along with its data and database. PTC has standard offerings for this service if Customer meets the parameters specified below. Outside of these parameters, PTC and Customer would need to agree to a Statement of Work (and associated services agreement) for the migration services.

Approach:

This service requires coordination and participation from PTC Cloud and the Customer's teams in sharing the application knowledge, system details, and in performing user acceptance testing and end user communication in a timely manner. The PTC Cloud team will lead the migration project and work in accordance with PTC's five-stage Cloud Migration Service best-practice approach. The scope of the migration project will be defined based on the Windchill deployment assessment PTC carried out as part of the 'Assess' phase of the Cloud Migration and will be executed under the following work streams: Assess, Export, Migrate, Validate, Go-Live (including Post Go-Live Support).

Assumptions: CMS for PLM is provided solely under the following assumptions:

- 1) The Customer's current on premise instance of PTC software is an actively-supported version of such product. Upgrades are outside the scope of these services.
- 2) The migration will be of the modules deployed on premises. Addition or deletion of modules is outside the scope of these offerings.
- 3) Customer will execute a scan of its on-premise instance by running the WinDU tool and share the report with PTC. If the WinDU report generates failed (red) tasks and potential problem (yellow) tasks, Customer will be required to apply the best practice recommendations to "clean" its instance prior to start of the Cloud Migration Export phase.
- 4) Customer will provide a clean export of its Windchill environment to PTC following the instructions, in the media provided by PTC Cloud team.
- 5) Customer will provide approval to send the data to the PTC cloud environment in the PTC-approved media.
- 6) Customer is responsible to ensure all customizations and integrations are cloud ready, provide PTC with build package, installation instructions, configuration documentation, supporting requirements and user acceptance test (UAT) documentation of the custom components.

- 7) Data scrubbing is outside the scope of these CMS for PLM services.
- 8) Customer will not add data in excess of 10% more than the initial export during the migration process.
- 9) All data in end user Workspaces will be checked in by Customer prior to final export for production go-live.
- 10) Remote File Server (RFS) will be located at the nearest PTC supported AWS Region.
- 11) Customer will provide required third party software licenses as needed for the service.
- 12) All documentation PTC requires related to Customer's system configuration, customization requirements and functional specifications, and UAT protocol will be provided by Customer to PTC in Microsoft Office product formats
- 13) Communications to end users about the system migration and required preparation will be managed by the Customer, after taking into account PTC's suggestions and guidance.

Pricing and Duration

Cloud Migration Services for PLM are priced based on the Windchill configuration, number of customization and integrations of the on premise deployment and other parameters specified in the table below. During the Assess Phase, PTC will categorize the Customer based on the following criteria. The Out-of-the-Box (OOTB) offering is provided free of charge to any existing Customer migrating its qualifying environment to PTC Cloud Services offerings. The other offering levels must be purchased by Customer.

Parameters	OOTB	Level 1	Level 2
LDAP Integration/SSO ¹	Included	Included	Included
CREO CAD Worker	Included	Included	Included
3 rd Party WGM, Worker	Cloud Supported	Cloud Supported	Cloud Supported
Customizations ²	Up to 5	Up to 25	Up to 50
Integrations ^{2/3}	LDAP Only	Up to 2	Up to 4
Cognos Reporting	OOTB	OOTB	OOTB
Remote File Server (RFS) ⁴	None	Up to 2	Up to 4
Production Server	1	1	1

1. LDAP integration moved as-is today. Changes in LDAP structure are outside the scope of the defined offerings above, and would require PTC and Customer to agree to a Statement of Work for the migration services.
2. It is Customer's responsibility (and PTC has no responsibility) for the following:
 - The quality of the code of the customizations
 - Requirements and design documentation
 - Test scripts documentation
 - Test results on the on-premise, deployed Windchill version
3. Integration to 'a' system. For OOTB, one integration to support a Corporate LDAP only.
4. Remote File Servers are available at PTC-supported AWS regions. If Customer installs Remote File Server at any other location (e.g., at Customer's premises), that would not qualify for any of the above offerings.

General Terms and Conditions for CMS for PLM Services

1. The PTC entity as set out in 10 a) of the Services Terms or the Additional/Different Cloud/SaaS Terms for Customers Outside of the United States of America ("PTC") will provide the CMS Success Services to Customer and the respective law specified there shall apply.
2. PTC may provide the CMS for PLM migration services subject to the conditions and assumptions as set out herein and shall invoice Customer as specified in the applicable PTC Quote. PTC reserves the right to subcontract or delegate the performance of services to a third party, provided PTC remains responsible for the actions of the third party.

3. The processing of personal data by PTC for Customer shall be governed by the terms of the PTC Privacy Policy attached hereto.
4. The CMS for PLM migration services will be deemed to be accepted upon completion, at the latest upon expiration of an evaluation period of five (5) business days after the respective delivery, unless Customer provides PTC beforehand with a written notice specifying the reasons of non-acceptance (material reasons only). The warranty period following Customer's (deemed) acceptance shall be 30 business days.
5. PTC shall be liable only in the event of willful misconduct or gross negligence in accordance with applicable law. PTC shall not be liable for any special, incidental, punitive or consequential damages, including without limitation lost profits, lost savings or damages resulting from the loss or use of data or from project delays attributable in any manner to the performance of the Services. In no event shall PTC's liability for damages hereunder exceed the charges paid or payable for the service giving rise to such damages. Customer is responsible for creating and maintaining current and complete back-up files for any Customer data and programs that may be affected by PTC's performance of the services. PTC shall not be responsible for the protection or loss of Customer data or information. PTC's statutory liability for injury to life, body and/or health, fraud, and for the malicious concealment of defects, shall remain unaffected. Section 9(c) of the Services Terms shall apply.
6. Excusable delays shall be governed by FAR 52.212-4(f).

SPM SaaS Offering

SPM SaaS is offered as six packages that address three market segments, as specified below. A Customer is required to license only one package as the functionality is cumulative (e.g. Advanced includes all Foundation features plus more).

A brief description of each package is provide below.

- Servigistics SaaS SPM Commercial Foundation - Base SPM package for non-FA&D customers including High Tech, Medical, Auto, Heavy Equipment, etc.
- Servigistics SaaS SPM Commercial Advanced - Advanced Package for non-FA&D customers including High Tech, Medical, Auto, Heavy Equipment, etc.
- Servigistics SaaS SPM Commercial Aviation Foundation - Base SPM package for Commercial Aviation customers
- Servigistics SaaS SPM Defense Foundation - Base SPM package for Defense customers including government and other PBL based businesses
- Servigistics SaaS SPM FA&D Advanced - Advanced Package for all FA&D customers (Commercial Airlines and Defense)
- Servigistics SaaS SPM Premium - Premium SPM Package for customers in all industries

Solution Scope:

Servigistics SaaS SPM Commercial Foundation	Servigistics SaaS SPM Commercial Aviation Foundation	Servigistics SaaS SPM Defense Foundation	Servigistics SaaS SPM Commercial Advanced	Servigistics SaaS SPM FA&D Advanced	Servigistics SaaS SPM Premium
Forecasting Optimization (MEO) Order Planning Last Time Buy (LTB) Insight Dashboards Global Part Chains	Forecasting (including Schedule Events) Optimization (MEO) Order Planning Last Time Buy (LTB) Insight Dashboards Global Part Chains	Forecasting {including Schedule Events} Optimization {MEO and ASO} Order Planning Insight Dashboards Global Part Chains	Commercial Foundation Plus: Advanced Forecasting, Advanced MEO Advanced Order Planning Cluster Based LTB Local Part Chains Connected SPM Network Optimization Service Parts Pricing	Commercial Aviation Foundation Plus: Advanced Forecasting Advanced MEO and ASO Advanced Order Planning, Cluster Based LTB Local Part Chains Connected SPM Network Optimization	All features including: Service Parts Pricing ASO K-Curve

Licensing Model:

SPM SaaS is licensed based on one of two variables, PMI or PXL.

"PMI" is defined as Inventory Under Management and is the value of the service parts inventory that the Customer will manage in the system. This offering is priced in blocks of US\$1 million (or such other currency as may be specified in the Quote), with each quantity unit ordered representing US\$1 million of Customer inventory.

"PXL" is defined as Parts multiplied by Locations where Parts are the total number of part numbers and locations are the total number of stocking locations that the customer has. This offering is priced in blocks of 50,000 PXL.

There is a third variable that is not directly used to price the offering, but can act as a constraint/limit to the pricing. This variable is Part/Location pairs (PLP).

“PLP” is defined the quantity of Part/Location Pairs (part at a location) planned in the system. Each part has the potential to be planned at one or more locations in the network/hierarchy. In SPM forecasting and planning are done for each part at each location where it has been used in the past (demand) or is anticipated to be used in the future (forecast). The total number of PLPs is a factor in system processing and environment sizing.

The standard offering includes two environments: one for testing and one for production.

Service Model:

The SPM SaaS offering supports additional configuration, customization, and integration capabilities. In case of customizations and integrations, the Customer will be required to pay to PTC additional Extended Cloud Service (ECS) fees for run-time support, maintenance and upgrade of such customizations and integrations.

System Sizing and Data Storage Entitlements:

For PMI Based Pricing, regardless of package purchased, there is a limit to the number of PLPs that can be managed in the system based on the inventory tier. There is also a storage allocation for each of the PMI tiers. Details below:

	PMI (\$M USD)				
	0-24	25-50	51-100	101-200	201+
PLPs	Up to 1,000,000	Up to 1,000,000	1,000,0001 – 3,000,000	3,000,0001-9,000,000	9,000,0001-16,000,000
Storage (GB)	500	500	1,000	2,000	3,000

Data Storage Overage: When the total storage used by the Customer exceeds the storage entitlement, Customer will be billed overage on the storage in arrears. Customer can buy additional storage separately at additional cost.

Set forth below are certain limits on Customer’s use of the SaaS System. Customer may not exceed any of these constraints.

Feature	Area	Variable	Commercial Foundation	Commercial Aviation Foundation	Defense Foundation	Commercial Advanced	FA&D Advanced	Premium
General	All	PLP count	see below	see below	see below	see below	see below	see below
Concurrent users	All	number of concurrent users	150	150	150	150	150	150
Demand Management	SPM/SPP	history slices*PLPs * number of demand streams	600M	600M	600M	600M	600M	600M
Forecasting - General	SPM/SPP	forecast slices*PLPs* number of forecast streams	300M	300M	300M	300M	300M	300M
Inventory Optimization	SPM	IO scenarios*periods*PLPs	1000M	1000M	1000M	1000M	1000M	1000M
Time phased supply planning	SPM	time-phased PLPs * planning horizon	100M	100M	100M	100M	100M	100M
Order Planning	SPM	max (levels in part chain + location echelons)	100	100	100	N/A	N/A	N/A
Order Planning	SPM	max (parts in largest part chain * # locations in largest location echelon)	25,000	25,000	25,000	N/A	N/A	N/A
Interactive and Order Planning	SPM	max (levels in part chain + location echelons)	N/A	N/A	N/A	100	100	100
Interactive and Order Planning	SPM	max (parts in largest part chain * # locations in largest location echelon)	N/A	N/A	N/A	25,000	25,000	25,000
Causal Forecasting	SPM	product*bom size(parts on BOM)*install sites	1000M	1000M	1000M	1000M	1000M	1000M
Causal Scenarios Forecasting	SPM	number of Causal scenarios * product * avg bom * installsites	1000M	1000M	1000M	1000M	1000M	1000M
Scheduled Event Forecasting	SPM	products*events*avg event BOM size*installsites	N/A	500M	500M	500M	500M	500M
Price Streams and Offsets	SPP	PLPs*number of pricing streams	N/A	N/A	N/A	300M	N/A	300M
Pricing Monthly Financials	SPP	history slices*PLPs*number of pricing streams	N/A	N/A	N/A	600M	N/A	600M
Utilization Forecast	CSPM	Assets*causal factors*number of events	N/A	N/A	N/A	60M	60M	60M
Life Limited Parts Forecast	CSPM	number of Serial numbers*causal factors	N/A	N/A	N/A	1M	1M	1M

Concurrent Users – The number of users actively using the system at the same time.

Demand Management – Demand history is summarized in slices. Slices are monthly or weekly but the same for all PLPs.

Forecasting – General – Forecast slices are monthly or weekly and will be the same as the Demand slices. The number of Forecast Streams will align with the number of Demand Streams.

Inventory Optimization – Periods are typically months. The planning horizon determines how far into the future (weeks or months) that supply planning is calculated.

Time-Phased Supply Planning - Trigger-Based Supply planning is the other option. The planning horizon determines how far into the future (weeks or months) that supply planning is calculated.

Order Planning – Part chains have a minimum of 2 levels and no maximum. Foundation packages include Global Part Chain Feature while Advanced and Premium packages include Global and Local Part Chain Features. With Local Part Chain Feature not all Part Chains will apply to all location echelons.

Interactive Planning – This feature is only available in Advanced and Premium Packages. The variable and constraint is the same as for Order Planning.

Causal Forecasting – Causal Forecasting uses information about the install base (products, product bills-of-material (BOM), and install sites). The number of products, the number of parts on each BOM and the number of customer locations where products are tracked impacts processing.

Causal Scenario Forecasting – Causal scenarios allow for different versions of forecasts to be simulated.

Scheduled Event Forecasting – Schedule Event Forecasting uses information about planned events (ex. Maintenance). Products, event bills-of-material (BOM), and event schedules, and customer locations drive these forecasts and system processing.

Price Streams and Offsets – Price streams are used to model price levels for a part/location combination. Price streams are the same for all PLPs.

Pricing Monthly Financials – Demand history is summarized in slices. Slices are monthly or weekly but the same for all PLPs.

Utilization Forecast – Assets are not serialized. Utilization is forecasted based on historical events for one or more causal factors.

Life Limited Parts Forecast – Forecasts are generated at the serial number level for each causal factor.

Data Backup: Application and data managed in the application will be backed up daily and the backups will be made available for recovery for up to thirty (30) days from local copy and 90 days from remote copy.

Data Export: Upon approaching the end of the Services term (the “Service End Date”), Customer can request up to two data exports: (1) prior to Service End Date an export for purposes of testing the input of that data into Customer’s system, and (2) final export at Service End Date. Customer shall coordinate such requests with PTC. The data export includes the information required to redeploy the software in another environment. Depending on the solution purchased, this may include: Database schema export, Directory LDIF export or similar user list export, Enterprise LDAP LDIF export contents. Customer may contract with PTC for additional non-standard data export. Fees are quoted respective of each occurrence. PTC will retain the Customer’s Hosted Data for approximately 30 days following the last extraction, and then another approximately 60 days on backups.

Service and Parts Information SaaS Offering

The PTC Service & Parts Information SaaS offering is an integrated approach to providing PTC’s world class Service & Parts Information solution in a software as a service (SaaS) model.

The offering is currently available only for the PTC Servigistics InService product (InService). The InService SaaS offering is focused on service and parts content delivery using the InService application. The offering is based on a pre-defined configuration. Customers can load service and parts information content from existing authoring / content management systems to InService using standard product loaders and deliver the information to the service network in a consolidated manner.

The offering includes a remote training/mentoring session with a PTC subject matter expert to help train the Customer administrator(s) on system administration, how to prepare the service information for loading and personalize the application for the company specific branding. This training/mentoring session supports the loading of 1 product, up to 500 service documents, and up to 5,000 individual part entries. Additional support, or integrations with other systems, can be contracted upon mutual agreement.

The InService SaaS offering is currently hosted in the following regions. The hosting location in case of global user distribution will be the closest, supported AWS region where the most number of users are located. Pricing is based in part on the hosting location, and so if Customer would like to elect a different hosting location than what was originally quoted, additional fees may be required.

- North America – East (Virginia), West (Oregon)
- Dublin, Ireland
- Frankfurt, Germany
- Tokyo, Japan
- Singapore
- Sydney, Australia

The InService SaaS foundation includes hosting of one high availability clustered deployment for production InService environment and a scaled down split deployment sandbox environment for training, testing, development and other non-production purposes.

The licensing model of this offering is based on an initial foundation purchase that includes a specified number of Registered Users. Additional Registered Users may be purchased, either on a committed basis or as overage.

In addition, Customer may purchase Login Events for Public Users, both of which are defined below.

Also, the InService SaaS foundation includes an allocation of data storage. Additional data storage may be purchased, either on a committed basis or as overage.

There are also limits in the offering on data transfer rates for data being downloaded from the offering. The standard offering allows for 3 TB of data transfer per month. Additional data transfer capacity may be purchased, either on a committed basis or as overage.

Overage for Registered Users is measured on a monthly basis. Overage for Login Events is measured on an annual basis.

Registered User – The Service may only be used by individual, named registered users on a password basis. The Customer may add and/or substitute from time to time new registered users as long as the aggregate number of registered users does not exceed at any point in time the number of licenses in effect at such time for that particular product and, provided further, that if a person who was previously a registered user returns to registered user status, a new license fee must be paid to PTC at PTC's then current GSA rates. A license is required for each individual who accesses a Registered User product or the data contained therein, whether directly or through a web portal or other mechanism for "batching" or otherwise achieving indirect access to the Licensed Product or such data. Generic or shared log-ins are not permitted.

Public User – A user of the InService SaaS offering who is not a direct member of Customer's service network. Service network includes but is not limited to Customer's direct service technicians, authorized dealers and service providers.

Login Event – A login event is an act by a Public User of authenticating with the user credentials to get access to the InService SaaS offering.

Data Export: Upon approaching the end of the Services term (the "Service End Date"), Customer can request two data exports: (1) prior to Service End Date an export for purposes of testing the input of that data into Customer's system, and (2) final export at Service End Date. Customer shall coordinate such requests with PTC. The data export includes the information required to redeploy the software in another environment. Depending on the solution purchased, this may include: Database schema export, Directory LDIF export or similar user list export, Enterprise LDAP LDIF export, data directory contents. Customer may contract with PTC for additional non-standard data export. Fees are quoted respective of each occurrence. PTC will retain Customer's Hosted Data for approximately 30 days following the last extraction, and then another approximately 60 days on backups.

Internet of Things Cloud Offerings

ThingWorx hosted offerings are priced on the same basis as on-premise licenses, as specified in the PTC Licensing Basis Table (available at <http://www.ptc.com/legal-agreements/on-premise-license-agreements> and attached hereto). However, notwithstanding anything to the contrary in the Licensing Basis Table, only one Instance is provided for non-production purposes, unless additional non-production Instances are purchased.

Creo in the Cloud Offerings

Creo in the Cloud is an integrated approach to providing the full capabilities of PTC's world class CAD software as a service (SaaS) in a secure and highly available infrastructure.

Licensing Model:

The Creo in the Cloud software is licensed on a registered user basis, meaning that each individual who is authorized to access the service needs to be assigned their own unique log-in and counts towards the number of users in the system. The registered user licenses will be purchased with the following attributes (as specified in the product description of the PTC quote): (i) package type (Engineer IIIc or Engineer IVc), (ii) instance type (Pro 16GB or Air 8GB), and (iii) number of committed monthly Hours per registered user. An additional attribute is the data center location that the registered user is connected to (determined as specified below).

This is a SaaS offering, and the Customer's access to the software is solely via the PTC hosted system. Customer may not use license files or licenses that it purchases independently of this offering in connection with the Creo in the Cloud offering.

Engineer IIIc and Engineer IVc. These registered user packages have the following capabilities included:

Package Entitlements	Engineer IIIc	Engineer IVc
Creo Parametric	✓	✓
Flexible Modeling	✓	✓
Manikin	✓	✓
Advanced Assembly	✓	✓
Behavioral Modeling	✓	✓
Mechanism Dynamics	✓	✓
Interactive Surface Design	✓	✓
Piping & Cabling	✓	✓
Simulation		✓
Tolerance Analysis		✓
Mathcad		✓
Storage Allocation (10 GB/User)	✓	✓

Allocation and Calculation of Hours:

- There will be aggregate pools of Hours for registered users who are connected to the same data center and on the same instance type (all registered users in the same data center and on the same instance type being part of the same "Group"). If the number of Hours used by such Group in a contract year exceeds the aggregate number of Hours purchased by Customer for such Group, Customer will be charged for the overage.
- Thus, for example, if Customer has 20 registered users (half Engineer IIIc and half Engineer IVc) connected to the US data center on Pro 16GB, and Customer has committed to 30 Hours per month per registered user, such Group can use up to 7,200 Hours in a contract year, and any number of Hours used above such amount will be charged as overage. However, if half of those registered users are instead connected to the EU data center or are instead on Air 8GB, then those users would be in a different Group, and each Group would be able to use up to 3,600 Hours in a contract year.
- Hours may not be shared among different Groups of registered users.
- "Hour" is defined as follows:
 - Hours are measured in full hour increments.
 - Hours are consumed when an instance type is turned on, regardless of whether the registered user is connected for the full hour or just a part of the hour.
 - Thus, for example, a registered user who accesses the system for five minutes will consume a full Hour. However, if the instance such registered user is accessing is within that hour accessed by the same or another registered user, then such registered user will continue in the Hour previously activated. For example, if registered user #1 accesses an instance for 10 minutes and then logs off, and registered user #2 logs on during the remainder of that hour, registered user #2 will be connected to the same instance and, unless registered user #2 goes beyond the remainder of that hour, no additional Hour will be consumed.
- Unused Hours in a contract year may not be rolled over from one year to the next.

Storage Entitlements: Each registered user may use up to 10 GB of storage space. Storage allocation that is not used by one registered user may not be used by other registered users. Files may be saved outside of the Creo in the Cloud offering in order to minimize storage usage.

Data Backup: Storage will be backed up daily and the backups will be made available for recovery for up to seven (7) days. This requirement supersedes anything to the contrary in the PTC Cloud/SaaS Security and Support document.

Overage Rates:

- User Overages:
 - Where more registered users of a particular type (e.g., Engineer IIIc on Pro 16GB in the US data center) access the system than purchased in a given month, Customer will be billed for the additional registered users at the same per user fee as the committed amount, or if no registered users were purchased for that geography, then the overage fee will be PTC's then-current applicable fee for that geography listed in the GSA Pricelist. Thus, for example, if Customer bought ten Engineer IIIc on Pro 16GB in the US data center and had eleven registered users of that type access the system, Customer will be billed for an additional registered user with the same number of committed Hours, regardless of the number of Hours actually used by that registered user.
 - If there are two package types on the same account, Customer will be charged overage at the higher package rate. For example, if Customer purchases five Engineer IIIc and five Engineer IVc users and puts them all in the same account, if an eleventh user accesses the system, the overage fees for that user will be presumed to be Engineer IVc.
- Hour Overages:
 - For Hour overages among a Group of registered users, the excess number of Hours will be billed at the overage rate specified on the PTC quote in accordance with the GSA Pricelist.
 - For example, if Customer has a Group of registered users who together are allocated 100 Hours in a given contract year, but use 105 Hours in such year, Customer will be billed for the additional 5 Hours.
 - As another example, if Customer has ten Engineer IIIc on Air 8GB in the US data center, and Customer sets up a registered user on the Pro 16GB instance, then all of such registered user's Hours are overage Hours because Customer did not purchase Pro 16GB Hours.
- Data Storage Overage: Data storage overage will not be possible. That is, the system will not permit a registered user to exceed the the number of GB of storage purchased for that registered user.

Geographical Limitation:

- The pricing for each registered user is based in part on which data center (US, European Union, Japan or Asia Pacific) such registered user is connected to. The data center used will be based on the currency in which the registered user is quoted. For example, a registered user quoted in US dollars will only be entitled to access the PTC US data centers.

Creo Extensions: Creo extensions are licensed on a concurrent or node locked basis, as specified in Customer's Quote. Concurrent-licensed extensions are priced for either one-country or global usage, also as specified in Customer's Quote. When the Creo extensions are licensed for global usage, in each PTC data center the Customer is authorized to access PTC will install and make available to Customer the full number of floating extensions purchased. It is Customer's responsibility to manage the usage of global extensions to ensure that the number of Customer users accessing the global extensions do not at any given time exceed the number of concurrent licenses purchased.

Data Export: The design data and other information created in Creo in the Cloud is stored in the 10 GB user specific persistent storage attached to the user account or Windchill PDMLink deployed on premise or in the PLM Cloud managed by PTC. Upon approaching the end of Services term (the "Service End Date"), Customer can copy the persistent storage data from each user's persistence storage area to their company network drive. If data is managed in Windchill PDMLink on premise they have complete access and control over the data and if in PLM Cloud they will adhere to the PLM Cloud data export policies. PTC will retain Customer's Hosted Data for 7 days following the Service End Date.

Creo AR Design Share

Creo AR Design Share is a product that enables Creo users to publish models directly from Creo to a PTC-hosted server to be consumed as an Augmented Reality experience through the use of ThingWorx View.

Product	Availability	Publishing Admins	Publishers	Published models allowed	Control
Creo AR Design Share - free	Free to every seat of Creo 4.0 M010+	1	1	5	<ul style="list-style-type: none"> • Only 5 models can be hosted on free experience server at one time and each will expire 6 months after it is published • Customer has no control over deleting published models; when the sixth model is published, the

					<p>oldest published model hosted on the server will be automatically deleted</p> <ul style="list-style-type: none"> Once published, the model is viewable by anyone. There is no password or other protection.
Creo AR Design Share - Individual	For purchase with Creo 4.0 M040+	1	1 (same person as Admin)	10	<ul style="list-style-type: none"> Admin/Publisher has full control over the published models, and can delete any models at any time Access to published models can be restricted by the Admin/Publisher
Creo AR Design Share - Enterprise	For purchase with Creo 4.0 M040+	1	Unlimited	50	<ul style="list-style-type: none"> Admin has full control over all account models, and can delete any models at any time Publishers have full control over models they have published, and can delete any models they published at any time Admin can add/delete any Publisher at any time Access to published models can be restricted by the Admin/Publisher

PTC Cloud/SaaS Security and Support Document

This document is incorporated by reference into the PTC Cloud/SaaS Services Terms and Conditions. All capitalized terms used in this document are as defined in the PTC Cloud/SaaS Services Terms and Conditions.

(1) Security

PTC uses reasonable industry measures designed to protect the operating environment of the Services and Hosted Software against unauthorized physical access and the threats of fire, power, temperature, humidity and other physical forces with the following capability:

- A secure data center with physical access limited to authorized personnel and protected by multi-level security systems. Other persons are admitted only on an as-needed and supervised basis (such as to maintain hardware components).
- Continuous, conditioned power supplied by a redundant power infrastructure, including battery backup systems and diesel-powered generators, with regular system testing for continuous availability.
- Redundant HVAC climate control and fire suppression systems.

(2) Additional Security Measures For Hosted Data

In addition to the physical access protections described above:

- PTC maintains controls consistent with the ISO 27002 framework.
- The Hosted Data is maintained in secure directories that require access authentication.
- PTC performs daily backups of the Hosted Data in the production system. Hosted Data is stored offsite. Daily backups of the production system will be retained for at least three months.
- PTC maintains antivirus protection software on the Hosted System. In the event viruses, worms or similar problems are determined to have infected the Hosted System, PTC will use commercially reasonable efforts to restore the Hosted System as quickly as reasonably possible.

In order to enhance data security, Customer is responsible for:

- Ensuring it uses utmost discretion in granting administrator privileges.
- Ensuring that its Users do not share their passwords.
- Designing, authoring, validating, and approving all custom reports.
- Ensuring and maintaining security of its systems and the machines that connect to and use the Hosted System, including implementation of necessary patches and operating system updates.

The scope of the Services does not include any Customer security requirements beyond those set forth in the PTC Cloud/SaaS Services Terms and Conditions. Customer hereby agrees that it will not, and will not engage or authorize any third party to, perform any penetration testing of the Hosted System without obtaining PTC's prior written permission.

(3) **Support**


- **Support Hours.** PTC's technical staff is available for support and troubleshooting by phone 24x7 for Severity 0 issues. For other issues, availability is Monday through Friday, 8:00 A.M. to 5:00 P.M. local time where Customer's Designated Technical Support Personnel is located, excluding public holidays and other PTC-observed holidays. E-mail inquiries and cases are accepted 24x7.
 - **Designated Employees.** For SLM and ThingWorx products, two of Customer's Designated Technical Support Personnel shall be the only persons authorized to contact PTC via its support line in connection with Services. When PTC provides notification of scheduled outages, such Designated Technical Support Personnel shall promptly relay such notification in a timely manner to all of Customer's Users.
 - **Support Process.** The support process begins when Customer notifies PTC's technical staff of an issue with which Customer requires assistance and opens a case. Customer will provide the following information in order to ensure the issue may be correctly and efficiently assessed and resolved: without limitation, the Customer name, case number and a detailed description of the issue. PTC shall assign a severity level to an issue upon initiation of the case based on the defined severity levels described below in this document. Target resolution times are set forth below. PTC shall determine, at its discretion, based on availability of staff and experience, whether to allocate Customer's case to a named individual. In order to ensure continuity of service and professional call handling, PTC shall use reasonable efforts not to reassign technical staff members once they have been assigned to resolving a particular problem.
 - **Prioritization and Escalation.** PTC shall use commercially reasonable efforts to resolve each significant issue by providing a Workaround, an object code patch or a specific action plan for how PTC will address the issue, and an estimate of how long it will take for the issue to be resolved. "Workaround" means a change in the procedures followed or that Customer supplies to avoid a problem in the hosted environment without substantially impairing Customer's use of the Hosted Software. A Workaround may be either temporary or permanent in nature.
 - **New Releases.** Cloud Services support shall only apply if and for so long as Customer's underlying licenses of the Hosted Software are current on PTC Support. Subject to the exclusions set forth below, Services will include installation of New Releases of the Hosted Software. In single-tenant environments, PTC will coordinate the installation of the New Releases with Customer to reasonably minimize disruption to Customer's operations. Generally, PTC will not upgrade the Hosted Software to the FCS (first customer ship) version of a major New Release. It is Customer's responsibility to test and validate their custom developed, created, or 3rd party applications in a test environment prior to moving them into production. This includes making any necessary modifications to those applications to be supported with the New Release. "New Release" means updates and/or new releases to the Hosted Software that PTC elects to apply to the Hosted Software. The entitlement to New Releases is not included with Cloud Services unless Customer's underlying licenses are covered by a PTC Support services plan.
 - **Maintenance Outage Delay.** Within 24 hours of PTC's notice of a Maintenance outage, Customer may request in writing to PTC that such Maintenance outage be delayed due to extenuating Customer business needs; provided, that PTC shall not be required to delay any outage if such outage is required due to a security issue or to avoid the potential of an unplanned outage. In the event that PTC agrees to Customer's request, such delay shall not exceed ten (10) business days.
 - **Exclusions.** Services support does not include:
 - Support on Customer's site;
 - Design, code development, break-fixes, or testing of integrations, customizations and/or modifications;
 - Third party software included in the Services;
 - Customer developed and/or owned applications;
 - Issues caused by material changes to the configuration of the Hosted Software by Customer;
 - Errors caused by Customer's negligence or fault;
 - Consulting or training services; or
 - Responsibility for changes to or replacement of any Customer hardware that may be necessary to use the Hosted Software due to a Workaround, fix or Hosted Software New Release.
- In addition to the above exclusions, where PTC is providing Cloud Services for licenses of the Hosted Software that Customer owns (as opposed to SaaS Services), the support for the underlying licenses must be purchased by Customer under the License Agreement. If such licenses are not on an active support contract, Customer will not be entitled to such Support under this Agreement.
- **Severity, Initial Response Times and Resolution Targets:** Case severity levels and associated initial response and estimated resolution times are as set forth below:

Severity Level	Definition	Initial Response	Target Resolution Time*
Severity 0 Hosting Problem (Note, Severity 0 problems cannot be communicated to PTC by email)	A problem in the Hosted System that causes substantial downtime of the Hosted System with no viable Workaround available. Generally requires 24X7 availability of Customer's Designated Technical Support Personnel. PTC will work 24X7 until the issue is resolved or the Severity is lowered.	15 Minutes	2 Hours
Severity 1 Hosting Problem (Note, Severity 1 problems cannot be communicated to PTC by email)	A problem in the Hosted System that results in the loss of critical functions of the Hosted Software or a limited number of Users cannot access the Hosted Software via the Services.	2 Hours	4 Hours
Severity 2 Hosting Problem	A problem in the Hosted System that impacts Services operations and/or efficiency but Customer is still able to use the Hosted Software. A Workaround is generally available.	4 Hours	24 Hours
Severity 3 Hosting Problem	a technical question about the Services or the Hosted System that does not impact Customer's use of the Hosted Software.	2 Business Days	5 Business Days

* Target resolution times are measured from PTC's initial response and reflect the target resolution times for hosting problems only, based on PTC using diligent efforts to return Customer to production status.

PTC Customer Success Plans Terms & Conditions

SUCCESS PLANS

	STARTER SUCCESS PLAN ⁽¹⁾	GUIDED SUCCESS PLAN ⁽¹⁾	MANAGED SUCCESS PLAN ⁽¹⁾	STRATEGIC SUCCESS PLAN ⁽¹⁾
		Included in Product Subscription ⁽¹⁾	Additional Cost Subscription	Additional Cost Subscription
SUCCESS SERVICES	Customer Success Management ⁽²⁾ Online Success Guide Onboarding (first 90 days) Adoption Monitoring (ongoing)	Customer Success Management ⁽²⁾ Proactive Guidance for Best Practices Executive Business Review (yearly)	Customer Success Manager (CSM) ⁽²⁾ Named Resource Proactive Guidance for Best Practices Executive Business Reviews (quarterly)	Strategic Customer Success Manager (SCSM) ⁽²⁾ Semi-Dedicated Named Resource or Dedicated Named Resource Executive Business Reviews (quarterly & yearly)
	Advisory Services ⁽³⁾ <input type="checkbox"/> Performance Assessment	Advisory Services ⁽³⁾ • Discovery Workshop (one day)	Technical Support Account Manager (TSAM) ⁽⁵⁾ <input type="checkbox"/> Named resource	Technical Support Account Manager (TSAM) ⁽⁵⁾ <input type="checkbox"/> Named resource
	In-Center Training is available for additional fee	PTC University ⁽⁴⁾ <input type="checkbox"/> In-Center Training	PTC University ⁽⁴⁾ In-Center Training	In-Center Training is available for additional fee
	Expert Sessions (Recorded) ⁽⁶⁾	Expert Sessions (Live) ⁽⁶⁾	Expert Sessions (Live) ⁽⁶⁾	Expert Sessions (Live) ⁽⁶⁾
	Optional Success points ⁽⁷⁾ 20 points bundle 100 points bundle May be redeemed to purchase the Success Services specified in the Rapid Outcome Catalog available at www.ptc.com/rapidoutcomes	Success Points (50 points) ⁽⁷⁾ May be redeemed to purchase the Success Services specified in the Rapid Outcome Catalog available at www.ptc.com/rapidoutcomes	Success Points (80 or 100 points) ⁽⁷⁾ May be redeemed to purchase the Success Services specified in the Rapid Outcome Catalog available at www.ptc.com/rapidoutcomes	Success Points (200 points) ⁽⁷⁾ May be redeemed to purchase the Success Services specified in the Rapid Outcome Catalog available at www.ptc.com/rapidoutcomes

NOTE (1) Success Plans: PTC may modify Success Plans from time to time, provided the level of service under the plans will not materially decrease during a subscription term. If a Success Plan is sold separately from the associated product subscription, the two subscriptions may have different termination dates. Success Plans include access to Success Services for one user, unless otherwise noted. Additional Success Services can be purchased for additional users. Success Plans are not intended to be used as a replacement for implementation services. Success Services entitlements expire at the end of the subscription term. Unused entitlements will not roll over into subsequent subscription terms.

NOTE (2) Customer Success Management, Customer Success Manager (CSM) and Strategic Customer Success Manager (SSM)

The goal of the Customer Success Management, Customer Success Manager (CSM) and Strategic Customer Success Manager (SCSM) is to help Customers successfully adopt PTC software and solutions, including reviewing usage metrics, sharing of best practice advice and guidance related to Customer's adoption, and helping to escalate technical issues as necessary. Customers are responsible for the evaluation and implementation of Customer Success Management's guidance and recommendations.

Customer Success Management

Starter and Guided Success

PTC will provide access to the Customer Success Management team and tools such as the Online Success Guide. This level of Customer Success Management includes onboarding for the first 90 days of the initial (i.e., not renewal) product subscription (i.e., not the subscription for the Success Plan) with PTC, along with ongoing Adoption Monitoring throughout the rest of Customer's subscription with PTC. With the Guided Success Plan, Customers receive additional Proactive Guidance for Best Practices and a yearly Business Review. The subscription term continues for the length of time specified in the applicable order form (or PTC Quote), and is not calculated in hours or days. For clarity, the Customer Success Management team does not deliver implementation services (such as configurations or code).

Managed and Strategic Success

PTC will provide a named Customer Success Manager (CSM) or Semi-Dedicated or Dedicated Strategic Customer Success Manager (SCSM), assigned to Customer for the duration of the subscription term for which Customer has purchased a Success Plan (Managed or Strategic). The subscription term continues for the length of time specified in the applicable order form (or PTC Quote), and is not calculated in hours or days. For clarity, the Customer Success Manager (CSM) or Semi-Dedicated or Dedicated Strategic Customer Success Manager (SCSM) does not deliver implementation services (such as configurations or code).

Availability: Customer Success Management or Customer Success Manager (CSM) or Semi-Dedicated or Dedicated Strategic Customer Success Manager (SCSM) will be provided Monday through Friday, during the hours of 8:00am to 5:00pm in the time zone where the Customer Success Management or Customer Success Manager (CSM) or Semi-Dedicated or Dedicated Strategic Customer Success Manager (SCSM) is located, except for holidays recognized by PTC, paid time off (e.g., vacation, sick time) in accordance with PTC's paid time off policies, and PTC internal training days.

Languages: Language skills include English, German, French, Japanese, Mandarin and Korean speakers.

NOTE (3) Advisory Services

PTC Advisory Services provide Customers with expert guidance in digital and business transformation, and the field experience they need to make optimal, prioritized investments in new capabilities and solutions. Through the creation of Transformation Roadmaps, these senior business advisors guide Customers toward IoT-enabled outcomes with the goal of delivering value to Customer's business and aligning to Customer's business initiatives and strategic goals.

Performance Assessment (Self-Paced)

Journey-specific online performance assessments to identify areas of opportunity for IoT-enabled transformation. Assess Customer's current IoT-enabled capabilities in the language of the Transformation Journey, and receive a personalized report that measures Customer's performance, identifies gaps and suggests opportunities and priorities for new capabilities.

The Performance Assessment is available for three of PTC's Transformation Journeys:

- [>> Digital Engineering](#)
- [>> Manufacturing](#)
- [>> Service](#)

Outcome: Respondent receives a tailored report via email that includes insights keyed to assessment responses, potential opportunities for development of new capabilities to improve performance and recommended next steps.

Discovery Workshop (1 day)

Agendas may be tailored to include, 1) exploration of current trends in IoT-enabled business transformation, 2) identification of candidate use cases across IoT, Smart Connected Products and Operations domains, 3) reviews and preliminary validation of up to two (time permitting) Customer use cases with initial recommendations for further definition and pilot implementations. Discovery Workshops help to accelerate getting started.

Completion prior to the Discovery Workshop of an applicable Performance Assessment by all participants in the Workshop increases the value of the session by providing PTC Advisors with information about the Customer's current state of IoT-enabled business capability.

Outcome: Specification of one preliminary journey pathway, scoping-level definition of a maximum of two proposed use cases for the pathway, a prioritization matrix of the use cases, initial key success factors and summary risk areas to be addressed.

Availability

Advisory Services' Discovery Workshop may be delivered onsite at the Customer's site or at PTC's Client Experience Centers (CXC) around the world (Boston, London, Aachen, Shanghai). Access to Advisory Services is limited to local business hours 8:00am to 5:00pm Monday through Friday. Advisory Services are not available during local public holidays and weekends. Advisory Services are available in the following languages English, German, French, Spanish, Italian, Swedish and in Chinese and Japanese through translation services.

NOTE (4) PTC University

In-center Training

In-center Training entitles one Registered User of the Success Plan to access in-center classes (up to 8 days in total) for the duration of the purchased subscription term, except as set forth below:

- Is included with Guided and Managed Success Plans but not in the Strategic Success Plans.
- Maker Lab sessions are not included as part of In-center Training.
- Registered User shall be entitled to access only classes and materials available in the applicable country in which the Registered User is located.
- Due to limited class sizes, a Registered User may enroll in only one session of a particular class in any given 90-day period (i.e., a Registered User may not enroll in multiple sessions of the same class in order to hold the seat until he/she determines which session to take). To effectively un-enroll in a class, PTC must be notified in writing at least 11 business days prior to any class start. The Registered User may not enroll in that same class for 90 days if he or she fails to provide the required notice.
- Materials and classes may not be copied or shared.

NOTE (5) Technical Support Account Manager (TSAM)

A Technical Support Account Manager (TSAM) is included in certain Managed and Strategic Success Plans. Customer may choose a Managed or Strategic Success Plan with or without a TSAM. The TSAM service is not included in Starter, Guided Success Plans. Customer can optionally purchase the TSAM service as a separate service subscription in addition to a Success Plan subscription.

A PTC Technical Support Account Manager (TSAM) serves as an extension of the Customer's support team. The TSAM works with the PTC Technical Support organization to help ensure consistent management and prioritization of Customer's critical support issues and project-based support requirements. For clarity, the TSAM does not deliver implementation services (such as configurations or code) but can contribute to a Customer's support efforts.

Availability Technical Support Account Manager (TSAM) will be provided Monday through Friday, during the hours of 8:00am to 5:00pm in the time zone where the TSAM is located, except for holidays recognized by PTC, paid time off (e.g., vacation, sick time) in accordance with PTC's paid time off policies, and PTC internal training days. Language skills include English, German, French, Japanese, Mandarin and Korean speakers.

NOTE (6) Expert Sessions

Expert Sessions are focused, technical webcasts where PTC subject matter experts share knowledge and best practices on topics related to the design, development, deployment and operation of PTC software. They are available in two forms - as recorded content and delivered as live webcasts.

Recorded Expert Sessions

- Video recordings of Expert Session content delivered by PTC subject matter experts
- Available to all users with a Starter Success Plan or higher
- Accessed through the Online Success Guide

Live Expert Sessions

- Live webcasts of Expert Session content presented by PTC subject matter experts followed by Q&A
- Available to all users with a Guided Success Plan or higher
- Registration available through the Online Success Guide

Recorded or Live Expert Sessions may not be available for all PTC software. PTC reserves the right to remove, change, and update Expert Session topics & content without notice. Live Expert Sessions may not be scheduled for all topics. Available Languages: English only.

NOTE (7) Success Points

Success Points are a flexible way of consuming Success Services (for example Rapid Outcomes). Customer can manage and redeem Success Points through PTC's Customer Success Management team. Success Services that can be redeemed using Success Points are located here: www.PTC.com/RapidOutcomes. PTC reserves the right to add, change and remove Success Services from its catalog at any time without notice to the Customer.

Success Points Values

- **Starter Success** o Success Points are not Included
 - o Success Points can be purchased in multiples of 20 or 100 bundles

- **Guided Success** o 50 Success Points included (for ThingWorx)
 - o Additional Success Points can be purchased in multiples of 20 or 100 bundles
- **Managed Success** o 80 Success Points included (for ThingWorx)
 - o 100 Success Points included (for PLM SaaS and Solutions)
 - o Additional Success Points can be purchased in multiples of 20 or 100 bundles
- **Strategic Success** o 200 Success Points included (for Solutions)
 - o Additional Success Points can be purchased in multiples of 20 or 100 bundles

Access to Success Points continues for the length of time specified in the applicable order form (or PTC Quote), and is not calculated in hours or days. Success Points are valid for the term of the Success Plan subscription period and will expire at the end of such subscription period (i.e., not including any renewal period). Unused Success Points will not be refunded and cannot be transferred to another contract.

PTC will acknowledge receipt of the Customer's initial request to use their Success Points within 48 hours, and PTC will confirm delivery dates within 10 business days. Please note, PTC requires a minimum of three weeks advance notice to fulfill actual delivery of any Success Service request. In some cases, it may be necessary to extend the actual delivery date beyond three weeks. Success Points used for onsite Success Services do not include travel or living expenses associated with the visit(s) to Customer's site, for which Customer shall reimburse PTC through the use of additional Success Points or the Customer will be billed accordingly. Customer agrees to pay any travel expenses in accordance with FTR/JTR, as applicable. Customer shall only be liable for such travel expenses as approved by Customer and funded under the applicable ordering document.

Success Services are not intended to be used as a replacement for implementation or consultancy services.

Rapid Outcomes

Rapid Outcomes are Success Services designed as short, flexible and scalable engagements to tackle specific issues, deliver key outcomes, and provide client's quick time to value with PTC Products and Solutions.

- Short, flexible and scalable engagements
- Designed to be remotely delivered
- Aligned to the products and/or journeys/solutions
- Will be available through Success Points
- Customer Success Management will schedule Rapid Outcomes
- Visible through an online catalog located here: www.PTC.com/RapidOutcomes

Availability: Access to Rapid Outcomes is limited to local business hours 8:00am to 5:00pm Monday through Friday and are not available during local holidays and weekends. Rapid Outcomes may not be available at the time requested. There may be a lead time between when a Rapid Outcomes is requested and when it will be delivered. Rapid Outcomes are designed to be remotely delivered. If Customer opts to have a Rapid Outcome delivered onsite, Customer will be responsible for all travel or living expenses associated with the visit(s) to Customer's site, for which Customer shall reimburse PTC through the use of additional Success Points. Customer agrees to pay any travel expenses in accordance with FTR/JTR, as applicable. Customer shall only be liable for such travel expenses as approved by Customer and funded under the applicable ordering document.

Languages: Rapid Outcomes are available in the following languages English, German, French, Chinese and Japanese. Some Rapid Outcomes will be available in English only.

GENERAL:

1. The PTC entity as set out in **Schedule A** hereto ("PTC") will provide Success Services on a subscription basis to Customer.
2. PTC shall provide Success Services and shall invoice Customer as laid out in the applicable order form. PTC reserves the right to subcontract or delegate the performance of services to a third party. PTC shall remain liable for the actions and services provided by such subcontractors at all times.
3. All information exchanged by either party in connection with the services and expressly identified in writing thereon as confidential, including, without limitation, data, Customer information, product and marketing information, and documentation, shall be safeguarded by the recipient to the same extent recipient safeguards its own proprietary or confidential information of like importance and in any event with not less than a reasonable degree of care. However, neither party is responsible for safeguarding information which is publicly available, in its possession prior to the start date of the Services or obtained by it from third parties without restriction on disclosure, or developed without reference to the confidential information disclosed

hereunder. PTC recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released.

4. The Services do not result in a transfer or assignment of intellectual property rights between the parties. In any event, PTC shall have exclusive rights in a possible work product, meaning any written materials, reports, computer software or software documentation created, developed or delivered by PTC hereunder, and to any inventions, discoveries, ideas or know-how embodied in the work product or otherwise conceived by PTC hereunder. PTC grants to Customer, subject to the terms and conditions of the GSA Schedule Contract, a nonexclusive right and license to use and copy such work product solely for Customer's internal use.
5. The processing of personal data by PTC for Customer shall be governed by the terms of the PTC Privacy Policy or the respective data processing agreement available at PTC.com.
6. PTC shall only be liable in the event of willful misconduct or gross negligence in accordance with applicable law. PTC shall not be liable for any special, incidental, punitive or consequential damages, including without limitation lost profits, lost savings or damages resulting from the loss or use of data or from project delays attributable in any manner to the performance of the Services. In no event shall PTC's liability for damages hereunder exceed the contract price paid or payable for the service giving rise to such damages. Customer is responsible for creating and maintaining current and complete back-up files for any Customer data and programs that may be affected by PTC's performance of the services. PTC shall not be responsible for the protection or loss of Customer data or information. PTC's statutory liability for injury to life, body and/or health, fraud, and for the malicious concealment of defects, shall remain unaffected.
7. Except as may be otherwise provided herein, this Agreement is subject to FAR 52.212-4 (f) Excusable delays.

Schedule A – Purchases from PTC Affiliates

If the Customer has obtained Success Services in one of the following countries, the entity providing the Services is specified below. The governing law and jurisdiction shall be as set forth below.

Country	PTC Affiliate Service Entity	Governing Law/Jurisdiction for Disputes
United States	PTC Inc., or such other affiliate of PTC as PTC directs at the time of the order	United States Federal law

Qualys, Inc.
1600 Bridge Parkway
Suite 201
Redwood Shores, CA 94065

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Qualys, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

QUALYS

QUALYS LICENSE, WARRANTY AND SUPPORT TERMS

Definitions.

"Service" shall mean a for a subscription to the QualysGuard service for a definite period of time.

"End-User" or "Customer shall mean the Ordering Activity.

"Manufacturer" shall mean Qualys, Inc.

Service Description. End-User will be entitled to use the Service in accordance with the terms herein. The Service will permit End-User, on a schedule determined by End-User, to scan the IP addresses and domain names identified by End-User to Contractor through the Manufacturer for those vulnerabilities contained within the Service's vulnerability database. Contractor through the Manufacturer will automatically provide End-User with the results of such scans, including reports summarizing findings regarding the IP addresses and/or domain names identified by End-User for scanning (the "Reports"). End-User must provide notification, using the Service interface, of any changes in the IP addresses and/or domain names submitted for scanning. End-User also must provide notification in writing if End-User desires to increase the number of IP addresses or domain names to be tested under the Service. Pursuant to Section 7, any increase in the number of IP addresses and/or domain names covered by the Service may require the payment of additional fees. If End-User allocates IP address to devices by the Dynamic Host Configuration Protocol ("DHCP"), End-User may submit a range (or ranges) of IP addresses for scanning, provided that End-User will not be entitled to use the Service to scan a number of devices greater than the number covered by End-User's subscription. Any such attempts to scan a greater number of devices will result in an error message and a prompt to upgrade to an appropriate subscription level.

User Name and Password. End- User will be registered and receive a user name and password for the Service. The Manufacturer generates End-User's password in encrypted form and only End-User has access to it. End-User will be responsible for keeping End-User's user name and password confidential. End-User shall provide notification to Contractor or the Manufacturer immediately upon learning of any unauthorized use of End-User's user name or password. Until such time as End-User provides notification of any unauthorized use of End-User's user name or password, End-User will be responsible for all activities and charges incurred through the use of End-User's user name and password, and will indemnify and hold harmless Contractor for any claims, liability, damages, losses and costs to the extent resulting from such use.

API. End-User may choose to have access to the Service through Manufacturer' proprietary API (the "API") by paying a non-refundable annual API Maintenance Fee, if applicable. If End-User chooses the API option, during the period for which End-User has paid the applicable API Maintenance Fee, Contractor through the Manufacturers will provide End-User with the API, through which End-User may access and query the Service and receive raw data generated from scans of End-User's IP addresses (the "Scan Data"). If the API option is selected, Contractor hereby grants End-User a nonexclusive, nontransferable, and revocable license to (i) access and process the Scan Data via the API for the purpose of generating Reports based on the Scan Data and (ii) use and reproduce such Reports solely for internal business purposes and solely for the purpose of vulnerability assessment with regard to the relevant IP address.

Card Programs. At End-User's request and upon payment of relevant fees, Contractor through the Manufacturer will provide End-User, as part of the Service, a customized version of the Reports containing information designed to meet the criteria of a Manufacturer-supported payment card compliance program such as, by way of example, the Payment Card Industry (PCI) Data Security Standard (each a "Card Program"). In certain circumstances, Contractor through the Manufacturer may also provide individualized assistance to End-User to facilitate a determination regarding End-User's compliance with a Card Program. Contractor through the Manufacturer provides the Service in connection with Card Programs, including any customized Reports and individualized assistance, solely as a tool to enable End-User to evaluate its compliance with such Card Programs. End-User acknowledges and agrees that third party payment card organizations, and not Contractor or the Manufacturer, establish the security criteria and other terms and conditions of the Card Programs ("Criteria").

Grant of Rights. Subject to End-User's payment of any applicable fees and End-User's compliance with the terms and conditions herein, Contractor grants End-User a non-exclusive, non-transferable right to access the Service's user interface and to reproduce solely for End-User's own internal business purposes only such vulnerability test results as set forth in the Reports.

Hardware. Manufacturer's hardware products, including the QualysGuard Intranet Scanner appliance delivered to End-User under this Attachment ("Hardware") are provided to End-User under a subscription on an annual basis, during the term of the relevant subscription. End-User acknowledges that not all Service subscriptions include Hardware. (a) Contractor through the Manufacturer will select the carrier for delivery and bear the cost of shipment, insurance and duties for delivery of the Hardware to the location designated by End-User. Notwithstanding the foregoing, Contractor will not be liable for damage or penalty for delay in delivery. (b) Subject to the Hardware warranty in Attachment A, End-User assumes all risk of loss and shall pay for all cost of repair, replacement, or refurbishment caused by accident, misuse, abuse, neglect, or End-User's other failure to install, use and maintain the Hardware in accordance with the applicable documentation and specifications. Subject to the terms and conditions herein, Contractor and its suppliers grant End-User a limited, non-exclusive, non-transferable, non-sublicenseable license to use the software embedded in the Hardware in executable code form only, during the term of the relevant subscription, solely as necessary to operate the Hardware in connection with the Service. (c) Notwithstanding anything to the contrary herein, Manufacturer will at all times retain title to the Hardware. End-User may retain and use Hardware during any subscription renewal term, provided that End-User pays the applicable subscription and/or lease fee for such renewal term. Upon termination or expiration (including non-renewal) of End-User's subscription, End-User will return all Hardware provided under this Attachment within ten (10) days of such expiration or termination, in substantially the same condition in which it was delivered to End-User. End-User will pay all return transportation and delivery costs.

Restrictions. Except as expressly provided in this Attachment, the rights granted to End-User herein are subject to the following restrictions, and End-User hereby covenants as follows: (a) End-User may use the Service and the Hardware only to scan IP addresses and/or map domain names owned by and registered to End-User, or for which End-User otherwise has the full right, power, and authority to consent to have the Service scan and/or map. End-User may not rent, lease, or loan the Service, or any part thereof. End-User may not permit third parties to benefit from the use or functionality of the Service via timesharing, service bureau arrangements or otherwise. (b) While there is no software transfer necessary to End-User to effectuate the Service, End-User agrees not to reverse engineer, decompile, or disassemble any software that is embedded in or related to the Hardware or that provides the Service, or otherwise attempt to derive the processes by which the Service is provided or the Reports are generated, except to the extent the foregoing restriction is expressly prohibited by applicable law. (c) End-User may not use the Service or the Hardware except for the limited purpose of vulnerability management with regard to the IP addresses for which End-User has purchased a subscription package. (d) End-User may not make any alteration, addition or modification to the Hardware; open, disassemble or tamper with the Hardware in any fashion; or transfer possession of the Hardware to any third party.

Identification of IP Addresses. (a) Because of the sensitive nature of performing security checks on IP addresses, End-User represents and warrants that End-User has full right, power, and authority to consent to have the Service test for vulnerabilities ("scan") the IP addresses and/or domain names identified for scanning, whether electronically or by any other means, whether at the time of initial Registration or thereafter. (b) End-User also acknowledges and agrees that the scanning of such IP addresses and/or domain names may expose vulnerabilities and in some circumstances could result in the disruption of services at such site(s). Certain optional features of the Service, including exploitive scans, involve substantial risk of Denial of Service (DOS) attacks, loss of service, hardware failure and loss or corruption of data. Consequently, End-User agrees that it is End-User's responsibility to perform backups of all data contained in or available through the devices connected to End-User's IP addresses and/or domain names prior to invoking the use of the Service. End-User further assumes the risk for all damages, losses and expenses resulting from use of the Service.

Limited Hardware Warranty. (a) Contractor warrants that, for the duration of a subscription under which Hardware is leased hereunder (the "Warranty Period"), such Hardware, when operated by End-User in accordance with the applicable documentation and specifications, will function without Error. For purposes of this Warranty, an "Error" is a reproducible operational error that causes the Hardware to operate at material variance from its then-current specifications. End-User's remedy for breach of this warranty is to provide notification of the Error in writing during the Warranty Period, whereupon Contractor, will at its election, either: (i) repair or replace the Hardware such that it operates without Error; or (ii) accept return of the Hardware and refund to End-User the a pro-rata portion of fees paid for such Hardware. Any error correction provided to End-User will not extend the original Warranty Period. This sets forth End-User's remedy and Contractor's entire liability to End-User for any Error or other malfunction in the Hardware. (b) Except as expressly provided herein, and to the maximum extent permitted by applicable law, the Hardware, Service, Reports and API are provided "AS IS," and Contractor expressly disclaims all warranties and conditions, whether express, implied or statutory, including but not limited to all implied or statutory warranties of merchantability, fitness for a particular purpose, title, QUALITY, ACCURACY and noninfringement of third party rights. Without limitation to the foregoing, Contractor makes no warranty that the Hardware, Service, Reports or API will be error-free, complete, free from interruption or failure, or absolutely secure from unauthorized access. Nor does Contractor guarantee that the Hardware or Service will detect every vulnerability to End-User's network. Contractor does not warrant that the Service or the Reports meet the Criteria of any Card Program; nor should End-User rely on a "Pass" designation in a Report or the statements of Contractor personnel regarding a Card Program as an indication that End-User's network is secure. (c) No person or company may alter this disclaimer of warranties.

RedSeal Systems, Inc.

2540 Mission College Blvd

Santa Clara, CA 94024

**immixTechnology Rider to Product Specific License Terms and Conditions
(for U.S. Government End Users)**

1. **Scope.** This Rider and the attached RedSeal, Inc. ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law, including but not limited to GSAR 552.212-4 Contract Terms and Conditions-Commercial Items. To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.2I, as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.238-81, Modifications (Federal Supply Schedule) (April 2014) (Alternate I – JUN 2016) and (Alternate II – JUN 2016), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the Federal laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar Federal laws or regulations are enacted, to the extent allowed by Federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.

- h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under Federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates antideficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.2293.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that immixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule

Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a Federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.

3. Order of Precedence/Conflict. To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.



MASTER LICENSE SERVICES AGREEMENT

Section 23 - MASTER LICENSE SERVICES AGREEMENT

This MASTER LICENSE SERVICES AGREEMENT is entered into this ____ day of _____, 202_ (“Effective Date”) by and between the following parties (each a “Party” and collectively, the “Parties”):

Customer:	Supplier:
<customer legal name>	RedSeal, Inc., a Delaware corporation
Customer Registered/Business Address:	Supplier Registered/Business Address:
<complete address>	1600 Technology Drive, 4th Floor San Jose, CA 95110
Customer Contact:	Supplier Contact:
First Name:	First Name:
Surname:	Surname:
Title:	Title:
Telephone:	Telephone:
Fax:	Fax:
Email:	Email:
Customer Notice Address:	Supplier Notice Address:
<complete address>	1600 Technology Drive, 4th Floor San Jose, CA 95110 Attention: See Wai Parshotam, VP Finance mobile: (408) 990-3714 email: sparshotam@redseal.net

23.1

This Master License Services Agreement (“MLSA”) consists of this Cover Page, the following Terms and Conditions (including exhibits and appendices), Master Services Agreements (“MSA”) if applicable, Statements of Work (“SOF”) and Support Schedules when appended to this MLSA or which are subsequently signed by the Parties or which are incorporated into this MLSA by reference, and any Customer Order Forms that refer to this MLSA (collectively, the “Master License Services Agreement” or “MLSA” or “Agreement”). “Customer Order Forms” or “COFs” or “Orders” means an Order which includes a

description of specific Products and Professional Services to be licensed or purchased from Supplier, the number of Permitted Configurations and Authorized Users, and the term of each license. No terms and conditions on any Order which conflict with, are in addition to, or which modify this Agreement will be deemed part of this Agreement and such terms and conditions shall not be binding on Supplier and are hereby rejected.

THEREFORE, THE PARTIES have executed this Agreement as of the Effective Date. Signatures by image and delivery by email are authorized.

CUSTOMER:

SUPPLIER: REDSEAL, INC.

<p>By :</p> <p>_____</p> <p>(Authorized Signature)</p> <p>_____</p> <p>(Typed or Printed Name)</p> <p>_____</p> <p>(Title)</p>	<p>By :</p> <p>_____</p> <p>(Authorized Signature)</p> <p>_____</p> <p>(Typed or Printed Name)</p> <p>_____</p> <p>(Title)</p>
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1. PRODUCT LICENSES AND SALES

1.1 Customer Orders. Customer, together with any ordering Affiliate, shall be jointly and severally liable for all obligations set forth in this Agreement. Supplier reserves the right to conduct a credit check of Customer at any time. “Customer” means the entity identified on the Cover Page or as set forth in a particular COF, and includes Customer, its Affiliates and its and their employees, directors, officers, agents and representatives. “Affiliate” means an entity that directly or indirectly controls, is controlled by or is under common control with a party, where “control” shall mean the ownership of more than fifty percent (50%) of the (i) voting power to elect the directors of the said entity, or (ii) ownership interest in that entity.

1.2 Licenses. (a) License Grant. (i) Subject to the terms and conditions of this Agreement, Supplier hereby grants Customer during the term (or on a subscription basis as provided in 1.2(c) below) specified for such license in the Order, a personal, nonexclusive, non-transferable (except as specified herein) license, without the right of sublicense, to install and have its Authorized Users (Customer’s employees or contractors authorized from time to time by Supplier to use the Software) use the Software

(Supplier’s proprietary computer programs described in the applicable Order, in object code form, and any Updates) for the Permitted Configurations (the number of network device configurations on Customer’s network permitted to be analyzed using the Software specified in the Orders, where each configuration is tied to a specific network device and may not be changed to or used with another network device except as expressly permitted in this Agreement) for Customer’s internal business purposes only.

- (ii) The Software may be used on the Hardware or on other hardware that complies with the specifications for hardware set forth in the Documentation. If a network device is retired from production, Customer may transfer its use of the Software to a new network device for ongoing use. No other changes or transfers may be made to the network devices allocated for use of the Software unless otherwise agreed by Supplier.
- (iii) If more than the licensed number of Authorized Users require use of the Software, additional blocks of Authorized Users may be licensed from Supplier. In the event of use of the Products on other than the Permitted Configurations or in excess of the number of Authorized Users, Customer shall promptly pay Supplier any shortfall plus accrued interest at the Interest Rate indicated by the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315.

“Products” means the Software, Hardware (the equipment specified in the COF, if any, onto which the Software is pre-installed), Documentation (Supplier’s standard published documentation accompanying the Products (as applicable) identified in a COF and any Updates thereto, in any form or media provided) and Maintenance (Section 4.4) licensed or purchased by Customer as specified in an Order.

“Updates” means maintenance releases and error corrections to the Software or Documentation that are generally provided or made available by Supplier to Customers receiving Maintenance at no additional charge. Updates do not include releases, new versions, improvements, upgrades, enhancements and the like for which Supplier charges separately or extra as determined by Supplier in its sole discretion

(b) Restrictions. Except for the limited license rights expressly granted in Section 1.2(a), Supplier reserves all rights in and to the Software and Documentation. Customer shall not:

- (i) reproduce, modify, translate or create any derivative work of all or any portion of the Software or Documentation;
- (ii) sell, rent, lease, loan, provide, distribute or otherwise transfer all or any portion of the Software or Documentation to a third party;
- (iii) reverse engineer, reverse assemble or otherwise attempt to gain access to the source code of all or any portion of the Software (other than the Open Source Software) except to the extent expressly permitted by law;
- (iv) remove, alter, cover or obfuscate any copyright notices, trademark notices or other proprietary rights notices (“Proprietary Rights Notices”) placed or embedded on or in the Products;
- (v) unbundle any components of the Software;
- (vi) exceed the number of Authorized Users having use of the Software; or (vii) cause or permit any third party to do any of the foregoing.

In addition, Customer shall not use the Products for the benefit of any third party, including but not limited to as an application service provider, for third-party training, or time-sharing or service bureau use.

(c) Subscription Licenses. In lieu of a perpetual or term license as set forth in 1.2(a), Customer may purchase an annual subscription license as specified in the Order (“Subscription License”). All Subscription Licenses include Maintenance at no additional charge. Customer’s Subscription License will begin on the date the license key is issued for the Subscription License and may be renewed for an additional annual term (or such other period as specified in the Order) by both parties executing a new Agreement, or Order incorporating this Agreement in writing.

1.3 Term of Agreement, COF, MSA and SOW, and Duration of Fees. Unless earlier terminated in accordance with the terms of this Agreement, or if Customer elects the Subscription License, the Parties agree that: (a) This Agreement shall become effective on the Effective Date and shall continue for one (1) year and may continue thereafter on an annual basis by both parties executing a new Agreement, or Order incorporating this Agreement in writing (“Agreement Term”); and (b) If a COF, MSA or SOW does not specify otherwise, the term for each license and sale of Products and provision of Professional Services shall commence on the Service Commencement Date (“Service Commencement Date” means (i) the date Customer has accepted or is deemed to have accepted the Products or Professional Services in accordance with the provisions of Section 4.5 or the applicable SOW; or (ii) the date Customer begins using the Products or Professional Services other than for testing purposes, whichever date is earlier) and continue for one (1) year (“Initial Term”). At the end of the Initial Term, the term may be renewed for additional successive one (1) year terms by both parties executing a new Agreement, or Order incorporating this Agreement in writing in accordance with Section 5.1(a) (the Initial Term and any extension thereof is referred to as the “Service Term”). To the extent that the Service Term extends beyond the Agreement Term, then this Agreement shall remain in full force and effect for such Service Term until the stated expiration or termination of such Service Term.

1.4 Payment. Supplier invoices for Products and Professional Services (“Professional Services” or “Services” means the services provided pursuant to Section 3.4 and as specified in an Order as set forth in each COF, MSA or SOW). Unless set

forth otherwise in a COF, MSA or SOW, Customer shall pay all amounts due within thirty (30) days from the receipt date of invoice. Any amount due but not received by Supplier within thirty(30) days of the Due Date will accrue interest at the Interest Rate from the Due Date to the date of actual payment

1.6 Taxes and Regulatory Fees. Vendor shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

1.7 Equipment. If requested by Customer, Supplier may, at its option, and in its discretion upon an additional charge to Customer, install certain equipment in connection with the Products and Professional Services that is provided by Customer or third parties with whom Customer has a contractual relationship (such equipment, "Customer Equipment"). Customer must ensure that any Customer Equipment is connected and used in accordance with any instructions, safety and security procedures applying to the use of that equipment. Equipment may also be furnished by Supplier, its Affiliates or licensors or its designated third party vendors (as applicable) for use at Customer's Premises as part of any Products or Professional Services ("Supplier Provided CPE"). Any Supplier-Provided CPE shall be identified in the applicable COF, MSA or SOW, together with associated pricing and shipping information.

1.8 Acceptance of Products and Services. Unless otherwise stated in the applicable COF, MSA or SOW, the Products and Professional Services shall be accepted or deemed accepted in accordance with the following procedure: (a) upon Customer's receipt of an In-Service Notification (i.e., a written notice from Supplier to Customer that the Products ordered pursuant to a COF have been installed by Supplier and have been tested and are functioning properly in accordance with the applicable Service Schedules), Customer will have two (2) business days to test the Products and Professional Services deliverables and notify Supplier in writing of its acceptance or rejection of the Products or deliverables; and (b) if Customer notifies Supplier of its rejection, Supplier shall remedy the deficiency and a new In-Service Notification will be delivered to Customer and the

procedures set forth in this Section 1.8 will be repeated. Customer's failure to notify Supplier of its acceptance or rejection of the Services within this time period will be deemed to constitute Customer's acceptance of the relevant Products and Professional Services deliverables.

2. OBLIGATIONS OF THE PARTIES

2.1 Warranties of Supplier. Supplier warrants that the Hardware and Software, as delivered, will perform substantially in accordance with the applicable Documentation for a period of ninety (90) days from the date of initial delivery to Customer and that any Maintenance and Professional Services shall be performed in a professional manner. Supplier makes no warranty that the operation of the Products will be uninterrupted or error-free, that the Products will meet Customer's requirements or that the Products will operate in combination with hardware or software not provided by Supplier. In the event that the Products or Professional Services do not conform with the above warranties, the exclusive remedy shall be for Supplier to (a) with respect to Software, use its reasonable efforts to correct any reproducible error; provided, however, that Customer acknowledges that Supplier may not be able, and shall have no obligation, to correct all errors or (b) with respect to Maintenance or and Professional Services, re-perform such Maintenance or and Professional Services at no additional charge to Customer. In the event the Hardware does not conform to the above warranties, the exclusive remedy shall be for Supplier to provide repaired or replacement Hardware to Customer pursuant to Supplier's then current return material authorization (RMA) process.

Supplier's warranty shall not extend to errors that result from: (i) Customer's failure to implement any Updates which are provided by Supplier; (ii) use of the Products other than in accordance with the Documentation; (iii) any alterations of or additions to the Products performed by parties other than Supplier; (iv) use of the Products in a manner for which they were not designed; (v) accident, negligence, or misuse of the Products by any party other than Supplier; or (vi) combination of the Products with other products not supplied by Supplier.

Supplier makes no representations or warranties as to any third-party hardware or software provided to Customer, all of which is transferred to Customer on an "AS IS" basis and subject to any third party terms and conditions. Customer shall look solely to the warranties and remedies provided by the equipment manufacturer and third-party licensor, if any.

EXCEPT FOR WARRANTIES EXPRESSLY MADE HEREIN, SUPPLIER MAKES NO WARRANTIES OR REPRESENTATIONS EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

2.2 Misuse of the Products and Services: Acceptable Use. Customer is prohibited from marketing or re-branding the Products or Professional Services licensed or purchased by it as its own products and services or to resell any of same to third parties. Customer acknowledges and agrees that Supplier does not monitor and will have no liability or responsibility for the content of any communications transmitted via the Products or Professional Services. Customer's use of the Products and Professional Services shall at all times comply with Supplier's Acceptable Use Policy ("AUP") and Privacy Policy ("Privacy")

Policy”), as amended by Supplier and made available from time to time and which are available on Supplier’s website (www.redseal.net) and attached hereto.

3. HARDWARE, INTELLECTUAL PROPERTY, MAINTENANCE AND PROFESSIONAL SERVICES

3.1 Hardware.

- (a) Outright Sale of Hardware. If Customer purchases the Supplier-Provided CPE from Supplier pursuant to the COF, then title and risk for that Supplier-Provided CPE shall transfer to Customer, and shipments will be made, Ex Works

(Incoterms 2010), Customer’s shipping dock. Customer will pay all costs relating to transportation, delivery and insurance and will bear the risk of loss while materials are in transit. Normal delivery of the Software and Documentation will be through electronic download.

- (b) Hardware Provided as Part of the Products and Services. If Supplier provides Supplier-Provided CPE to Customer as part of the Products or Professional Services, title and ownership will remain with Supplier, its Affiliates or its designated third party vendors (as applicable). Risk of loss in the Supplier-Provided CPE shall transfer to Customer upon delivery to the relevant Customer Premises (the location or locations occupied by Customer where the Products are delivered) and Customer shall be required to pay Supplier for the cost of repairing or replacing damaged Hardware (ordinary wear and tear excepted). Customer shall maintain all risk insurance against loss or damage to the Hardware for not less than the full replacement value of the Hardware

- 3.2 Intellectual Property. Customer is and shall remain exclusively entitled to all right and interest in and to all Customer Technology, and Supplier is and shall remain exclusively entitled to all right and interest in and to all Supplier Technology. Customer shall not, directly or indirectly, reverse engineer, de-compile, disassemble or otherwise attempt to derive source code or other trade secrets from Supplier Technology. The Software and Documentation are licensed, not sold. All right, title, and interest in and to the Software and Documentation and in any ideas, know-how, and programs which may be developed by Supplier in the course of providing Maintenance or Professional Services, including any enhancements or modifications and all intellectual property and industrial property rights embodied therein will at all times remain the property of Supplier or its licensors. “Customer Technology” means Customer’s proprietary technology, including without limitation, Customer’s software (in source and object forms), user interface designs, architecture and documentation (both printed and electronic), know-how, and any related intellectual property rights throughout the world (whether owned by Customer or licensed to Customer from a third party). “Supplier Technology” means Supplier’s proprietary technology, including without limitation, Products, Services, software tools, hardware designs, algorithms, Software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), network designs, know-how, business methods, and any related intellectual property rights and industrial property rights throughout the world (whether owned by Supplier or licensed to Supplier from a third party).

- 3.3 Maintenance. Maintenance for term or perpetual licenses may be purchased for one (1) year terms (each a

“Maintenance Term”). Provided Customer has purchased Maintenance or has a Subscription License, Supplier will provide the Maintenance specified in Exhibit A during the Maintenance Term or term of the Subscription License. If Customer has not renewed its Maintenance contract, then the license will still be valid but Supplier will not provide Maintenance as specified in Exhibit A. Hardware maintenance is available for annual periods not to exceed three (3) years following date of the Hardware purchase. If Customer has purchased Maintenance for an individual Product deployment under more than one service level (e.g. Basic for some network devices and Premium for others), the lowest class of Maintenance purchased will govern support for such Product deployment. If Customer has staggered Maintenance renewal dates for network device licenses, then all licensed network devices must be covered by a current Maintenance contract to obtain Maintenance from Supplier.

- 3.4 Professional Services. Customer may order training, configuration and other Professional Services from Supplier from time to time. All materials created by Supplier and all intellectual property rights created in connection with such Professional Services shall be the sole property of Supplier. The fees for all Professional Services shall be specified in the applicable COF, MSA or SOW. Professional Services must be used within one (1) year following the date of purchase or remaining days will be forfeited.

4. INDEMNIFICATION AND LIMITATION OF LIABILITY

4.1 Indemnification – General. Supplier shall indemnify Customer from and against any claims by third parties (including any governmental or quasi-governmental body, whether foreign or domestic, including any department, agency, commission, bureau or other administrative or regulatory bodies, courts, public utilities and communications authorities, “Governmental Authority”) and expenses (including legal fees and court costs) arising from damage to tangible property, personal injury or death caused by such Party’s negligence or willful misconduct

4.2 Indemnification – Infringement. Subject to 4.3 and 4.4, Supplier (“Indemnifying Party”) will have the right to intervene to defend at its own expense any action against Customer (“Indemnified Party”) brought by a third party to the extent that the action is based on a claim that the Indemnified Party’s authorized use of the Software infringes Intellectual Property Rights within the U.S. or Canada of such third party. Indemnifying Party will pay those costs and damages finally awarded against Indemnified Party in any such action that are attributable to such action, or those costs and damages agreed to in a settlement of such action. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice’s right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

4.3 Indemnification Limitations. Notwithstanding the foregoing, a Party will have no obligation under this Section 4 or otherwise with respect to any infringement claim based upon: (a) any use of Supplier’s Technology not in accordance with this Agreement; (b) any use of Supplier’s Technology in combination with other products, hardware, equipment, software, or data not authorized by Supplier to be used with the technology; or (c) any modification of Supplier’s Technology by any person other than Supplier or its authorized agents or subcontractors.

4.4 Infringement Remedies. In the event of a third party claim of intellectual property infringement, Supplier may, at its sole option, (a) obtain for Customer the right to continue using the Products or Professional Services deliverables, (b) modify the Products or deliverables so that they are non-infringing, (c) replace the Products or deliverables with functionally equivalent, non-infringing items, or (d) if the alternatives in (a)-(c) above are not available, Supplier may (i) terminate or eliminate such infringing Products or Services, or this Agreement, without penalty to either Party, and (ii) refund “unused” prepaid amounts, if any.

4.5 Notifications and Defense. The indemnified Party under Sections 4.1 and 4.2: (a) must notify the other Party in writing promptly upon learning of any claim or suit for which indemnification may be sought, provided that failure to do so shall have no effect except to the extent the other Party is prejudiced thereby; (b) shall have the right to participate in such defense or settlement with its own counsel and at its sole expense, but the other Party shall have control of the defense and settlement; and (c) shall reasonably cooperate with the defense

4.6 Exclusive Remedy and Limitations.

THIS SECTION 4 STATES THE INDEMNIFYING PARTY’S ENTIRE LIABILITY AND THE INDEMNIFIED PARTY’S EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS AND ACTIONS.

NOTWITHSTANDING ANY OTHER PROVISION HEREOF, NEITHER PARTY SHALL BE LIABLE FOR (A) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR (B) ANY DAMAGES FOR LOST PROFITS, LOST

REVENUES, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF CUSTOMERS, LOSS OF DATA, INTERFERENCE WITH

BUSINESS OR COST OF PURCHASING REPLACEMENT SERVICES, ARISING OUT OF THE PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, WHETHER OR NOT CAUSED BY THE ACTS OR OMISSIONS OR NEGLIGENCE (INCLUDING GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OF ITS EMPLOYEES OR AGENTS, AND REGARDLESS OF WHETHER SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES.

FOR ANY LIABILITY NOT EXCLUDED BY THE FOREGOING, SUPPLIER SHALL IN NO EVENT BE LIABLE IN AN AMOUNT THAT EXCEEDS, IN THE AGGREGATE FOR ALL SUCH LIABILITIES, THE AMOUNT PAID UNDER THE APPLICABLE ORDER.

NOTWITHSTANDING THE ABOVE, NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS LIMITING THE LIABILITY OF EITHER PARTY FOR (I) PERSONAL INJURY OR DEATH RESULTING FROM THE NEGLIGENCE OF A PARTY OR ITS EMPLOYEES, (II)

FRAUD OR FRAUDULENT MISREPRESENTATION, (III) WILLFUL MISCONDUCT OR (IV) IF AND ONLY TO THE EXTENT LIABILITY IS NOT AVOIDED, OR IS REDUCED, BY VIRTUE OF SECTION 4.4 (INFRINGEMENT REMEDIES), INDEMNIFICATION PURSUANT TO SECTION 4.2 (INDEMNIFICATION – INFRINGEMENT).

5. TERMINATION

5.1 Termination.

- (a) Except if otherwise specified in a schedule, exhibit, MSA, SOW or COF, either Party may terminate an individual Product license or Professional Service at the end of its Initial Term or Service Term (as applicable), by providing no less than ninety (90) days advance written notice to the other Party subject to Customer's payment to Supplier of any outstanding Fees, including associated charges, for the products and services so terminated.
- (b) When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Supplier shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

5.2 Additional Suspension by Supplier. Supplier shall have the right to immediately temporarily suspend this Agreement or any MSAs, COFs or SOWs (as applicable), and discontinue or suspend the delivery of the affected Product license or Professional Service (without liability) in the event that: (a) reserved; or (b) reserved; or (c) Customer has engaged in conduct that has caused or may cause (in Supplier's sole reasonable judgment) trafficking of or substantial damage to the Software or Hardware; or (d) Supplier receives any direction, notification or instruction from any Governmental Authority to suspend or terminate the provision of Product license or Professional Services to Customer. Upon any such suspension, Supplier shall provide written notice (where practicable) thereof to Customer.

5.3 Supplier's Remedies. The rates and charges set forth in each MSA, COF and SOW are established in reliance on the Service Term commitment made therein. If Customer cancels any Product license or Professional Service or MSA, COF or SOW during a Service Term commitment for any reason other than as provided in Section 5.1 above or in a particular schedule or exhibit, or in the event Supplier terminates a MSA, COF or SOW because of any reasons set forth in Section 5.1(b) or 5.2, then Customer agrees to pay to Supplier, within thirty (30) days of such termination: (a) an amount equal to the pro-rated amount of the unpaid Fees payable for the Service Term prior to the termination date. The obligations of the Customer pertaining to any accrued but unpaid amounts arising out of this Agreement in relation to any one or all of the Products and Professional Services, including pursuant to Section 1 and this Section 5, shall survive any termination of this Agreement.

6. GENERAL PROVISIONS

6.1 Trademarks & Publicity. Neither Party shall have the right to use the other Party's or its Affiliates' trademarks, logos, trade dress, service marks, trade names or service names in any manner, or to refer to the other Party by name or identifiable description in any marketing, promotional or advertising materials or activities, without the prior written consent of the other Party.

6.2 Confidentiality.

- (a) "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including but not limited to the terms and conditions of this Agreement (including pricing and other terms), the Software and the Documentation.

Confidential Information shall not include information that: (i) is independently developed by the Receiving Party; or (ii) is lawfully received by the Receiving Party free of any obligation to keep it confidential; or (iii) becomes generally available to the public other than by breach of this Section 6.3. Confidential Information shall remain the property of the Disclosing Party. Each Receiving Party shall maintain the confidentiality of the Confidential Information of the Disclosing Party (and each Party shall maintain the confidentiality of this Agreement) using at least the same degree of care as it employs in maintaining as secret its own trade secret, proprietary and confidential information but in any event always with at least a reasonable degree of care. A Receiving Party must not disclose the Disclosing Party's Confidential Information to any person except: (i) to its employees (which for Supplier includes its Affiliates' and its Third Party Service Providers' employees) on a 'need-to-know' basis provided those persons first agree to observe the confidentiality of the information; (ii) to legal and financial advisers; (iii) with the other party's prior written consent; or (iv) if required by law, any stock exchange, or any Governmental Authority. Receiving Party may disclose the Disclosing Party's Confidential Information to the extent such disclosure is required by order or requirement of a court, administrative agency, or other governmental body, provided that the Receiving Party provides prompt written notice thereof to the Disclosing Party (to the extent legally permitted) and assistance to enable the Disclosing Party to seek a protective order or otherwise prevent or restrict such disclosure. The confidentiality obligations of each party will survive expiration or termination of the Agreement for a period of three (3) years. Supplier recognizes that Federal agencies are subject

to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as “confidential” by the vendor.

- (b) On Disclosing Party’s written request or upon expiration or termination of this Agreement for any reason, the Receiving Party will promptly return or destroy, at Disclosing Party’s option, all Confidential Information of Disclosing Party in any form or media and provide a written statement to Disclosing Party certifying the return or destruction of such Confidential Information.

6.3 Compliance with Data Privacy Laws.

- (a) Customer confirms it has read and understood Supplier’s privacy policy, a copy of which is available on <http://www.redseal.net/policies/privacy-policy> and attached hereto, as updated from time to time.
- (b) On advice from data privacy counsel, Supplier has determined that it is required to comply on a limited and partial basis with compliance with Privacy Laws. In particular, with respect to the CCPA, such compliance is described in Supplier’s privacy policy. Supplier believes that its communications between itself and its Customers fall under the B2B Covered Information exemption. The personal contact information of the Customers associated with “B2B” Covered Information would be exempt from the CCPA rights to know or delete personal information. With respect to GDPR, Supplier is the data controller for the Customers’ Representatives Personal Data. Supplier relies on the lawful basis of providing Services pursuant to a contract with its Customer(s) for collecting the personal information of Customers’ Personal Data. Article 35 of the GDPR requires a covered entity to carry out a formal Data Protection Impact Assessment (DPIA) where the entity’s processing “is likely to result in a high risk to individuals.” Supplier’s services do not involve the activities covered by DPIA, therefore it is Supplier’s position that a DPIA is not required at this time. Supplier acts as a data controller for the names and emails of its Customers. It is a data processor for any personal data that its Customers collect as data controllers. Supplier’s business does not involve any monitoring of data subjects. It also does not collect any data related to special categories or criminal backgrounds or convictions. For all of these reasons, it is our contention that Supplier is not required to appoint a Data Protection Officer (DPO) under the GDPR.
- (c) Each Party represents and warrants to the other Party that it complies with its obligations under relevant Privacy Laws. Customer further represents and warrants to Supplier that it shall provide proper notices to, and obtain necessary consents from, its end-users, employees and other data subjects about how their Personal Information and Personal Data may be used, stored, and disclosed to service providers engaged by Customer, as well as how data subjects may opt-out.

“Personal Information” or “Personal Data” means any information that may identify an individual, including without limitation names, addresses, telephone numbers, electronic addresses, passwords, credit card numbers or other account data, customer proprietary network information, or any information regarding an individual that is protected under any Privacy Laws applicable to the Products or Professional Services.

“Privacy Laws” means any applicable law, regulation or binding policy of any Governmental Authority that relates to the security and protection of personally identifiable information, data privacy, trans-border data flow or data protection. This includes the General Data Protection Regulation (GDPR) and the California Consumer Protection Agreement (CCPA).

6.4 Force Majeure. Excusable delays shall be governed by FAR 52.212-4(f).

6.5 Governing Law, Jurisdiction and Recovery of Expenses. This Agreement is governed, construed, and enforced in accordance with the Federal laws of the United States. The United Nations Convention on Contracts for the International Sales of Goods and the Uniform Computer Information Transactions Act (UCITA) are expressly excluded.

6.6 Severability; Waiver. In the event any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, such provisions shall be stricken and the remainder of this Agreement shall remain legal, valid and binding. The failure by either Party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right or to operate so as to bar the exercise or enforcement of any such or other right on any later occasion.

6.7 Assignment. Save and except to the extent permitted under this Section 7.7, neither Party may assign this Agreement, a

COF, MSA or SOW without first obtaining the other Party’s written consent. However, either Party may assign this Agreement, a COF, MSA or SOW to an Affiliate or as part of a corporate reorganization, consolidation, merger or sale of all or substantially all of its assets by providing advance written notice to the other Party of any such proposed assignment in accordance with the procedures for securing such approval set forth in FAR 42.1204. Any purported assignment in contravention of this clause shall be invalid and void, and the assigning Party shall remain bound. This Agreement or the relevant COF, MSA or SOW will bind and inure to the benefit of each Party and each Party’s successors and permitted assigns.

- 6.8 Notice. Any notice or communication required or permitted to be given under this Agreement shall be in writing and may be delivered by hand, sent by overnight courier or email (with confirmation of delivery), at the addresses set forth on the Cover Page or the applicable COFs or at such other address as may hereafter be furnished by either Party to the other by notice in accordance with this Section. Such notice or communication will be deemed to have been given as of the date it is delivered, or emailed, as the case may be.
- 6.9 Relationship of Parties. Supplier and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between Supplier and Customer.
- 6.10 Regulatory and Legal Changes. In the event of any change in applicable law, regulation, decision, rule or order that materially increases Supplier's costs or adversely affects Supplier's delivery of the Services, Supplier and Customer agree to negotiate regarding the rates to be charged to Customer to reflect such increase in cost or the revisions to this Agreement necessary to equitably adjust for such adverse effect
- 6.11 Insurance. Each Party shall keep in full force and effect during each Service Term insurance coverage that is no less than that required by applicable law and is customary in accordance with best industry standards. If requested in writing by the other Party, a Party will provide certificates of insurance evidencing its insurance coverage.
- 6.12 Third Party Beneficiaries. Supplier and Customer agree that there shall be no third party beneficiaries to this Agreement, including, but not limited to, any sub-licensee or end-user of Customer or the insurance providers for either Party. To the extent it is allowed by law, any legislation in any relevant jurisdiction giving rights to third parties is hereby excluded.
- 6.13 Export Control. Customer acknowledges and agrees that the Products and related technology subject to this Agreement are subject to the export control laws and regulations of the United States, the European Union and other countries. The Parties agree to comply with all such laws and regulations.
- 6.14 Government Rights. The Software and Documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying, or disclosing of the Software or Documentation by the U.S. Government or other government entity shall be governed solely by the terms of this Agreement.
- 6.16 Anti-Bribery. Customer represents that it has complied and shall comply with all applicable anti-bribery laws and regulations, including, without limitation, the U.S. Foreign Corrupt Practices Act, the UK Bribery Act and similar laws of any other Governmental Authority, and has not taken and shall not take any action in furtherance of an unlawful offer, promise, or payment to or for the benefit of any person.
- 6.17 Entire Understanding. This Agreement constitutes the entire, final, complete and exclusive understanding of the Parties related to the subject matter of this Agreement. All prior written or oral agreements, understandings, communications or practices between Customer and Supplier are hereby superseded insofar as they relate to the Products and Services under this Agreement. This Agreement may be amended only in writing signed by a duly authorized representative of each of Supplier and Customer. In the event of any conflict between the documents comprising this Agreement, precedence shall be given to the documents in the following descending order: (i) the applicable COF; (ii) the applicable SOW; (iii) the applicable MSA; (iv) the applicable schedule or exhibit; (v) the main body of this Agreement; and (vi) any other document expressly referred to in this Agreement which governs the products and services.
- 7.18 Further Assurances. Both Parties shall extend their cooperation to do and perform (or cause to be done and performed) all such acts and things, and execute and deliver all such other agreements, instruments and documents, as the other Party may reasonably request in order to accomplish the intent and purposes of this Agreement including the transactions contemplated hereby.

[END OF TEXT]

EXHIBIT A

Exhibit A –Supplier Maintenance

In consideration of Customer’s purchase of Maintenance, Supplier shall perform the following Maintenance during the applicable Maintenance Term. The Maintenance Term is the term for which Customer has ordered Maintenance as specified in the Order.

1. Maintenance.

1.1 Error Correction. For purposes of this Exhibit A, “**Error**” means nonconformity in the Software which causes the Software to not substantially conform to the applicable Documentation and “**Error Correction**” means additional or replacement code of the Software or a workaround solution provided by Supplier to remedy an Error. Supplier will use commercially reasonable efforts to correct any Errors in the Software in accordance with the priority assigned by Supplier in its discretion. Supplier will provide services directly to the Customer’s Technical Contacts.

1.2 Customer Assistance. Customer will provide Supplier with information in Customer’s possession as reasonably necessary to allow Supplier to duplicate the Error.

1.3 Customer Technical Contact. Customer will designate on the applicable Order technical contact persons (“**Customer Technical Contacts**”) who will receive all Error Corrections, Updates, correspondence and other communications concerning the Software. The Customer Technical Contacts may be changed from time to time upon written notice to Supplier.

1.4 Supported Versions. Supplier will provide Maintenance only for Software released during the prior twelve (12) months.

1.5 Technical Support. Supplier will provide Technical Support service via telephone, web based Support Portal, and email to the Customer Technical Contacts. Assistance will be available during published Support Hours consistent with the Maintenance level purchased. Supplier will use commercially reasonable efforts to meet the initial response times set forth below from the time an inquiry is received by the appropriate Supplier contacts during the Support Hours.

Maintenance Level	Support Hours	Initial Support Response Time	Hardware Replacement
Basic Maintenance	Mon–Fri 6am - 6pm Pacific Time	4 hours	5 Business Days
Premium Maintenance	Mon–Sun 24 hours Pacific Time	1 hour	2 Business Days

Customer must have a current Maintenance contract on ALL licensed Products in order to receive Technical Support services for ANY of the licensed Products. Supplier reserves the right to change support hours and response times at the time of Maintenance renewal.

1.6 Limitations. (a) Supplier will have no obligation for the correction of Errors that result from: (i) Customer’s failure to implement any Updates which are provided by Supplier; (ii) use of the Products other than in accordance with the Documentation; (iii) any alterations of or additions to the Products performed by parties other than Supplier; (iv) use of the Products in a manner for which they were not designed or outside the scope of this Agreement; (v) accident, negligence, or misuse of the Products by any party other than Supplier; or (vi) combination of the Products with other products not supplied by Supplier.

(b) In addition, Supplier is not obligated to correct Errors that cannot be remedied due to the hardware on which the Software is operated if such hardware does not meet the minimum systems requirements specified in the Documentation. If Supplier agrees to remedy any errors or problems not covered by the terms of this Agreement, Supplier will invoice Customer, and Customer will pay Supplier, for all such work performed at Supplier’s then-current time and materials charges. Customer acknowledges that Supplier is under no obligation to provide Maintenance with respect to any Hardware or any Software for which Customer does not have a valid license.

1.7 Software Releases. So long as the Customer has a current Maintenance contract for all licensed network devices, Supplier will make available via electronic delivery to Customer Updates and

Documentation relating thereto, when ready for commercial release. Unless otherwise agreed, such materials will be made available to the Customer Technical Contacts via the Supplier Support Portal

1.8 Hardware. If Customer has purchased separate Hardware Maintenance, Customer may contact Supplier to report a malfunction in the Hardware, and to obtain a Return Material Authorization ("RMA"). Replacement units will be shipped in accordance with the Maintenance level purchased by Customer (Basic or Premium). After receiving an approved RMA from Supplier, Customer must ship the defective Hardware, which must be clearly identified with its RMA and with any requested documentation, to the address provided by Supplier. Any Hardware damaged during return shipment due to improper packing will not be covered by Maintenance. Defective Hardware must be returned to Supplier within fifteen (15) days following issuance of the RMA or Customer will be billed for the replacement Hardware at Supplier's then current list price. If the Hardware defect is found by Supplier to be caused by one of the events specified in Section 1.6 above, then repairs or replacement will be billed to Customer's account at Supplier's then-current rates.

1.9 Plugins. Updated Plugins will be published to the Supplier Support Portal upon commercial release. Plugin updates may only be downloaded and applied to licensed Software so long as the Customer has a current Maintenance contract. "Plugin" means Supplier software modules that facilitate the Product's ability to work with specific network devices from various third party vendors.

1.10 STIGs. Updated STIGs will be published to the Supplier Support Portal on a regularly scheduled basis. STIG updates may only be downloaded and applied to licensed Software so long as the Customer has a current Maintenance contract. "STIG" means Security Technical Implementation Guides Module that Customer may purchase and that are periodically updated for Customers with a current Maintenance contract.

1.11 TRLs. Updated TRLs will be published to the Supplier Support Portal on a regularly scheduled basis. TRL updates may only be downloaded and applied to licensed Software so long as the Customer has a current Maintenance contract. "TRL" means Threat Reference Library that Customer may purchase and that is periodically updated for Customer with a current Maintenance contract.

CUSTOMER ORDER FORMS (COF)

or

MASTER SERVICES AGREEMENT (MSA)

or

STATEMENTS OF WORK (SOW)

SecureLogix Corporation
13750 San Pedro
Suite 820
San Antonio, TX 78232

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **SecureLogix Corporation** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ)), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

SECURELOGIX CORPORATION

SECURELOGIX LICENSE, WARRANTY AND SUPPORT TERMS

DEFINITIONS

The term "Product(s)" shall mean Contractor's hardware products (including any software contained therein), separately provided software products, documentation, equipment and items and the services ("Services") described on Contractor's price list from time to time (the "Price List"). The Product(s) and the Contractor software and documentation, whether integral to the Product(s) or furnished on a standalone basis are subject to the licensing provisions contained herein.

SCOPE OF LICENSE FOR CUSTOMER'S USE OF PRODUCT(S)

- a. Subject to the provisions of this Attachment, upon the payment of any applicable fee(s), Contractor grants to Ordering Activity a nonexclusive, non-transferable license to use the Product(s) including any future versions, improvements, updates or enhancements that Contractor may supply in the future, solely for the performance of services for itself or third parties and the creation of reports in connection with such services. Ordering Activity shall use the Product(s) only in accordance with the quantity provisions specified in the Order accepted by Contractor. Separately provided Contractor software may only be used on a single designated unit of equipment and in accordance with the provisions of this Attachment.
- b. Ordering Activity may make a reasonable number of archival copies of separately provided software Products.
- c. Ordering Activity may not reverse engineer, de-compile, disassemble, or otherwise translate any Product(s) or use the Product(s) to prepare other hardware or software products or works.
- d. Ordering Activity agrees to the provisions of this license and Ordering Activity affirmatively acknowledges and understands that the Product(s) contain cryptographic software subject to export controls under the United States Export Administration Regulations ("U. S. Regulations") and that Ordering Activity cannot export or re-export the Product(s) (including any documentation or technical data related thereto) without a license issued by the United States Government.

TECHNICAL SUPPORT. The following provisions will apply when Contractor accepts an Order for technical support ("Technical Support"). Technical Support shall be available from Contractor through Manufacturer to Ordering Activity via Contractor through Manufacturer's designated toll-free number during business hours (7:00 a.m. to 7:00 p.m. Central Time, Monday through Friday, national holidays excepted) for minor problems and technical assistance.

SOFTWARE MAINTENANCE. The following provisions will apply when Contractor accepts an Order for Contractor software maintenance ("Software Maintenance"). Contractor Software Maintenance includes revisions and new releases to the Contractor software but does not include future products having differing functionality or features. Such future products will be made available to Ordering Activity in accordance with Contractor's then existing terms, conditions and fees.

CONSULTING AND/OR TRAINING SERVICES. The following provisions will apply when Contractor accepts an Order to provide training services ("Training Services") and/or consulting services ("Consulting Services"). Training Services and/or Consulting Services shall consist of and be performed in accordance with the scope of work and dates set forth in the Order and in accordance with Contractor's then existing terms, conditions and fees.

EQUIPMENT SERVICES. The following provisions will apply when Contractor accepts an Order to provide installation and/or maintenance for the hardware component of the Product(s) ("Equipment Services"). Installation Services will be performed as mutually agreed in the accepted Order. Requests for Equipment Services for the Product(s) shall be made to Contractor through

Manufacturer's designated toll-free number. Following Contractor's verification of a hardware problem, a Return Material Authorization ("RMA") number will be issued to Ordering Activity. The RMA will authorize Ordering Activity to receive an exchange unit on a freight prepaid basis. Ordering Activity shall return the malfunctioning Product(s) (or a component thereof) to Contractor by second business day delivery, freight prepaid by Contractor and shall be responsible for payment to Contractor of the published price of any units not returned within five (5) business days following receipt of the exchange unit by Ordering Activity. After the warranty period and if Equipment Services are not provided on a contract basis, Ordering Activity shall be responsible for all freight charges for the returned Product(s). Supplies and expendable items shall be provided in accordance with Contractor's prices in effect on the date shipped. Equipment Services that are outside those specified herein, shall be on a time, materials and transportation basis at Contractor's prices in effect at the time such Equipment Services are provided and the provision of such non-contracted Equipment Services shall be at the discretion of Contractor and shall be subject to the availability of personnel and parts. All parts or units that are replaced by parts or units provided by Contractor on an exchange basis shall become the property of Contractor and the part or unit supplied by Contractor shall become the property of Ordering Activity. Parts or units that are provided by Contractor may be new or refurbished parts or units that are functionally equivalent to new parts or units and may be from different sources than the original equipment manufacturer. Maintenance aids, including, but not limited to, software or documentation utilized by Contractor are either Contractor's property or property of third parties. No license or right to use any such maintenance aids is granted hereunder.

CUSTOMER RESPONSIBILITIES. Ordering Activity shall, at its expense, prepare and maintain the site where the Product(s) will be used in accordance with the published specifications for operating environments and perform those tasks set forth in an Order for the Product(s). Ordering Activity assumes the full responsibility to back-up and/or otherwise protect its data against loss, damage or destruction before Services are performed by Contractor. Ordering Activity also agrees to permit prompt access to equipment consistent with Ordering Activity's generally applicable standard security requirements and to provide reasonable assistance and facilities so as to expedite the performance of Services by Contractor. Ordering Activity shall provide Contractor with an accurate description of all communication lines, modems, networks, software and other devices and related items (collectively, "Devices") that may be necessary for Contractor to access during the performance of Services or the provision of any deliverables hereunder. Ordering Activity hereby authorizes Contractor to access the Devices for the purposes of performing such Services or providing such deliverables. Ordering Activity warrants that it owns or possesses all rights necessary to authorize Contractor to access such Devices.

WARRANTY AND REMEDY

- a. Contractor's exclusive limited Product(s) warranty is that the Product(s), under normal use and service, will substantially perform all of the functions described in the specifications for the Product(s). The warranty period is one (1) year from date of delivery of the Products. In the event Contractor breaches this warranty, Ordering Activity's remedy shall be, at Contractor's option and expense, (i) Contractor shall correct any discrepancy in performance that materially impairs the functionality of the Product(s), or (ii) Contractor shall refund the price paid to Contractor for the Product(s) provided that Ordering Activity returns the Product(s) (freight prepaid by Contractor) within thirty (30) days of the discovery of the discrepancy during the warranty period.
- b. With respect to Services, Contractor's exclusive warranty is that, the Services shall be performed in a workmanlike fashion. In the event Contractor breaches this warranty, Ordering Activity's remedy shall be, at Contractor's option and expense, (i) to have Contractor correct such Services within ninety (90) days of the performance of the Services or (ii) Contractor shall refund the price paid for the applicable portion of the Services.
- c. EXCEPT AS EXPRESSLY PROVIDED HEREIN, CONTRACTOR MAKES NO REPRESENTATION OR GUARANTEE WHATSOEVER AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE NOR DOES CONTRACTOR MAKE ANY REPRESENTATION AS TO PREVENTING OR RESOLVING ANY PROBLEMS OR PRODUCING ANY SPECIFIC RESULTS.



MASTER PRODUCT AND SERVICES AGREEMENT

This **Master Product and Services Agreement** (hereinafter “**Agreement**”) is made as of the last date written below by and between **SecureLogix Corporation** (“**SecureLogix**”), located at 13750 San Pedro, Suite 820, San Antonio, Texas 78232 and the **General Services Administration** (“**Customer**”) located at -----.

When the end user Customer is an instrumentality of the US Government, this Agreement is a contract with the US Government and becomes effective when signed by SecureLogix and the GSA Contracting Officer as an addendum to the contract. If this is an ID/IQ contract or Schedule contract, ordering activities placing orders against the Schedule or ID/IQ contract are subject to this Agreement as a term of the contract. This Agreement (EULA or TOS as applicable) shall bind the US Government, subject to federal law. This Agreement shall not operate to bind an US Government employee or person acting on behalf of the US Government in his or her personal capacity.

In consideration of the mutual promises hereinafter set forth, SecureLogix and Customer do hereby agree as follows:

1. DEFINITIONS.

a. The term “**Product(s)**” shall mean SecureLogix’s hardware products (including any software contained therein), separately provided software products, documentation, equipment and items and the services (“**Services**”) described on SecureLogix’s published or established price list (the “**Price List**”). The Product(s) and the SecureLogix software and documentation, whether integral to the Product(s) or furnished on a standalone basis, are subject to the licensing provisions contained herein. SecureLogix reserves the right to correct errors in its Price List and any Order(s) (as hereinafter defined below) derived therefrom but such corrections shall not apply to any Orders previously accepted by SecureLogix.

b. “**Order**” shall mean an order for Product(s) or Services submitted to SecureLogix, which, upon written acceptance by SecureLogix, shall become a binding contract for SecureLogix to sell and deliver and for Customer to purchase and pay for the Product(s) and/or Services described in the Order. An Order may consist of the Proposal (as hereinafter defined below) that SecureLogix has provided to Customer if the Proposal is accepted without modification and within the period specified in the Proposal. An Order may also be issued on Customer’s purchase order or other form document; provided, however, that Customer’s purchase order or other form document shall not alter, vary, amend, supplement or interpret the provisions of this Agreement.

c. “**Proposal**” shall mean the written offer to Customer created by SecureLogix that describes the Product(s) and/or Services, the prices for the same, the anticipated delivery or commencement date, the work to be performed by SecureLogix for Customer and such additional information as may be included in the Proposal. All Proposal(s) are made subject to the terms and conditions stated herein.

2. SCOPE OF LICENSE FOR CUSTOMER’S USE OF PRODUCT(S).

a. Subject to the provisions of this Agreement, upon the payment of any applicable fee(s), SecureLogix grants to Customer a nonexclusive, non-transferable license to use the Product(s) including any future versions, improvements, updates or enhancements that SecureLogix may supply in the future, solely for the performance of services for itself or third parties and the creation of reports in connection with such services. Customer shall use the Product(s) only in accordance with the quantity provisions specified in the Order accepted by SecureLogix. Separately provided SecureLogix software may only be used on a single designated unit of equipment and in accordance with the provisions of this Agreement.

b. Customer may make a reasonable number of archival copies of separately provided software Products.

c. Customer may not reverse engineer, de-compile, disassemble, or otherwise translate any Product(s) or use the Product(s) to prepare other hardware or software products or works.

d. Customer agrees to the provisions of this license and Customer affirmatively acknowledges and understands that the Product(s) contain cryptographic software subject to export controls under the United States Export Administration Regulations (“**U. S. Regulations**”) and that Customer shall comply with such laws and regulations governing use, export, re-export, and transfer of or re-export the Product(s) (including any documentation or technical data related thereto). Product(s) are classified as telecommunications/networking equipment pursuant to U. S. Regulations and subject to Export Control Classification Number 5A002A.1 which authorizes export or re-export to most government and commercial end users located in all territories except the embargoed destinations and countries designated as supporting terrorist activities listed in Part 746 of the EAR as embargoed destinations requiring a license.

e. SecureLogix provides the Product(s) to non-DOD agencies with RESTRICTED RIGHTS and documentation is provided with LIMITED RIGHTS. Use, duplication or disclosure by the Government is subject to the restrictions as set forth in subparagraph “C” of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19 (June 1987). In the event the sale is to a DOD agency, the government’s rights in software, supporting documentation and technical data are governed by the restrictions in the Technical Data Commercial Items clause at DFARS 252.227-7015 (Nov. 1995) and subpart DFARS 227.7202-3.

3. **TECHNICAL SUPPORT.** The following provisions will apply when SecureLogix or its reseller accepts an Order for technical support (“**Technical Support**”). Technical Support shall be available from SecureLogix to Customer via email at support@securelogix.com or SecureLogix’s designated toll-free number during business hours (7:00 a.m. to 7:00 p.m. U.S.A. Central Time, Monday through Friday, national holidays excepted) for minor problems and technical assistance. National holidays are listed in SecureLogix’s support handbook which can be downloaded from <http://www.securelogix.com/support/>.

4. **SECURELOGIX SOFTWARE MAINTENANCE.** The following provisions will apply when SecureLogix accepts an Order for SecureLogix software maintenance (“**Software Maintenance**”). SecureLogix Software Maintenance includes revisions and new releases to the SecureLogix software but does not include future products having differing functionality or features. Such future products will be made available to Customer in accordance with SecureLogix’s then existing terms, conditions and fees.

5. **CONSULTING AND/OR TRAINING SERVICES.** The following provisions will apply when SecureLogix accepts an Order to provide training services (“**Training Services**”) and/or consulting services (“**Consulting Services**”). Training Services and/or Consulting Services shall consist of and be

performed in accordance with the scope of work and dates set forth in the Order and in accordance with SecureLogix's then existing terms, conditions and fees.

6. **EQUIPMENT SERVICES.** The following provisions will apply when SecureLogix accepts an Order to provide installation and/or maintenance for the hardware component of the Product(s) ("**Equipment Services**"). Installation Services will be performed as mutually agreed in the accepted Order. Requests for Equipment Services for the Product(s) shall be made to SecureLogix via SecureLogix's designated toll-free number. Following SecureLogix's verification of a hardware problem, a Return Material Authorization ("**RMA**") number will be issued to Customer. The RMA will authorize Customer to receive an exchange unit on a freight prepaid basis. Customer shall return the malfunctioning Product(s) (or a component thereof) to SecureLogix by second business day delivery, freight prepaid by SecureLogix and shall be responsible for payment to SecureLogix of the published price of any units not returned within five (5) business days following receipt of the exchange unit by Customer. After the warranty period and if Equipment Services are not provided on a contract basis, Customer shall be responsible for all freight charges for the returned Product(s). Supplies and expendable items shall be provided in accordance with SecureLogix's prices in effect on the date shipped. Equipment Services that are outside those specified herein, shall be on a time, materials and transportation basis at SecureLogix's prices in effect at the time such Equipment Services are provided and the provision of such non-contracted Equipment Services shall be at the discretion of SecureLogix and shall be subject to the availability of personnel and parts. All parts or units that are replaced by parts or units provided by SecureLogix on an exchange basis shall become the property of SecureLogix and the part or unit supplied by SecureLogix shall become the property of Customer. Parts or units that are provided by SecureLogix may be new or refurbished parts or units that are functionally equivalent to new parts or units and may be from different sources than the original equipment manufacturer. Maintenance aids, including, but not limited to, software or documentation utilized by SecureLogix are either SecureLogix's property or property of third parties. No license or right to use any such maintenance aids is granted hereunder.

7. **CUSTOMER RESPONSIBILITIES.** Customer shall, at its expense, prepare and maintain the site where the Product(s) will be used in accordance with the published specifications for operating environments and perform those tasks set forth in an Order for the Product(s). Customer assumes the full responsibility to back-up and/or otherwise protect its data against loss, damage or destruction before Services are performed by SecureLogix. Customer also agrees to permit prompt access to equipment consistent with Customer's generally applicable standard security requirements and to provide reasonable assistance and facilities so as to expedite the performance of Services by SecureLogix. Customer shall provide SecureLogix with an accurate description of all communication lines, modems, networks, software and other devices and related items (collectively, "**Devices**") that may be necessary for SecureLogix to access during the performance of Services or the provision of any deliverables hereunder. Customer hereby authorizes SecureLogix to access the Devices for the purposes of performing such Services or providing such deliverables. Customer warrants that it owns or possesses all rights necessary to authorize SecureLogix to access such Devices.

8. **SHIPPING AND DELIVERY.** Shipping dates will be established by SecureLogix upon acceptance of Orders from Customer. Shipping dates will be assigned as close as practicable to the Customer's requested date based on SecureLogix's then-current lead times for the Product(s). SecureLogix will use commercially reasonable efforts to notify Customer of the scheduled shipping date within ten (10) working days after acceptance of an Order. Unless given written instruction by Customer, SecureLogix shall select the carrier. Delivery terms are FOB origination at SecureLogix's shipping location or as otherwise agreed in the Order. SecureLogix shall not be liable for delay in delivery caused by the carrier.

9. PRICES AND FEES. The prices and/or fees for Product(s) and Services provided during the term of this Agreement shall be in accordance with the provisions set forth on the Price List. No federal, state or local taxes shall be imposed upon the Product(s) or Services performed hereunder. Payment for Product(s) and Services is due within thirty (30) days after the date of SecureLogix's invoice. Time is of the essence with respect to payments to SecureLogix. SecureLogix reserves the right to change its published or established prices upon the termination or expiration of the GSA Schedule but no increases shall be effective with respect to Orders accepted by SecureLogix prior to the date of the notification. Past due amounts are governed by the Prompt Payment Act (31 USC 3901 et. seq.) and Treasury regulations at 5 CFR 1315.

10. EXCLUSIVE WARRANTY AND EXCLUSIVE REMEDY.

a. SecureLogix's exclusive limited Product(s) warranty is that the Product(s), under normal use and service, will substantially perform all of the functions described in the specifications for the Product(s). The warranty period is one (1) year from date of delivery of the Products. In the event SecureLogix breaches this warranty, Customer's exclusive remedy shall be, at SecureLogix's option and expense, (i) SecureLogix shall correct any discrepancy in performance that materially impairs the functionality of the Product(s), or (ii) SecureLogix shall refund the price paid to SecureLogix for the Product(s) provided that Customer returns the Product(s) (freight prepaid by SecureLogix) within thirty (30) days of the discovery of the discrepancy during the warranty period.

b. With respect to Services, SecureLogix's exclusive warranty is that, the Services shall be performed in a workmanlike fashion. In the event SecureLogix breaches this warranty, Customer's exclusive remedy shall be, at SecureLogix's option and expense, (i) to have SecureLogix correct such Services within ninety (90) days of the performance of the Services or (ii) SecureLogix shall refund the price paid for the applicable portion of the Services.

c. EXCEPT AS EXPRESSLY PROVIDED HEREIN, SECURELOGIX MAKES NO REPRESENTATION OR GUARANTEE WHATSOEVER AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE NOR DOES SECURELOGIX MAKE ANY REPRESENTATION AS TO PREVENTING OR RESOLVING ANY PROBLEMS OR PRODUCING ANY SPECIFIC RESULTS.

11. LIMITATION OF LIABILITY.

a. EXCEPT FOR CUSTOMER'S BREACH OF SECTION 2.c. ABOVE, NEITHER PARTY SHALL HAVE ANY LIABILITY UNDER THIS AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. EXCEPTING SECURELOGIX'S OBLIGATIONS CONCERNING INFRINGEMENT SET FORTH IN SECTION 12 BELOW, IN NO EVENT SHALL SECURELOGIX'S LIABILITY ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT OR OTHERWISE EXCEED THE LESSER OF CUSTOMER'S ACTUAL AND DIRECT DAMAGES OR THE AMOUNTS PAID TO SECURELOGIX BY CUSTOMER UNDER THIS AGREEMENT.

12. EXCLUSIVE PROVISION REGARDING INFRINGEMENT. SecureLogix's exclusive warranty regarding infringement is that SecureLogix has developed the Products and deliverables and/or has all right, title and interest in and to the Products and deliverables necessary to grant the rights under this Agreement and that the Products and deliverables do not

infringe any United States patent, copyright or trade secret. **If a third party claims that Products or deliverables delivered under this Agreement infringes that party's patent or copyright, SecureLogix will indemnify the US Government against liability, at SecureLogix's expense and pay all costs, damages, and attorneys' fees that a court finally awards or that are included in a settlement approved by SecureLogix, provided that the US Government: A. Promptly notifies SecureLogix in writing of the claim; and B. Gives SecureLogix such opportunity as is offered by applicable laws, rules or regulations to participate in the defense thereof. The US Government shall make every effort to permit SecureLogix to fully participate in the defense and/or in any settlement of such claim. However, SecureLogix understands that such participation will be under the control of the Department of Justice.** In the event of any such infringement, SecureLogix shall, at its option and expense, either (i) replace or modify the Products or deliverables so that they become non-infringing, or (ii) accept return of the Products or deliverables and refund an amount equal to Customer's depreciated value of the returned items found to be infringing. SecureLogix shall have no liability for infringements caused in whole or in part by Customer, third parties not hired by SecureLogix or alterations or combinations not reviewed and approved in writing in advance by SecureLogix or that are not performed or provided by SecureLogix. The foregoing constitutes the exclusive warranty of SecureLogix and exclusive remedy of Customer with respect to any claim or action for infringement.

13. SECURELOGIX'S EMPLOYEES. SecureLogix reserves the right to determine which of its employees will be assigned to a particular project, to replace or reassign such employees and/or subcontract to qualified third persons part or all of the performance of any Services requested hereunder. Customer may request the removal or reassignment of SecureLogix's employees on a nondiscriminatory basis at any time and SecureLogix will promptly provide a suitable replacement. SecureLogix's employees will comply with all generally applicable work and security rules of Customer.

14. FORCE MAJEURE. SecureLogix shall not be liable for any delay or failure to perform its obligations due to any cause beyond its reasonable control, including, without limitation, lack of cooperation or assistance by Customer, labor difficulties, fire, accident, act of the public enemy, war, public disturbances, sabotage, transportation delay, shortage of raw material, energy, or machinery, or act of God, government or the judiciary or information or telecommunications systems disruption caused by a third party that materially impairs SecureLogix's performance hereunder.

15. INDEPENDENT CONTRACTORS. The parties' relationship during the term of this Agreement shall be that of independent contractors. Neither party shall have, nor shall represent that it has, any power, right or authority to bind the other, or to assume or create any obligation or responsibility, express or implied, on behalf of the other or in such other party's name, except as herein expressly provided. Nothing stated in this Agreement shall be construed as constituting a partnership, joint venture or as creating the relationships of employer/employee, franchisor/franchisee or principal/agent between the parties.

16. NOTICES. All notices shall be in writing and all notices and payments shall be sent to the recipient at its respective address set forth above or to such other address as may, from time to time, be designated by written notice. Each party agrees to promptly provide written notice of the specifics of any claim of breach or for damages and to provide the other with a reasonable opportunity to investigate and cure any curable matter.

17. WAIVER. Any waiver of any breach of this Agreement shall not be effective unless set forth in a writing signed by an officer of the waiving party.

18. TERM. This Agreement shall be effective as of the last date written below and shall continue until Customer ceases to use the Product(s). In the event of a claimed breach by the Customer, SecureLogix shall submit a claim to the contracting officer and to continue performance during the pendency of the claim.

19. ASSIGNMENT. Other than to an affiliate of Customer, Customer may not assign, sub-license, transfer, pledge, lease, rent, or share the Product(s) or Customer's rights under this Agreement.

20. RESERVED.

21. REJECTION OF U.N. CONVENTION. THE PARTIES AGREE THAT THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT, THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, THE UNIFORM ELECTRONIC TRANSACTIONS ACT, ANY STATUTORY ADOPTIONS OR EQUIVALENTS OF THE AFOREMENTIONED ACTS AND CONVENTION, AND ANY OTHER LAWS OR REGULATIONS OF ANY STATE OR COUNTRY RELATED TO ELECTRONIC CONTRACTS, ELECTRONIC SIGNATURES, OR ELECTRONIC RECORDS SHALL NOT APPLY TO THE PARTIES, ANY ORDER OR THIS AGREEMENT.

22. ENTIRE AGREEMENT. This Agreement shall be construed in accordance with the laws of the United States (e.g., the Federal Tort Claims Act, 28 USC 1346(b); the Contract Disputes Act, 41 USC 7101 et. seq.; the Tucker Act, 28 USC 1346(a)(1)). This Agreement constitutes the entire agreement between the parties and may only be modified by a written instrument executed by an authorized officer of both parties. All proposals, negotiations and representations (if any) made prior, and with reference to the subject matter of this Agreement, are merged herein. This Agreement may be executed in two (2) or more counterparts and each counterpart will be deemed an original, but all counterparts together will constitute a single instrument. This Agreement has been negotiated by the parties and their respective counsel and will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party. Neither SecureLogix nor Customer shall be bound by any oral agreement or representation, irrespective of when made. This Agreement, together with any Order accepted by SecureLogix that conforms to this Agreement, is the complete statement of the terms and conditions that apply to the subject matter of this Agreement. SecureLogix and Customer agree that use of preprinted forms, such as purchase orders or acknowledgments, are for convenience only and all terms and conditions stated thereon, except for the information requested by this Agreement, are void and of no effect. In the event of any conflict between this Agreement and the terms and conditions on an Order, this Agreement will govern. A facsimile or imaged copy of this Agreement (including the facsimile or imaged signatures of the parties' representatives thereon) shall for all purposes be deemed equivalent to an original (including the original signatures of the parties' representatives thereon).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their authorized representatives as of the last date written below.

SecureLogix Corporation

By: _____
Name: Rick Jordan
Title: Chief Financial Officer
Date: _____

General Services Administration

By: _____
Name: _____
Title: _____
Date: _____

Silver Peak Systems, Inc.
4500 Great America Pkwy
Suite 100
Santa Clara, CA 95054

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Silver Peak Systems, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ)), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

SILVER PEAK SYSTEMS, INC.

SILVER PEAK SYSTEMS, INC. LICENSE, WARRANTY AND SUPPORT TERMS

1. Definitions.
 - a. "Appliance Product" means the hardware product that accompanies these terms and conditions.
 - b. "Documentation" means any user instructions, manuals or other materials, and on-line help files regarding the use of the Products that are generally provided by Contractor through Silver Peak Systems, Inc. ("Silver Peak") in connection with the Products.
 - c. "Product(s)" means collectively, the Appliance Product and the Software.
 - d. "Software" means Silver Peak's commercially released machine-executable object code version of software, either for execution on the Appliance Product or as a standalone product, and any updates, upgrades, or new releases of such software that are made available by Silver Peak from time to time.
2. Software. Subject to the terms and conditions of this Attachment A, Contractor grants to Ordering Activity a personal, nonexclusive, non-sublicenseable and non-transferable license to (a) use the Software, either as installed on the Appliance Product or, if distributed separately as a standalone product, then as distributed, solely in binary form for Ordering Activity's own internal needs; and (b) use the Documentation in connection with the permitted use of the Software. All right, title and interest in and to the Software (including all modifications) and Documentation, and all intellectual property rights therein, will remain the sole property of Contractor or its Licensor, subject to the express licenses granted to Ordering Activity under this Section. Contractor or its Licensor shall own any and all rights, title and interest in and to any feedback, suggestions, information or materials conveyed to Contractor in connection with this Attachment A ("Feedback"). Ordering Activity will not itself, or through any parent, subsidiary, affiliate, agent or other third party: (a) sell, lease, license or sublicense the Software or the Documentation; (b) decompile, disassemble or reverse engineer the Software, in whole or in part, or otherwise attempt to derive source code, the underlying algorithms, ideas, structures or techniques from the Software (except that this limitation will not apply to the extent that such activities may not be prohibited under applicable law); (c) allow access to the Software by any entity or individual other than Ordering Activity's employees or authorized contractors; (d) write or develop any derivative software or any other software program based upon the Software or any Confidential Information; (e) use the Software to provide processing services to third parties, or otherwise use the Software on a 'service bureau' or hosted basis; (f) redistribute, provide, disclose, divulge or make available to, or permit use of the Software by any third party without Contractor's prior written consent; or (g) copy the Software.
3. Sale Conveys No License. The Products are offered for sale and are sold by Contractor subject in every case to the condition that such sale does not convey any license, expressly or by implication, estoppel or otherwise, under any patent claim with respect to which Contractor can grant licenses covering complete equipment, or any assembly, circuit combination, method or process in which any such Products are used as components. Contractor expressly reserves all its rights under such patent claims.
4. Limited Warranty.

- a. Contractor warrants that the Appliance Products sold will be free from defects in materials and workmanship and substantially perform to Contractor's applicable published specifications for a period of one (1) year from purchase by Ordering Activity.
- b. Appliance Products or parts which have been subject to abuse, misuse, accident, alteration, neglect, unauthorized repair or installation are not covered by warranty. Contractor will make the final determination as to the existence and cause of any alleged defect.
- c. Contractor will provide access to all minor and maintenance releases of Software for a period of ninety (90) days from purchase by Ordering Activity.
- d. This warranty is the only warranty made by Contractor with respect to the Products delivered hereunder.
- e. The liability of Contractor hereunder shall be limited to replacing or repairing, at its option, (or, at Contractor's option, refunding the purchase price of such units) or with respect to the Software, repair or replacement is limited to providing minor and maintenance releases of the Software that Contractor generally makes available from time to time. In no case are Products to be returned without first obtaining permission and a customer return order number from Contractor.
- f. **The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from Silver Peak's negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.**

EXCEPT AS PROVIDED ABOVE, CONTRACTOR MAKES NO, AND HEREBY DISCLAIMS ALL OTHER, WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. WARRANTY DISCLAIMER. EXCEPT AS SET FORTH ABOVE, CONTRACTOR AND ITS LICENSORS AND SUPPLIERS MAKE NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SOFTWARE OR THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO ORDERING ACTIVITY UNDER THIS ATTACHMENT A. CONTRACTOR AND ITS LICENSORS AND SUPPLIERS SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND NO FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE, DOCUMENTATION AND SAID OTHER MATERIALS AND SERVICES, AND WITH RESPECT TO THE USE OF ANY OF THE FOREGOING.

Exhibit A - SILVER PEAK EDGECONNECT

1. Definitions.
 - 1.1 "Documentation" means any user instructions, manuals or other materials, and on-line help files regarding the use of the Software that are generally provided by Contractor through Silver Peak Systems, Inc. (Silver Peak) in connection with the Software.
 - 1.2 "Orchestrator" means Silver Peak's software which provides a user interface for Ordering Activity's management of its Software licenses and configuration of its installed instances of the Software. For the purposes of this Agreement, Orchestrator is part of the Software.
 - 1.3 "Support" means Silver Peak's maintenance and support of the Software as described in Silver Peak's then-current product specifications applicable to the Software.
 - 1.4 "Update" means a commercially available release of the Software identified by a change to the version number to the right of the first decimal point (e.g., a change from x.1 to x.2), including any error corrections, patches and bug fixes. For the purposes of this Agreement, each Update is part of the Software.

1.5 “Upgrade” means a commercially available release of the Software identified by a change to the version number to the left of the first decimal point (e.g., a change from 8.x to 9.x). For the purposes of this Agreement, each Upgrade is part of the Software.

2. Software.

2.1 In order to activate, configure and use the Software, Ordering Activity must first install Orchestrator in Ordering Activity’s computing environment and Contractor must create an account for Ordering Activity (an “Account”) which Ordering Activity may access through Orchestrator. Ordering Activity is responsible for maintaining the confidentiality of its Account credentials. Ordering Activity is responsible for all access, activities and charges associated with Ordering Activity’s Account, whether or not authorized by Ordering Activity, except for unauthorized access, activities and charges that can reasonably be determined to be the result of Contractor’s mistake, omission or negligence in providing sufficient safeguards against unauthorized third party access to Ordering Activity’s Account. Ordering Activity must promptly notify Company of any unauthorized use of Customer’s Account.

2.2 Ordering Activity is responsible for obtaining and maintaining any equipment and ancillary services required for Ordering Activity to connect via the internet to Contractor through Orchestrator and to connect Ordering Activity’s installed instances of the Software via the internet to Orchestrator, including, without limitation, modems, hardware, server, software, operating system, networking, web servers, long distance and local telephone service and internet connectivity.

2.3 Subject to the terms and conditions of this Agreement, Contractor grants to Ordering Activity a personal, non-exclusive, non-sublicenseable and non-transferable license for the Term to (a) use the Software solely in binary form for Ordering Activity’s own internal needs; and (b) use the Documentation in connection with the permitted use of the Software.

2.4 All right, title and interest in and to the Software (including all modifications) and Documentation, and all intellectual property rights therein, will remain the sole property of Contractor, subject to the express licenses granted to Ordering Activity under this Section. The Software is licensed hereby, not sold.

2.5 Ordering Activity will not itself, or through any parent, subsidiary, affiliate, agent or other third party: (a) sell, lease, license or sublicense the Software or the Documentation; (b) decompile, disassemble or reverse engineer the Software, in whole or in part, or otherwise attempt to derive source code, the underlying algorithms, ideas, structures or techniques from the Software (except that this limitation will not apply to the extent that such activities may not be prohibited under applicable law); (c) allow access to the Software by any entity or individual other than Ordering Activity’s employees or authorized contractors; (d) write or develop any derivative software or any other software program based upon the Software or any Confidential Information; (e) use the Software to provide processing services to third parties, or otherwise use the Software on a ‘service bureau’ or hosted basis; (f) redistribute, provide, disclose, divulge or make available to, or permit use of the Software by any third party without Contractor’s prior written consent; or (g) copy the Software.

2.6 Contractor shall own any and all rights, title and interest in and to any feedback, suggestions, information or materials conveyed to Contractor in connection with this Agreement (“Feedback”). Ordering Activity hereby assigns to Contractor its entire right, title and interest in such Feedback. Ordering Activity agrees that it will execute any documents and take any additional actions Contractor deems necessary to evidence, record and perfect the foregoing assignment.

3. Maintenance and Support.

3.1 During the Term, Contractor will make Updates and Upgrades available for download. Ordering Activity is responsible for downloading and installing the Updates and Upgrades.

3.2 Contractor will provide Ordering Activity with Support for the then-current Upgrade version of the Software and the immediately-preceding Upgrade version. By way of example only, if the current version of the Software is 8.4, Contractor will provide Ordering Activity with Support for all 8.x and 7.x versions.

4. Limited Warranty.

4.1 Contractor warrants that the Software will perform in substantial compliance with the then-current specifications for the Software published by Contractor. The liability of Contractor for any non-compliance with such warranty shall be limited making Updates and Upgrades available for download. EXCEPT AS PROVIDED ABOVE, CONTRACTOR MAKES NO, AND HEREBY DISCLAIMS ALL OTHER, WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

4.2 EXCEPT AS SET FORTH ABOVE, CONTRACTOR AND ITS LICENSORS AND SUPPLIERS MAKE NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SOFTWARE OR THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO ORDERING ACTIVITY UNDER THIS AGREEMENT. CONTRACTOR AND ITS LICENSORS AND SUPPLIERS SPECIFICALLY

DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND NO FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE, DOCUMENTATION AND SAID OTHER MATERIALS AND SERVICES, AND WITH RESPECT TO THE USE OF ANY OF THE FOREGOING.

SmartComms LLC.
551 5th Avenue
32nd Floor
New York, NY 10176

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Thunderhead, Inc.** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

THUNDERHEAD, INC.

THUNDERHEAD, INC. LICENSE, WARRANTY AND SUPPORT TERMS

Exhibit A – One Master Subscription Terms and Conditions

1. Definitions

The expressions listed in this section 1, Schedule No.1, and Schedule No.2 shall have the meanings ascribed to them in this

MSA:

“Administrators”	means those Users who have been designated by Customer under section 3.1 (ii) as having administrative rights in respect to access to and use of a Tenancy;
“Affiliate”	means any entity which directly or indirectly controls, is controlled by, or is under common control of the subject entity. "control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity;
“Annual Fees”	means the charge per twelve month period specified in the Order (exclusive of any Overage) for the right to access and use the Services up to the limits specified or otherwise referred to in the Usage Policy;
"AppExchange"	the online directory of applications that interoperate with the Services, located at http://www.salesforce.com/appexchange or at any successor website(s).
“API”	means utilization of the Services by automated means (as opposed to by Users) such as an application programming interface;
“BG Hardware”	means the hardware specified in the Order (physical or virtual) owned or otherwise controlled by Customer upon which the Bulk Generator runs;
“Bulk Generator” or “BG”	means the facility for bulk processing of Pages which operates on the BG Hardware;
“Business Use”	means use of the Services for the Customer’s internal business purposes as specified in the Order;
“Contract”	means in respect of each Order, the operative part of this MSA, Schedule No.1, and/or any other document incorporated by reference which is signed by the authorized representatives of the Parties;
“Charges”	means Annual Fees, Premium Support Fees, charges in respect of Overages and Consultancy Fees plus taxes as per section 5.5;
“Confidential Information”	means all confidential information disclosed by a Party ("Disclosing Party") to the other Party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information;
“Consultancy Fees”	the charges and expenses for provision of the Consultancy Services calculated on a time and materials basis at Thunderhead.com’s daily rates as published from time to time;
“Consultancy Services”	the provision during Office Hours of general consultancy services including: project management, delivery, installation, implementation, creation and/or implementation of a Statement of Work, training; the initial amounts of which required by Customer and any timeframe for delivery all being as specified in the Order;
“Customer” or “You”	means Ordering Activity in respect of this MSA and the entity named in an Order in respect of a Contract;
“Data”	means all electronic data or information submitted by Customer to the Service including where the context so admits the content and or form/appearance of any document templates created by Customer in the course of using the Services;
“DocBox”	means a facility allowing collaborative changes to be made to a Collaborative Page (as that term is defined in Schedule No.2);
“Effective Date”	the date specified in the Order;

“Force Majeure”	means circumstances beyond a Party’s reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving the Parties employees), equipment (including Third Party Applications) failure, internet service provider failures or delays, or denial of service attacks;
“Licence Term”	the period as specified in the Order for which the Customer is authorized to access and use and commits to paying for the Services;
“LMS”	means the learning management system provided as part of the Services;
“Malicious Code”	means, without limitation, any automatic restraint, viruses, worms, time bombs, trojan horses and other harmful or malicious code, files, scripts, agents or programs that interfere with the provision of the Services;
“Non-public Personal Information” or “NPI”	means information identifying individuals which the Parties may access or hold in connection with the Services, that either individually or when combined with other information, could be used to derive information specific to a particular individual, such as that individual’s identity, social security number, driver’s license number, telephone number, credit or debit card number, address, e-mail address, account information, payroll information, financial information, health information, employee identification number, criminal or employment history, place of birth, mother’s maiden name, biometric records, or other factors specific to that individual’s physical, mental, economic, financial, or cultural identity;
“Order”	means ordering document that the Customer issues for the Services and Support.;
“Overage”	means where the Volume exceeds the limits specified in the Order and/or the Usage Policy triggering additional fees at the rate also specified or otherwise referred to in the Order and/or other consequences as specified in the Usage Policy;
“Parties” or “Party”	means collectively Thunderhead.com and Customer or each of them respectively;
“Privacy Laws”	means laws, directives and regulations governing the privacy, confidentiality, processing and transit of NPI;
“Privacy Policy”	means the policy as displayed on the Website from time to time regarding how Thunderhead.com holds Data;
“Premium Support”	means Support provided on a 24X7 basis;
“Premium Support Fees”	means the fees due for the provision of Premium Support as specified in the Order;
“Services”	means access to: (i) the relevant Solution provided via Customer’s login link at the Website or another designated web site or IP address; and/or (ii) ancillary online or offline products and services (other than Consultancy Services or Premium Support) provided or licensed to Customer by Thunderhead.com; and/or (iii) the LMS and any other product, service or license belonging to a Third Party; all as specified in an Order;
“Solution”	means the particular Thunderhead.com product(s) specified in an Order;
“Statement of Work”	a written description of how the Services are to be deployed as may be jointly agreed and implemented as part of the Consultancy Services;
“Standard Support”	means Support provided during Office Hours only;
“Support”	means technical support for the Services of the type as specified in Schedule No. 1 which may be updated by Thunderhead.com from time to time;
“Support Hours”	means the availability of Support as specified in an Order being either during Office Hours (“Standard Support”) or 24X7 (“Premium Support”);
“Tenancy”	means the facility within the Thunderhead Technology made available to Customer as part of the Services;
“Third Party”	means a person or entity other than Thunderhead.com and Customer;
“Third Party Application(s)”	any online applications and offline software products that interoperate with the Services that are not provided by Thunderhead.com, including but not limited to those listed on the AppExchange and those identified as Force.com Labs or by a similar designation.
“Thunderhead.com” or “Us”	means Thunderhead Inc., with a registered office at 551 Fifth Avenue, 32 nd Floor, New York, NY 10176;
“Thunderhead Entities”	means (i) Thunderhead Limited and any company or entity including joint venture in which Thunderhead Limited holds 50% or more of the shares or voting power, and (ii) the officers, employees, contractors and agents of the entities referred to in (i) above;
“Thunderhead Technology”	means all proprietary technology belonging to or used by Thunderhead Entities (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) which is made available to Customer hereunder whether or not as part of the Services;
“User Guide”	means the online user guide for the Services, accessible via login at the Website, as updated from time to time;
“Usage Policy”	means the policy set out in Schedule 2 regarding limits on Thunderhead.com resources available to Customer when utilizing the Services
“User(s)”	means the number of individuals specified in the Order who are authorized to use the Services, for whom subscriptions to the Services have been ordered, and who have been supplied user identifications and passwords by Customer. Users may include but are not limited to Customer’s employees, consultants, contractors and agents;
“Volumes”	means the actual PPGA, PDEA, Peak Interaction Allowance, Storage Space used and number of Collaborative Pages, Correspond Pages, On Demand Pages, Page Shares and Interactions, all as defined in the Usage Policy, processed using the Services;
“Website”	means http://www.thunderhead.com and/or other domain names designated from time to time;

“Working Day” or 9 AM to 5 PM EST (or EDT as appropriate) US time Monday to Friday excluding U.S. federal holidays;
“Office Hours”

2. Access to Services, Consultancy Services

- 2.1 Thunderhead.com grants Customer a non-exclusive, non-transferable, right to access and use the Services for the License Term.
- 2.2 Customer agrees that the Services may only be used for Business Use and Thunderhead.com reserves all rights not expressly granted herein, and except as stated in the Order, Customer shall make no other use of the Services, either for itself or for the benefit of any other person or entity, or permit any Third Party to make such utilization whether or not as part of an outsourcing arrangement or as an application service provider. The Customer shall have no other rights or licenses hereunder with respect to Thunderhead Technology. Customer acknowledges that if the terms of the Order permit use of the Services by Customer's Affiliates then Customer shall procure its Affiliates full compliance with these terms and that any act or omission of such Affiliate be deemed to be the act or omission of the Customer.
- 2.3 Thunderhead.com will: (i) provide Support during the Support Hours, (ii) perform the Consultancy Services in the manner and at the times as may be specified in the Order; (iii) use all reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (a) planned downtime which Thunderhead.com will schedule to the extent practicable outside of Office Hours, (b) any unavailability caused by Force Majeure, (c) unavailability of the relevant Third Party Application such as the Salesforce.com platform in respect of Solutions on the AppExchange or (d) unavailability of the BG Hardware or Customer's failure to use latest version of the Bulk Generator (where BG is listed in the Order as included in the Services) and (iv) provide the Services only in accordance with US laws and governmental regulations.
- 2.4 Thunderhead.com will not: (i) modify the Data (except where this is necessary to provide the Services or resolve or prevent Support issues); (ii) disclose the Data (except, as compelled by law in accordance with section 10.3 or as expressly permitted in writing by Customer); (iii) access the Data (except: where this is necessary to provide the Services, resolve or prevent Support issues or to create backups) or (iv) copy Your Data (except to enable Us to fulfil our obligations under this Agreement).
- 2.5 In respect of Orders which include the Bulk Generator Customer agrees that its use of the Bulk Generator and the ability of the Bulk Generator to operate is contingent upon: (i) Customer providing and supporting the BG Hardware which meets the minimum requirements/specifications as published by Thunderhead.com from time to time, (ii) Customer consenting to the installation and operation of the Bulk Generator upon the BG Hardware; (iii) Customer having pre-notified Thunderhead.com of the date it wishes to commence use of the Bulk Generator and . Customer further agrees that: it may only use the Bulk Generator in conjunction with other Solutions; and will use the latest version of the Bulk Generator as supplied by Thunderhead.com from time to time and acknowledges that failure to observe these conditions will entitle Thunderhead.com to suspend Customer's use of the Bulk Generator.
- 2.6 You consent to receiving communications from Us regarding the Services and to being included in our social media community for which purposes You permit Us to access Your Data notwithstanding the terms of sub Section 2.4 (iii) above. Please contact Us should you not wish Us to communicate with You in this manner.
- 2.7 The obligations of Thunderhead.com hereunder are subject to and conditioned upon the timely performance of the Customer's obligations hereunder.

3. Restrictions on Use and Volumes

- 3.1 Customer will: (i) be responsible for Users' compliance with these terms and conditions and acknowledges that the Services may only be accessed by the specified number of Users in conjunction with a single Salesforce.com organisation ID (in respect of Solutions on the AppExchange), (ii) provide Thunderhead.com with up to date details of its Administrators (including a 'Primary Admin' person); (iii) be responsible for the accuracy, quality and legality of the Data and the means by which Customer acquired the Data, (vi) use best efforts to prevent unauthorized access to or use of the Services, and notify Thunderhead.com promptly of any such unauthorized access or use, and (v) use the Services only in accordance with the User Guide and applicable laws and government regulations.
- 3.2 Customer will not: (i) make the Services available to anyone other than Users, (ii) sell, resell, transfer, rent or lease the Services, (iii) use the Services to store or transmit infringing, obscene, libellous, or otherwise unlawful or tortious material, or to store or transmit material in violation of Third Party privacy rights, (iv) use the Services to send spam or otherwise duplicative or unsolicited messages in violation of applicable laws, or (v) frame or mirror any Thunderhead Technology on any other server or wireless or internet based device, (vi) use the Services to store or transmit Malicious Code, (vii) interfere with or disrupt the integrity or performance of the Services or Third-Party data contained therein, (viii) attempt to gain unauthorized access to the Services or their related systems or networks, or (ix) access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.
- 3.3 Customer acknowledges and agrees that if collaborative products are comprised in the Services when it invites Third Parties into a DocBox to collaborate on changes to the Data comprised in a document, if those Third Parties are not Users they will need to accept Thunderhead.com's standard conditions of use and complete the security requirements in order to access the relevant DocBox.
- 3.4 Thunderhead.com will calculate and record the Volumes for each calendar month during the License Term and in the event of an Overage Thunderhead.com will provide Customer with a written report specifying in reasonable detail the amount of Overage and the supplemental fees due in respect of such Overage to be purchased on a separate ordering document.
- 3.5 If You use Third Party Applications with the Services, You accept that those Third Party Applications will, in order to operate with the Services, access Your Data. Thunderhead.com shall not be responsible for any disclosure, modification or deletion of your Data resulting from any such access by Third Party Applications.

2

- 3.6 Service features that interoperate with Third Party Applications which includes Salesforce.com depend on the continuing availability of the relevant API for use with the Services. If the providers of the Third Party Applications cease to make the API available on reasonable terms for the Service, Thunderhead.com may cease providing such Service features without entitling You to any refund, credit, or other compensation.
- 3.7 Notwithstanding Section 3.6 and the License Term, Customer acknowledges that the availability and its use of the Services is conditional upon Customer having a valid license to use the relevant Third Party Application.
- 3.8 Customer agrees that only Administrators or its corporate officers have the authority to request Thunderhead.com to make changes to the Tenancy and Customer acknowledges that Thunderhead.com may decline such requests if not made by an Administrator or corporate officer.

4. Reserved.

5. Reserved.

6. Customer's Obligations and Acknowledgements

- 6.1 At Thunderhead.com's request, Customer shall promptly furnish Thunderhead.com with written certification verifying that the Services are being used in accordance with the Contract, including the number of Users. Customer shall give Thunderhead.com reasonable access to Customer's records to verify that the Services are being used in accordance with the terms of the Contract.
- 6.2 Customer acknowledges that: (i) the Services have been designed for communications/customer experience management generally and not specifically for the Customer's particular requirements; (ii) Your ordering of the Services hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding existing or future functionality or features of the Services.
- 6.3 Customer is responsible for ensuring that its personnel are trained in using the Services and that the Services are used for their intended purpose and in accordance with the User Guide. In particular Customer agrees that it is responsible for its Users compliance with these terms and conditions and that if a User selects an option or otherwise uses the Service in such a way that results in the Service contravening any Privacy Laws or failing to conform to Customer's data security requirements, Thunderhead.com will not be responsible for such contravention or failure.
- 6.4 Customer is responsible for the input and maintenance of the Data and for maintaining effective back-up procedures as may be necessary to replace any Data in the event of loss or damage regardless of cause. Thunderhead.com shall not be responsible or liable for any loss or damage to or failure to store the Data howsoever caused. The Customer further consents, agrees and acknowledges that Thunderhead.com: (i) may send/store Data outside the United States, (ii) may delete each back up made pursuant to section 2.4 within 30 days of its creation; and (iii) is not considered to be the holder of record in respect of the Data as may be required under any Privacy Laws.

7. Warranty and Disclaimer

- 7.1 Each Party represents and warrants that it has the legal power and authority to enter into the MSA and execute Orders issued thereunder.
- 7.2 Thunderhead.com further represents and warrants that: (i) the Services will conform substantially in accordance with the User Guide, under normal use and circumstances; (ii) it will use reasonable technical means to ensure that the Services do not contain any Malicious Code or other computer programming routines designed to damage, detrimentally interfere with, surreptitiously intercept or expropriate any other software or Data. In the event of a breach of these warranties, Customer's sole remedy and Thunderhead.com's sole obligation will be for Thunderhead.com to make reasonable commercial efforts to correct the non-conformity through the provision of Support.
- 7.3 Customer further represents and warrants that: (i) it has not falsely identified itself nor provided any false information to gain access to the Service; (ii) its billing information is correct; (iii) the Data does not infringe the intellectual property rights of any Third Parties, (iv) it has secured all necessary rights, licenses and permissions (such as font licenses and rights to disclose data received by Customer which is included in the Data) so that Thunderhead.com can use the same when providing the Services and or Support .
- 7.4 EXCEPT AS PROVIDED IN SECTIONS 7.1 and 7.2, THUNDERHEAD.COM MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE. THUNDERHEAD.COM DOES NOT REPRESENT OR WARRANT THAT: (I) THE USE OF THE SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR THIRD PARTY DATA, (II) THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR EXPECTATIONS, (III) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (IV) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED THROUGH THE SERVICES WILL MEET REQUIREMENTS OR EXPECTATIONS, (V) ERRORS OR DEFECTS WILL BE CORRECTED, OR (VI) THE SERVICES OR THE SERVER(S) THAT MAKE THE SERVICES AVAILABLE ARE FREE OF MALICIOUS CODE. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED BY THUNDERHEAD.COM TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. Reserved.

9. Reserved.

10. Reserved.

11. Support

- 11.1 The Customer requests and Thunderhead.com agrees to provide Support for the Licence Term. Thunderhead.com's obligations under this section 11 only apply during the Licence Term.
- 11.2 Support is only available in the English language and is provided solely at the Website, via email or telephone or in any combination thereof.
- 11.3 Thunderhead.com will log all Errors with the Services reported by the Customer in accordance with the procedure set out in Schedule No.1.
Upon identification of any Error, Customer shall provide Thunderhead.com with enough information to reproduce the Error. If Thunderhead.com is unable to replicate the Error, Thunderhead.com will request a second sample. If Thunderhead.com is still unable to replicate the Error from this second sample then Thunderhead.com will close the reported Error. Thunderhead.com will notify Customer as soon as possible if it determines that no Error exists or if Thunderhead.com is unable to reproduce the reported Error. All Resolutions shall only be implemented during planned downtime which is normally outside of Office Hours.
- 11.4 Thunderhead.com shall use all reasonable efforts to respond to an Error within the Response Time and resolve the Error within the Resolution Time, in each case commensurate with the Error Severity Levels as determined by Thunderhead.com; but Thunderhead.com does not guarantee that it will be able to resolve all Errors and if the prescribed Resolution Time expires before the first available planned downtime, the Resolution Time shall automatically be extended to the next available planned downtime.
- 11.5 Support does not include any training services and the offering of any such services shall be at the sole option of Thunderhead.com and subject to additional fees and charges to be agreed separately for each such situation.
- 11.6 Support is contingent on Customer's compliance with the following additional obligations:
(i) Customer's personnel shall be trained in use of the Services.
(ii) Customer shall provide Thunderhead.com with sufficient documentation, data, details and assistance with respect to any reported Errors so as to enable Thunderhead.com to reproduce and verify the same as an Error.
(iii) Customer shall assist Thunderhead.com to diagnose and correct reported Errors by providing: (a) all relevant documentation and records, including sample output and other diagnostic information; (b) interaction with personnel who have authority to implement remedial actions as instructed by Thunderhead.com; and (c) access to Customer's live production environment in which the Data is displayed. Customer acknowledges that failure to provide such assistance will affect Thunderhead.com's ability to meet a Response Time and or Resolution Time.
- 11.7 Thunderhead.com shall have no obligation to provide Support in connection with any Error, questions or problems that arise from:
(i) use of the Services: in a manner other than described in the User Guide; (ii) the negligence or intentional misconduct of any User;
(iii) failure by the Customer to implement reasonable recommendations in respect of or solutions to Errors previously advised by Thunderhead.com;
(iv) the creation or correction of Java, JavaScript, XSL/XSL:FO templates, or API integration issues; (v) the BG Hardware;
(vi) failure by the Customer to use the latest version of the Bulk Generator; or (vii) internet service provider failures.
- 11.8 Provision of Support as described in this section 11 is Thunderhead.com's sole obligation, and Customer's sole remedy, with respect to the support of the Services. Thunderhead.com shall have no other liability or obligation to Customer with respect to any Errors or other real or perceived problems with the Services.

12. Intellectual Property Ownership

- 12.1 Thunderhead.com acknowledges that You own all rights, title and interest in and to all of your Data. You shall have sole responsibility for the intellectual property ownership of and/or right to use all of your Data and the consequences arising from Your failure to meet such responsibilities.
- 12.2 Thunderhead.com (and its licensors, where applicable) shall own all right, title and interest to the Thunderhead Technology, and the Services, including to any and all enhancements, modifications, extensions and derivative works thereof, as well as any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or any other party relating to the Services. This Agreement does not convey to Customer any rights of ownership in or related to the Services, the Thunderhead Technology or to any other intellectual property rights owned or used by Thunderhead.com hereunder. The Thunderhead name, the Thunderhead logo, and the product names associated with the Services are trademarks of Thunderhead.com, and no right or license is granted to use them.
- 12.3 Reserved.
- 12.4 Reserved.
- 12.5 Reserved.

13. Reserved.

14. Reserved.

- 14.1

SCHEDULE NO. 1 (SUPPORT)

Contact Information

There are two ways to contact Support.

Email: support@thunderhead.com

23.2 Telephone: **877 382 8943**

The preferred method of communication is email except that all Severity 1 and Severity 2 Errors must be reported to Thunderhead.com by telephone. All communications with Thunderhead.com customer support will be in English.

Support Hours

As specified in Order or in the absence of such specification, Standard Support (9-5 Monday to Friday)

Definitions

In addition to the terms defined in section 1 of the MSA the following terms shall have the following meanings:

“Error” means any material and reproducible failure of the Services to operate in accordance with the User Guide (but not the availability of the Service itself).

“Error Severity Levels” mean:

“Severity 1” or **“S1”** means a catastrophic failure of the Thunderhead Technology which prevents Thunderhead.com from providing the Services;

“Severity 2” or **“S2”** means a severe problem with the Thunderhead Technology which causes serious disruption to Customer’s use of the Solution in a production system;

“Severity 3” or **“S3”** means a moderate problem with the Thunderhead Technology which causes the Solution not to operate as designed having only a moderate impact on Customer’s use of the Solution;

“Severity 4” or **“S4”** means a minor problem or general query with the Solution; and

“Severity 5” or **“S5”** means a minor problem with the Solution which is logged and closed as a request for enhancement to be considered for incorporation in a future Upgrade.

“Service Levels” means the Response Times to each Error Severity Level.

“Permanent Fix” means the repair or replacement of object or executable code version of the Solution to remedy an Error.

“Resolution” or **“Resolution Time”** means the resolution of an Error by means of a Temporary Fix/Workaround/Permanent Fix within the times specified in the table below.

“Response” or **“Response Time”** means the elapsed clock time during Office Hours (unless Premium Support applies in which case time is “unwindowed” i.e. work carries on outside of Office Hours and counts towards calculation of the overall Response Time) between (i) Thunderhead.com’s logging of an Error reported by the Customer and (ii) a Thunderhead technical support analyst capable of understanding the Error calling the Customer’s support contact about the problem.

“Upgrade” means a modification or enhancement release, in object code form, containing new enhancements, features or functionalities. Upgrades are provided to the Customer by Thunderhead.com at its discretion. The Customer is solely responsible for implementing Upgrades that require user configuration, installation or deployment.

“Workaround” or **“Temporary Fix”** means a change advised by Thunderhead.com in the procedures to be followed by Customer to avoid an Error without significantly impairing performance of the Services.

ERROR SEVERITY LEVELS

The table below shows the Response Times in respect of the Error Severity Levels

ERROR SEVERITY LEVEL	SERVICE LEVELS	
	RESPONSE TIME (within)	RESOLUTION TIME (estimated)
S1	2 Office Hours	n/a
S2	4 Office Hours	n/a
S3	8 Office Hours	n/a
S4	5 Working Days	n/a
S5	10 Working Days	n/a

SCHEDULE 2

USAGE POLICY

Solutions covered: ONE Collaborate for Salesforce, ONE Engagement Hub: Smart Content,

Personalized Conversation, and Journey Management

This Usage Policy contains the limitations on Customer’s use of the Services and the consequences of exceeding those limitations.

1. DEFINITIONS

In addition to the terms defined in Section 1 of the MSA, the following terms shall have the following meanings:

“Bulk Local Page”	means (i) each 8 ½” x 11” physical page face/side (or electronic equivalent when printed) generated or recorded through the Bulk Generator; and/or (ii) each email, regardless of size (in any format including test, image or HTML) generated or recorded through the Bulk Generator and each PDF page where an email has a PDF attachment;
“Collaborative Page”	means a Page which is amended or otherwise modified in a DocBox;
“Collaborative Page Save”	means each occasion that the contents of a Collaboration Page is saved;
“Collaborative Page View”	means each occasion that the contents of a Collaboration Page is viewed;
“Correspond Page”	means a Page created by a User which cannot be amended by third parties;
“Decisioning Interactions”	means taking an action at a Touchpoint;
“Interaction”	means what can occur at a Touchpoint and includes taking an action, watching for activity, and capturing third party input;
“Interaction Allowance”	means the number of Listening Interactions and Decisioning Interactions which Customer is authorized to process in consideration of the Annual Fee, all being specified or otherwise referred to in an Order;
“Listening Interactions”	means watching for activity or capturing third party input at a Touchpoint;

“On Demand Page”	means a Page created by Customer which cannot be amended by third parties;
“ONE Tag”	allows Data to be injected into a Customer web page at runtime, integrating with or replacing existing web page content as the web page loads;
“Overage Unit”	means the fixed amount of additional Page Allowance as specified in the Usage Policy;
“Page”	means each 20kilo byte unit of data (in any format and whether text or graphic) generated or recorded through the Services;
“Page Allowance”	means the number of Correspond Pages, Collaborative Pages, On Demand Pages and/or Page Shares which Customer is authorized to process in consideration of the Annual Fee, all being specified or otherwise referred to in an Order;
“Page Shares”	means the number of times a Collaborative Page is made available to each invitee to a DocBox;
“Peak Draft Editing Allowance” or “PDEA”	means the maximum number of Pages which can be view as a draft in one second, one minute, an hour and 24 hour period;
“Peak Interaction Allowance”	means the maximum number of Interactions executed in one second, one minute, an hour and 24 hour period;
“Peak Page Generation Allowance” or “PPGA”	means the maximum number of Pages which can generated in one second, one minute, an hour and 24 hour period;
Storage Space	means the space as specified in an Order which is available on Thunderhead.com’s systems for storage of Data;
“Touchpoints”	means the physical and digital places where third parties can interact with Customer and are classified in one of six predefined channels: Web, Assisted, Mobile, Physical, Social and Outbound;
Volume Pack	means additional blocks of Pages available at the rate specified or otherwise referred to in the Order;

2. ONE ENGAGEMENT HUB : SMART CONTENT

2.1. Page Allowance

Customer’s Page Allowance is stated in the Order. If it is exceeded in any 12 month period during the License Term, customer can purchase additional allowances on a separate ordering document.

2.1. Peak Page Generation Allowance (PPGA)

PPGA is specified in the table below. To determine the actual peak page volume within each time period, multiply the Rate per 1M pages by the Annual Page allowance, stated in the order. The Annual Page allowance includes, On-Demand, Document Collaboration, Draft Editing. Bulk Generator is not covered by this limit.

Peak Page Generation Allowance	Per 1M Pages PA
1 Day	12,500
1 Hour	2,500
1 Minute	167
1 Second	5

2.2. Peak Draft Editing Allowance (PDEA).

PDEA is outlined in the table below. To determine the actual peak page volume within each time period, multiply the Rate per 1M pages by the Annual Page allowance, stated in the order. The Annual Page allowance is for Document Collaboration and Draft Editing only.

Peak Draft Editing Allowance	Per 1M Pages PA
1 Day	25,000
1 Hour	5,000
1 Minute	334
1 Second	10

2.3. Document Collaboration: Storage

If Document Collaboration volume is purchased, the storage allowance at a Tenancy level is \$1Gb. Additional storage usage can be purchased on a separate ordering document.

2.4. Document Collaboration: None finalized Page.

Non-finalized Collaborate Pages, are the total number of Collaborative Pages that are or have been collaborated upon but not finalized. At the end of each 12 month period during the License Term, non-finalized Document Collaboration Pages will be deemed finalized for the purpose of calculating whether, the total number of Document Collaboration Pages are within the Page Allowance.

3. PERSONALIZED CONVERSATIONS

3.1. Annual Interaction Allowance

Customer’s Listening and Decisioning Interaction Allowance, by Channel, is stated in the order. If the Listening or Decisioning Interaction Allowance is exceeded, within 12 months, customer can purchase additional allowances on a separate ordering document.

3.2. Peak Interaction Allowance (PIA)

PIA is specified in the table below. To determine the actual Peak Interaction Allowance within each time period, multiply the Rate per 1M Interactions by the Annual Interaction Volume, stated in the order.

Peak Interaction Allowance	Per 1M Interactions PA
1 Day	6,250
1 Hour	1,250
1 Minute	84
1 Second	3

3.3. Content Delivery (Digital Channels – Web & Mobile)

Content delivery, is executed as a result of an action request. A maximum of 5Gb of data, per 1 Million of Listening Interactions.

3.4. Unknown Requests (Digital Channels – Web & Mobile)

Unknown SiteKey and Unknown Touchpoint request should not exceed 25% of Digital Listening Interactions. If unknown requests exceed the 25% limit, Thunderhead.com reserve the right to charge as part of the Listening Interaction allowance.

An “Unknown” request occurs when the ONE Tag has not been correctly configured and therefore, leads to activity on the Thunderhead platform that does not result in any outcome i.e. stored data or a next best conversation.

3.5. Data requests to a customer data source

Data request volume allowance is equivalent to the Decisioning Interactions, stated in the Order. If data request volume allowance is exceeded, within 12 months, customer can purchase additional allowances on a separate ordering document.

	Unit of Charge - Million Data Requests	Unit Price	Unit Price
Data Requests	1.0	\$ 3,000	£ 1,875

4. JOURNEY MANAGEMENT

4.1. Journey Analytics

Maximum Usage is 8 times per day or once per hour for an average working day.

5. DEFINITIONS

5.1. Interactions

Interaction is an organizing term for what occurs at a touchpoint. Any of the following three actions can take place:

1. Decisioning Interaction = Take an Action
2. Listening Interaction = Listen to activity
3. Listening Interaction = Capture customer input

5.2. Touchpoints & Channels

Touchpoints are the physical and digital places where customers interact with the organisation. Touchpoints are classified by channel. ONE provides pre-defined channels.

1. Digital – includes Web and Mobile
2. Assisted – includes Call Centre, Kiosks, Stores – where there is human interaction.

MONITORING AND ENFORCEMENT

In the event that Thunderhead.com can demonstrate that the limitations and/or allowances set out in this Usage Policy have been exceeded on three or more occasions in a calendar month, Thunderhead.com shall notify the Customer and the parties shall re-negotiate the limitations and/or allowances to reflect the higher levels of usage. Should the parties fail to re-negotiate the limitations and/or allowances within 30 days of Thunderhead.com's notification, Thunderhead.com reserves the right to restrict excess demand on each occasion the limitations and/or allowances are exceeded.

Upland Software
25 First Street
Suite 201
Cambridge, MA 02141

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Upland Software** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

UPLAND SOFTWARE

UPLAND SOFTWARE LICENSE, WARRANTY AND SUPPORT TERMS

Definitions

"Authorized User" shall mean a named individual who is an employee, consultant, or contractor of Licensee (Ordering Activity) who is registered to use and access the Software. The registration and access of each Authorized User may be transferred or reassigned by Licensee to another Authorized User, so long as the total number of Authorized Users accessing the Software does not exceed the total number of Authorized Users purchased by Licensee. Multiple individuals may not login under the same Authorized User account. Licensee shall be liable for an Authorized User's compliance with the terms and conditions herein.

"Documentation" means the operating manuals, including a description of the functions performed by the Software, user instructions, technical literature and all other related materials in the English language, in both eye-readable and machine-readable, printable form, which may, from time to time, be supplied to Licensee to facilitate the use and application of the Software.

"Hosting Services" means those services provided by Contractor through the Manufacturer (PowerSteering) for the hosting of the Software, for production servers, pursuant to the terms herein.

"Software" means the software and computer programs in machine-readable form (including Updates and Upgrades) ordered by Licensee and provided by Contractor.

"Updates" means interim releases of the Software incorporating standard maintenance, improvements, patches, error corrections and enhancements that are provided by PowerSteering to customers who subscribe to maintenance and support services. Updates are designated by all digit(s) to the right of the decimal point (e.g., 3.x.x), and the content and timing of all Updates shall be decided upon by Manufacturer in its sole discretion.

"Upgrades" shall mean full product releases of the Software, which contain substantial functional enhancements, and which are marketed and priced separately. Upgrades are also provided to customers who subscribe to maintenance and support services. Upgrades are designated by the digit to the left of the decimal point (e.g., x.0), and the content and timing of all Upgrades shall be decided by Manufacturer in its sole discretion.

License Grant and Restrictions

License Grant; Copies. Subject to the terms, conditions and restrictions set forth herein, Contractor grants Licensee, a non-exclusive, non-transferable, right and license, without the right to grant sublicenses, to use, solely for its internal business use (i) the Software, in object code form only, in accordance with the Documentation, and (ii) the Documentation. Licensee's access to and use of the Software at any given time may not exceed the number of Authorized Users which Licensee has licensed to use. Licensee may make a reasonable number of copies of the Software for Licensee's internal back-up and archival purposes only, provided that all such copies shall bear the original and unmodified copyright, patent and other intellectual property markings as originally delivered.

License Restriction and Acknowledgement of Proprietary Rights. Licensee shall display and retain all copyright, trademark, proprietary, or confidentiality statements and other notices on any portion of the Software however such Software is used. Licensee acknowledges that Manufacturer retains all right, title and interest in and to the original, and any copies, of the Software and Documentation, and ownership of all patent, copyright, trade secret, trademarks and other intellectual property rights pertaining thereto, shall be and remain the sole property of Manufacturer. Licensee shall not be an owner of any copies of, nor have any interest in, the Software or Documentation, but rather, is licensed, pursuant to and subject to the limitations herein, to use such

copies. Without limiting the generality of the foregoing, Licensee receives no rights and agrees that it will not itself, or through any parent, subsidiary, affiliate, agent or other third party (i) decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, underlying user interface techniques or algorithms of the Software or any portion thereof, or otherwise derive its source code; (ii) modify, port, translate, localize or create derivative works of the Software; (iii) sell, lease, license, sublicense, copy, market or distribute the Software; (iv) encumber or suffer to exist any lien or security interest on the Software; and (v) disclose the results of any performance tests or qualitative analysis on the Software to any third party..

Maintenance; Hosting

Support and Maintenance. During the Term hereof, Licensee may, upon payment of the applicable fees, subscribe to annual support and maintenance from PowerSteering, in accordance with the terms and conditions set forth in this Attachment. At Licensee's option and for an additional fee as set forth in Exhibit A, Contractor through the Manufacturer will assign U.S. citizens only to support and maintain Licensee's data and software (as defined above). In addition, customizations to the Software contracted for by Licensee will, when completed and installed, add to the base license fee value for purposes of computing the applicable support and maintenance fee.

Limitations; Remedy. Contractor through the Manufacturer shall (a) provide support and maintenance for production servers of the Software only, and (b) not be obligated to provide support and maintenance to Licensee's customers or any other third party. In addition, Contractor shall not be obligated to perform support and maintenance services if the following occur: (a) any attempt at repair, maintenance or modification of any Software performed by anyone other than authorized service personnel; (b) if applicable, Licensee's failure to install an Upgrade or Update within six (6) months of such Upgrade's or Update's release; or (c) issues related to third-party software, excluding issues arising out of the Software's application program interface. Except as set forth above, in the event that Contractor fails to provide support and maintenance services, Contractor's liability, and Licensee's remedy for such failure shall be (a) for Contractor to use commercially reasonable efforts, commensurate with the highest industry standards, to correct such failure through further services, or (b) refund any prepaid but unutilized support and maintenance fees.

Subscriptions

Subscription License Grant and Restrictions. Contractor grants Licensee a non-exclusive, non-transferable, right and license, without the right to grant sublicenses, to use, solely for its internal business use, (i) the PowerSteering Enterprise software and any upgrades or updates thereto (the "Software"), on a hosted basis, in accordance with the Documentation, and (ii) the operating manuals, including a description of the functions performed by the Software, user instructions, technical literature and all other related materials in the English language, in both eye-readable and machine-readable, printable form, which may, from time to time, be supplied to Licensee to facilitate the use and application of the Software (the "Documentation"), each for the Term purchased by the Licensee. All right, title, and interest in the Software and any updates, upgrades or modifications thereof, or in any ideas, know-how, and programs developed by Manufacturer during the term of the license are the property of Manufacturer. Licensee will not: (i) disassemble, reverse engineer, decompile, or otherwise attempt to derive source code from the Software; (ii) modify, adapt, create derivative works based upon, or translate the Software; (iii) copy, install or use the Software on any of its computer systems, servers, or networks; (iv) assign, re-license or sublicense the Software or the use of the Software; or (v) transfer, lease, loan, resell for profit, distribute or otherwise grant any rights in the Software in any form to any other party, including commercial time-sharing, rental, or service bureau use.

Subscription Services. The cost of maintenance, support and hosting services is included in the Subscription Fee.

Subscription Terms. In the event Licensee's use of the Software increases over the initial number of users in any month during the initial term or any renewal term, then in the month following such increase, Licensee will be invoiced in full for the additional users for the balance of such term.

Exclusions

Contractor will have no liability under this Section or the limited warranty provided for above for any claim or action where: (a) such claim or action would have been avoided but for modifications of the Software or Deliverable(s), or portions thereof, made after delivery to Licensee; (b) such claim or action would have been avoided but for the combination or use of the Software or Deliverable(s), or portions thereof, with other products, processes or materials not authorized by Manufacturer; (c) Licensee continues allegedly infringing activities after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; (d) Licensee's use of the Software or Deliverable(s) is not in accordance with the terms herein; or (e) if the infringement or misappropriation resulted from Contractor's compliance with designs or specifications provided by Licensee.

Limited Warranties and Disclaimer

Limited Warranty. Subject to the limitations and exceptions set forth in this Attachment, Contractor warrants that (a) it holds the necessary rights through the Manufacturer to license the Software to Licensee, (b) that the services furnished shall be performed in accordance with standards of care, skill and diligence consistent with (i) recognized and sound industry practices, procedures and techniques, and (ii) all applicable laws and regulations; and (c) for a period of thirty (30) days from the delivery of the Software, or acceptance of a Deliverable (the "Warranty Period"), that when properly installed and used for the purpose and in the manner authorized herein, the Software and/or Deliverable will perform substantially in accordance with the specifications set forth in the Documentation or the Statement of Work, as applicable. The warranty is made only to Licensee and Contractor shall have no liability to any third party with respect to the Software or Deliverable(s) as a result of such warranty. Contractor's warranty obligations shall be void if any Software and/or Deliverable is modified by or through Licensee without the express prior written consent of Contractor or Manufacturer. In the event of nonconformity of the Software or Deliverable, as applicable, to such

specifications, Licensee shall promptly notify Contractor and provide all information required Contractor in written or electronic form so that Contractor can reproduce any such nonconformity. Licensee's remedy and Contractor's obligation under the warranty set forth in herein shall be, at Contractor's sole discretion, (i) to correct any failure of the affected Software or Deliverable to perform as warranted (remedies may include, without limitation, software patches or workarounds as required), (ii) to replace the affected Software or Deliverable with a new copy or Update; provided that such failure is reported within the Warranty Period or (iii) a refund of the fee(s) paid by Licensee for the affected Software or Deliverable, including support and maintenance, if any.

DISCLAIMER. CONTRACTOR MAKES NO OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, EXCEPT AS EXPRESSLY STATED HEREIN. CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED AND IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ALL SOFTWARE, DELIVERABLES, UPDATES, UPGRADES, AND ALL OTHER PRODUCTS, SERVICES, MATERIALS AND OTHER ITEMS FURNISHED.

Maintenance and Support Services

Releases

Updated versions of the Software will be released periodically:

- Maintenance Releases include fixes and are typically released monthly or as necessary
- Point Releases (i.e. version 6.1, 6.2 etc.) include minor improvements which are not priced separately.
- Version Upgrades (i.e. 7.0, 8.0 etc.) include significant new features or modules for which additional fees may apply.

Helpdesk Support

10.2.1 Named Administrator Technical Support

Licensee shall designate in writing the two (2) users responsible for the administration and configuration of the Software ("Named Administrators").

Escalation Protocol

Escalation protocol for support proceeds from the PowerSteering Helpdesk case owner to the Licensee's PowerSteering Account Manager, then the Vice President of Client Services, and, finally, the CEO.

User Phone Support

Named Administrators can call the PowerSteering helpdesk via telephone, 24 hours per day, 365 days per year:

- From within the United States and Canada (toll-free) at 1-866-390-9088
- From outside the United States and Canada at 1-617-995-4848.

10.2.4 Normal Business Hours

9:00 AM to 5:00 PM Eastern Time.

Support Portal

Contractor through the Manufacturer provides a secure support portal, available to Licensee's Named Administrators, 24 hours per day, 365 days per year, except in instances of scheduled downtime. Administrators can (a) access support documentation, (b) submit new support cases, and (c) search and track existing cases. Contractor requests that all problems are reported using the support portal and include the case severity, case type and area of the Software.

Severity Level Definitions

Severity 1 Problem

Definition: A Severity 1 Problem is one that renders the Software substantially unusable in production.

Response/Resolution Time: Contractor through the Manufacturer will respond to a Severity 1 Problem within two (2) hours and will use commercially reasonable efforts to provide a solution within 24 hours

Severity 2 Problem

Definition: A Severity 2 Problem is a major problem that causes a feature failure in the Software.

Response/Resolution Time: Contractor through the Manufacturer will respond to a Severity 2 Problem within four (4) hours if the Problem is reported during Normal Business Hours. For Severity 2 Problems reported outside of normal business hours, response will be within two (2) hours of the start of the next business day. Contractor through the Manufacturer will use commercially reasonable efforts to provide a solution within 96 hours

Severity 3 Problem

Definition: A Severity 3 Problem is one that causes a feature or system failure whereby the Software is usable, but inconvenience is caused to normal operations.

Response/Resolution Time: Contractor through the Manufacturer will respond to a Severity 3 Problem within 24 hours if the Severity 3 Problem is reported during Normal Business Hours. For Severity 3 Problems reported outside of normal business hours, response will be within 24 hours of the start of the next business day. Contractor through the Manufacturer will use commercially reasonable efforts to provide a work-around and/or incorporate a fix in the next Maintenance Release.

Severity 4 Problem

Definition: A Severity 4 Problem is one which causes a minor inconvenience to the Licensee, or that does not directly affect normal operations.

Response/Resolution Time: Contractor through the Manufacturer will respond to Severity 4 Problems within 48 business hours. As a solution, Contractor through the Manufacturer will consider incorporating a fix into a future version of the Software.

Activities Out of Scope for Helpdesk Support Helpdesk Support does not include:

- Adding or inviting a new user
- Deleting, re-assigning or setting up new projects for end users
- Administration, Security or Configuration training, design, development or testing
- Report writing, data import or enhancement related requests
- Third party software or hardware support
- On-site support.

Hosting Terms

Operation of Hosting Services

Operation and Maintenance. Contractor through the Manufacturer shall (a) install and operate the host portion of the Hosting Services at a third party managed data center selected by the Manufacturer, together with necessary operation systems and utilities, in Manufacturer's host computer system, and (b) provide Licensee with the Hosting Services via Internet facilities and protected Internet access (utilizing industry standard firewall protection software). Notwithstanding the foregoing, in order to improve and adapt the Hosting Services to changing market conditions and technology, Contractor through the Manufacturer reserves the right to add to, delete from or change the Hosting Services, at its sole discretion, upon thirty (30) days' prior written notice to Licensee, provided that no addition, deletion or change to the Hosting Services shall be intended to degrade the functionality of the Hosting Services. Licensee shall only use applicable hardware and software, as well as Internet connections, for accessing and using the Hosting Services as approved by Contractor and Manufacturer in advance. Licensee acknowledges and agrees that Contractor through the Manufacturer may make improvements or modifications to the Hosting Services that may result in different system requirements for accessing and using the Hosting Services, upon thirty (30) days prior written notice to Licensee.

Licensee Warranty. Licensee warrants that it shall not willfully tamper with, compromise, or attempt to circumvent any physical or electronic security measures employed with respect to the Hosting Services.

Licensee Responsibilities. Licensee is responsible for the manner in which it uses the Hosting Services, including the maintenance and security of its own data extracted or derived from the Hosting Services, computer network and other facilities, as well as Licensee's choice of online content.

Ownership. All intellectual property rights in, to and related to the Hosting Services (exclusive of any data, research, or results generated by Licensee, which shall be the property of Licensee) shall remain the property of Manufacturer (and/or its respective suppliers/licensors if applicable), exclusively. Licensee shall have no rights in or to the Hosting Services except as expressly set forth herein.

Backup. Contractor through the Manufacturer will maintain backup and recovery copies of Licensee's production database nightly for disaster recovery purposes. Backups are stored for the previous seven (7) days. Backups are also stored for the last day of the week for the past four (4) weeks, and for the last day of the month for the past six (6) months.

Maintenance of Hosting Services; System Availability

Scheduled Maintenance. All regularly scheduled maintenance will be performed outside the hours of 8:00 am to 7:00 p.m. Boston, MA time weekdays, or anytime during a weekend, and will be performed as mutually agreed.

Emergency Maintenance Notifications. On rare occasions, Hosting Services may experience the need for emergency maintenance, during which time the Hosting Services will be unavailable to Licensee ("Service Outage"). Contractor through the Manufacturer will use commercially reasonable efforts to notify Licensee a minimum of fifteen (15) minutes prior to any emergency maintenance.

System Availability and Service Interruption. Contractor through the Manufacturer shall provide system availability of at least 99%, excluding commercially reasonable scheduled downtime and downtime due to an inability to connect to a Licensee provided services (e.g. authentication to an LDAP server). Licensee will provide notification of service interruptions or delays that may be known to Licensee. Contractor through the Manufacturer will provide Licensee's technical contact with notice of any Service Outage (as defined above) of the Hosting Services after the Contractor or the Manufacturer becomes aware of such Service Outage. Licensee will provide access to its designated contacts to assist with correcting any Service Outage problems in a timely manner. Contractor through the Manufacturer will also provide updates to Licensee until the Service Outage has been corrected. Upon learning of any Service Outage, Contractor through the Manufacturer will correct the Service Outage and restore Hosting Services availability.

Disclaimers

Internet Link. The parties expressly recognize that Internet servers and links are susceptible to crashes and down time. Contractor through the Manufacturer represent that it shall maintain a consistent link with the Internet for accessing the Hosting Services via Internet facilities, but Contractor cannot and does not warrant that it shall maintain a continuous and uninterrupted link.

Security. The parties expressly recognize that it is impossible to maintain flawless security, but Contractor through the Manufacturer shall take reasonable steps to prevent security breaches in its server interaction with Licensee's network, and security breaches in its server interaction with resources or users outside of any firewall that may be built into its server. However, Licensee is solely responsible for any damage caused by unauthorized access. Licensee agrees that it will only access and use the Hosting Services via authorized access provided by Contractor through the Manufacturer (e.g. password protected access) and Licensee indemnifies and holds Contractor harmless for any unauthorized access to or use of the Hosting Services.

Downloading of Data or Files. The parties expressly recognize that Contractor cannot and does not guarantee or warrant that files available for downloading through the Hosting Services will be free of infection, viruses, worms, Trojan horses or other code that manifests contaminating or destructive properties. Licensee agrees that it shall be solely responsible for implementing sufficient procedures to satisfy Licensee's particular requirements for accuracy of data input and output, and for maintaining a separate means for the reconstruction of any lost data.

Accuracy Disclaimer. Licensee is solely responsible for the accuracy and integrity of its own data, reports, and documentation. Contractor through the Manufacturer or third parties may provide links to other World Wide Web sites or resources as part of the Hosting Services. Contractor does not endorse and is not responsible for any data, software or other content available from such sites or resources. Licensee acknowledges and agrees that Contractor shall not be liable, directly or indirectly, for any damage or loss relating to Licensee's use of or reliance on such data, software or other content.

Disk Space

For each Licensee, Contractor through the Manufacturer allocates at no charge to Licensee 10GB of Database Storage and 40GB of File Storage. Items in the recycle bin do not count against the storage limits. Additional Database and File Storage is available for purchase by Licensee. System Administrators can review how much space Licensee is using, and can also provide usage information by users and record types. Once Licensee reaches 90% of its storage limit, an email notification shall be sent every week to its system administrator(s) with the following suggestions:

- Archive old data - Clean out old leads and contacts by exporting them to a CSV file and then deleting them; and/or.
- Purchase additional storage.

Once Licensee reaches its storage limit, notifications shall be sent every day. Licensee shall not be able to create new records until its storage usage lowers or additional storage is purchased.

Verint Systems, Inc.
300 Colonial Center Parkway
Roswell, GA 30076

immixTechnology Rider to Product Specific License Terms and Conditions

(for U.S. Government End Users)

1. **Scope.** This Rider and the attached Verint Americas, Inc. ("Manufacturer" or "Verint") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law, including but not limited to GSAR 552.212-4 Contract Terms and Conditions-Commercial Items. To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee" or "Customer") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.21, as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.238-81, Modifications (Federal Supply Schedule) (April 2014) (Alternate I – JUN 2016) and (Alternate II – JUN 2016), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the Federal laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar Federal laws or regulations are enacted, to the extent allowed by Federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
 - i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
 - j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under Federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
 - k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31

U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.

- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S.

Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.

- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that immixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a Federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
- 3. Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

VERINT AMERICAS INC.

MASTER CUSTOMER AGREEMENT

THIS MASTER CUSTOMER AGREEMENT (“AGREEMENT”) GOVERNS CUSTOMER’S ACQUISITION AND USE OF VERINT PRODUCTS SERVICES. CAPITALIZED TERMS HAVE THE DEFINITIONS SET FORTH HEREIN.

IF CUSTOMER REGISTERS FOR A FREE TRIAL OF VERINT PRODUCTS OR SERVICES, THE APPLICABLE PROVISIONS OF THIS AGREEMENT WILL ALSO GOVERN THAT FREE TRIAL.

BY ACCEPTING THIS AGREEMENT, BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT OR

SCHEDULE CONTRACT, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. THE TERM “CUSTOMER” SHALL REFER TO THE ORDERING ACTIVITY UNDER GSA SCHEDULE CONTRACTS IDENTIFIED IN THE PURCHASE ORDER, STATEMENT OF WORK, OR SIMILAR DOCUMENT.

The Verint products and services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

Verint’s direct competitors are prohibited from accessing Verint’s products and services, except with Verint’s prior written consent. This Agreement was last updated on May 15, 2020. It is effective between Customer and Verint (as defined in Annex 1) as of the date of Customer’s accepting this Agreement.

GENERAL TERMS AND CONDITIONS

The terms and conditions that follow apply to all products and services procured or otherwise received from Verint. Additional terms and conditions applicable to:

- SaaS Services are contained in the annex “**SAAS SERVICES TERMS**”,
- Licensed Product are contained in the annex “**LICENSED PRODUCT TERMS**”,
- SDK licenses are contained in the annex “**SDK LICENSE TERMS**”,
- Mobile Apps are contained in the annex “**MOBILE APP TERMS**”, and
- Portal Services are contained in the annex “**PORTAL SERVICES TERMS**”.

In addition, Annex 2 to this Agreement incorporates Verint’s Information Security terms and conditions.

References to a particular section within the General Terms and Conditions, any annex, or any document found at a hyperlink listed herein shall serve to reference the applicable section therein, unless otherwise expressly specified.

1 GENERAL DEFINITIONS. The following capitalized terms shall have the meaning ascribed to them below. Additional definitions are included within the applicable appendices to this Agreement.

Confidential Information. Any non-public information, technical data, or know-how, including, without limitation, that which relates to: (i) research, product plans, products, pricing, services, customers, personnel, markets, software, software code, software documentation, developments, inventions, lists, trade secrets, data compilations, processes, designs, drawings, engineering, hardware configuration information, marketing or finances, which is designated in writing to be confidential or proprietary at the time of disclosure if provided in tangible form, or if provided in non-tangible form, shall be identified by the disclosing party at the time of disclosure as confidential or proprietary, (ii) with respect to Verint, information concerning any products and services provided hereunder and/or materials resulting from services, and any derivatives thereto, and the terms and conditions of this Agreement, and (iii) with respect to Customer, any Customer Data. Notwithstanding the foregoing, and except with respect to Customer Data, Confidential Information does not include information, technical data or know-how that

is: **(a)** in the public domain or becomes available to the public and not as a result of the act or omission of the receiving party; **(b)** without restriction on disclosure, rightfully obtained by the receiving party from a third party; **(c)** without restriction on disclosure, lawfully in the possession of the receiving party at the time of disclosure; or **(d)** approved for release by written authorization of the disclosing party.

Customer Data. All data either provided by Customer or entered on Customer's behalf through use of the products and services provided by Verint, or collected or generated by those products and services on behalf of Customer, including, without limitation any Personal Data, technical information about a device, system or application software, location data, and other information from Customer which remains in Verint's possession and control for further processing, but expressly excluding any Feedback and Submissions (as defined in the Portal Services Terms).

Customer Environment. The computing environment (excluding any software expressly provided by Verint on an Order) separately procured, prepared and maintained by Customer for the access and use of the products and services, where such computing environment meets Verint's then-current minimum requirements for the applicable products and services.

Data Subject. An individual who **(a)** uses the products or services provided by Verint and/or **(b)** about which information is collected or generated as a part of the products or services provided by Verint.

Designated Employees. A reasonable number of Customer Personnel (including Customer's system administrator(s)), who have received training from Verint. Designated Employees may be changed by notice to Verint.

Documentation. Verint's documentation describing the specifications and use of the products and services provided by Verint, as updated from time to time.

Error. A failure of the products or services provided by Verint to substantially conform to the Documentation that Verint can replicate or Customer can duplicate.

Error Correction. Revisions, modifications, alterations, and additions to the products or services provided by Verint to Customer as bug fixes or workarounds to resolve Errors, or installed by Verint in the Hosted Environment as bug fixes or workarounds, each to resolve Errors.

Feedback. Any suggestions, comments or other feedback provided to Verint concerning Verint's products and services, including, but not limited to, the design, features, functionality, operation and release strategies of Verint's products and services.

Fees. Any and all fees as specified in this Agreement, which, unless otherwise specified on an Order, shall be in the following currencies for a Trading Region: (i) Americas, Australian and Pacific Regions, US Dollars, and (ii) EMEA Region, Pounds Sterling.

Hosted Environment. Verint or its third party's technical environment required to operate and provide access to the relevant Verint service.

Intellectual Property Rights. Any and all tangible and intangible rights, title and interest in and to: **(i)** works of authorship, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof, **(ii)** trademarks and trade names, **(iii)** Confidential Information, trade secrets and know-how, **(iv)** patents, designs, algorithms and other industrial property, **(v)** all other intellectual and industrial property rights whether arising by operation of law, contract, license, or otherwise, and **(vi)** all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force.

Order. The details of an order by Customer for products and services provided by or through Verint **(i)** on an order form or schedule provided by Verint and signed by Customer, or **(ii)** on Customer's purchase order provided to and accepted by Verint, or **(iii)** placed on and accepted by Verint by an authorized Verint reseller on Customer's behalf. For the purposes of **(iii)**, all terms and conditions of this Agreement shall apply as between Customer and Verint, except with respect to invoicing and payment terms.

Personal Data. In respect of each Data Subject means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person which shall include information collected by the use of web-site cookies and IP addresses.

Personnel. With respect to Customer, each of Customer's employees, and Customer's affiliates and independent contractors (each not a competitor of Verint), under obligations of confidentiality and nondisclosure, and other individuals with access to components of the products and services provided by Verint designated for external use, which use the products and services procured by Customer hereunder; with respect to Verint, each Verint employee or subcontractor under obligations of confidentiality and nondisclosure which performs on behalf of Verint hereunder.

Privacy Laws. Laws, as applicable to Personal Data, concerning the regulation of the collection, processing, data security, and trans-border data flows, use of web-site cookies, email communications, use of IP addresses and meta-data collection.

Professional Services. Installation, configuration, training, consulting and/or, except with respect to Support and SaaS Services, other services provided to Customer hereunder.

Professional Service Fee. The fees identified at the time of and on each Order on a fixed fee or time and material basis for Professional Services to be performed.

Support. The maintenance and/or support provided for a Licensed Product(s) and any on-premise component(s) at the support level specified on an Order ("Maintenance and Support Plan"), as further described in the document found at <https://www.verint.com/wpcontent/uploads/VGS-Plan-all-regions.pdf>.

Trading Region. With respect to specific provisions in this Agreement identified as applicable to a specific "Region", such Region shall be determined based on the jurisdiction where Customer's purchasing entity is registered, or if not applicable, that purchasing entity's principle place of business, as follows:

- (i) "**Americas Region**" means Canada, United States, all countries in Central and Latin America, and any countries not covered in another Region below;
- (ii) "**Australian Region**" means Australia and New Zealand;
- (iii) "**EMEA Region**" means the United Kingdom, British Isles, any British Overseas Territory, members countries of the European Union, member countries of the European Economic Area, Switzerland, principalities of Andorra and Monaco, countries forming the United Arab Emirates, Saudi Arabia, Oman and Republic of South Africa;
- (iv) "**Pacific Region**" means China, including Hong Kong, India, Singapore, Malaysia, Vietnam, the Philippines, Taiwan, Korea, Japan, Indonesia, Israel, Turkey, Russia and other member countries of the Commonwealth of Independent States, Ukraine, Georgia.

Updates. Periodic improvements or additions to the products and services provided by Verint, including Error Corrections and other changes to those products and services, that may be provided hereunder, but excluding any new feature or substantial additional functionality available for those products and services, which, in Verint's sole discretion, is subject to additional fees.

Verint Intellectual Property. All Intellectual Property Rights in the products and services provided by Verint, and all other Confidential Information provided by Verint hereunder.

2 PROFESSIONAL SERVICES. Customer may order Professional Services from Verint or its authorized reseller or integrator by submitting a request for such Professional Services. Any Professional Services provided hereunder are subject to (i) Customer's performance of any obligations herein, and (ii) the terms of a mutually agreeable implementation plan. With respect to any installation, configuration, and integration and other services by and between a Customer Environment and the products and services provided by Verint hereunder, Verint agrees to perform those services to the extent specified on an Order. Customer must provide all necessary information, access, workspace, computing resources, and other services and support materials as reasonably required by Verint to perform its duties in a timely manner. All Professional Services provided on a time and material basis are per person unless otherwise specified, and charged hourly or daily as indicated for each person. Professional Services scheduling is dependent upon the allocation and availability of Verint resources. In the event Customer reschedule or cancel scheduled Professional Services, the milestone/delivery schedule may, at a minimum, be on at least a day-for-day slip until Verint is able to reschedule its applicable resources.

3 CUSTOMER DATA. Verint acknowledges it receives no ownership or, except to the extent specified herein, other rights in any Customer Data, and all rights, title and interest in such Customer Data remain with Customer. Verint shall not, and shall not permit its Personnel to disclose Customer Data, unless authorized by the terms and conditions of this Agreement, or by Customer in writing, or if Verint is required to do so by law or court order. Customer agrees that Verint may: (a) use and disclose in aggregate, anonymous and de-identified form, information derived from Customer Data where the resulting information does not in any way identify or allow the identification of Customer or any Personal Data, and/or (b) access, use in accordance with the terms and conditions of this Agreement, but not otherwise use or disclose, Customer Data for Verint's

internal business purposes, including for purposes of planning, support, administration and invoicing related to Customer's use of such products and services, and improving and/or creating enhancements to or new offerings related to the SaaS Services. Additionally, Customer acknowledges that in connection with the processing of Customer Data pursuant to this Agreement, Verint may share Customer Data with its affiliates for the purposes of performing its obligations under this Agreement. Customer agrees that Customer is solely responsible

for: **(i)** obtaining any Customer Data and other information Customer provides while using Verint's products and services, **(ii)** obtaining all rights and consents necessary to collect, retain, use and/or disclose the Customer Data, **(iii)** ensuring the collection, retention and processing of Personal Data in connection with the use and delivery of the products and services does not violate the rights of Data Subjects or the Privacy Laws, and **(iv)** the accuracy, completeness, quality, integrity, legality, reliability, appropriateness and copyright of all Customer Data. By providing any Customer Data or other information, Customer represents and warrants that such information does not **(x)** violate any intellectual property rights, publicity rights, confidentiality or trade secret rights, or any other legal or equitable rights; **(y)** violate any law, rule, order, judgment or regulation to which Customer or the Customer Data may be subject, or **(z)** violate in any way Customer's obligations in this Agreement. Customer acknowledges and agrees that Verint is not responsible or liable for any unlawful, harassing, defamatory, privacy invasive, abusive, threatening, offensive, harmful, vulgar, obscene, tortuous, hateful, racially, ethnically or otherwise objectionable information contained in Customer's Customer Data, or content, or information or content contained in Customer Data that infringes or may infringe any copyright, patent, moral right, trade secret, confidential information, trademark right or any other right of a third party.

4 INTELLECTUAL PROPERTY; CONFIDENTIALITY.

4.1 Ownership. Customer acknowledges Verint owns or has the right to license the products provided by Verint hereunder, and that all Intellectual Property Rights in and to the Verint Intellectual Property, are and shall remain vested in Verint or its licensor(s). Except for the limited license and use rights granted hereunder, Customer shall not assert any right, title, or interest in or to the products or services provided by Verint hereunder, or any other Verint Intellectual Property.

4.2 Verint Intellectual Property Protection. In no event shall this Agreement, or any rights or privileges hereunder, be an asset of Customer under any bankruptcy, insolvency, or reorganization proceedings, or in any other manner whatsoever; however, this Agreement shall be binding upon and inure to the benefit of the parties, their legal representatives, and permitted transferees, successors, and assigns. Customer shall comply with all applicable (including, all U.S. and applicable foreign) laws and administrative regulations relating to the control of exports of commodities and technical and/or personal data, and all laws directly or indirectly applicable to its activities hereunder or otherwise pursuant to or in connection with this Agreement, the license or use of any product, and the delivery of any services. Except as otherwise specified in this Agreement, expressly permitted in writing by Verint, or otherwise cannot be precluded under mandatory applicable law, Customer shall not, and shall not permit any other party to:

- a. Disassemble, decompile, decrypt, or reverse engineer, or in any way attempt to discover or reproduce source code for, any part of the products or services; adapt, modify, or prepare derivative works based on any of the Verint Intellectual Property; or use any of the Verint Intellectual Property to create any computer program or other material that performs, replicates, or utilizes the same or substantially similar functions as the products and services provided hereunder;
- b. Disclose the products or services or its operation to third parties, or use the products or services in a service bureau or time sharing environment;
- c. Alter, remove, or suppress any copyright, confidentiality, or other proprietary notices, marks or any legends placed on, embedded or otherwise appearing in or on any Verint Intellectual Property; or fail to ensure that all such notices and legends appear on all full or partial copies of Verint Intellectual Property or any related material;
- d. Sell, sublicense, lease, assign, delegate, transfer, distribute, encumber or otherwise transform any Verint Intellectual Property or any of the rights or obligations granted to or imposed on Customer hereunder.

4.3 Confidentiality. The unauthorized disclosure or use of Confidential Information of a disclosing party or of a disclosing party's third party licensors, and all information and services related thereto, would cause great injury and harm to the owner thereof.

Therefore, each party agrees to take all appropriate action to ensure the confidentiality and security of the other party's Confidential Information, but in any event no less than the same standard of care it uses to protect its own Confidential Information of like kind and value. Without limiting the generality of the foregoing, Customer and Verint each agree that it: **(i)** shall maintain the other's Confidential Information in the strictest confidence, including compliance with reasonable remote access security requirements; **(ii)** shall not disclose, display, publish, transmit, or otherwise make available such Confidential Information or take the benefit thereof, in whole or in part, except in confidence to its own Personnel on a need-to-know basis; and **(iii)** except as expressly permitted hereunder, shall not copy, duplicate, replicate, transform, or reproduce such Confidential Information. Notwithstanding anything to the contrary in this Section, neither party shall be liable to the other for damages resulting from disclosure of any Confidential Information required by law, regulation or valid court order; provided, to the extent legally permitted, prior written notice is provided to the other party sufficiently in advance of such required

disclosure to allow the other party to respond and take reasonable and lawful action to avoid and/or minimize the degree of such disclosure or seek appropriate protective orders. Verint recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as “confidential” by the vendor.

4.4 Feedback. Customer may from time to time provide Feedback to Verint. Customer acknowledges and agrees that any such Feedback is provided on a voluntary basis only and Customer will not seek or be entitled to receive any compensation in any form for such Feedback. Verint has no obligation to respond to Feedback or to incorporate Feedback into its products and services. Customer agrees that all Feedback, even if designated as confidential by the Customer, shall not create any confidentiality obligation for Verint, and agrees that Verint is free to disclose and use such Feedback, and any derivatives thereto, without restriction. By submitting Feedback to Verint, Customer agrees to assign and hereby does assign to Verint all right, title and interest in and to such Feedback, and agrees to perform all acts reasonably requested by Verint, at Verint’s cost, to perfect and enforce such rights. Verint acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.

4.5 Security. Verint shall in accordance with Annex 2, either directly, or through its third party service provider(s), implement and maintain commercially reasonable security precautions designed to prevent unauthorized access to the Customer Data that is retained by Verint. Verint reviews its security precautions on a regular basis and modifies them as required by legal, regulatory, and other requirements. Verint has developed and maintains operational security policies based on commercially reasonable practices and its own experience. Verint will provide any services hereunder in compliance with Verint’s then-current operations security policies applicable to those services. Should Customer have reason to believe that there has been a breach of security resulting in the unauthorized disclosure of Customer Data to a third party, Customer agrees to contact Verint immediately via email at privacy@verint.com. Should Verint determine that there has been a breach of security resulting in the unauthorized disclosure of Customer Data to a third party, Verint shall without undue delay contact Customer by email and/or by telephone, at the contact information provided by Customer.

5 WARRANTY.

5.1 Limited Performance Warranty.

For SaaS Services: Verint warrants to Customer that during any Access Term, the SaaS Services will perform substantially in accordance with the Documentation. Customer’s exclusive remedy for a breach of the foregoing shall be for Verint to use commercially reasonable efforts to correct any Errors; provided, in the event Verint is unable to correct that nonconformity, Customer shall have the right to terminate the remaining Access Term and receive a pro rata refund of any remaining prepaid SaaS Access Fees paid to Verint, applicable to those SaaS Services.

For Licensed Product: Verint warrants to Customer that for a period of ninety (90) days after its initial delivery, the Software shall operate in a Customer Environment substantially in accordance with the Documentation. Customer’s exclusive remedy for a breach of the foregoing shall be for Verint to use commercially reasonable efforts to either correct any verifiable material nonconformity or to replace the materially nonconforming Software; provided, however, if Verint cannot provide either remedy, upon receipt of the materially nonconforming Software, Verint shall refund Customer the License Fee paid to Verint for same.

For Professional Services: Verint warrants to Customer that for a period of thirty (30) days after performance, the Professional

Services provided hereunder were performed in a timely and professional manner by qualified Personnel. Customer’s exclusive remedy for a breach of the foregoing shall be for Verint to re-perform the affected Professional Services, or waive or refund (as appropriate) the Professional Service Fee paid to Verint for such Professional Services.

Notwithstanding the foregoing, Verint shall have no obligations under this Section unless Verint receives Customer’s notice during the applicable warranty period.

5.2 Warranty Disclaimer. THE LIMITED WARRANTIES AND EXCLUSIVE REMEDIES SET FORTH IN SECTION 5.1 ARE MADE FOR THE BENEFIT OF CUSTOMER ONLY, AND ARE EXPRESSLY SUBJECT TO: (I) SATISFACTION OF ANY PAYMENT OBLIGATIONS TO VERINT, AND (II) SECTION 4.3 IN THE “LICENSED

PRODUCT TERMS”. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1, VERINT MAKES NO AND DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, REPRESENTATIONS, CONDITIONS AND OTHER TERMS, WRITTEN OR ORAL, OR EXPRESS, IMPLIED, STATUTORY, COLLATERAL OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTIES AND TERMS OF MERCHANTABILITY, QUALITY, TITLE, INTEROPERABILITY, DATA ACCURACY, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY

PRODUCTS, SERVICES, SUPPORT, OR ANY COMPONENTS THEREOF. WITHOUT LIMITING THE FOREGOING, VERINT DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF ANY

PRODUCTS OR SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE. FOR THE AVOIDANCE OF

DOUBT, SECTION 5.1 SHALL NOT APPLY TO ANY BETA, PILOT OR OTHER TRIAL SUBSCRIPTIONS, NONPRODUCTION ENVIRONMENTS, MOBILE APPS OR PORTAL SERVICES, EACH OF WHICH ARE PROVIDED 'AS IS' AND WITHOUT WARRANTY OF ANY KIND.

6 PAYMENT.

6.1 RESERVED

6.2 Accurate Records; Audit. Customer shall keep complete and accurate records of all its obligations hereunder. Customer shall allow Verint or its agent reasonable access to audit Customer's records and systems solely to verify general compliance with the terms and conditions of this Agreement, including, without limitation, Customer and/or Verint running Verint provided utilities to determine actual usage. Verint shall conduct such audits subject to Government security requirements, during Customer's normal business hours with reasonable notice, or as otherwise reasonably requested by Customer.

7 VERINT INDEMNITY.

Verint, at its sole expense, shall defend, indemnify and hold harmless Customer from any action based upon a claim that the products or services provided by Verint, used as permitted, infringes any valid third-party patent, copyright, trade secret, or other proprietary right arising under the laws of the United States, United Kingdom, Hong Kong, Australia or other countries applicable to Customer as specified on an Order, and shall reimburse Customer for all damages, costs, and expenses (including reasonable attorneys' fees) awarded against Customer pursuant to any such actions. If the products or services become, or in Verint's opinion is likely to become, subject of such a claim of infringement, Verint shall be entitled, at Verint's sole option, to either procure the right for Customer to continue to use the product or service, or replace or modify it so that it becomes non-infringing. If neither of the foregoing is commercially and reasonably available to Verint, Verint may terminate the product licenses or services and refund to Customer a pro rata refund of (a) product Fees paid to Verint for the infringing product, amortized over five (5) year depreciation schedule, and (b) any remaining prepaid Fees for the infringing services. Verint shall have no obligation or liability hereunder for any claim resulting from: (i) modification of the product or service (a) by any party other than Verint, or (b) by Verint in accordance with Customer's designs, specifications, or instructions; (ii) use of the product or service other than as granted in this Agreement; or (iii) use of the product or service in conjunction with other products or services not provided by Verint or necessary for the operation of the SaaS Service, where such infringement would not have occurred but for such use; or (iv) use of a version of the product or service other than the then-current version.

8 LIMITATION AND CAP ON LIABILITY.

THIS SECTION SHALL SURVIVE AND CONTINUE IN FULL FORCE AND EFFECT DESPITE ANY FAILURE OF ESSENTIAL PURPOSE, CONSIDERATION, OR OF AN EXCLUSIVE REMEDY.

AMERICAS REGION: EXCEPT WITH RESPECT TO A PARTY'S INDEMNITY OBLIGATIONS PROVIDED FOR IN THIS AGREEMENT, OR A BREACH OF OBLIGATIONS WITH RESPECT TO VERINT INTELLECTUAL PROPERTY, THE FOLLOWING LIMITATIONS SHALL APPLY TO EACH PARTY'S LIABILITY UNDER THIS AGREEMENT. EACH PARTY'S MAXIMUM LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT SHALL BE IN THE AGGREGATE AND LIMITED TO THE OTHER PARTY'S DIRECT ACTUAL DAMAGES NOT TO EXCEED THE ACTUAL FEES PAID AND DUE AND PAYABLE TO VERINT UNDER THE ORDER IN WHICH THE DAMAGES AROSE. IN NO EVENT SHALL A PARTY, ANY PARENT, SUBSIDIARY, AFFILIATE OR LICENSOR OF THAT PARTY, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, OR REPRESENTATIVES, BE LIABLE (I) TO ANY THIRD PARTY FOR DAMAGES OF ANY

KIND OR NATURE OR IN ANY MANNER WHATSOEVER, OR (II) TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, INCIDENTAL, OR SPECIAL DAMAGES OR COSTS (INCLUDING ATTORNEYS' FEES OR LOST PROFITS, TIME, SAVINGS, PROPERTY, DATA OR GOODWILL) REGARDING THIS AGREEMENT OR RESULTING FROM OR IN CONNECTION WITH THE USE, MISUSE, OR INABILITY TO USE ANY PRODUCTS OR SERVICES, REGARDLESS OF THE CAUSE OF ACTION, EVEN IF ADVISED OF THE POSSIBILITY THEREOF. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL VERINT BE LIABLE FOR PROCUREMENT COSTS OF SUBSTITUTE PRODUCTS OR SERVICES. THE FOREGOING LIMITATION OF

LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

9 TERM; TERMINATION. This Agreement shall be effective upon the earlier of the date Customer indicates assent to the terms and conditions of this Agreement through a digital signature process, the date that Verint accepts the initial Order hereunder (as may be evidenced by Verint's performance). When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Verint shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Upon termination of this Agreement, and except to the extent specified herein, **(i)** all Fees due to Verint shall be immediately paid, and **(ii)** all of Customer's rights to access and use any of services provided hereunder shall immediately terminate without right of refund. Provisions herein which by their context and content are intended to survive termination or expiration hereof shall so survive, including Sections 1, 3, 4, 5.2, and 6 to 15 in these "General Terms and Conditions", Sections 1 and 5 in the "SaaS Services Terms", Sections 1 and 2 in the "Licensed Product Terms", Sections 1 and 3 in the "SDK License Terms", and Sections 1 and 3 in the "Portal Services Terms".

For SaaS Services: Upon termination of this Agreement, Customer shall immediately delete all copies of any on-premise components licensed hereunder, return to Verint all other Verint Intellectual Property. Within thirty (30) days of termination of this Agreement ("**Return Period**"), Customer may request in writing that Verint either delete or return to Customer available Customer Data. At the expiry of the Return Period, if Customer has not elected either of the foregoing, Verint may delete and destroy all Customer Data without notice or liability to Customer. Where Customer requests Verint return available Customer Data, Verint may fulfil this request by making available functionality that enables Customer to retrieve available Customer Data without additional processing by Verint. If Customer declines to use this functionality, Customer may, within the Return Period, request that Verint return the available Customer Data under an Order for the applicable Professional Services. Verint agrees to provide such Professional Services at its then current rates, provided that in the event this Agreement is terminated for Customer's breach, Verint shall have the right to require that Customer prepay for such Professional Services.

For Licensed Product: Upon termination of this Agreement, Customer's license rights granted in any Licensed Product licensed hereunder shall survive such termination for the remainder of the applicable license term; provided, **(i)** this Agreement has not terminated by Verint for Customer's breach, **(ii)** Customer continues to comply with all terms and conditions surviving termination of this Agreement, and **(iii)** Customer's use of the Licensed Product does not exceed the license rights granted hereunder. In the event of any failure of (i), (ii) or (iii) at the time of, or subsequent to termination of this Agreement, **(a)** all rights and licenses granted hereunder shall immediately terminate and any uses by or on behalf of Customer must immediately cease, and **(b)** Customer shall immediately delete all copies of any Licensed Product licensed hereunder, return to Verint all other Verint Intellectual Property.

For SDK Licenses: Upon termination of this Agreement, **(a)** all rights and licenses granted in an SDK shall immediately terminate and any use of that SDK by or on behalf of Customer must immediately cease, and **(b)** Customer shall immediately delete all copies of the SDK licensed hereunder.

For Mobile Apps: Upon termination of a Mobile App license in accordance with Section 2 of "Mobile App Terms", or termination of this Agreement, **(a)** all rights and licenses granted in the Mobile App(s) shall immediately terminate and any use of that Mobile App(s) by or on behalf of Customer must immediately cease, and **(b)** Customer shall immediately delete all copies of the Mobile App(s) licensed hereunder from any Mobile Device.

On request by Verint, Customer shall provide to Verint certification of the foregoing, as applicable to Customer.

10 GOVERNING LAW; FORUM. This Agreement is governed exclusively by the Federal laws of the U.S. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply in any respect to this Agreement or the parties.

11 REMEDIES. Customer agrees to cooperate with Verint, and to obtain all required consents, in the event a third party seeks to compel Verint to disclose Customer Data through any legal process. To the extent legally permitted, Verint shall provide Customer with advanced notice to allow Customer to take reasonable and lawful action to minimize the degree of such disclosure or to seek appropriate protective orders. Notwithstanding any other terms in this Agreement, Verint shall not be liable to any party for damages resulting from disclosure of Customer Data under such legal process.

12 WAIVER / SEVERABILITY. The failure of Verint to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is for any reason held unenforceable or invalid, then this Agreement shall be construed as if such provision were not contained in this Agreement.

13 FORCE MAJEURE. Excusable delays shall be governed by FAR 52.212-4(f).

14 ASSIGNMENT. Except to the extent such rights cannot be restricted by applicable law, Customer cannot assign, sublicense, or transfer this Agreement without the prior written consent of Verint, and any such attempt by Customer to sublicense, assign or transfer any rights, duties, or obligations hereunder is null and void.

15 ENTIRE AGREEMENT / MODIFICATIONS. Except as otherwise specified in this Section, this Agreement, comprises the entire agreement between Customer and Verint, and supersedes any other agreement or discussion, oral or written, with respect to the subject matter of this Agreement, and may not be changed except by a written agreement signed in hardcopy form between the parties. Preprinted, additional or conflicting provisions on Customer's purchase order or on either party's acknowledgement forms, whether presented before or after the terms of this Agreement, and including any integration clauses contained therein, shall not apply unless agreed to by both parties in writing signed in hardcopy form. In the event the parties to this Agreement have executed, in hardcopy form, a separate agreement, or other electronically signed agreement covering the same subject matter, that separate agreement shall remain in effect, govern and control for that subject matter, and this Agreement shall govern and control for all other subject matters contemplated herein. Any reference to a law or statute in this Agreement shall be deemed to include any amendment, replacement, re-enactment thereof for the time being in force and to include any by-laws, statutory instruments, rules, regulations, orders, notices, directions, consents, or permissions (together with any conditions attaching to any of the foregoing) made in respect thereof.

SAAS SERVICES TERMS

1 DEFINITIONS.

Access Term. The term, as further described in Section 3 below, for which Verint has contractually agreed to provide Customer with access to the SaaS Services in accordance with the Order.

Billing Period. The billing period for which the SaaS Access Fees shall be calculated and invoiced to Customer in advance on a pro rata basis as follows: **(i)** annual billing period(s) for an Access Term for a SaaS Service, and **(ii)** for any add-on Order(s) for that SaaS Service, a proportionate period for the initial billing cycle to enable annual co-billing thereafter.

Overage. Measured on a monthly basis, any actual usage of the SaaS Service which exceeds the SaaS Access Rights subscribed to by Customer under any Order(s) applicable to the SaaS Service.

SaaS Services. The Software, operating in the online services offered by Verint, as more fully described in the Documentation, and all SaaS Access Rights, each as specified on an Order, but expressly excluding any Portal Services.

SaaS Access Fees. The fees due to Verint, as further specified in the Order in accordance with the GSA Schedule Pricelist, for use of the SaaS Services to the extent of the SaaS Access Rights, and fees for any Overage calculated at a monthly pro rata amount.

SaaS Access Rights. The type and quantity of SaaS access rights granted to Customer for use during the applicable Access Term.

Scheduled Downtime. Any downtime scheduled to perform system maintenance, backup and upgrade functions for the Hosted Environment, and any other downtime incurred as a result of a Customer request.

Service Levels. The service level commitments from Verint with respect to the maintenance and support of the Hosted Environment and SaaS Services.

Total Time. The total number of minutes in the applicable month.

Unscheduled Downtime. Any time outside of the Scheduled Downtime when the Hosted Environment is not available to perform operations. Unscheduled Downtime is measured in minutes.

Uptime Percentage. Total Time minus Unscheduled Downtime divided by Total Time.

2 ACCESS RIGHTS. During the Access Term, and solely for Customer's internal business use (which may include external use of designated components by Customer's customers), Verint grants to Customer a nonexclusive, nontransferable, nonassignable, personal right to use the SaaS Services specified in the Order through internet access, up to the extent of the SaaS Access Rights specified in the Order. With regards to the on-premise components and related Documentation, Verint grants to Customer, and Customer accepts, a nonexclusive, nonassignable, and nontransferable limited license during the Access Term, to use the on-premise components and related Documentation solely in conjunction with the SaaS Services for Customer's internal business purposes, and subject to the terms and conditions of this Agreement. With respect to the

Documentation, Customer may make a reasonable number of copies of the Documentation applicable to the SaaS Services solely as reasonably needed for Customer's internal business use in accordance with the express use rights specified herein. Without limiting the terms and conditions in Section 4 of the "General Terms and Conditions", Customer acknowledges and agrees that no rights or any other interests are provided to Customer with respect to: (i) rights in or to the Hosted Environment or SaaS Services beyond those rights specified in the Order, (ii) rights to provide access to or use of the Hosted Environment, SaaS Services and on-premise components to any other party, including, without limitation, any uses in the nature of a service bureau or application services provider, (iii) rights to obtain possession of copies of any component of the Hosted Environment or any software used to provide or perform the SaaS Services, except with respect to on-premise component(s) and then only as expressly provided for in this Section, or (iv) representations, warranties or other third party beneficiary rights from any Verint third party vendor.

3 ACCESS TERM. Unless otherwise specified on the Order, an Access Term shall commence upon the date Verint accepts the applicable Order and shall continue for twelve (12) months thereafter. In the event Customer places additional Orders for the same SaaS Service, Verint may adjust the duration of the additional Access Terms to co-terminate with the Access Terms for that SaaS

Service. Each Access Term upon expiration may be renewed for additional annual terms at Verint's then current rates in accordance with the GSA Schedule Pricelist by exercising an option, or by both parties executing a new purchase order in writing. In the event Customer (i) fails to pay Verint any undisputed amounts past due, or (ii) is in breach of Section 5.1, Verint shall have the right to immediately suspend without notice any or all related SaaS Services provided to Customer hereunder.

4 VERINT RESPONSIBILITIES.

4.1 Support. As part of the SaaS Services, during any Access Term and subject to payment of all fees, Verint shall, either directly, or through its applicable third party vendor(s), provide support for the Hosted Environment and SaaS Services in accordance with the terms and conditions of this Section.

4.2 Updates. In addition to establishing and maintaining the Hosted Environment, Verint shall maintain the components of the Hosted Environment with all current Updates that Verint deems necessary for the SaaS Services. Verint shall use commercially reasonable efforts to implement any required Error Corrections. Access to the SaaS Services and maintenance of the Hosted Environment shall be in accordance with the Service Levels specified in this Section 4. Customer's Designated Employees shall have access to Verint technical support Personnel through Verint's standard telephone, email and/or web support services during the support hours applicable to the specific SaaS Services subscribed to by Customer. The contact information for Verint technical support personnel, support hours applicable to the SaaS Services, and Error type classifications and response times can be found at <https://www.verint.com/wp-content/uploads/VGS-Plan-all-regions.pdf>.

4.3 On-Premise Components. With respect to any on-premise components, Customer shall be responsible for the installation and configuration of the on-premise components in the Customer Environment. Verint shall provide technical support for on-premise components through Verint's standard telephone, email and/or web support services during the support hours specified in the Maintenance and Support Plan under the Premium Plan.

4.4 Uptime. Verint will use commercially reasonable efforts to ensure that the Hosted Environment will be available 24 hours per day, 7 days per week, excluding any Scheduled Downtime. Daily system logs will be used to track Scheduled Downtime and any other Hosted Environment outages. Verint will provide Customer with a minimum of seven (7) days advance notice of Scheduled Downtime, and post a notice on the application log-in screen to notify Customer administrator of any Scheduled Downtime that will exceed two (2) hours. The duration of any downtime is measured, in minutes, as the amount of elapsed time from when the Hosted Environment is not accessible or does not permit Customer to log on, to when the SaaS Services permits Customer to log on and access the Hosted Environment.

4.4.1 Service Level Credits. If Verint does not meet the Uptime Percentage levels specified below, Customer will be entitled, upon written request, to a service level credit ("**Service Level Credit**") to be calculated, with respect to the applicable Hosted Environment, as follows:

- If Uptime Percentage is at least 99.95% of the month's minutes, no Service Level Credits are provided; or
- If Uptime Percentage is 99.75% to 99.94% (inclusive) of the month's minutes, Customer will be eligible for a credit of 5% of a monthly average fee derived from one-twelfth (1/12th) of the then-current annual fee paid to Verint; or
- If Uptime Percentage is 99.50% to 99.74% (inclusive) of the month's minutes, Customer will be eligible for a credit of 7.5% of a monthly average fee derived from one-twelfth (1/12th) of the then-current annual fee paid to Verint; or
- If Uptime Percentage is less than 99.50% of the month's minutes, Customer will be eligible for a credit of 10.0% of a monthly average fee derived from one-twelfth (1/12th) of the then-current annual fee paid to Verint.

Customer shall only be eligible to request Service Level Credits if Customer notifies Verint in writing within thirty (30) days from the end of the month for which Service Level Credits are due. All claims will be verified against Verint's system records. In the event after such notification Verint determines that Service Level Credits are not due, or that different Service Level Credits are due, Verint shall notify Customer in writing on that finding. Service Level Credits will be applied to the next invoice following Customer's request and Verint's confirmation of available credits. Service Level Credits shall be Customer's sole and exclusive remedy in the event of any failure to meet the Service Levels. Verint will only provide records of system availability in response to Customer's good faith claims.

4.4.2 Exceptions. Customer's right to receive Service Level Credits, and the inclusion of any minutes in the calculation of

Unscheduled Downtime are conditioned upon: **(i)** prompt payment by Customer of all fees, **(ii)** Customer's performing all of Customer's obligations (including, without limitation, establishing and maintaining the Customer Environment), **(iii)** Customer's continued compliance with [Section 5](#), **(iv)** Customer agreeing to use of the most current version of the SaaS Service, and/or **(v)** the Unscheduled Downtime not being caused by the failure of any third party vendors, the Internet in general, or any emergency or force majeure event, Customer's use of the SaaS Services in excess of Customer's SaaS Access Rights, or issues caused by the Customer Environment or Customer specific configurations not expressly contemplated in the Documentation.

4.5 Backup and Recovery of Data. As a part of the SaaS Services, Verint shall maintain a backup of all Customer Data that Verint is required to retain as a part of the SaaS Services. In the event the Customer Data becomes destroyed or corrupt, Verint shall use commercially reasonable efforts to restore all available data from backup, and remediate and recover such corrupt data.

5 CUSTOMER RESPONSIBILITIES.

5.1 Use of SaaS Services. Customer shall be solely responsible for the actions of its Personnel while using the SaaS Services and the contents of its transmissions through the SaaS Services (including, without limitation, Customer Data), and any resulting charges. Customer agrees to: **(i)** abide by all local, state, national, and international laws and regulations applicable to Customer's use of the SaaS Services, including without limitation all laws and administrative regulations (including, all U.S. and applicable foreign) relating to the control of exports of commodities and technical and/or Personal Data, and shall not allow any of its Personnel or Data Subjects to access or use the SaaS Service in violation of any export embargo, prohibition or restriction, including but not limited to any party on a U.S. government restricted party list; **(ii)** provide any required notifications to Data Subjects, and obtain all rights and requisite consents from Data Subjects in accordance with all applicable Privacy Laws and other laws in relation to the collection, use, disclosure, creation and processing of Personal Data in connection with this Agreement and the use and delivery of the SaaS Services; **(iii)** not use the SaaS Services for illegal purposes; **(iv)** not knowingly upload or distribute in any way files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Hosted Environment, SaaS Services or another's computer; **(v)** not knowingly interfere with another customer's use and enjoyment of the SaaS Services or another entity's use and enjoyment of similar services; **(vi)** not knowingly engage in contests, chain letters or post or transmit "junk mail," "spam," "chain letters," or unsolicited mass distribution of email through or in any way using the SaaS Services; **(vii)** not to interfere or disrupt networks connected to the Hosted Environment or SaaS Services; **(viii)** not to post, promote or transmit through the SaaS Services any unlawful, harassing, defamatory, privacy invasive, abusive, threatening, offensive, harmful, vulgar, obscene, tortuous, hateful, racially, ethnically or otherwise objectionable information or content of any kind or nature; and **(ix)** not to transmit or post any material that encourages conduct that could constitute a criminal offense or give rise to civil liability. Verint may temporarily remove any violating content posted on the SaaS Services or transmitted through the SaaS Services, without notice to Customer.

5.2 Passwords. All access codes and passwords are personal to the individual to which it is issued. Customer and Customer's Personnel are responsible for maintaining the confidentiality and security of all access codes and passwords issued, and ensuring that each access code and password is only used by the individual authorized. To the extent Verint assigned Customer with administrative rights to create access codes and passwords for Customer's Personnel, Customer shall be responsible for issuing such access codes and passwords.

5.3 Reserved.

5.4 Customer Environment. Customer is responsible for the establishment of the Customer Environment necessary for Customer's use of the SaaS Services, and for the installation and configuration of the on-premise components in that Customer Environment, each as Verint may specify in the Documentation. Additionally, Customer acknowledges and agrees that Verint is not responsible for obtaining, licensing or selling any hardware, peripherals or third-party software or interfaces needed to prepare or maintain the Customer Environment, or backing up such Customer Environment.

6 RESERVED.

LICENSED PRODUCT TERMS

1 DEFINITIONS.

License Fee. The fees identified at the time of and on each Order for licensing Licensed Product as specified on that Order in accordance with the GSA Schedule Pricelist.

Licensed Product. Collectively, the Software and Documentation licensed to Customer as identified in an Order or Orders hereunder, and all permissible copies of the foregoing.

Software. Computer application programs (including, if applicable, any Updates and other developments provided to Customer hereunder) in object code form developed and owned by Verint or its licensor(s) and licensed hereunder, but expressly excluding any Mobile Apps.

Support Fee. The amount identified at the time of and on each Order in accordance with the GSA Schedule for Customer's right to receive Support for a Licensed Product identified in such Order during the initial Support Term, and at Verint's then-current rate for any renewal Support Term in accordance with the GSA Schedule.

Support Term. The initial one (1) year period commencing on the execution of each Order for Licensed Product, and each one (1) year renewal period thereafter for which Customer subscribes to Support.

Version. The Software configuration identified by a numeric representation, whether left or right of decimal place.

2 LICENSE. Verint grants to Customer, and Customer accepts, a perpetual (subject to Section 9 of the "General Terms and Conditions") or term-based (if specified on the Order), nonexclusive, nonassignable (subject to Section 15 of the "General Terms and Conditions"), and nontransferable limited license with respect to the number of copies of the Software and Documentation as specified in an applicable Order solely by Customer's Personnel for Customer's internal business operations, and subject to the terms and conditions of this Agreement. Use of the Software by Customer, Customer's Personnel or any other party authorized hereunder shall at no time exceed the total use rights granted in applicable Orders. With respect to any third party applications provided by Verint with the Licensed Products, use of those third party applications is expressly limited to use in conjunction with the Licensed Products, and may not be used independent of those Licensed Products. Customer may change the location of a site designated in an Order; provided Customer complies with all applicable laws, and provides Verint with notice, including information regarding the current site, new site and Licensed Product and quantity of licenses. Customer may make a reasonable number of copies of the Software solely as needed for back-up and archival purposes, and of the Documentation solely as needed for Customer's internal business purposes as set forth herein.

3 CUSTOMER ENVIRONMENT. Prior to the installation of a Licensed Product, Customer shall ensure the establishment of a Customer Environment at each site for use and operation of the Licensed Product. Customer acknowledges and agrees that, except as otherwise expressly specified on an Order, Verint is not responsible for obtaining, licensing or selling any hardware, peripherals or third-party software or interfaces needed to prepare or maintain the Customer Environment. Customer is responsible for backing up Customer's systems and data prior to providing Verint with access to the Customer Environment.

4 SUPPORT.

4.1 Support. Subject to payment of all Support Fees, during any Support Term, Verint's Support includes the following:

a. Support Access. Customer's Designated Employees shall have direct access via telephone to Verint's support center during hours specified in the applicable Maintenance and Support Plan. Verint shall use commercially reasonable efforts to provide Error Corrections.

b. Updates; Versions. In addition to Error Corrections, Verint shall provide Customer with other Updates that Verint generally offers to customers subscribing to the same Maintenance and Support Plan. All such Updates become part of the Licensed Product for all purposes hereof.

4.2 Version Support. Verint will provide Support hereunder for each Version of the Software for three (3) years after Verint discontinues the sales of licenses for that Version ("EOS") (not including add-on license sales for existing installations of that Version). The EOS period commences when Verint announces that the next Version of the Software is now generally available.

4.3 Exclusions. Notwithstanding Verint's support obligations hereunder, Verint shall have no responsibility or liability of any kind arising or resulting from:

- a. Customer's failure to: (i) correctly install Updates or other modifications to the Licensed Product provided by Verint, (ii) prepare a computing environment that meets the specified Customer Environment prior to Licensed Product installation or to maintain such Customer Environment and Licensed Product thereafter, (iii) grant access and security authorization, or (iv) provide necessary communications mechanisms;
- b. Errors resulting from misuse, abuse, negligence, or improper use of all or any part of the Licensed Product; or problems to or caused by products or services not provided by Verint;
- c. Product modification, amendment, revision, or change by any party other than Verint or Verint's authorized representatives; or
- d. Electrical failure, Internet connection problems, or data or data input, output, integrity, storage, back-up, and other external and/or infrastructure problems, which shall be deemed under Customer's exclusive control, and Customer's sole responsibility.

4.4 Additional Services. If Customer desires Verint to install and configure any Updates, or Verint provides Services as a result of any conditions specified in [Section 4.2](#) or [4.3](#), or otherwise provides support services to Customer outside the scope of services specified for Customer's applicable Maintenance and Support Plan, Verint may charge Customer for such services at Verint's then current Professional Service Fee rate.

5 INVOICING. All Software is considered delivered when made available to Customer for download. For any Orders placed on Verint directly by Customer, Verint shall invoice Customer one hundred percent (100%) of (as applicable to an Order) License Fees, Support Fees for the initial Support Term, and any fixed fee Professional Service Fees applicable to such Order upon Verint's receipt and acceptance of the Order. As applicable, Verint may invoice Customer (a) in advance for any renewal Support Term, and (b) for all other fees, assessments and expenses provided for under this Agreement as performed and/or incurred.

SDK LICENSE TERMS

1 DEFINITIONS.

Interface Application. The computer software developed by Customer, using the SDK licensed hereunder, for the purpose of integrating Verint product(s) or service(s) with a product provided by Customer or Customer's third party licensors.

Open Source Code. Any technology from the open source community, including, but not limited to, any software that requires, as a condition of use, modification and/or distribution of such software, that other software incorporated into, derived from or distributed with such software be disclosed or distributed in source code form, licensed for the purpose of making derivative works, or redistributable at no charge.

Run-Time Software. Any software included with the SDK licensed to Customer hereunder, where such software is provided in object code form and required for use of an Interface Application with a Verint product or service.

SDK. The software development kit licensed by Customer from Verint, and includes all Documentation and other information related thereto (including, without limitation, all manuals, program listings, data models, sample code, Run-Time Software, flow charts, logic diagrams, input and output forms, specifications, application programming interfaces and other schematics), but does not include any Interface Application(s). For the purposes of this Agreement, the SDK shall be considered a Verint "Licensed Product" for all purposes.

2 LICENSE. Verint grants to Customer, and Customer accepts a nonexclusive, nonassignable, and nontransferable limited license to use the SDK specified on an Order solely by Customer's Personnel for Customer's internal business operations to create Interface Applications for use in accordance with and subject to the terms and conditions of this Agreement. Use of the SDK by Customer,

Customer's Personnel or any other party authorized hereunder shall at no time: (i) exceed the total use rights granted in an Order, or (ii) be used for any purpose other than the integration of a Verint product or service to a product provided by Customer or its third party licensors.

3 INTELLECTUAL PROPERTY.

3.1 Ownership. The parties acknowledge and agree that (i) Verint owns or has rights to license the SDK, and that all Intellectual Property Rights in and to the Verint Intellectual Property, and derivatives thereto are and shall remain vested in Verint or its licensor(s), and (ii) except to the extent the Interface Application contains any Verint Intellectual Property, Customer owns all other Intellectual Property Rights in and to the Interface Application. Notwithstanding the foregoing, nothing in this Agreement shall prevent Verint and/or other Verint partners and customers from using an SDK to independently develop interface applications, including interface applications that are the same or similar to any Interface Applications developed hereunder. To the extent such independently developed interface applications would infringe any Intellectual Property Rights arising from Interface Applications developed hereunder, Customer grants to Verint an unlimited, worldwide perpetual license in and to the Intellectual Property Rights necessary for Verint and its other partners and customers to develop and use the same and/or similar interface applications.

3.2 Open Source. Customer represents and warrants that (i) any Customer products (including any if its third party licensor products) applicable to this Agreement, and any Interface Application developed by or on behalf of Customer under this Agreement, will not contain any Open Source Code which would (a) create obligations, or purport to create obligations for Verint with respect to any Verint product or service or Verint Intellectual Property, or (b) grant, or purport to grant, to any third party any rights or immunities in, to or under Verint product, service or any other Verint Intellectual Property, and (ii) to the extent of any Open Source Code contained in any Customer products or any Interface Applications, Customer has complied with all requirements of those Open Source Code license(s) pursuant to which it obtained source code which may have been used to develop, and/or is contained in, such products and the Interface Application and that each shall be compliant with all such Open Source Code license requirements.

3.3 Third Party Licenses. Customer acknowledges and agrees it is solely responsible for procuring or otherwise obtaining any third-party software, interface licenses, or other licenses in any Intellectual Property Rights necessary for the use of any Interface Application developed hereunder. Nothing herein shall bind the Ordering Activity to any Third Party License terms unless the terms are provided for review and agreed to in writing by all parties.

4 INTERFACE APPLICATION DEVELOPMENT. Customer shall be responsible for developing and supporting any Interface

Applications. Customer's responsibilities shall include, but not be limited to: (i) developing, testing and deploying the Interface Application, (ii) configuring the Interface Application to interface and communicate properly with Verint product(s) and service(s), and (iii) updating and maintaining the Interface Applications as necessary for continued use with the same or different versions of Customer and/or third party licensor products, and Verint product or service.

MOBILE APP TERMS 1 DEFINITIONS.

Mobile App. The application provided by Verint either through an online application store, a Verint website, or other method of download, where such application is intended to be loaded onto a Mobile Device for use in conjunction with a Verint product or service.

Mobile Device. A mobile telephone, tablet device or other handheld device.

2 LICENSE. By executing a GSA Schedule Order for the Mobile App, Customer is granted a nonexclusive, revocable, nontransferrable, nonassignable limited right to install and use the Mobile App on a Mobile Device, and to access and use the functionality on such Mobile Device strictly in accordance with the terms of this Agreement and solely for the Verint product or services intended purpose. The license granted hereunder to use the Mobile App is contingent upon Customer's purchase (either directly, or indirectly through the relevant Verint product or service licensee) of connectivity licenses from Verint for the right to connect the Mobile App to the Verint product and/or service, and then that Mobile App license is only valid for so long as Customer continues to have a valid license or right to the other Verint product or service.

3 RESTRICTIONS. Customer shall not install, use or permit the Mobile App to exist on more than one Mobile Device at a time or on any other mobile device or computer, other than by means of separate downloads of the Mobile App, each of which is subject to a separate license (this restriction however does not limit Customer's right to reinstall the Mobile App on the specific Mobile Device for which it was downloaded).

4 SUPPORT AND RESPONSIBILITIES. Verint has no obligation to maintain or support any Mobile App. Verint may, without further notice to Customer, discontinue the availability of the Mobile App, and may periodically access Customer's Mobile Device remotely to update, modify, add to or upgrade the Mobile App. Such updates, modifications, additions or upgrades may cause data loss or other issues. Customer is solely responsible for regularly backing Customer's data to prevent this from occurring. Customer acknowledges and understands that certain services or aspects of the Mobile App require and utilize phone service, data access or text messaging capability. Carrier rates for phone, data and text messaging may apply and Customer is responsible for any such charges.

PORTAL SERVICES TERMS

1 DEFINITIONS.

Content. Any materials provided to Customer through a Portal Service, including, without limitation, any Documentation, release notes, knowledgebase entries, documents, training and training materials, announcements, schedules, and other information and materials accessed and otherwise provided thereunder.

Portal Services. Except with respect to SaaS Services, all online access to information, services, support, training, or other informational sites or portals provided by Verint.

Submissions. Any materials Customer provides, posts, inputs or submits through the Portal Services, but expressly excluding any Feedback.

Support Services. The maintenance and/or support provided for a Licensed Product or SaaS Services at the support level specified on an Order, as further described in this Agreement, and in the support level plan information provided to Customer by Verint.

2 LICENSE. By executing a GSA Schedule Order for Portal Services, Customer is granted a nonexclusive, revocable, nontransferable, nonassignable right to access general and technical product information, Support Services information, and/or training courses and materials, and use any Content therein solely for Customer's internal business purpose, and solely in relation to Verint's products and services. In addition to the foregoing, if Customer is accessing a Portal Service:

- a. For Verint partner program materials or other information made available by Verint to partners and resellers of Verint, Customer represents and warrants that it is a party to a valid and active partner or reseller agreement with Verint, and Customer acknowledges and agrees to cease and desist all access to the Portal Services and delete or destroy all Content obtained from the Portal Services upon termination of that agreement.
- b. For Support Services, Customer represents and warrants that Customer is a party to a valid and active Order with Verint for such services, and Customer acknowledges and agrees to cease and desist all access to the Portal Services upon termination or expiration of such Order.
- c. For training courses and training materials, Customer represents and warrants that Customer has paid for or otherwise ordered the rights to receive such training courses and materials. Customer acknowledges and agrees that access to that training course and materials are personal to the individual, and except to the extent expressly granted by Verint, not available for access or use by any other person, including other Personnel applicable to Customer.

3 USE OF PORTAL SERVICES.

3.1 Customer Responsibilities. Customer shall be solely responsible for the actions of its Personnel while using the Portal Services and the contents of its transmissions through the Portal Services (including, without limitation, Submissions), and any resulting charges. Customer agrees to: **(i)** abide by all local, state, national, and international laws and regulations applicable to Customer's use of the Portal Services, including without limitation all laws and administrative regulations (including, all U.S. and applicable foreign) relating to the control of exports of commodities and technical and/or Personal Data, and shall not allow any of its Personnel or Data Subjects to access or use the Portal Services in violation of any export embargo, prohibition or restriction, including but not limited to any party on a U.S. government restricted party list; **(ii)** provide any required notifications to Data Subjects, and obtain all rights and requisite consents from Data Subjects in accordance with all applicable Privacy Laws and other laws in relation to the collection, use, disclosure, creation and processing of Personal Data in connection with this Agreement and the use and delivery of the Portal Services; **(iii)** not use the Portal Services for illegal purposes; **(iv)** not knowingly upload or distribute in any way files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Hosted Environment, Portal Services or another's computer; **(v)** not knowingly interfere with another customer's use and enjoyment of the Portal Services or another entity's use and enjoyment of similar services; **(vi)** not knowingly engage in contests, chain letters or post or transmit "junk mail," "spam," "chain letters," or unsolicited mass distribution of email through or in any way using the Portal Services; **(vii)** not to interfere or disrupt networks connected to the Hosted Environment or Portal Services; **(viii)** not to post, promote or transmit through the Portal Services any unlawful, harassing, defamatory, privacy invasive, abusive, threatening, offensive, harmful, vulgar, obscene, tortuous, hateful, racially, ethnically or otherwise objectionable information or content of any kind or nature; and **(ix)** not to transmit or post any material that encourages conduct that could constitute a criminal offense or give rise to civil liability. Verint may temporarily remove any violating content posted on the Portal Services or transmitted through the Portal Services, without notice to Customer.

3.2 Submissions. Should Customer provide any Submissions through its use of the Portal Service, such Submissions shall be entirely voluntary. Any Submissions provided shall be deemed to be non-confidential. With respect to such Submissions, Customer hereby grants to Verint a nonexclusive, irrevocable, perpetual, worldwide, royalty-free license, including the right to grant sublicenses to Verint licensees, resellers and customers, under all Intellectual Property Rights, the rights to use and disclose the Submissions and to display, perform, copy, have copied, modify, create derivative works, make, have made, use, sell, offer to sell, import and otherwise directly or indirectly distribute Submissions. By providing a Submission, Customer represents and warrants that Customer owns or otherwise controls all of the rights necessary in the Submission for Customer to comply with this [Section 3.2](#).

3.3 Passwords. All access codes and passwords are personal to the individual to which it is issued. Customer and Customer's Personnel are responsible for maintaining the confidentiality and security of all access codes and passwords issued, and ensuring that each access code and password is only used by the individual authorized.

3.4 Reserved.

3.5 Customer Environment. Customer is responsible for the establishment of the Customer Environment necessary for Customer's use of the Portal Services as Verint may specify to Customer from time to time. Additionally, Customer acknowledges and agrees that Verint is not responsible for obtaining, licensing or selling any hardware, peripherals or third-party software or interfaces needed to prepare or maintain the Customer Environment, or backing up such Customer Environment.

ANNEX 1 – VERINT CONTRACTING ENTITIES

Americas Region: Verint Americas Inc., a Delaware corporation with its principal place of business at 800 North Point Parkway, Alpharetta, Georgia 30005

Australian Region: Verint Systems (Australia) Pty Ltd. (ABN 092 740 577), a company registered in Australia with offices at Level 5, 76 Berry Street, North Sydney NSW 2060, Australia

EMEA Region: Verint Systems UK Limited, a company registered in England with company registration number 02602824, whose registered address and principal place of business is 241 Brooklands Road, Weybridge,

Surrey KT13 0RH

Pacific Region: Verint Systems (Asia Pacific) Ltd., a company registered in Hong Kong with offices at Suite 715-6, Level 7, Core F, Cyberport 3, 100 Cyberport Road, Hong Kong

ANNEX 2 – INFORMATION SECURITY

1 DEFINITIONS. In addition to the capitalized terms in the General Terms and Conditions, all capitalized terms shall have the meaning ascribed to them herein this Annex, and for the purposes of this Annex, shall govern and control in the event of any conflict, including the following:

1.1 Customer Data. All data provided by Customer to Verint where such data contains Personal Data, or with respect to SaaS services, data collected or generated by SaaS services on Customer's behalf, and remains in Verint's possession and control for further Processing.

1.2 Encryption Standards. Encryption algorithms that are publicly or commercially available, with key lengths sufficient to prevent commercially reasonable attempts to decrypt through brute force the encrypted information.

1.3 Hosted Subscription Services. Any SaaS or hosting services subscribed to by Customer from Verint.

1.4 Industry Standards. Generally accepted standards applicable to the performance obligations of a party with respect to a product or service. Industry Standards can include in part or in whole frameworks published by the National Institutes for Standards and Technology (NIST), International Organization for Standardization, ISACA, Payment Card Industry Security Standards Council and other internationally recognized standards organizations.

1.5 Personal Data. Any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

1.6 Privacy Laws. Laws, as applicable, concerning the regulation of personal information about individuals sufficient to identify such individuals.

1.7 Process(ing)(ed). Any operation or set of operations that is performed on Personal Data, including, without limitation, collection, recording, retention, alteration, use, disclosure, access, transfer or destruction.

1.8 Verint Personnel. Each Verint employee or subcontractor under obligations of confidentiality and nondisclosure which performs on behalf of Verint hereunder.

2 GENERAL SECURITY TERMS. Verint is committed to helping protect the security of Customer Data, and has implemented, and will maintain and follow appropriate technical and organizational measures that conform to Industry Standards intended to protect Customer Data against accidental, unauthorized or unlawful access, disclosure, alteration, loss, or destruction. Verint may modify any of its policies, process or procedures at any time and without obligation to notify or update this Annex, provided such modifications provide substantially similar or greater protections than those provided for herein. Except as otherwise specified in Section 3, the following terms and conditions in this Section 2 apply to all performance obligations under the Agreement.

2.1 Access Controls. Verint implements Industry Standard access control methodologies, which rely on policy, process, and logical controls to help prevent unauthorized access to systems and data under Verint's control. These access controls include no less than the following:

- Verint uses the "Principle of Least Privilege" model for restricting access to systems and data, and regularly reviews access rights granted to Verint Personnel.
- Verint Personnel each have a unique user ID and personal secret password for accessing internal networks, equipment and data. Verint shall maintain policies concerning the maintenance of password secrecy. Verint Personnel access rights must be suspended within twenty-four (24) hours of employment termination, and modified within forty-eight (48) hours when Verint Personnel roles and/or responsibilities are changed.
- Verint maintains a password policy which, at a minimum, complies with the following standards: (i) passwords must not employ any structure or characteristic that results in a password that is predictable or easily guessed; (ii) passwords must include at least three (3) of the following character sets, in accordance with password policy settings: (a) an English uppercase character (A – Z); (b) an English lowercase character (a – z); (c) a westernized Arabic numeral; and (d) a non-alphanumeric special character from the following character set: !, \$, #, %; (iii) passwords must be changed at least every one hundred and eighty (180) days; and (iv) account lockout must occur after a maximum of five (5) failed password entry attempts. Re-enabling of locked accounts must require extended time based delay, or interaction with a security administrator or help desk function. All password changes must be accomplished through secure procedures.
- Multi-factor authentication processes must be utilized for any access to systems containing Customer Data. All passwords must be stored and transmitted using Encryption Standards.
- User sessions must expire and require the re-entry of a password if idle by more than (i) twenty (20) minutes for administrator consoles, and (ii) sixty (60) minutes for all other systems and session types.
- For any facilities hosting Customer Data, such facilities shall have implemented electronic access controls to enter such facilities, and further access controls for entering specific areas where such Customer Data is physically resident. Verint shall maintain processes to validate the identify of individuals prior to issuing identification and access badges, and shall maintain processes for issuing visitor badges, logging such issuance, and escort requirements for such visitors. Such logs shall be maintained by Verint for no less than six (6) months from issuance.

2.2 Data Controls. In its performance obligations, Verint does not require access to Customer systems or data, and Customer shall take commercially reasonable efforts to prevent Verint from accessing Customer systems and data. Where Customer provides Customer Data to Verint for professional services or support purposes, Customer shall take commercially reasonable efforts to redact or remove Personal Data prior to providing that Customer Data to Verint. Where possible, such services shall be delivered via screen share or telephone with no data transferred to Verint. If it is necessary to transfer Customer Data to Verint, the following shall apply:

- Customer shall only use Verint approved communication channels for providing Customer Data to Verint. With respect to the storage of such Customer Data by Verint and any further transmission of that Customer Data by Verint, Verint shall ensure such Customer Data is protected using Encryption Standards.

- In the event Verint makes backups of such Customer Data, all backups of Customer Data shall be encrypted on backup media using Encryption Standards.
- Customer Data may only be stored on portable media, including laptops, DVD, CD, magnetic tape media, removable hard drives, USB drives or similar portable storage, if Encryption Standards are used on that portable media.
- Except as specified otherwise in the Agreement, or applicable Order or SOW, Customer Data may be transferred by Verint to, and stored and Processed in, the United States or any other country in which Verint or its affiliates or subcontractors maintain facilities. Customer appoints Verint to perform any such transfer of Customer Data to any such country and to store and Process Customer Data in order to provide services to Customer.
- Verint shall: (1) process such Customer Data only in accordance with the reasonable instructions of Customer, (2) treat such Customer Data as the Confidential Information of Customer, (3) promptly notify Customer of any unauthorized or unlawful

Processing of that Customer Data of which it becomes aware, (4) except as otherwise agreed, promptly delete, or at Customer's option, return such Customer Data when no longer needed for the provision of those services, and (5) not knowingly place Customer in breach of any Privacy Laws.

2.3 Operational Controls. Verint shall maintain operational controls sufficient to enable Verint's satisfaction of its performance obligations in this Section 2, including, without limitation, the following:

- Maintain a dedicated information security function to design, maintain and operate security in line with Industry Standards. This function shall focus on system integrity, risk acceptance, risk analysis and assessment, risk evaluation, and risk management.
- Maintain a written information security policy that is approved by the Verint management team and published and communicated to all Verint Personnel and relevant third parties.
- Provide security awareness training at least annually to its employees, and maintain records of training attendance for no less than one (1) year.
- Conduct vulnerability assessments and/or penetration tests of networks, systems, applications and databases where Customer Data is located at rest, in transit and in use. Verint shall triage identified vulnerabilities and remediate or mitigate vulnerabilities in accordance with Industry Standards.
- Maintain appropriate authentication system(s) to authenticate and restrict access to Verint systems and networks to valid users.
- Install and maintain antivirus software on all servers and computing devices involved with Processing activities, and use other malware detection techniques where reasonably required. Such antivirus software shall be updated on a daily basis, or as otherwise provided by the antivirus software manufacturer.
- Maintain physical security measures with respect to Verint facilities to help prevent and detect physical compromise, including, without limitation, use of identification badges, smart card or other electronic or physical identity verification systems, alarms on external doors, and CCTV on all entrances / exits to such facilities. Verint shall periodically review access records and CCTV video to ensure access controls are being enforced effectively, with any discrepancies or unauthorized access investigated immediately.
- With respect to Verint internal networks, ensure perimeter networks are physically or logically separated from internal networks containing Customer Data, establish and configure firewalls in accordance with Industry Standards, use network intrusion detection systems as a part of network security, and restrict and control remote network access.
- Complete diligent review of any Verint subcontractors that will have access to Customer Data, and require such subcontractors contractually commit to substantially similar terms and conditions as those specified in this Annex, or terms and conditions that Verint reasonably determines as providing substantially similar protection. With respect to any performance subcontracted by Verint, Verint remains responsible for its subcontractors' compliance with Verint's performance obligations in the Agreement.

2.4 Availability Controls. Verint will maintain contingency planning policies and procedures defining roles and responsibilities on proper handling of contingency events. This shall include a business continuity and disaster recovery plan intended to facilitate the restoration of critical operations and processes which would allow for Verint's continued performance of its obligations hereunder. Such plan shall be periodically reviewed, updated and tested by Verint.

2.5 Application Controls. Verint shall implement and conform its software development practices to applicable Industry Standards relative to the functionality to be performed by the specific Verint product offering. Verint shall maintain software development practices which satisfy the following:

- Use commercially reasonable measures to detect product vulnerabilities prior to release. These measures may include manual test scripts, test automation, dynamic code analysis, static code analysis, penetration testing, or other measures chosen by Verint. Verint shall update procedures and processes from time to time to improve detection of vulnerabilities within its products.
- Verint's developers shall not intentionally write, generate, compile, copy, collect, propagate, execute or attempt to introduce any computer code designed to self-replicate, damage or otherwise hinder the performance of any systems or network.
- Verint's developers shall receive regular training on coding and design with respect to application security.

2.6 Incident Management. If Verint discovers or is notified of any accidental or intentional breaches of the security of Customer Data, or any unlawful or unauthorized uses or disclosures of Customer Data, Verint shall: (i) without undue delay, notify Customer after actual knowledge of the security breach for the Customer Data, (ii) immediately, to the extent possible, secure the affected systems to prevent further or continuing breaches, (iii) promptly investigate such breach, perform a root cause analysis, and (iv) remediate the cause of such security breach on Customer Data and provide Customer with reasonable assurances that such breach will not recur. Notwithstanding the foregoing, Customer shall have sole responsibility for informing third parties, where warranted, of potential impact of such security breach with respect to the Customer Data.

3 SAAS AND HOSTING SECURITY TERMS. In addition to the terms and conditions in Section 2, the following terms and conditions shall apply to Verint's performance obligations with respect to any Hosted Subscription Services procured by Customer under this Agreement. To the extent of any conflict between the terms and conditions in this Section 3 and in Section 2, the terms and conditions in this Section 3 shall control solely with respect to Hosted Subscription Services.

3.1 Access Controls. Customer shall have access to Customer Data maintained within their applicable production instance.

Customer shall be responsible for maintaining user access and security controls for users accessing the Hosted Subscription Services. Verint shall be responsible for restricting all other access to Customer Data residing within the production instance. For the avoidance of doubt, Verint has no obligation to verify that any user using Customer's account and password has Customer's authorization. Verint shall provide access on a need to know basis and shall review access rights of Verint Personnel at least annually. Verint's access controls shall include no less than the following:

- Verint shall enforce complex passwords using built in system settings of at least 8 characters. Verint shall require password changes at least every ninety (90) days. Verint administrators shall use multi-factor authentication for access to the production environment(s).
- Access to Verint's production environment(s) is controlled at four distinct hierarchical levels: the hosting partner level, the SaaS operations team level, the Verint network security level, and the application level. Access control is required for each of these levels to provide the optimal level of security for the solution.
- A Verint hosting partner's role is to design, deploy, secure, make available, and support the systems upon which Verint's SaaS solutions are installed and delivered to Verint's customers (end users). The hosting partners have primary control over the data centers, systems, and networks upon which Verint's SaaS solutions operate. The hosting partner provides Verint's SaaS operations team with the initial credentials required to access the hosted systems and support portals.

3.2 Data Controls. In its performance obligations with respect to Hosted Subscription Services, Verint does require access to Customer Data, and the following additional terms and conditions shall apply:

- Verint's security procedures shall require that any Customer Data stored by Verint only be stored using secure data encryption algorithms and key strengths of 128-bit symmetric and 1024-bit asymmetric or greater. Verint shall monitor Industry Standards and implement an action plan if key lengths in use can be compromised through commercially reasonable means.
- Verint will maintain a key management process that includes appropriate controls to limit access to private keys and a key revocation process. Private keys, and passwords shall not be stored on the same media as the data they protect.
- Verint will prohibit Verint Personnel from the download, extraction, storage or transmission of Customer Data through personally owned computers, laptops, tablet computers, cell phones, or similar personal electronic devices except where enrolled in Verint's Mobile Device Management (MDM), Information Rights Management (IRM), or other security programs. If

personal computers or mobile devices are used to perform any part of the Hosted Subscription Services, Verint will encrypt all Customer Data on such mobile devices.

- Verint agrees that any and all electronic transmission or exchange of Customer Data shall be protected by a secure and encrypted means (e.g. HTTPS, PGP, S/MIME, SSH, SMTP encryption using TLS on gateway while sending emails).
- Customer Data stored as a part of the Hosted Subscription Services shall reside only on Verint production systems housed in Verint hosting partner data centers, unless noted in a SOW or required with respect to professional service engagements or performance of support services. Any storage of Customer Data on Verint premises is temporary and is used strictly for support and services engagements. Once Customer Data on Verint premise has served its purpose, it shall be promptly destroyed in accordance to Verint's confidential data destruction procedures.
- Verint will abide by the requirements of European Economic Area and Swiss data protection law regarding the collection, use, transfer, retention, and other processing of Personal Data from the European Economic Area and Switzerland. Verint will ensure that transfers of Personal Data to a third country or an international organization are subject to appropriate safeguards as described in Article 46 of the GDPR and that such transfers and safeguards are documented according to Article 30(2) of the GDPR.
- Upon instruction of Customer or within thirty (30) days of termination of the Hosted Subscription Services, Verint shall destroy Customer Data in a manner that prevents commercially reasonable attempts to restore that Customer Data. Verint shall use NIST 800-88 as guidance for performing data destruction.

3.3 Operational Controls. In its performance of Hosted Subscription Services, Verint shall maintain operational controls sufficient to enable Verint's satisfaction of its performance obligations in this Section 3, including, without limitation, the following:

- Verint will utilize up-to-date and comprehensive virus and malware protection capabilities, and commercially reasonable practices, including detection, scanning and removal of known viruses, worms and other malware on the Verint's hosting systems. These virus protection capabilities will be in force on all computers and/or devices utilized in connection with the technology services, as well as on all data files or other transfers that have access or are connected to Verint's hosting system.
- If a virus, worm or other malware causes a loss of operational efficiency or loss of data, Verint will mitigate losses and restore data from the last virus free backup to the extent practicable.
- Verint shall obligate its hosting partners to provide a multiple layered security approach. This shall include perimeter firewalls, DMZ, one or more internal network segments, and network intrusion detection monitors for attempted intrusion to the production environment. Network vulnerability scans shall be conducted regularly and issues addressed according to Industry Standard change control processes.
- Verint shall mitigate security vulnerabilities through the use of perimeter and host countermeasures such as intrusion prevention, web application firewall, IP address shunning, and other measures designed to prevent successful exploitation of vulnerabilities.
- Verint and its hosting partners shall proactively address security risks by applying released security patches, including, as example, Windows security patching and updates to patch known vulnerabilities in an applicable operating system. Patches shall be deployed to production via Verint's change management process. Verint shall test all patches in its test environment prior to release to production. If a patch degrades or disables the production environment, Verint shall continue to mitigate vulnerabilities until a patch is provided by the software or operating system manufacturer that does not degrade or disable production. Such mitigation efforts may include intrusion prevention, web application firewall, and other measures chosen by Verint to reduce likelihood or prevent successful access to Customer Data by an unauthorized party.
- Each month, Verint and its hosting partners shall schedule maintenance windows to perform data center, system, and application maintenance activities. Verint shall notify Customer in advance of any scheduled maintenance activity that is expected to disrupt the Hosted Subscription Services functionality.
- Verint shall retain security logs for a minimum of thirty (30) days online and ninety (90) days archived. Verint may retain logs for a longer period at its sole discretion.

3.4 Availability Controls. With respect to Hosted Subscription Services:

- Verint shall maintain business continuity and disaster recovery plans specific to its Hosted Subscription Services, and shall include data center failover configurations.

- Verint shall maintain a backup of all Customer Data that Verint is required to retain as a part of the Hosted Subscription Services. In the event the Customer Data becomes corrupt, Verint shall use commercially reasonable efforts to remediate and recover such corrupt data.

3.5 Audit. Except as otherwise required under local laws or regulations applicable to the Hosted Subscription Services, the following terms and conditions shall apply. With respect to Verint operations applicable to Hosted Subscription Services, Verint conducts internal and external 3rd party audits on a regularly scheduled basis. Verint shall correct any material deficiencies noted in an audit report within a commercially reasonable timeframe and shall request auditor to provide an updated report reflecting successful corrective actions. Customer may request executive summaries of these audit reports no more than annually. Verint reserves the right to redact Confidential Information from the reports prior to sharing.

4 ATTESTATIONS OF COMPLIANCE. Verint shall provide attestation of compliance to the terms in this Annex. Requests shall be made in writing through the Account Executive assigned to Customer. Verint shall provide its Santa Fe Group Standard Information Gathering Questionnaire applicable to the services provided to Customer. Verint shall respond to such attestation requests within thirty (30) business days of receipt.

Worksoft, Inc.
5400 LBJ Parkway
1 Lincoln Center, Suite 540
Dallas, TX 75240

ImmixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

- 1. Scope.** This Rider and the attached Worksoft, Inc. ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
- 2. Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.2I, as may be revised from time to time.
 - b) Changes to Work and Delays.** Subject to GSAR Clause 552.238-81, Modifications (Federal Supply Schedule) (April 2014) (Alternate I – JUN 2016) and (Alternate II – JUN 2016), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.

- e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the Federal laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar Federal laws or regulations are enacted, to the extent allowed by Federal law, they will not apply to this Rider or the underlying Schedule Contract.
- f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
- g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
- h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under Federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable Federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.

- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
- v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.

3. Order of Precedence/Conflict. To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

WORKSOFT

WORKSOFT LICENSE, WARRANTY AND SUPPORT TERMS

1. Definitions.
 - 1.1. **"Affiliate"** shall mean, with respect to a party, an entity controlling, controlled by or under common control with such party.
 - 1.2. **"Concurrent User License"** means the total number of authorized users (as described in Section 3.1) that may use the Licensed Software at any single time.
 - 1.3. **"Enterprise License"** means any number of Ordering Activity servers that the Licensed Software may be installed on for use by authorized users of the Ordering Activity.
 - 1.4. **"Hosting Services"** mean the services provided by WORKSOFT to Ordering Activity as described in Schedule B attached hereto and made a part hereof.
 - 1.5. **"Intellectual Property Rights"** means, on a world-wide basis, any and all now known or hereafter known tangible and intangible (i) rights associated with works of authorship including, without limitation, copyrights, moral rights and maskworks, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms, computer programs, (v) all other intellectual and industrial property rights of every kind and nature and however designated, whether arising by operation of law, contract, license or otherwise, and (vi) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter existing, made, or in force (including any rights in any of the foregoing).
 - 1.6. **"Licensed Software"** means the proprietary WORKSOFT software (in object code format only), the database of pre-built automated tests and any third party software (in object code format only), together with any modifications, updates and upgrades thereto to which Ordering Activity has acquired usage rights by virtue of the Agreement, and all related documentation provided or made available by WORKSOFT to Ordering Activity.
 - 1.7. **"Named User License"** means one, and only one, individual who is authorized by Ordering Activity to use the Licensed Software, regardless of whether the individual is using the Licensed Software at any given

time. Ordering Activity shall assign to each named user a unique and separate log-on to access the Licensed Software.

1.8. **“Proprietary Information”** means (a) the marketing, product, pricing, business, and other strategies and plans of WORKSOFT and of any third party referred to in the definition of Licensed Software; (b) any other information of

WORKSOFT or any such third party disclosed in tangible form and marked or identified as proprietary or confidential; and (c) the source code, object code, the database of pre-built automated tests, software documentation, internal design and implementation techniques and content of the Licensed Software.

1.9. **“Services”** mean, as the context requires, the Professional Services, the Maintenance and Support Services, and/or the Hosting Services provided under the Agreement.

2. Reserved.

3. License.

3.1. Grant of License. Subject to the terms of the Agreement, the underlying GSA Schedule Contract, Schedule pricelist and applicable purchase order WORKSOFT hereby grants to Ordering Activity a non-exclusive, nontransferable, nonsublicenseable, license to use the object code version of the Licensed Software only in relation to Ordering Activity's and its Affiliate's data for the sole purpose of processing such data for Ordering Activity's or its Affiliates' internal business purposes only (the **“License”**).

The Licensed Software may be used by Ordering Activity's and its Affiliates' employees and contractors subject to the number and type of Licenses specified in the applicable purchase order. An Affiliates' installation and use of the Licensed Software will be deemed to be an installation and use by Ordering Activity for all purposes of the Agreement. **“Contractors”** as referred to in the immediately preceding sentence means any third party who is using the Licensed Software solely for the benefit of Ordering Activity and/or its Affiliate(s) which either (i) provides outsourced information technology services to Ordering Activity, an Affiliate or to a business unit, division or department of Ordering Activity or such Affiliate or (ii) has authorized access to, or use of, any facilities of Ordering Activity or such Affiliate and requires use of the Licensed Software to perform its services. All use shall be in accordance with the terms of the Agreement, and Ordering Activity shall be fully responsible for any breaches of the Agreement by any users and any other person to whom Ordering Activity or its Affiliates provide access. The License permits authorized users to modify existing pre-built automated tests (delivered to Ordering Activity as part of the Licensed Software) and to create new automated tests. Ordering Activity may make a reasonable number of copies of the Licensed Software for back up, archival, testing and emergency/disaster recovery purposes. Ordering Activity must reproduce WORKSOFT's copyright notices and legends on any such copies. Ordering Activity must maintain appropriate records of the number and locations of all such copies and furnish such information to WORKSOFT upon request.

3.2. Prohibited Uses. Ordering Activity will not, and will not allow any third party to: (i) except as permitted by Section 3.1, permit use of the Licensed Software by third parties or other functionally independent business units affiliated with Ordering Activity or Affiliates of Ordering Activity; (ii) attempt to circumvent any technical devices of the Licensed Software that are directed at, or have the effect of, enforcing the terms of the Agreement; (iii) modify, create derivative works, translate, decompile or create or attempt to create, by reverse engineering or otherwise, the source code from the object code supplied to Ordering Activity; (iv) use the Licensed Software under any circumstance whatsoever directly or indirectly in a computer service business or service bureau or in a rental or commercial timesharing arrangement; (v) remove, modify or obscure any copyright, trade secret, confidentiality, trademark, service mark or other proprietary rights, notice or legend on any copy of the Licensed Software, the media on which it is contained, or related data, documentation or other materials; (vi) market, sell, lend, rent, lease, or otherwise distribute the Licensed Software; or (vii) except as otherwise expressly provided herein, assign, sublicense or otherwise transfer any rights in or to the Licensed Software.

3.3. Reserved.

4. Services.

4.1. Professional Services. WORKSOFT shall provide professional services (**“Professional Services”**) to assist with configuration, installation, training, and consulting or in connection with other activities, including any statement of work attached thereto. WORKSOFT personnel will perform these Services at the then current GSA rates, plus applicable travel, meal, lodging and other out-of-pocket expenses subject to Federal Travel Regulations. Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and funded under the applicable ordering document.

4.2. Maintenance and Support Services. WORKSOFT shall provide Ordering Activity with maintenance and support services (the **“Maintenance and Support Services”**) as follows: (a) provide to Ordering Activity all bug fixes, updates, upgrades and patches for the Licensed Software created by WORKSOFT that are generally released to WORKSOFT's Maintenance and Support Services customers at WORKSOFT's sole discretion in order to remedy any errors or defects; (b) maintain the performance of Licensed Software in accordance with WORKSOFT's specifications and documentation for the Licensed Software; and (c) provide technical phone support and other Maintenance and Support Services.

Maintenance and Support Services shall be provided to Ordering Activity 24 hours per day, 7 days per week by telephone or electronic mail. WORKSOFT shall use all commercially reasonable efforts to respond to any request for Maintenance and Support Services due to a failure of the Licensed Software to perform in accordance with its specifications or documentation by telephone or electronic mail response by a qualified and knowledgeable representative within one business day of receipt of such request.

WORKSOFT shall use commercially reasonable efforts to resolve such issues via the telephone or electronic mail. WORKSOFT's provision of the Maintenance and Support Services pursuant to the Agreement shall be subject to the WORKSOFT Support Web Site and WORKSOFT's Support Services Guide, as it may be modified or supplemented by WORKSOFT from time to time, provided that the modifications or supplements do not materially reduce the support coverage provided by WORKSOFT as of the beginning of the most recent support term.

Unless otherwise set forth in the applicable purchase order, the following are not included as part of the Maintenance and Support Services: (i) the use of the Licensed Software with any software or hardware for which its use is not recommended in the

documentation for the Licensed Software; (ii) alterations or modifications to the Licensed Software performed by other than WORKSOFT or a party authorized by WORKSOFT to perform such alterations or modifications; (iii) the use of the Licensed Software for other than the purposes for which it was designed; (iv) any other cause external to the Licensed Software; (v) the support of software developed by Ordering Activity or obtained by Ordering Activity from third parties; (vi) Licensed Software that is not the then-current production release or the immediately preceding release; (vii) misuse or malfunction of hardware or operating systems; (viii) Service at Ordering Activity's location; (ix) installation and implementation of the Licensed Software; and (x) training. The parties hereby acknowledge that Maintenance and Support Services will include from time to time in WORKSOFT's sole discretion WORKSOFT new releases that contain enhanced functionality, provided that there are no time lapses between annual maintenance periods paid for by Ordering Activity.

5. Reserved.

6. Proprietary Rights and Confidentiality.

6.1. Ordering Activity understands and agrees that the Proprietary Information is confidential and that WORKSOFT, or, with respect to third party software licensed hereunder, the applicable third party, has and will have sole ownership in and to the Licensed Software and the Proprietary Information and all Intellectual Property Rights whatsoever associated with the Licensed Software and Proprietary information. Ordering Activity acknowledges and agrees that no title or ownership of the Licensed Software or any of the Intellectual Property Rights is transferred to Ordering Activity by the Agreement and that the Licensed Software and all Intellectual Property Rights are and will remain the exclusive property of WORKSOFT or the third party software owner, as applicable. All Ordering Activity data processed by the Licensed Software shall remain the property of Ordering Activity, but such data shall not include any part of the Licensed Software.

6.2. Ordering Activity agrees not to make any claim or representation of ownership of any of the Licensed Software and all related documentation and other materials. Subject only to the rights expressly granted to Ordering Activity under the Agreement according to the non-exclusive License herein, all rights, title and interest in and to the Licensed Software including without limitation the Intellectual Property Rights will remain with and belong exclusively to WORKSOFT. This is a software license agreement and not an agreement for the sale of the Licensed Software.

6.3. Reserved.

6.4. The provisions of this Section 6 shall apply to the Licensed Software as originally delivered by WORKSOFT and as modified or otherwise enhanced and to any data, documentation, other materials and information regarding the Licensed Software that has been provided to Ordering Activity, and shall apply to Ordering Activity and to all employees, agents, and consultants of Ordering Activity.

6.5. Reserved.

6.6. Reserved.

7. Reserved.

8. Warranty.

8.1. WORKSOFT warrants that, as of the Effective Date of the Agreement, (i) it has the authority to grant the License extended under the Agreement to Ordering Activity; (ii) the media supplied by WORKSOFT on which the Licensed Software is distributed is free from defects in materials and workmanship; (iii) all Services will be performed in a professional and workmanlike manner; and (iv) the Licensed Software will conform substantially to its documentation for thirty (30) days after delivery. Ordering Activity must notify WORKSOFT of any failure of the Licensed Software or Services to comply with the foregoing warranties within thirty (30) days from the delivery of the Licensed Software or the performance of the Services, as the case may be. Ordering Activity's sole remedy for a breach of the express warranties in this Section 8 will be repair or replacement of the Licensed Software or reperformance of any applicable Services, within reasonable times consistent in each case with the severity of the breach and its impact on Ordering Activity's business. If, after using commercially reasonable efforts, WORKSOFT is unable to make the Licensed Software operate as warranted, Ordering Activity will be entitled, upon uninstalling the Licensed Software and any copies made, to a refund of the License fees paid by Ordering Activity to WORKSOFT, and the Agreement will terminate.

8.2. This limited warranty does not cover damages, defects, malfunctions or Licensed Software failures caused by any unauthorized modification by Ordering Activity, or Ordering Activity's agents, of the Licensed Software, any abuse, misuse or negligent acts of Ordering Activity, modification by Ordering Activity of any interfaces or any software or hardware interfacing with the Licensed Software, or any failure by Ordering Activity to follow WORKSOFT's installation, operation or maintenance instructions.

8.3. **WORKSOFT MAKES NO OTHER WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE LICENSED SOFTWARE OR ANY SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. WORKSOFT DOES NOT WARRANT THAT THE LICENSED SOFTWARE WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE.**

9. Reserved.

10. Reserved.

11. Miscellaneous.

11.1. Reserved.

11.2. Reserved.

11.3. Reserved.

11.4. Reserved.

11.5. No delay, omission or failure to exercise any right or remedy under the Agreement will be deemed to be a waiver of such right or remedy or acquiescence to the event giving rise to such right or remedy, but every

such right and remedy may be exercised from time to time and so often as may be deemed expedient by the party exercising such right or remedy.

11.6. Reserved.

11.7. Reserved.

11.8. Reserved.

11.9. Ordering Activity shall maintain commercially reasonable books and records regarding its use of the Licensed Software. WORKSOFT may up to twice per calendar year, upon reasonable notice to Ordering Activity and during Ordering Activity's regular business hours in accordance with the applicable Ordering Activity's security policies enter Ordering Activity's premises and conduct a commercially reasonable audit only of Ordering Activity's records that pertain to the Licensed Software to ascertain compliance with the terms and conditions of the Agreement. Ordering Activity shall reasonably cooperate with WORKSOFT with respect to any such audit. Ordering Activity agrees to pay WORKSOFT within 30 days of written notification any underpayment of fees discovered during such audit.

11.10. In the event that any provision of the Agreement is held to be illegal, invalid or unenforceable, under present or future laws, then (i) such provision will be fully severable and the Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision were not a part hereof; (ii) the remaining provisions of the Agreement will remain in full force and effect and will not be affected by such illegal, invalid or unenforceable provision or by its severance from the Agreement; and (iii) there will be added automatically as a part of the Agreement a provision similar in terms to such illegal, invalid or unenforceable provision as may be possible and still be legal, valid and enforceable.

11.11. Reserved.

11.12. Reserved.

11.13. If Ordering Activity is a U.S. Government entity, the Licensed Software and the related documentation are "commercial computer software" or "commercial computer software documentation." Absent a written agreement to the contrary, the Government's rights with respect to such Licensed Software or related documentation are limited by the terms of the Agreement, pursuant to FAR § 12.212(a) and/or DFAR § 227.7202-1(a), as applicable.

11.14. The Uniform Computer Information Transactions Act does not apply to the Agreement.

ZyLab North America, LLC
7918 Jones Branch Drive
McLean, VA 22102

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **ZyLab North America, LLC** (“Manufacturer”) product specific license terms establish the terms and conditions enabling immixTechnology (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under immixTechnology’s GSA MAS IT70 contract number GS-35F-0265X (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ)), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

ZYLAB NORTH AMERICA

ZYLAB NORTH AMERICA LICENSE, WARRANTY AND SUPPORT TERMS

LICENSE

SOFTWARE: The term "Software" means programs, including features and any copies thereof in whole or in part. It includes the following: machine-readable runtime instructions and object code, whether or not in printed form, and not in the form of source code; machine-readable data, such as a data base; related licensed materials, including user documentation in any form; and all enhancements and modifications thereto furnished by Contractor. The term "Derivative Works" is defined by 17 U.S.C. 101.

The Software may contain certain third party (i.e. Scansoft, Abbyy, R.E.A.D. Iris, etc.) Optical Character Recognition ("OCR") Engines. Ordering Activity understands and acknowledge that the OCR Engine may have utility with or be able to be called by other software and/or hardware, which is considered to be an unauthorized use of the OCR Engine and the Software. Accordingly, Ordering Activity agrees that Ordering Activity will use the OCR Engine only as part of the Software, and not in conjunction with, as part of, or as a component of, other software and/or hardware which make calls to third party OCR Engine(s). Furthermore, third party OCR Engines are protected by copyright and other proprietary rights of Contractor and/or third party licensors. Ordering Activity may be held directly responsible by licensor for unauthorized use of the OCR Engine.

The Software as furnished by Contractor is licensed, not sold, to Ordering Activity for Ordering Activity's use only as provided herein. Contractor and/or its licensors reserve all rights not expressly granted to Ordering Activity.

USE OF SOFTWARE:

Use License. Contractor grants Ordering Activity and Ordering Activity accepts a non-exclusive, non-transferable, limited right to use the Software for Ordering Activity's internal use only, in accordance with the terms herein ("License"). For each License, Contractor authorizes Ordering Activity to:

(1) store the Software's machine-readable portion in, transmit it through, and display it on, the single standalone computer on which the Software is originally installed ("Single Workstation"), unless: (A) the Single Workstation is inoperable. Ordering Activity may then use the Software on a single backup computer workstation until operable status of the Single Workstation is restored and processing on the backup machine is completed. (B) Contractor grants a "Workstation" license as specified for the Software. Ordering Activity may then use the Software on the Single Workstation, or more than one computer workstation on a single local area network ("LAN"), so long as the total number of such computer workstation(s) on which the Software is originally installed does not exceed the maximum number of users specified for the Software. (C) Contractor grants a "Concurrent" license as specified for the Software. Ordering Activity may then use the Software on the Single Workstation or on any number of computer workstations on a single LAN, so long as the total number of users of the Software at any one time does not exceed the maximum number of users specified for the Software. (D) use Software identified as ZyPUBLISH(tm) to (i) operate no more than a single CD-R writer device at any one time to produce the number of CD-ROMs specified for such Software (ii) reproduce on each CD-ROM so produced a single copy of such Software's runtime search and retrieval program ("Search/Retrieval Program") and (iii) distribute reproduced Search/Retrieval Programs to Ordering Activity's employees. (E) use Software identified as ZyIMAGE Webserver, ZyIMAGE Enterprise Webserver and ZyCOLD on no more than one (HTTP) server. (F) use Software identified as ZyALERT for no more than the number of users (aka distribution addresses) as defined in the license as specified for the software (G) use Software identified as ZyIMAGE Application Integrator for no more than 5 developers and one run-time server application on a server running at least one other Contractor licenses such as defined under A, B, C, E and F. (H) Use the additional modules known as Case Management, Case Authorization, Document Security, Audit trail, Bates Stamping, Database Fields, Document Management, XML Wrapper and RMA only if Ordering Activity has acquired individual licenses for these modules. These additional licenses are valid with only one (1) ZyIMAGE Enterprise Webserver or with one (1) ZyIMAGE network installation. For multiple web servers or multiple network installations, multiple sets of licenses for the additional modules should be acquired (one on one). (I) use the plug-ins such

as ZyFIND for Outlook, ZyLab XML generator (based upon ZyIndexIMPORT.EXE) for MS-Office and MS Outlook only in conjunction with ZyIMAGE Enterprise Webserver or ZyIMAGE Windows network installations. (J) Use the ZyIMAGE OCR engines (Standard, Professional, Arabic, Asian, Global Standard and Global Professional) and the ZyIMAGE BARCODE recognition engines on no more than one workstation for each license.

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MAINTENANCE

The programs developed by Contractor through Manufacturer are subject to continuous maintenance and improvement. Within the terms of this agreement Ordering Activity has the right to receive the results of this maintenance and improvement for the software as specified in the license agreement.

The software service agreement will be always be applicable to the complete license. Whenever Ordering Activity decides to add certain software to the license this software will, by implication, automatically be added to the software service agreement.

In any case the support and maintenance will include the following:

Free technical support.

Free so-called bug fixes comprising corrections of the software applicable to the Ordering Activity's version of the programs.

Detection and repair, to the best of their ability, of flaws in the standard version of the programs including the standard adaptations thereof as applied by Contractor. The meaning of "flaws" in this context is all faults and defects including deviations from the properties as described in the accompanying documentation.

Adapting, to the best of their ability, the programs to relevant external circumstances like changes in legislation.

Making available and documenting standard adaptations that result from logical modifications of the configuration supported by Contractor.

If technological developments clearly indicate the necessity, Contractor can make higher demands on the configuration required for the installation of a new version of the software. If the Ordering Activity does not follow this advice the warranty of the program will be cancelled and Contractor will no longer be obliged to supply support for the program concerned.

One month after the issue of a bug fix Contractor will be relieved of the obligation to provide basic support for the previous version.

One month after issuing of issuing a new version of the program to the Ordering Activity, Contractor will be relieved of the obligation to maintain the old version or to provide basic support for the previous version.

Although Contractor will try to include all functional features of the old version in the new version without modifications Contractor cannot guarantee that this will be the case.

Adapting the software to a configuration, which is different from the original configuration on which the software has been installed, will not be covered by this agreement.

WARRANTY

Goods supplied by Contractor are guaranteed for a period of three months.

The warranty from Contractor will be null and void in case the Ordering Activity modifies or repairs the goods or contracts a third party to do so. This also applies when the Ordering Activity uses the goods for other purposes than the normal business use or treats or maintains the goods, in the opinion of Contractor, inappropriately or fails to follow the written directions and instructions as given by Contractor.

COMPLAINTS

Complaints regarding visible defects can only be dealt with if reported to Contractor, in writing, within a period of eight (8) days after delivery.

Complaints regarding other (non visible) defects, covered by the guarantee have to be reported to Contractor, in writing, by the Ordering Activity within a period of eight (8) days after the possible defects have become apparent or could have been apparent.

Defects not covered by the guarantee or discovered after the guarantee has elapsed will be corrected by Contractor on request from the Ordering Activity and against the normal rate charged by Contractor in those cases.



Supplemental Pricing Notes
dated
2/24/2014

**THESE SUPPLEMENTAL PRICING NOTES ARE CONSIDERED PART
OF THE SCHEDULE OF SUPPLIES/SERVICES**

Oracle Technology Supplemental Pricing Notes v021314

	Metric	Notes
Database Products		
Oracle Database		
Standard Edition One	Named User Plus	8, 32, 48
	Processor	8, 32, 48
Standard Edition	Named User Plus	5, 32, 48
	Processor	5, 32, 48
Enterprise Edition	Named User Plus	6, 48
	Processor	6, 48
Personal Edition	Named User Plus	7, 32
NoSQL Database Enterprise Edition	Named User Plus	6
	Processor	6
Enterprise Edition Options:		
Multitenant	Named User Plus	2
	Processor	2
Real Application Clusters	Named User Plus	2, 48
	Processor	2, 48
Real Application Clusters One Node	Named User Plus	2
	Processor	2
Active Data Guard	Named User Plus	2, 48
	Processor	2, 48
Partitioning	Named User Plus	2, 48
	Processor	2, 48
Real Application Testing	Named User Plus	2
	Processor	2
Advanced Compression	Named User Plus	2
	Processor	2
Advanced Security	Named User Plus	2
	Processor	2
Label Security	Named User Plus	2
	Processor	2
Database Vault	Named User Plus	2
	Processor	2
OLAP	Named User Plus	2
	Processor	2
Advanced Analytics	Named User Plus	2
	Processor	2
Spatial and Graph	Named User Plus	2
	Processor	2
In-Memory Database Cache	Named User Plus	2
	Processor	2
Retail Data Model	Named User Plus	2
	Processor	2
Communications Data Model	Named User Plus	2
	Processor	2
Airlines Data Model	Named User Plus	2
	Processor	2
Utilities Data Model	Named User Plus	2
	Processor	2
Database Enterprise Management		
Diagnostics Pack	Named User Plus	2, 48
	Processor	2, 48
Tuning Pack	Named User Plus	2, 48
	Processor	2, 48
Database Lifecycle Management Pack	Named User Plus	2
	Processor	2
Data Masking Pack	Named User Plus	2
	Processor	2
Test Data Management Pack	Named User Plus	2
	Processor	2

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	Metric	Notes
Cloud Management Pack for Oracle Database	Named User Plus	2
	Processor	2
TimesTen		
TimesTen In-Memory Database	Named User Plus	6
	Processor	6
Berkeley DB - Transactional Data Store	Per Wireless Handset	50
	Processor	50
Berkeley DB - Concurrent Data Store	Per Wireless Handset	50
	Processor	50
Berkeley DB - Data Store	Per Wireless Handset	50
	Processor	50
Other Products		
Cloud File System	Named User Plus	6
	Processor	6
Rdb Products		
Rdb Server Products		
Rdb Enterprise Edition	Named User Plus	17
	Processor	17
CODASYL DBMS	Named User Plus	17
Rdb Server Options:		
TRACE	Named User Plus	18, 19
	Processor	18.19
Rdb Development, Query and Reporting Tools		
Programmer for Rdb	Named User Plus	20
CDD/R Runtime	Processor	21
Java Platform Products		
Java SE Advanced Desktop	Named User Plus	88
Java SE Advanced	Named User Plus	1, 57, 61
	Processor	1, 57, 61
Java SE Suite	Named User Plus	1, 57, 61
	Processor	1, 57, 61
Application Server Products		
TopLink and Application Development Framework	Named User Plus	1, 13
	Processor	1, 13
WebLogic Server Standard Edition	Named User Plus	1, 32, 43, 48
	Processor	1, 32, 43, 48
WebLogic Server Enterprise Edition	Named User Plus	1, 48
	Processor	1, 48
WebLogic Suite	Named User Plus	1, 48
	Processor	1, 48
Web Tier	Named User Plus	1
	Processor	1
Internet Application Server Standard Edition	Named User Plus	1, 15, 32, 48
	Processor	1, 15, 32, 48
Internet Application Server Enterprise Edition	Named User Plus	1, 15, 48
	Processor	1, 15, 48
GlassFish Server	Named User Plus	1
	Processor	1
Coherence Standard Edition	Named User Plus	1
	Processor	1
Coherence Enterprise Edition	Named User Plus	1
	Processor	1
Coherence Grid Edition	Named User Plus	1
	Processor	1

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	Metric	Notes
API Gateway	Named User Plus	1
	Processor	1
BPEL Process Manager	Named User Plus	1
	Processor	1
WebLogic Integration	Named User Plus	1, 10
	Processor	1, 10
Service Registry	Named User Plus	1, 10
	Processor	1, 10
Enterprise Repository	Named User Plus	1
	Processor	1
SOA Suite for Non Oracle Middleware	Named User Plus	1
	Processor	1
Business Process Management Standard Edition	Named User Plus	75
Unified Business Process Management Suite for Non Oracle Middleware	Named User Plus	1
	Processor	1
Event Processing	Named User Plus	1
	Processor	1
Forms and Reports	Named User Plus	1
	Processor	1
Mobile Suite Technology		
Mobile Client Runtime	Named User Plus	83
Application Development Framework Mobile	Named User Plus	83
Data Integration Technology		
Data Service Integrator	Named User Plus	10
	Processor	10
Data Integrator Enterprise Edition	Named User Plus	6
	Processor	6
Enterprise Data Quality Profiling for Oracle Data Integrator	Processor	62
Enterprise Data Quality Batch Processing for Oracle Data Integrator	Processor	62
Enterprise Data Quality Address Verification Server for Oracle Data Integrator	Processor	62
GoldenGate	Named User Plus	6
	Processor	6
GoldenGate for Non Oracle Database	Named User Plus	6
	Processor	6
GoldenGate for Mainframe	Named User Plus	6
	Processor	6
GoldenGate Veridata	Named User Plus	6
	Processor	6
GoldenGate for Teradata Replication Services	Named User Plus	6, 10
	Processor	6, 10
WebLogic Suite Options:		
BPEL Process Manager Option	Named User Plus	11
	Processor	11
Service Bus	Named User Plus	11
	Processor	11
SOA Suite for Oracle Middleware	Named User Plus	11
	Processor	11
Unified Business Process Management Suite	Named User Plus	11
	Processor	11
WebLogic Coherence Grid Edition Option	Named User Plus	11
	Processor	11
Application Server Enterprise Management		
WebLogic Server Management Pack Enterprise Edition	Named User Plus	9
	Processor	9
SOA Management Pack Enterprise Edition	Named User Plus	9
	Processor	9
Management Pack for Oracle Coherence	Named User Plus	9
	Processor	9

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	Metric	Notes
Management Pack for Oracle GoldenGate	Named User Plus	9
	Processor	9
Cloud Management Pack for Oracle Fusion Middleware	Named User Plus	9
	Processor	9
Management Pack for Oracle Data Integrator	Named User Plus	9
	Processor	9
<i>Fusion Middleware Adapters:</i>		
Application Adapters	Named User Plus	1, 3
	Processor	1, 3
Oracle Applications Adapter	Named User Plus	1
	Processor	1
Cloud Adapters	Named User Plus	1,85,86
Cloud Adapters	Processor	1,85,86
Mainframe and TP-Monitor Adapters	Processor	4
Changed Data Capture Adapters	Processor	44
Application Adapters for Data Integration	Processor	45
GoldenGate Application Adapters	Processor	49
Application Adapters for Warehouse Builder	Processor	47
B2B for RosettaNet	Named User Plus	1
	Processor	1
B2B for EDI	Named User Plus	1
	Processor	1
Healthcare Adapter	Named User Plus	1
	Processor	1
B2B for ebXML	Named User Plus	1
	Processor	1
Tuxedo and Adapters		
Tuxedo	Named User Plus	1
	Processor	1
Tuxedo Application Rehosting Workbench	Named User Plus	51
Business Intelligence Technology Products		
Business Intelligence		
Standard Edition	Named User Plus	1
	Processor	1
Standard Edition One	Named User Plus	25, 32
Suite Enterprise Edition Plus	Named User Plus	81
	Processor	81
Suite Enterprise Edition Plus Upgrade Only	Named User Plus	33
	Processor	33
Server Enterprise Edition	Named User Plus	81
	Processor	81
Business Intelligence Publisher	Named User Plus	14
	Processor	14
Business Intelligence Foundation Suite	Named User Plus	26
	Processor	26
Disconnected Analytics	Named User Plus	10
Scorecard and Strategy Management	Named User Plus	81
	Processor	81
Business Intelligence Mobile	Named User Plus	81
<i>Business Intelligence Server Enterprise Edition Options:</i>		
Interactive Dashboard	Named User Plus	27
	Processor	27
Delivers	Named User Plus	27
	Processor	27
Answers	Named User Plus	27
	Processor	27
Office Plug-in	Named User Plus	27

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	Metric	Notes
Reporting and Publishing	Processor	27
	Named User Plus	27
	Processor	27
Business Intelligence Suite Enterprise Edition Plus Options:		
Business Intelligence Management Pack	Named User Plus	27
	Processor	27
Business Intelligence Data Integration Technology		
Informatica PowerCenter and PowerConnect Adapters	Named User Plus	34
	Processor	34
Hyperion Business Intelligence Technology		
Essbase Plus	Named User Plus	35, 36
	Processor	35, 36
Hyperion Interactive Reporting	Named User Plus	35, 36
	Processor	35, 36
Hyperion SQR Production Reporting	Named User Plus	35, 36
	Processor	35, 36
Hyperion Financial Reporting	Named User Plus	35, 36
	Processor	35, 36
Hyperion Web Analysis	Named User Plus	35, 36
	Processor	35, 36
Endeca Business Intelligence		
Endeca Information Discovery Studio	Named User Plus	26, 72, 77
	Processor	26, 72, 77
Endeca Information Discovery Integrator	Named User Plus	26, 77
	Processor	26, 77
Endeca Server	Processor	72
Endeca Text Enrichment	Processor	58,78
Endeca Text Enrichment with Sentiment Analytics	Processor	58,78
Endeca Web Acquisition Toolkit	Processor	58
WebCenter Products		
WebCenter Suite Plus	Named User Plus	1
	Processor	1
WebCenter Portal	Named User Plus	1
	Processor	1
WebCenter Content	Named User Plus	1
	Processor	1
WebCenter Sites	Named User Plus	1
	Processor	1
WebCenter Sites Satellite Server	Named User Plus	1
	Processor	1
WebCenter Universal Content Management	Named User Plus	1
	Processor	1
WebCenter Imaging	Named User Plus	1
	Processor	1
WebCenter Forms Recognition	Named User Plus	1
	Processor	1
WebCenter Enterprise Capture	Named User Plus	1
	Processor	1
WebCenter Capture	Processor	10,32, 58
WebCenter Distributed Capture	Named User Plus	1, 10
WebCenter Real-Time Collaboration	Named User Plus	1, 10
	Processor	1, 10
WebCenter Sites Options		
WebCenter Sites Mobile Option	Named User Plus	1, 80
	Processor	1, 80
WebCenter Sites Mobility Server	Server	58
WebCenter Adapters:		

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	Metric	Notes
WebCenter Applications Adapter	Processor	30
WebCenter Adapter for EMC Documentum	Processor	68
WebCenter Adapter for Microsoft SharePoint	Processor	69
WebCenter Adapter Framework	Processor	28
WebCenter Management		
Management Pack for WebCenter	Named User Plus	79
	Processor	79
Identity Management Products		
Enterprise Identity Services Suite	Named User Plus	1
Identity Governance Suite	Named User Plus	1
Access Management Suite Plus	Named User Plus	1
Entitlements Server	Named User Plus	1
Entitlements Server Security Module	Named User Plus	1
Identity Manager Connector	Connector	22
Secure Mobile Mail Manager	Named User Plus	10,58,84
Tools		
Internet Developer Suite	Named User Plus	32
Business Process Analysis Suite	Named User Plus	10
Database Enterprise Management		
Diagnostics Pack	Named User Plus	2
	Processor	2
Tuning Pack	Named User Plus	2
	Processor	2
Database Lifecycle Management Pack	Named User Plus	2
	Processor	2
Data Masking Pack	Named User Plus	2
	Processor	2
Test Data Management Pack	Named User Plus	2
	Processor	2
Cloud Management Pack for Oracle Database	Named User Plus	2
	Processor	2
Application Server Enterprise Management		
WebLogic Server Management Pack Enterprise Edition	Named User Plus	9
	Processor	9
SOA Management Pack Enterprise Edition	Named User Plus	9
	Processor	9
Management Pack for Oracle Coherence	Named User Plus	9
	Processor	9
Management Pack for Oracle GoldenGate	Named User Plus	9
	Processor	9
Cloud Management Pack for Oracle Fusion Middleware	Named User Plus	9
	Processor	9
Business Intelligence Management		
Business Intelligence Management Pack	Named User Plus	26
	Processor	26
WebCenter Management		
Management Pack for WebCenter	Named User Plus	79
	Processor	79
Identity Management Enterprise Management		
Management Pack Plus for Identity Management	Employee User	82
	Non Employee User - External	82
	Processor	82
Other Infrastructure Management		
System Monitoring Plug-in for Non Oracle Databases	Per Processor	23
	Per Named User Plus	23
System Monitoring Plug-in for Non Oracle Middleware	Per Processor	16
	Per Named User Plus	16
Applications Management		

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	Metric	Notes
Application Management Suite for Oracle E-Business Suite	Named User Plus	52
	Processor	52
Application Management Suite for Siebel	Named User Plus	52
	Processor	52
Application Management Suite for PeopleSoft	Named User Plus	52
	Processor	52
Application Management Suite for JD Edwards EnterpriseOne	Named User Plus	52
	Processor	52
Application Management Suite for Oracle Fusion Applications	Named User Plus	9, 52
	Processor	9, 52
Application Testing		
Load Testing Developer Edition	Named User Plus	40
Load Testing	Named User Plus	46
Load Testing Accelerator for Web Services	Named User Plus	41, 42
Load Testing Accelerator for Oracle Database	Named User Plus	42
Collaboration		
Beehive Enterprise Collaboration Server	Named User Plus	1, 10
	Processor	1, 10
Application Server Products		
WebLogic Suite for Oracle Applications	Named User Plus	1, 53, 56, 57
	Processor	1, 53, 56, 57
	Employee for HCM ⁵⁹	1, 53, 56, 57
Coherence Enterprise Edition for Oracle Applications	Named User Plus	1, 56, 57, 63
	Processor	1, 56, 57, 63
	Employee for HCM ⁵⁹	1, 56, 57, 63
WebLogic Suite Options for Oracle Applications:		
BPEL Process Manager Option for Oracle Applications	Named User Plus	11, 54, 56, 57
	Processor	11, 54, 56, 57
	Employee for HCM ⁵⁹	11, 54, 56, 57
SOA Suite for Oracle Middleware for Oracle Applications	Named User Plus	11, 56, 57, 64
	Processor	11, 56, 57, 64
	Employee for HCM ⁵⁹	11, 56, 57, 64
Unified Business Process Management Suite for Oracle Applications	Named User Plus	11, 56, 57, 76
	Processor	11, 56, 57, 76
	Employee for HCM ⁵⁹	11, 56, 57, 76
Application Management		
Application Management Pack for Oracle Fusion Applications	Named User Plus	57, 70
	Processor	57, 70
	Employee for HCM ⁵⁹	57, 70
WebCenter Products		
WebCenter Portal for Oracle Applications	Named User Plus	1, 56, 57, 66
	Processor	1, 56, 57, 66
	Employee for HCM ⁵⁹	1, 56, 57, 66
WebCenter Imaging for Oracle Applications	Named User Plus	1, 56, 57, 67
	Processor	1, 56, 57, 67
	Employee for HCM ⁵⁹	1, 56, 57, 67
Identity Management Product		
Identity and Access Management Suite Plus for Oracle Applications	Named User Plus	56, 57, 65
	Processor	56, 57, 65
	Employee for HCM ⁵⁹	56, 57, 65
Business Intelligence Technology Products		
Business Intelligence Publisher for Oracle Applications	Named User Plus	56, 57
	Processor	56, 57
	Employee for HCM ⁵⁹	56, 57
Business Intelligence Foundation Suite for Oracle Applications	Named User Plus	26, 55, 56, 57
	Processor	26, 55, 56, 57
	Employee for HCM ⁵⁹	26, 55, 56, 57
Business Intelligence Suite Enterprise Edition Plus for Oracle Applications	Named User Plus	26, 56, 57
	Processor	26, 56, 57
	Employee for HCM ⁵⁹	26, 56, 57

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	Metric	Notes
Data Integration Technology Product		
Data Integrator Enterprise Edition for Oracle Applications	Named User Plus Processor	6, 56, 57, 60 6, 56, 57, 60
GoldenGate for Oracle Applications	Employee for HCM ⁵⁹ Named User Plus Processor	6, 56, 57, 60 6,10,56,57,87 6,10,56,57,87
Endeca Business Intelligence		
Endeca Discovery Foundation for Oracle Applications	Named User Plus Processor	6, 10, 56, 57, 77 6, 10, 56, 57, 77
Database Product		
Oracle Database Enterprise Edition Option:		
In-Memory Database Cache for Oracle Applications	Named User Plus Processor	2, 56, 57 2, 56, 57
Berkeley Database		
Berkeley DB – High Availability for Oracle Applications	Processor	56, 57
Berkeley DB – Transactional Data Store for Oracle Applications	Processor	56, 57
Berkeley DB Java Edition – High Availability for Oracle Applications	Processor	56, 57
Berkeley DB Java Edition – Transactional Data Store for Oracle Applications	Processor	56, 57

- ¹ If licensing by Named User Plus, the minimum is 10 Named User Plus licenses per Processor.
- ² Enterprise Edition Options (with the exception of In-Memory Database Cache and In-Memory Database Cache for Oracle Applications) and Database Enterprise Management Packs (with the exception of Data Masking Pack and Test Data Management Pack), must match the number of licenses of the associated Oracle Database Enterprise Edition. For the purposes of licensing Data Masking Pack and Test Data Management Pack, all database servers where masked data or test data originates and database servers performing masking, or test data management operations (via GUI or command line) must be licensed. Database servers to which masked data is copied do not require a license for these programs. For the purposes of licensing the following program: In-Memory Database Cache, and In-Memory Database Cache for Oracle Applications, only the processors on which the Times Ten In-Memory Database component of the In-Memory Database Cache program is installed and/or running must be counted for the purpose of determining the number of licenses required. In addition, a minimum of 25 Named User Plus licenses per Processor must be met. In the case where the minimum number of Named User Plus licenses are/were purchased, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. If licensing by Processor, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. Associated Database is defined as the database(s) which is (are) being managed by the option. For the purposes of licensing Active Data Guard, both the primary and standby servers must be licensed.
- ³ Application Adapters are available for: PeopleSoft, SAP, Siebel & JD Edwards.
- ⁴ Mainframe and TP-Monitor Adapters are available for: CICS, IMS/DB, IMS/TM, VSAM, BeanConnect and Tuxedo.
- ⁵ Oracle Database Standard Edition can only be licensed on servers that have a maximum capacity of 4 sockets. If licensing by Named User Plus, the minimum is 5 Named User Plus licenses. Oracle Database Standard Edition, when used with Oracle Real Application Clusters, may only be licensed on a single cluster of servers supporting up to a total maximum capacity of 4 sockets.
- ⁶ If licensing by Named User Plus, the minimum is 25 Named User Plus licenses per Processor.
- ⁷ Personal Edition provides a maximum of one Named User Plus per database.
- ⁸ Oracle Standard Edition One may only be licensed on servers that have a maximum capacity of 2 sockets. If licensing by Named User Plus, the minimum is 5 Named User Plus licenses.
- ⁹ Application Server Enterprise Management Packs must match the number of licenses of the associated Oracle Application Server (Excluding TopLink and Application Development Framework, for which these Management Packs cannot be licensed). WebLogic Server Management Pack Enterprise Edition can only be licensed with WebLogic Server Enterprise Edition, or WebLogic Server Standard Edition, or Internet Application Server Enterprise Edition, or WebLogic Suite. Application Management Suite for Oracle Fusion Applications can only be licensed with WebLogic Suite, together with the SOA Suite for Oracle Middleware and must match the number of licenses to the associated WebLogic Suite and the SOA Suite for Oracle Middleware. When licensing Management Pack for GoldenGate, the number of licenses must match the associated GoldenGate, GoldenGate for Non Oracle Database, and/or GoldenGate for Mainframe licenses. In the case where the minimum number of Named User Plus licenses are/were purchased, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. If licensing by Processor, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. An associated Application Server is defined as the Application Server(s) which is (are) being managed by the option. Note that Management Pack for Oracle Coherence may only be licensed with Coherence Enterprise Edition or Coherence Grid Edition. When licensing Management Pack for Oracle Data Integrator, the number of licenses must match the associated Data Integrator Enterprise Edition, or Data Integrator and Application Adapter for Data Integration, or Oracle Data Integrator Enterprise Edition for Oracle Applications licenses.
- ¹⁰ This product is on Controlled Availability (CA) and requires approval. For more information on the CA process and approval, please refer to the Controlled Availability section on eSource at <http://esource.oraclecorp.com> > Controlled Availability Sales Questions. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.
- ¹¹ WebLogic Suite Options and WebLogic Suite Options for Oracle Applications must match the number of licenses of the associated WebLogic Suite application server. In the case where the minimum number of Named User Plus licenses are/were purchased, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. If licensing by Processor, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. Associated Application Server is defined as the application server(s) which is (are) being managed by the option.
- ¹³ Application Development Framework requires a runtime license. This can be purchased via Top link and Application Development Framework.
- ¹⁴ If licensing by Named User Plus, the minimums for this product are 50 Named User Plus licenses. Business Intelligence Publisher is also licensable via the per Employee metric. The price is \$46.00 USA (Dollar) per Employee when licensed as a standalone product and \$35.00 USA (Dollar) per Employee when licensed as an option to the Application Server Enterprise Edition. The minimum for employee licensing is 1,000 Employee licenses.
- ¹⁵ The Named User Plus Minimum does not apply if the program is installed on a one processor machine that allows for a maximum of one user per program.

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- ¹⁶ Plug-in available for Microsoft Active Directory, Microsoft .NET, Microsoft ISA Server, Microsoft Commerce Server, Microsoft Exchange Server, IBM WebSphere MQ. Each Plug-in is licensed separately.
- ¹⁷ If licensing by Named User Plus, the minimum is 25 Named User Plus licenses per Processor.
- ¹⁸ Rdb Server Options must match the number of licenses of the associated database. In the case where the minimum number of Named User Plus licenses are/were purchased, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. If licensing by Processor, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. If licensing by Processor, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed.
- ¹⁹ TRACE may also be licensed with CODASYL DBMS.
- ²⁰ Oracle precompilers supported via SQL*Net for Rdb for use across Oracle & Rdb Servers.
- ²¹ CDD/R Runtime is an unlimited use license for applications requiring CDD/R deployment licenses.
- ²² Following is the list of available Identity Manager Connectors: BMC Remedy Ticketing, BMC Remedy User Management, CA ACF2, CA Top Secret, Database Applications Table, Database User Management, Google Apps, IBM Lotus Notes/Domino, IBM OS/400, IBM RACF, JD Edwards EnterpriseOne, Microsoft Active Directory, Microsoft Exchange, Microsoft Windows, Novell eDirectory, Novell Groupwise, Oracle e-Business, Oracle Internet Directory, Oracle Retail, PeopleSoft Enterprise Applications, RSA Authentication Manager, RSA ClearTrust, SAP Enterprise Applications, SAP Enterprise Portal, Siebel Enterprise Applications, Oracle CRM On Demand, Sun Java System Directory, Oracle Unified Directory, Oracle Directory Server Enterprise Edition, UNIX, and Web Services. Each connector is licensed separately.
- ²³ Plug-in available for IBM DB2, Microsoft SQL Server, Sybase Adaptive Server Enterprise (ASE).
- ²⁵ Business Intelligence Standard Edition One may only be used on servers that have the ability to run a maximum of 2 sockets. The minimums for this product are 5 named user plus licenses and the maximum is 50 named user plus licenses. The data sources for BI Server and Business Intelligence Publisher are limited to the included Oracle Standard Edition One, one other database, and any number of flat file sources such as CSV, and XLS. You may use Oracle Warehouse Builder Core ETL to pull data from any number of data sources but you must use only the included Oracle Standard Edition One as the target database.
- ²⁶ The Named User Plus minimum for this product is 25 Named User Plus licenses.
- ²⁷ The minimums for this product are 25 Named User Plus licenses. The number of options licenses must match the number of licenses of the associated Business Intelligence Server Enterprise Edition. If licensing as an option to Business Intelligence Suite Enterprise Edition Plus, the number of options licenses must match the number of licenses of the associated Business Intelligence Suite Enterprise Edition Plus. If licensing by Processor, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed.
- ²⁸ WebCenter Adapter Framework adapters are available for: File Systems, Java, Microsoft .NET, and Enterprise Application Adapter Framework. Each Adapter is licensed separately.
- ³⁰ WebCenter Application Adapters are available for: Siebel, PeopleSoft, and E-Business Suite. Each Adapter is licensed separately.
- ³² These programs are designated Oracle 1-Click Ordering Programs.
- ³³ This upgrade provides the following: Hyperion Interactive Reporting, Hyperion SQR Production Reporting, Hyperion Web Analysis, Hyperion Financial Reporting. The Named User Plus minimum for this program is 20 Named User Plus licenses.
- ³⁴ Informatica PowerCenter and PowerConnect Adapters may not be used on a standalone basis or as a standalone ETL tool. The Informatica Power Center and PowerConnect Adapters may be used with any data source provided the target(s) are: (i) the Oracle Business Intelligence applications programs (excluding Hyperion Enterprise Performance Management Applications), (ii) the underlying platforms on which the Oracle Business Intelligence Foundation Suite program, Oracle Business Intelligence Suite Enterprise Edition Plus program, Oracle Business Intelligence Standard Edition One or associated components run, or (iii) a staging database for any of the foregoing. Informatica Power Center and PowerConnect Adapters may also be used where the Oracle Business Intelligence applications (excluding Hyperion Enterprise Performance Management Applications) programs are the source and non-Oracle Business Intelligence application programs are the target, provided, that users do not use Informatica PowerCenter and PowerConnect Adapters to transform the data. When licensing by the Named User Plus metric, the user count must be tied to the target Oracle Business Intelligence application user count and the minimum is 20.
- ³⁵ Customers with legacy Hyperion pre-System 9 product licenses must pay a Foundation Enablement migration fee to migrate to the corresponding Oracle Hyperion licenses, which include Hyperion Foundation Services. Additional information can be found on eSource > Acquisitions > Hyperion > Pricing > Migrations.
- ³⁶ The minimums for this product are 25 Named User Plus licenses or 4 Processor licenses.

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- ⁴⁰ This product includes 2 Processor license of Load Testing for Web Applications Controller, and the ability to generate up to 10 Virtual Users (please refer to the Named User Plus license metric definition for the Virtual User definition).
- ⁴¹ All Siebel CRM products (all editions) starting at 7.7 onwards are supported.
- ⁴² The Named User Plus minimum for this program is 50 Named User Plus licenses.
- ⁴³ WebLogic Server Standard Edition license does not include WebLogic Server Clustering.
- ⁴⁴ Changed Data Capture Adapters are available for Microsoft SQL Server 2000, Microsoft SQL Server 2005, DB2/390, VSAM CICS, VSAM Batch, IMS/DB and Adabas. Each Changed Data Capture Adapter is licensed separately.
- ⁴⁵ Application Adapters for Data Integration are available for PeopleSoft, JD Edwards, E-Business Suite, SAP Applications, SAP Business Warehouse, and Siebel. Each Application Adapter for Data Integration is licensed separately.
- ⁴⁶ The Named User Plus minimum for this program is 200 Named User Plus licenses.
- ⁴⁷ Application Adapters for Warehouse Builder are available for PeopleSoft, E-Business Suite, SAP and Siebel. Each Application Adapter for Warehouse Builder is licensed separately.
- ⁴⁸ These are designated SaaS for ISVs programs.
- ⁴⁹ GoldenGate Application Adapters are available for: Base24, Logger for Enscribe, and JMS and Flat File. Each GoldenGate Application Adapter is licensed separately.
- ⁵⁰ The minimum Wireless Handset licenses for this program are 100,000 licenses.
- ⁵¹ The Named User Plus Minimum for this program is 2 Named User Plus licenses.
- ⁵² The Named User Plus minimum for this program is 200 Named User Plus licenses. The Processor minimum for this program is 4 processor licenses.
- ⁵³ Oracle WebLogic Suite for Oracle Applications may be used only as an embedded runtime for eligible Oracle Applications or to deploy customizations to an eligible Oracle Application. The WebLogic global datasources or one of the WebLogic application datasources must be configured to access the schema of an eligible Oracle Application.
- ⁵⁴ Oracle BPEL Process Manager Option for Oracle Applications may be used only to enable business processes, workflow interactions and approvals within eligible Oracle Applications. Workflow interactions between eligible Oracle Applications and, other Oracle Applications or third party applications are allowed as long as they are enabled/initiated within the eligible Oracle Applications. Business Processes defined in BPEL are allowed as long as at least one of the services invoked from within the Business Process access an eligible Oracle Application either natively (via Web Services) or via an adapter.
- ⁵⁵ Oracle Business Intelligence Foundation Suite for Oracle Applications may be used only to perform query, reporting and analysis against a transaction database, data warehouse or an Essbase OLAP cube if: (i) the transaction database is an eligible Oracle Applications transaction database itself or an extraction, in whole or in part, of an eligible Oracle Applications transaction database, without transformation (query, reporting and analysis against a transaction database that is not an eligible Oracle Applications transaction database requires a full use license of Oracle Business Intelligence Foundation Suite); or (ii) the data warehouse is a pre-packaged eligible Oracle Applications data warehouse, with any customizations necessary to reflect customizations made in the eligible Oracle Applications, and restricted only to the eligible Oracle Applications sources (query, reporting and analysis against extensions to the data warehouse drawn from source systems not supported by the pre-packaged data warehouses require a full use license of Oracle Business Intelligence Foundation Suite); or (iii) the dimensions of each Essbase OLAP Cube are sourced from eligible Oracle Applications.

⁵⁶ Programs that contain "for Oracle Applications" in the program name are limited use programs. These limited use programs may only be used with "eligible" Oracle application programs that contain the following prefixes in the program name: Oracle Fusion, Oracle ATG, Oracle Banking, Oracle Communications*, Oracle Documaker, Oracle Endeca*, Oracle Knowledge, Oracle Media, Oracle Retail*, Oracle Enterprise Taxation*, Oracle Tax, Oracle Utilities*, Oracle Financial Services*, Oracle FLEXCUBE, Oracle Reveleus, Oracle Mantas, Oracle Healthcare*, Oracle Health Sciences, Oracle Argus, Oracle Legal, Oracle Insurance and Oracle Primavera. For those prefixes designated above with a "*" not all programs with that prefix are eligible for use with the "for Oracle Applications" limited use programs. For a list of excluded programs please review the Applications Licensing Table, which may be accessed at <http://www.oracle.com/us/corporate/pricing/application-licensing-table-070571.pdf>.

Notwithstanding anything above, Business Intelligence Suite Enterprise Edition Plus for Oracle Applications may only be used with "eligible" Oracle application programs that contain "Oracle Fusion Human Capital Management" as a prefix in the program name and provided that the Oracle Fusion Human Capital Management programs are the only programs configured to run against the database instance.

Business Intelligence Foundation Suite for Oracle Applications is eligible for use with the following Oracle Business Intelligence Applications provided Oracle Fusion Applications is the only data source: Sales Analytics, Fusion Edition; Marketing Analytics, Fusion Edition; Partner Analytics, Fusion Edition; Supply Chain and Order Management Analytics, Fusion Edition; Financial Analytics, Fusion Edition; Procurement & Spend Analytics, Fusion Edition; Project Analytics; and Human Resources Analytics, Fusion Edition.

Business Intelligence Foundation Suite for Oracle Applications is also eligible for use with: Oracle Product Information Management Analytics, Fusion Edition; Oracle Customer Data Management Analytics, Fusion Edition; and Oracle Product Lifecycle Analytics.

Endeca Discovery Foundation for Oracle Applications is eligible for use with products that contain "Extensions for Oracle Endeca" in the product name. Only data which originates from the source application database may be loaded into the Endeca Server product component. Customers may add data to the Endeca Server instance that powers the Extension module, but may not create new Endeca Server instances.

WebLogic Suite for Oracle Applications is eligible for use with Oracle Agile Applications (available on the Oracle E-Business Suite Applications Global Price Lists).

Any use of limited use programs containing "for Oracle Applications" by other Oracle applications or third party applications is not permitted.

⁵⁷ These products are available for distribution by Oracle partners under the Oracle Full Use Distribution Agreement only. These products are not available for distribution by Oracle partners under the Oracle Application Specific Full Use Program Distribution Agreement or Oracle Embedded Software License Distribution Agreement.

⁵⁸ This product contains third-party functionality and can be licensed only using the standard, assigned price list metric. No enterprise metric or other non-standard metric may be used to license this product. This product must also be sold with a fixed quantity and cannot be sold with an unlimited quantity, as part of a ULA, capped ULA, or otherwise. The spreadsheet at <http://my.oracle.com/content/native/cnt507565> contains a complete list of all products that cannot be licensed with non-standard metrics and cannot be sold with unlimited quantities. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.

⁵⁹ Employee for HCM metric can only be used with "eligible" Oracle Applications that contain the following prefix in the program name: Oracle Fusion Human Capital Management.

⁶⁰ Data Integrator Enterprise Edition for Oracle Applications may only be used with the Oracle supplied data integration jobs and customization of the supplied jobs is allowed. For the avoidance of doubt, examples of uses that are not permitted include, but are not limited to, the following: adding new jobs that support different applications, new schemas, or previously unsupported application modules.

⁶¹ With respect to the Java SE Advanced and Java SE Suite programs, you may not create, modify, or change the behavior of, or authorize your users to create, modify, or change the behavior of, classes, interfaces, or subpackages that are in any way identified as "java", "javax" "sun" or "oracle" or any variation of the aforementioned naming conventions. The installation and auto-update processes for these programs transmit a limited amount of data to Oracle (or its service provider) about those specific processes to help Oracle understand and optimize them. Oracle does not associate the data with personally identifiable information. You can find more information about the data Oracle collects at <http://oracle.com/contracts>. Additional copyright notices and license terms applicable to portions of the programs are set forth at <http://oracle.com/contracts>.

⁶² The minimum for this program is 4 Processor licenses.

⁶³ Coherence Enterprise Edition for Oracle Applications is limited for use within the same JVM as the Oracle Applications components.

⁶⁴ Oracle SOA Suite for Oracle Middleware for Oracle Applications may be used only to enable integration, business processes, workflow interactions and approvals within eligible Oracle Applications. Workflow interactions between eligible Oracle Applications and other non-eligible Oracle applications or third party applications are allowed as long as they are either initiated or terminated within eligible Oracle Applications. Usage of SOA composites (including but not limited to Rules, Mediator, XSLT transforms, BPEL processes, Spring components, Workflow services and OWSM security policies) is allowed as long as at least one of the services invoked from within each composite accesses an eligible Oracle Application either natively (via Web services) or via an adapter, and the invocation is part of a flow that is either initiated or terminated within eligible Oracle Applications. Oracle Service Bus (OSB) usage is allowed as long as each service deployed accesses an eligible Oracle Application either natively (via Web services) or via an adapter.

- ⁶⁵ Oracle Identity and Access Management Suite Plus for Oracle Applications may be used only to perform associated actions for users of and within the eligible Oracle Applications. Oracle Identity and Access Management Suite Plus for Oracle Applications may be used to do the following: (1) add, delete, modify, and manage user identities and roles in the eligible Oracle Applications; (2) provide web access management and single sign-on into eligible Oracle Applications; (3) provide data storage - or virtualization to data storage - of user identities and user identity related information or authentication and authorization policies for eligible Oracle Applications; (4) provide federated single sign-on to eligible Oracle Applications.
- ⁶⁶ Oracle WebCenter Portal for Oracle Applications can be used only to surface the eligible Oracle application and custom applications. Surfacing any third-party applications, including other applications from Oracle, requires a full-use license. Multiple eligible Oracle applications can be surfaced in a single portal instance provided that a WebCenter Portal for Oracle Applications license exists for each eligible application surfaced in the portal. WebCenter Portal for Oracle Applications can be used to integrate the various WebCenter Services (Wikis, Blogs, Discussions, etc.) into an application context, as well as build out custom workflows and notifications between the eligible Oracle application and WebCenter Portal components. The content management features can be used to store and manage documents created outside the eligible application provided that they are related to the eligible application or application context.
- ⁶⁷ Oracle WebCenter Imaging for Oracle Applications may be used to create and modify imaging searches, modify pre-packaged imaging application document types, and create and modify input mappings to imaging applications. Imaging can also invoke Web service API's from Oracle Application workflows. A full-use license of WebCenter Imaging is required to define new document types for the management of images unrelated to a pre-packaged Oracle Applications integration, develop custom workflows, and invoke APIs from custom workflows or custom application integrations.
- ⁶⁸ WebCenter Adapter for EMC Documentum is available for: WebCenter Portal, WebCenter Content, and WebCenter Sites. Each WebCenter Adapter for EMC Documentum is licensed separately.
- ⁶⁹ WebCenter Adapter for Microsoft SharePoint is available for: WebCenter Portal, WebCenter Content, and WebCenter Sites. Each WebCenter Adapter for Microsoft SharePoint is licensed separately.
- ⁷⁰ Application Management Pack for Oracle Fusion Applications can only be licensed with WebLogic Suite/WebLogic Suite for Oracle Applications, together with the SOA Suite for Oracle Middleware/SOA Suite for Oracle Middleware for Oracle Applications and must match the number of licenses to the associated WebLogic Suite/WebLogic Suite for Oracle Applications and the SOA Suite for Oracle Middleware/SOA Suite for Oracle Middleware for Oracle Applications.
- ⁷² Sale of this product after August 31, 2012 to customers that owned legacy Latitude product licenses will require certification that that customer has upgraded to a release that does not include third-party Corda software (e.g. Endeca Information Discovery v 2.2.2).
- ⁷⁵ The Named User Plus minimum for this program is 100 Named User Plus licenses.
- ⁷⁶ Unified Business Process Management Suite for Oracle Applications may be used only to extend the workflows of the eligible Oracle application. Workflows modeled in Oracle Unified Business Process Management Suite for Oracle Applications that integrate with any third-party applications, including other applications from Oracle, requires a full-use license. Multiple eligible Oracle applications can be integrated in a single Business Process instance provided that an Oracle Unified BPM Suite for Oracle Applications license exists for each eligible application that participates.
- ⁷⁷ Endeca Discovery Foundation for Oracle Applications (or Endeca Information Discovery Studio and Endeca Information Discovery Integrator) sold by Named User Plus for use with E-Business Suite product "Extensions for Endeca", must be licensed per user per EBS Extensions for Endeca product. For example, a customer purchasing 50 Enterprise Asset Management Extensions for Oracle Endeca - Application User and 50 Inventory Management Extensions for Oracle Endeca - Application User and licensing Endeca Discovery Foundation for Oracle Applications by Named User Plus as the prerequisite, must purchase 100 Endeca Discovery Foundation for Oracle Applications - Named User Plus licenses. The Endeca prerequisite(s) may alternatively be licensed by Processor.
- ⁷⁸ Endeca Text Enrichment and Endeca Text Enrichment with Sentiment Analytics are each available for English, French, German, Spanish and Portuguese. Endeca Text Enrichment for each language is licensed separately. Endeca Text Enrichment with Sentiment Analytics for each language is licensed separately.
- ⁷⁹ The licenses for this program must match the number of licenses of the associated license program being managed or monitored. In the case where the minimum number of Named User Plus licenses are/were purchased, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed. If licensing by Processor, the number of licenses may not match due to variance in core factors between the time the respective programs were licensed.
- ⁸⁰ WebCenter Sites Options must match the number of licenses of the associated WebCenter product. When licensing the Option for WebCenter Sites for Oracle ATG Web Commerce the number of licenses of the Option must match the deployed Processors of WebCenter Sites for Oracle ATG Web Commerce.
- ⁸¹ The Named User Plus minimum for this program is 20 Named User Plus licenses.

⁸² When licensing Management Pack Plus for Identity Management, the number of licenses must match the number of Identity Management product(s) licenses being managed or monitored by Oracle. If the Identity Management product is licensed by Named User Plus then the number of Employee User and Non Employee User - External licenses of Management Pack Plus for Identity Management must equal the total of the Named User Plus licenses that are being managed or monitored with the Management Pack Plus.

⁸³ The minimum for this program is 10 NUP per Application Developed

⁸⁴ Hosting of this product by the end user is not permitted (an end user cannot host the product for its customers, and a hosting company cannot purchase licenses 1:1 for specific end users).

⁸⁵ Cloud Adapters are available for Salesforce.com

⁸⁶ Oracle Cloud Adapters must match the number of licenses to the associated Oracle Service Bus, SOA Suite for Oracle Middleware, SOA Suite for Non Oracle Middleware, BPEL Process Manager Option, and BPEL Process Manager

⁸⁷ Oracle GoldenGate for Oracle Applications may only be used with the Oracle supplied integration jobs. Customization of the Oracle supplied integration jobs is allowed if necessitated by (i) customizations of the source application or of the target application or (ii) for performance tuning of the GoldenGate configuration. Oracle GoldenGate for Oracle Applications may not be used (i) for replication to non-Oracle databases or (ii) by other Oracle or (iii) by third party applications for any type of data integration or replication purposes. For the avoidance of doubt, examples of other uses that are not permitted include, but are not limited to, the following: replicating data to non-oracle databases (including MySQL), adding new source or target schemas, adding unsupported application modules to either source or target schemas, supporting other replication topologies (e.g., active-active or multi-master) or adding anything not supplied by Oracle.

⁸⁸ The Named User Plus minimum for this program is 2,000 Named User Plus licenses.

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	Metric	Notes
Enterprise Performance Management Suites and Associated Options		
Hyperion Financial Close Suite		
Oracle Hyperion Financial Close Suite	Application User	2
Option: Data Relationship Management for Oracle Hyperion Financial Close Suite	Application User	2
Hyperion Enterprise Financial Planning Suite		
Oracle Hyperion Enterprise Financial Planning Suite	Application User	2
Option: Data Relationship Management for Oracle Hyperion Enterprise Financial Planning Suite	Application User	2
Enterprise Performance Management Standalone Products		
Hyperion Financial Management Plus	Application User	1
Essbase Analytics Link for Hyperion Financial Management (Controlled Availability)	Application User	8
Hyperion Planning Plus	Application User	1
Hyperion Workforce Planning (Controlled Availability)	Application User	8
Hyperion Capital Asset Planning (Controlled Availability)	Application User	8
Financial Services Balance Sheet Planning (Controlled Availability)	\$B in Total Assets	8
Hyperion Performance Scorecard Plus (Controlled Availability)	Application User	1.8
Hyperion Business Modeling (Controlled Availability)	Application User	8
Option: Hyperion Financial Data Quality Management, Enterprise Edition		
Adapter for Financial Management	Application User	2
Option: Hyperion Financial Data Quality Management, Enterprise Edition Adapter Suite	Application User	2
Option: Hyperion Financial Data Quality Management, Enterprise Edition		
ERP Source Adapter for SAP	Application User	2
Hyperion Financial Data Quality Management (Controlled Availability)	Application User	8
Option: Hyperion Financial Data Quality Management Adapter for Financial	Application User	2.8
Option: Hyperion Financial Data Quality Management Adapter Suite (Controlled Availability)	Application User	2.8
Option: Hyperion Financial Data Quality Management ERP Source Adapter for SAP (Controlled Availability)	Application User	2.8
Hyperion Financial Data Quality Management for Hyperion Enterprise (Controlled Availability)	Application User	8
Option: Hyperion Financial Data Quality Management Adapter Suite (Controlled Availability)	Application User	2,3,8
Data Relationship Management	Record	8
Option: Data Relationship Management Read Only Access	Record	2.8
Data Relationship Governance	Application User	8
User Productivity Kit		
User Productivity Kit Standard	UPK Developer	9
User Productivity Kit Standard	Application User	9
User Productivity Kit Standard	Employee	9
User Productivity Kit Professional	UPK Developer	9
User Productivity Kit Professional	Application User	9
User Productivity Kit Professional	Employee	9
BI Applications, Fusion Edition - CRM Analytics		
Customer Data Management Analytics, Fusion Edition (Controlled Availability)	Application User	8
BI Applications, Fusion Edition - ERP Analytics		
Supply Chain and Order Management Analytics, Fusion Edition	Application User	10
Financial Analytics, Fusion Edition	Application User	10
Product Information Management Analytics, Fusion Edition (Controlled Availability)	Application User	8
BI Applications for SAP - ERP Analytics		
Supply Chain and Order Management Analytics for SAP (Controlled Availability)	Application User	7,8
Financial Analytics for SAP (Controlled Availability)	Application User	7,8
Procurement & Spend Analytics for SAP (Controlled Availability)	Application User	7,8
BI Applications, Fusion Edition - Financial Services Analytics		
Financial Services Profitability Analytics	Application User	6

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Oracle Business Intelligence Applications Notes

¹ Customers with legacy Hyperion pre-System 9 product licenses must pay a Foundation Enablement migration fee to migrate to the corresponding Oracle Hyperion licenses, which include Hyperion Foundation Services. Additional information can be found on eSource at <http://esource.oraclecorp.com> > License > Migration > Migration Pricing Practices > Acquisition Specific Migration Practices > Hyperion Migration Practices. A detailed license mapping spreadsheet can be found on eSource at <http://esource.oraclecorp.com> > License > Migration > Product Migration Listing > Hyperion Pre-System 9. If you are an Oracle partner, please contact your Oracle Representative for additional information.

² Hyperion product option license quantities must match the number of licenses of the associated Hyperion product. This rule applies to all license models: Component, Customer Application Suite and Enterprise. Examples include the following:

The number of Hyperion Financial Data Quality Management Financial Management Adapter Application User licenses must match the number of Hyperion Financial Data Quality Management Application User licenses.

The number of Hyperion Data Relationship Management for Hyperion Financial Close Suite Application User licenses must match the number of Hyperion Financial Close Suite Application User Licenses. Similarly, the number of Hyperion Data Relationship Management for Hyperion Financial Close Suite Enterprise \$M in Revenue licenses must match the number of Hyperion Financial Close Suite Enterprise \$M in Revenue licenses.

³ When licensing Hyperion Financial Data Quality Management Adapter Suite as an option to Hyperion Financial Data Quality Management for Hyperion Enterprise, only the Tax Adapter and Batch Automation may be used.

⁶ Financial Services Profitability Analytics is designed to integrate with OFSA. There is no ETL so the Informatica requirement does not apply to Financial Services Profitability Analytics.

⁷ This product supports "Data Integrator and Application Adapter for Data Integration" as the data integration prerequisite. It does not support data integration using Informatica PowerCenter. Similar products with Informatica PowerCenter as a prerequisite do not support Oracle "Data Integrator and Application Adapter for Data Integration" for data integration. For more information on prerequisites, please refer to the Price List Supplement.

⁸ This product is offered under Controlled Availability (CA), which means it requires special approval prior to quoting. For information on the Controlled Availability process and required approvals, please refer to the Controlled Availability section on eSource at <http://esource.oraclecorp.com> > Home > Controlled Availability Sales Questions. If you are an Oracle partner, please contact your Oracle Representative for additional information.

⁹ When licensing Oracle User Productivity Kit Standard, you must license a minimum of one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard;
When licensing Oracle User Productivity Kit Professional, you must license a minimum of one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional;
When licensing any UPK Content Modules, you must license a minimum of: one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; OR, one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional.

¹⁰ When licensing this ERP Analytics Application for use exclusively with a JD Edwards ERP system as a data source, the user minimum is 10 Application Users.

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	Metric	Notes
Governance, Risk and Compliance (GRC)		
Enterprise Governance, Risk, and Compliance Manager	Application User	14
Option: Financial Governance	Application User	14
Option: Application Access Controls for E-Business Suite	Monitored User	1
Option: Configuration Controls for E-Business Suite	Monitored User	1
Marketing and Sales		
Option: Advanced Pricing	Application User	1
Sales for Handhelds	Application User	14
Option: Advanced Pricing	Application User	1
Channel Revenue Management		
Option: Channel Rebates and Point of Sale Management	Application User	1
Option: Advanced Pricing	Application User	1
Option: Supplier Ship and Debit	Application User	1
Option: Price Protection	Application User	1
Order Management		
Order Management	Application User	3
	Electronic Order Line	3
Option: Advanced Pricing	Application User	1
	Electronic Order Line	1
Option: Release Management	Application User	1
	Electronic Order Line	1
Sales Contracts	Application User	21
Configurator	Application User	6
Configurator	Processor	4,6
iStore	Processor	4
Supply Chain Event Management	Processor	14
Logistics		
Option: Mobile Supply Chain Applications	Application User	1,15
Option: Warehouse Management	Application User	1,15
Landed Cost Management	\$M Cost of Goods Sold	14
Supply Chain Planning		
Option: Constraint Based Optimization	\$M Cost of Goods Sold	1
Service Parts Planning	\$M Cost of Goods Sold	14
Option: Repetitive Manufacturing Optimization	\$M Cost of Goods Sold	1
Demand Signal Repository	\$M Revenue Under Mgt	14
In-Memory Consumption-Driven Planning	\$M Revenue Under Mgt	14
In-Memory Performance-Driven Planning	\$M Cost of Goods Sold	14
Procurement		
Option: Sourcing	Application User	1, 46
Option: Sourcing Optimization	Application User	1
Option: iSupplier Portal	Application User	1, 46
Option: Procurement Contracts	Application User	1
Option: Services Procurement	Application User	1,46
Option: Advanced Pricing	Application User	1
Business Approvals Connector for Managers	Application User	14
Supplier Lifecycle Management	Record	46,65
Manufacturing		
Option: Manufacturing Execution System for Discrete Manufacturing	Application User	1,16
Option: Mobile Supply Chain Applications	Application User	1,16
Option: Flow Manufacturing	Application User	1,16
Option: Flow Sequencing	Application User	1,14,16
Option: Manufacturing Execution System for Process Manufacturing	Application User	1,20
Option: Mobile Supply Chain Applications	Application User	1,20

Oracle E-Business Suite Applications Supplemental Pricing Notes v012314

	Metric	Notes
Asset Lifecycle Management		
Option: Self-Service Work Requests	Application User	1,25
Service		
Option: Spares Management	Field Technician	1
Option: Advanced Scheduler	Field Technician	1
Option: Mobile Field Service	Field Technician	1
iSupport	Processor	4
Projects		
Option: Project Billing	Application User	17
Project Portfolio Analysis	Application User	14
Product Lifecycle Management		
Agile Product Lifecycle Management		
Agile Product Collaboration	Application User	71
Agile Product Governance and Compliance	Application User	71
Agile Product Cost Management	Application User	46,71
Agile Product Quality Management	Application User	71
Agile Product Portfolio Management	Application User	71
AutoVue 2D Professional for Agile	Application User	48,55,66, 71
AutoVue Electro-Mechanical Professional for Agile	Application User	48,55,66,71
Agile Food and Drug Administration Validation Pack	Customer	54,71
Agile Engineering Data Management	Application User	14,71
Option: Agile Product Workbench	Application User	1,14,71
Option: Agile Distributed File Management	Processor	14,71
Product Lifecycle Analytics	Application User	71
Agile Customer Needs Management	Application User	71
Agile Material and Equipment Management for Pharmaceuticals	Application User	14,71
Agile Recipe Management for Pharmaceuticals	Application User	14,71
Agile Product Lifecycle Management Integration Products		
Agile ERP Adapter	Processor	50,71
Agile Product Lifecycle Management for Process		
Agile Product Data Management for Process	Application User	60
Option: Agile Formulation and Compliance for Process	Application User	1,60
Option: Agile Product Supplier Collaboration for Process	Application User	1,46,60
Option: Agile Product Quality Management for Process	Application User	1,46
Agile New Product Development and Introduction for Process	Application User	60
Enterprise Visualization		
AutoVue Office	Application User	48,61,66
AutoVue 2D Professional	Application User	48,61,66
AutoVue 3D Professional Advanced	Application User	48,61,66
AutoVue EDA Professional	Application User	48,61,66
AutoVue Electro-Mechanical Professional	Application User	48,61,66
AutoVue VueLink Integration	Computer	49, 68
AutoVue Mobile	Computer	14
AutoVue Office Document Print Service	Computer	14,67,70
AutoVue 2D Document Print Service	Computer	14,67,70
AutoVue 3D Document Print Service	Computer	14,67,70
Financial		
Option: Environmental Accounting and Reporting	Application User	1
Financials Accounting Hub	Employee	14
Business Approvals Connector for Managers	Application User	14
Human Resources		
Workforce Scheduling	Employee	14
Business Approvals Connector for Managers	Application User	14

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	Metric	Notes
Master Data Management		
Master Data Management - Customer Hub for B2B		
Customer Hub B2B	Record	43,45
Customer Hub Add-On B2B for Siebel CRM and Oracle E-Business Suite	Record	43,45
Customer Hub & Customer Hub Add-on Options (Customer Hub options are available only with Siebel Universal Customer Master (UCM))		
Option: Activity Hub B2B	Record	44,45
Option: Field Service Hub B2B	Record	44,45
Option: Hyperion Data Relationship Management for Customer Hub	Record	14,44,45
Option: Marketing Hub B2B	Record	44,45
Option: Sales Hub B2B	Record	44,45
Option: Service Hub B2B	Record	44,45
Master Data Management - Customer Hub for B2C		
Customer Hub B2C	Record	43,45
Customer Hub Add-On B2C for Siebel CRM and Oracle E-Business Suite	Record	43,45
Customer Hub & Customer Hub Add-on Options (Customer Hub options are available only with Siebel Universal Customer Master (UCM))		
Option: Activity Hub B2C	Record	44,45
Option: Field Service Hub B2C	Record	44,45
Option: Marketing Hub B2C	Record	44,45
Option: Privacy Management Policy Hub B2C	Record	44,45
Option: Sales Hub B2C	Record	44,45
Option: Service Hub B2C	Record	44,45
Master Data Management - Site Hub		
Site Hub	Record	14
Site Hub Add-On for Oracle E-Business Suite	Record	14
Master Data Management - Supplier Hub		
Supplier Hub	Record	65
Supplier Hub Add-On for Oracle E-Business Suite	Record	65
Master Data Management - Vertical Customer Hub		
Automotive Captive Finance Customer Hub	Record	44, 45
Case Hub	Record	44, 45
Higher Education Constituent Hub	Record	14, 44, 45
Life Sciences Customer Hub	Record	44, 45
Master Data Management - Product Information Management		
Product Hub	Record	43, 45
Product Hub Add-on	Record	43, 45
Master Data Management - Administrative & Development		
Customer Hub Data Steward	Application User	43, 45
Higher Education Constituent Hub Data Steward	Application User	14
Product Hub Data Steward	Application User	43, 45
Site Hub Data Steward	Application User	14
Master Data Management - Data Quality		
Data Quality Matching Server	Processor	14
Data Quality Address Validation Server	Processor	14
Data Quality Profiling Server	Processor	14
Data Quality Parsing and Standardization Server	Processor	14
Application Integration Architecture		
Application Integration Architecture Foundation Pack Extension for Communications	Processor	14
Application Integration Architecture Foundation Pack Extension for Insurance	Processor	14
Application Integration Architecture Foundation Pack Extension for Utilities	Processor	14
Agile Product Lifecycle Management Integration Pack for Oracle E-Business Suite: Design to Release	Processor	14
Agile Product Lifecycle Management Integration Pack for SAP: Design to Release	Processor	14

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	Metric	Notes
Communications Billing and Revenue Management Integration Pack for Oracle E-Business Suite: Revenue Accounting	Processor	14
Demantra Integration Pack for Siebel CRM Consumer Goods	Processor	14
Demantra Sales and Operations Planning Integration to Hyperion Planning	Processor	14
Design to Release Integration Pack for Agile Product Lifecycle Management and JD Edwards EnterpriseOne	Processor	14
Driver Management Integration Pack for Oracle Transportation Management and Oracle E-Business Suite	Processor	14
Enterprise Taxation Management Integration for Oracle E-Business Suite Financials General Ledger and Accounts Payable	Processor	14
Financial Management Integration Pack for Oracle Transportation Management and Oracle E-Business Suite	Processor	14
Financial Operations Control Integration Pack for Oracle Retail Merchandise Operations Management and E-Business Suite Financials	Processor	14
Lead to Order Integration Pack for Oracle CRM On Demand and Oracle E-Business Suite	Processor	14
Order Management Integration Pack for Oracle Transportation Management, Oracle E-Business Suite and Siebel CRM	Processor	14
Customer Master Data Management Integration Base Pack	Processor	14
Customer Master Data Management Integration Option	Processor	14, 62
Product Master Data Management Integration Base Pack	Processor	14
Product Master Data Management Integration Option	Processor	14, 63
Siebel Call Center Integration Pack for Oracle Adverse Event Reporting System	Processor	14
Siebel CRM Integration to Oracle Incentive Compensation	Processor	14
Siebel CRM Integration Pack for Oracle Order Management	Processor	14
Utilities Customer Care and Billing Integration to Oracle E-Business Suite Financials for General Ledger and Accounts Payable	Processor	14
Value Chain Planning Integration to JD Edwards EnterpriseOne	Processor	14
Interaction Center Technology		
Advanced Outbound Telephony	Workstation	14
Other		
Exchange Marketplace	\$M Annual Transaction Volume	14
User Productivity Kit		
User Productivity Kit Standard	UPK Developer	22
User Productivity Kit Standard	Application User	22
User Productivity Kit Standard	Employee	22
User Productivity Kit Professional	UPK Developer	22
User Productivity Kit Professional	Application User	22
User Productivity Kit Professional	Employee	22
User Productivity Kit Content Materials for Marketing and Sales		
Oracle E-Business Suite UPK for Oracle Incentive Compensation (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Channel Revenue Management		
Oracle E-Business Suite UPK for Oracle Price Protection (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Order Management		
Oracle E-Business Suite UPK for Order Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Shipping Execution (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Logistics		
Oracle E-Business Suite UPK for Inventory (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22

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	Metric	Notes
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Warehouse Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Supply Chain Planning		
Oracle E-Business Suite UPK for Oracle Advanced Supply Chain Planning		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Rapid Planning		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Inventory Optimization		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Global Order Promising		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Collaborative Planning		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Service Parts Planning		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Strategic Network Optimization		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Demantra UPK for Demantra Demand Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Demantra UPK Fundamentals for Demantra Demand Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Demantra UPK for Demantra Real-Time Sales and Operations Planning		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Demantra UPK for Demantra Predictive Trade Planning		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Demantra UPK for Demantra Deduction and Settlement Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Procurement		
Oracle E-Business Suite UPK Purchasing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Sourcing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK iSupplier Portal		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK iProcurement		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Manufacturing		
Oracle E-Business Suite UPK for Work in Process		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Discrete Manufacturing Bills of Material		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Discrete Manufacturing, Engineering		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Discrete Manufacturing Quality		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22

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	Metric	Notes
Oracle E-Business Suite UPK for Manufacturing Execution System for Discrete Manufacturing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Flow Manufacturing, Electronic Kanban		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Process Manufacturing: Product Development		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Process Manufacturing Process Costing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Process Manufacturing: Process Execution		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Process Manufacturing, Process Quality		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Process Manufacturing: System Administration		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Manufacturing Execution System for Process Execution		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Process Manufacturing Regulatory Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Manufacturing Operations Center		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
		22
User Productivity Kit Content Materials for Asset Lifecycle Management		
Oracle E-Business Suite UPK for Oracle Enterprise Asset Management		22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Service		
Oracle E-Business Suite UPK for Oracle Service Contracts		22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Field Service		22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Depot Repair		22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Projects		
Oracle E-Business Suite UPK for Project Costing		22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Project Resource Management		22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Project Management		22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Project Foundation		22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Content Materials for Product Lifecycle Management		
Agile UPK for Agile Administrator		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK for Agile Product Collaboration		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK for Agile Product Governance and Compliance		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22

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	Metric	Notes
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK for Agile Product Cost Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK for Agile Product Quality Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK for Agile Product Portfolio Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK Fundamentals for Product Lifecycle Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK for Agile Customer Needs Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK for Agile Material and Equipment Management for Pharmaceuticals		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Agile UPK for Agile Recipe Management for Pharmaceuticals		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Financials		
Oracle E-Business Suite UPK Payables		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK Receivables		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK General Ledger		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK Financials Centralized Solution Set		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK Assets		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Advanced Collections		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK Internet Expenses		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle U.S. Federal Financials		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Human Resources		
Oracle E-Business Suite UPK Human Resources		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK Self-Service Human Resources		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Compensation Workbench		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for iRecruitment		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK Payroll		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK Performance Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK Time and Labor		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22

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	Metric	Notes
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Learning Management		
Oracle E-Business Suite UPK for Learning Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Master Data Management		
Oracle E-Business Suite UPK for Oracle Site Hub (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Product Hub (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Public Sector/University		
Oracle E-Business Suite UPK for Oracle Contract Lifecycle Management for Public Sector for Oracle Purchasing (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Contract Lifecycle Management for Public Sector for Oracle Sourcing (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Contract Lifecycle Management for Public Sector for Oracle iSupplier Portal (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Contract Lifecycle Management for Public Sector for Oracle Procurement Contracts (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Contract Lifecycle Management for Public Sector for Oracle iProcurement (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Financial Services		
Oracle E-Business Suite UPK for Oracle Lease and Finance Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for High Tech		
Oracle E-Business Suite UPK for Shop Floor Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Aerospace, Defense and Transportation		
Oracle E-Business Suite UPK for Oracle Complex Maintenance, Repair, and Overhaul (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Other User Productivity Kit Content Materials		
Oracle E-Business Suite UPK Fundamentals for Oracle E-Business Suite (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for Oracle Install Base (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Oracle E-Business Suite UPK for E-Business Suite Tools and Technologies (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Vertical Applications		

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	Metric	Notes
Communications/Utilities		
CRL Financial Management	Module	8
	Per Subscriber Thereafter	8
Telco Provisioning	Module	8,14
	Per Subscriber Thereafter	8,14
Number Portability	Module	8,14
	Ported Number/Year	8,14
Telecommunications Billing Integrator	Employee	14
Public Sector/University		
Loans	Application User	14
Contract Lifecycle Management for Public Sector	Application User	14, 69
Financial Services		
Financial Services Funds Transfer Pricing	\$B in Total Assets	14
Financial Services Asset Liability Management	\$B in Total Assets	14
Financial Services Profitability Management	\$B in Total Assets	14
Financial Services Pricing Management, Transfer Pricing Component	\$B in Total Assets	14
Lease and Finance Management	\$M Managed Assets	13
High Tech		
Supply Chain Trading Connector for RosettaNet	PIP	14
Aerospace, Defense and Transportation		
Complex Maintenance, Repair & Overhaul	Application User	14

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Oracle E-Business Suite Applications Notes

- ¹ An option must be licensed at the same level (or greater than) as its parent. Example: number of Flow Manufacturing users = number of Discrete Manufacturing users. If the parent has multiple metrics, the option must be licensed at the same level as its parent for each metric. Example: number of Advanced Pricing users = number of Order Management users AND number of Advanced Pricing Electronic Order Lines = number of Order Management Electronic Order Lines.
- ³ Order Management is licensed based upon the number of application users AND the number of electronic order lines entered from any source other than those entered by licensed Order Management Users. Order Management User licenses are required for all individuals who are using Order Management. In addition, any order that is entered electronically into Order Management must be licensed using the Electronic Order Line metric. This applies to order lines originating in iStore, Quoting, EDI/XML transactions, legacy applications or any other source. (Order lines entered manually by the licensed Order Management users are covered under the Order Management User license).
- ⁴ For the purpose of licensing this program (except Healthcare Transaction Base), only the processors on which iAS Standard Edition and/or Enterprise Edition and this program are running are counted for the purpose of determining the number of processors required to license this program.
- For the purpose of licensing Healthcare Transaction Base, only the processors on which iAS Enterprise Edition and this program are installed and/or running are counted for the purpose of determining the number of processors required to license this program.
- ⁶ Configurator can be licensed by Application User OR by Processor. If licensing by Application User, then the actual users accessing Configurator must be counted. If the user population accessing Configurator is uncountable, then the Processor metric must be used.
- ⁸ Customers must pay for both the module and the subscriber/workstation fee.
- ¹² Customers who licensed Oracle applications under the 'E-Business Suite' bundle can continue to purchase licenses per pages 5 and 6 of the March 7, 2003 price list. This rule also applies to customers who do not have a price hold. Please note that as of January 9, 2009, the product CADView-3D is no longer included in any additional 'E-Business Suite' licenses sold.
- Customers who licensed Oracle applications under the 'E-Business Suite 2003' bundle can continue to purchase Professional User and Professional User – (external usage) licenses, per page 8 of the December 1, 2006 price list. This rule also applies to customers who do not have a price hold. Please note that as of January 9, 2009, the product CADView-3D is no longer included in any additional 'E-Business Suite' licenses sold.
- ¹³ If Managed Assets are \$10 billion or less, the price per \$M in Managed Assets is 2,300. If Managed Assets are greater than \$10 billion, the price per \$M in Managed Assets for the first 10,000 licenses is 2,300, and the price per \$M in Managed Assets for each additional license is 1,150.
- ¹⁴ This product is on Controlled Availability (CA) and requires approval. For more information on CA process and approval, please refer to the Controlled Availability section on eSource at <http://esource.oraclecorp.com> > Controlled Availability Sales Questions. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.
- ¹⁵ Where Inventory Management is licensed across multiple plants or warehouses, the Inventory Management options (Mobile Supply Chain Applications, Warehouse Management) can be licensed individually for each plant/warehouse. Within each plant/warehouse using the Inventory option, the option must be licensed at the same user count as Inventory Management or the actual user count, whichever is greater.
- ¹⁶ Where Discrete Manufacturing is licensed across multiple plants, the Discrete Manufacturing options (Mobile Supply Chain Applications, etc) can be licensed individually for each plant. Within each plant using the Manufacturing option, the option must be licensed at the same user count as Discrete Manufacturing or the actual user count, whichever is greater.
- ¹⁷ Where Projects is licensed across many lines of business, the Project Billing option to Project Costing can be licensed individually for each line of business using the Oracle Projects solution. Within each line of business using the Project Billing option, the option must be licensed at the same user count as Project Costing.
- ²⁰ Where Process Manufacturing is licensed across multiple plants, the Process Manufacturing options (Mobile Supply Chain Applications, etc) can be licensed individually for each plant. Within each plant using the Manufacturing option, the option must be licensed at the same user count as Process Manufacturing or the actual user count, whichever is greater.
- ²¹ Sales Contracts Application User licenses are required for all contract administrators, legal staff, order administrators and sales personnel who manage the contracts library or author contracts.

²² When licensing Oracle User Productivity Kit Standard, you must license a minimum of one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard;

When licensing Oracle User Productivity Kit Professional, you must license a minimum of one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional;

When licensing any UPK Content Modules, you must license a minimum of: one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; OR, one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional.

²⁵ If you license the Self Service Work Request option in conjunction with EAM, you are required to maintain licenses for the equivalent number of EAM Users licensed and you are granted unlimited access to initiate work requests, view work request status and view scheduled completion date for your entire employee population.

⁴³ Licensing Customer Hub provides rights to use Oracle Customer Data Hub (CDH) and/or Siebel Universal Customer Master (UCM). If running both, licenses for the sum total of item records managed across the two products must be purchased. Licensing Product Hub provides rights to use Oracle Product Information Master (PIM) Data Hub and/or Siebel Universal Product Master (UPM). Customers using both Oracle and Siebel technology must be sure to purchase licenses to cover the sum total of item records managed across the two product sets.

⁴⁴ Only available with Siebel Universal Customer Master (UCM) product.

⁴⁵ For Master Data Management (MDM) products, the Oracle EBS applications products include the standard, restricted use of underlying Oracle technology. The Siebel applications products do not include a restricted use of underlying Oracle technology.

⁴⁶ For Oracle Sourcing, Oracle iSupplier Portal, Oracle Services Procurement, Oracle Supplier Lifecycle Management, Agile Product Cost Management, Agile Product Supplier Collaboration for Process, and Agile Product Quality Management for Process programs, use by your external suppliers is included with your licenses.

⁴⁸ AutoVue includes a Desktop deployment, and a Client/Server deployment. For the Application User licensing metric (in the Component licensing model) or the Custom Suite User licensing metric (in the Custom Applications Suite licensing model), a single license cannot be split or shared between two users (e.g., one user using the AutoVue Desktop Deployment and a different user using the Client/Server deployment would require two licenses).

⁴⁹ Integrations are available for: SharePoint, Documentum, and Oracle Universal Content Management. Each integration is licensed separately.

⁵⁰ Agile PLM ERP Adapters are available for: Oracle E-Business Suite, JD Edwards Enterprise One and SAP R/3 4.0b and higher. Agile Engineering Data Management ERP Adapter is available for: SAP R3/4.7 and higher. SAP Adapter is Priced in Advanced of Availability. Each Adapter is licensed separately.

⁵⁴ Agile Food and Drug Administration Validation Protocol Packs are available for: Agile Product Collaboration, Agile Product Governance and Compliance, Agile Product Cost Management, Agile Product Quality Management, Agile Product Portfolio Management, Agile Material and Equipment Management for Pharmaceuticals, and Agile Recipe Management for Pharmaceuticals. Each Pack is licensed separately.

⁵⁵ This AutoVue product is validated for use with Agile Product Lifecycle Management.

⁶⁰ This program may not be licensed by Oracle or an authorized Oracle reseller to (i) Burger King, Jack-in-the-Box, CKE Restaurants Inc., Wendy's, Yum Brands, or any of their respective successors or assigns; this restriction is in place to honor a contractual commitment made prior to Oracle's acquisition of the program(s).

⁶¹ These programs are designated Oracle 1-Click Ordering Desktop Programs.

⁶² Oracle Customer Master Data Management Integration Options are available for: Siebel CRM; Oracle E-Business Suite; and, Oracle Communications Billing and Revenue Management. Each Option must be licensed separately.

⁶³ Oracle Product Master Data Management Integration Options are available for: Siebel CRM; Oracle E-Business Suite; Oracle Communications Billing and Revenue Management, and Oracle Communications Design Studio. Each Option must be licensed separately.

⁶⁵ When Oracle Supplier Lifecycle Management and Oracle Supplier Hub application products are deployed on the same instance, the number of Supplier records considered for each product licensing should be same for both applications.

Oracle E-Business Suite Applications Supplemental Pricing Notes v012314

Oracle E-Business Suite Applications Notes

- ⁶⁶ For the purposes of the following programs: Oracle AutoVue Office, Oracle AutoVue 2D Professional, Oracle AutoVue 3D Professional Advanced, Oracle AutoVue EDA Professional, Oracle AutoVue Electro-Mechanical Professional, Oracle AutoVue 2D Professional for Agile and Oracle AutoVue Electro-Mechanical Professional for Agile, a user external to your company who participates in and attends an AutoVue Real-Time Collaboration session or AutoVue web conference, but neither initiates nor hosts it, is not required to be separately licensed. All users within your company must be licensed.
- ⁶⁷ AutoVue Office Document Print Service, AutoVue 2D Document Print Service and AutoVue 3D Document Print Service are limited use products entitling the customer to use only the Integration Software Development Kit (iSDK) and AutoVue Print Services Application Programming Interfaces (APIs). All other AutoVue features, functionality and programming interfaces are excluded from the license.
- ⁶⁸ For Oracle AutoVue Vuelink Integration programs, installation and use of the Document Management System Customization (DMS Customization) and Document Management System Extension (DMS Extension) should not be counted when determining the total number of computer(s) to license.
- ⁶⁹ Purchasing must be licensed at the same user count as Contract Lifecycle Management for Public Sector or the actual user count, whichever is greater.
- ⁷⁰ For Oracle AutoVue Office Document Print Service, Oracle AutoVue 2D Document Print Service, and Oracle AutoVue 3D Document Print Service, only computer(s) where AutoVue Web Services are installed should be counted when determining the total number of computer(s) to license. Installation and use of the AutoVue Server should not be counted when determining the total number of computer(s) to license.
- ⁷¹ This program is eligible to be licensed with Oracle WebLogic Suite for Oracle Applications.

PeopleSoft Component Supplemental Pricing Notes v021414

	Metric	Notes
Customer Relationship Management		
HelpDesk	Employee	2
HelpDesk for Employee Self Service	Employee	2
HelpDesk for Human Resources	Employee	2
Workforce Communications	Employee	2
Workforce Communications for HelpDesk	Employee	2
Supply Chain Management		
eSupplier Connection	Application User	46
Inventory	Application User	47
Option: Mobile Inventory Management	Application User	7, 15
Strategic Sourcing	Application User	46
Supplier Contract Management	Application User	16
Asset Lifecycle Management		
Option: Self-Service Work Requests	Application User	3
ESA		
Expenses	Expense Report	2, 48
Pay/Bill Management	Application User	14
Financials		
Treasury	Application User	2
Human Capital Management (HCM)		
Absence Management	Employee	2
Benefits Administration	Employee	2
Directory Interface	Employee	2
eCompensation	Employee	2
ePerformance	Employee	2
HCM Portal Pack	Employee	2
Human Resources	Employee	2
In-Memory Labor Rules and Monitoring	Employee	2, 14
Payroll	Employee	2, 14a
Payroll Interface	Employee	2
Pension Administration	Employee	2
Recruiting Solutions	Employee	2
Stock Administration	Employee	2
Succession Planning	Employee	2
Time and Labor	Employee	2, 49
Oracle Workforce Scheduling	Employee	2, 14
Enterprise Learning Management		
Enterprise Learning Management	Employee	2
Campus Solutions		
Gradebook	FTE Student	2, 14b
Campus Self Service	FTE Student	2, 14b
Contributor Relations	Application User	14b
Student Administration	FTE Student	2, 14b
Student Administration Integration Pack	FTE Student	2, 14b
CRM Analytics (EPM)		
CRM Warehouse	Application User	14
Supply Chain Analytics (EPM)		
Supply Chain Warehouse	Application User	14
Workforce Analytics (EPM)		
HCM Warehouse	Application User	14
Financial/ESA Analytics		
Financials Warehouse	Application User	14
Financials Warehouse for Public Sector and Higher Education	Application User	14
Campus Solutions Analytics		

PeopleSoft Component Supplemental Pricing Notes v021414

	Metric	Notes
Campus Solutions Warehouse	Application User	14
PeopleTools		
PeopleTools-Enterprise Development	Application User	2
PeopleTools-Enterprise Development Starter Kit	Application User	2, 3
Fusion Intelligence		
Fusion Campus Solutions Intelligence for PeopleSoft Enterprise	Application User	14
Governance, Risk, and Compliance		
Advanced Controls for PeopleSoft	Monitored User	2, 14
Oracle Enterprise Governance, Risk, and Compliance Manager	Application User	14
Option: Oracle Financial Governance	Application User	14
Application Access Controls Governor	Monitored User	2
Option: Application Access Controls for PeopleSoft Enterprise	Monitored User	2, 7
Configuration Controls Governor	Monitored User	2, 14
Option: Configuration Controls for PeopleSoft Enterprise	Monitored User	2, 7, 14
Enterprise Transaction Controls Governor	Monitored User	2
Option: Oracle Enterprise Transaction Controls Governor	Monitored User	2, 7
Connector to PeopleSoft Enterprise		
Option: Procure to Pay Transaction Controls for PeopleSoft Enterprise	Monitored User	2, 7
Application Testing		
Functional Testing Suite for Oracle Applications	Named User Plus	2, 3
Load Testing Suite for Oracle Applications	Named User Plus	2, 3
Application Integration Architecture		
Application Integration Architecture Foundation Pack	Processor	2, 3
Application Integration Architecture Foundation Pack	Named User Plus	2, 3
Application Integration Architecture Foundation Pack Extension for Communications	Processor	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Communications	Named User Plus	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Insurance	Processor	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Insurance	Named User Plus	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Utilities	Processor	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Utilities	Named User Plus	2, 3, 14
Oracle Enterprise Taxation Management Integration to PeopleSoft Enterprise	Processor	2, 3, 14
Oracle Retail Merchandising Integration Pack for PeopleSoft	Processor	2, 3, 14
Enterprise Financials: Financial Operations Control		
Oracle Utilities Customer Care and Billing Integration to PeopleSoft	Processor	2, 3
Enterprise Financials for General Ledger and Accounts Payable		
UPK		
Oracle User Productivity Kit Standard	UPK Developer	22
Oracle User Productivity Kit Standard	Application User	22
Oracle User Productivity Kit Standard	Employee	22
Oracle User Productivity Kit Professional	UPK Developer	22
Oracle User Productivity Kit Professional	Application User	22
Oracle User Productivity Kit Professional	Employee	22
User Productivity Kit Content Materials for CRM		
PeopleSoft Enterprise UPK HelpDesk for Human Resources (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK for Online Marketing (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK for Support (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Human Capital Management		
PeopleSoft Enterprise UPK Absence Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22

PeopleSoft Component Supplemental Pricing Notes v021414

	Metric	Notes
PeopleSoft Enterprise UPK Benefits Administration (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft UPK for Candidate Gateway (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK eBenefits (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK eCompensation Manager Desktop (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK ePay (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK ePerformance (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK eProfile (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK eProfile Manager Desktop (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft UPK for Global Payroll Core (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Human Resources (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Payroll for North America (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Talent Acquisition Manager (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Time & Labor (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Learning Management		
PeopleSoft Enterprise UPK Enterprise Learning Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Financials/ESA Software		
PeopleSoft Enterprise UPK Asset Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK for Cash Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Contracts (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft UPK for eSettlements (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Expenses (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK General Ledger (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Grants (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Payables (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22

PeopleSoft Component Supplemental Pricing Notes v021414

	Metric	Notes
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Project Costing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Receivables		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for EPM Financials/ESA		
PeopleSoft Enterprise UPK Planning and Budgeting		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Supply Chain Management		
PeopleSoft Enterprise UPK Billing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft UPK for eBill Payment		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK eProcurement		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Inventory		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Order Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Purchasing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK for Strategic Sourcing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft UPK for Supplier Contract Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Portal Solutions		
PeopleSoft UPK for Interaction Hub		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Campus Solutions		
PeopleSoft Enterprise UPK for Contributor Relations		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Student Administration		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for PeopleTools		
PeopleSoft UPK for Test Framework		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Other User Productivity Kit Content Materials		
PeopleSoft Enterprise UPK Fundamentals for Campus Solutions		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Fundamentals for Financials and Supply Chain Management Software Modules		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
PeopleSoft Enterprise UPK Fundamentals for HCM Software Modules		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22

PeopleSoft Component Supplemental Pricing Notes v021414

	Metric	Notes
(over 4K employees and/or over \$1 billion in revenue) PeopleSoft Enterprise UPK Reporting Tools for Campus Solutions	UPK Module	22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or \$1 billion in revenue) PeopleSoft Enterprise UPK Reporting Tools for Financials/ESA and Supply Chain Management Software Modules	UPK Module	22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue) PeopleSoft Enterprise UPK Reporting Tools for HCM Software Modules	UPK Module	22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue) PeopleSoft Enterprise UPK Reporting Tools for PeopleTools	UPK Module	22
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22

PeopleSoft Component Supplemental Pricing Notes v021414

PeopleSoft Component Notes

- ² This product is not available to be sold under Custom Suite Pricing.
- ³ This product is not available to be sold under Enterprise Pricing.
- ⁷ An option must be licensed at the same level (or greater than) as its parent. Example: number of Application Access Controls for PeopleSoft Enterprise users = number of Application Access Controls Governor users. If the parent has multiple metrics, the option must be licensed at the same level as its parent for each metric.
- ¹⁴ This product is on Controlled Availability and requires approval. Please refer to the Controlled Availability Questions on <http://esource.oraclecorp.com> for more information. If you are an Oracle Partner, please contact your Oracle Representative for additional information.
- ^{14a} The components of Global Payroll for Argentina, Global Payroll for Germany, and Global Payroll for Japan of the Payroll product are on Controlled Availability and requires approval. Please refer to the Controlled Availability Questions on <http://esource.oraclecorp.com> for more information. If you are an Oracle Partner, please contact your Oracle Representative for additional information.
- ^{14b} This product is on Controlled Availability in all countries except USA, Canada, Mexico, Australia, New Zealand, United Kingdom, The Netherlands, Belgium, Singapore, Taiwan and Hong Kong. Please refer to the Controlled Availability Questions on <http://esource.oraclecorp.com> for more information. If you are an Oracle Partner, please contact your Oracle Representative for additional information.
- ¹⁵ Where Inventory is licensed across multiple plants or warehouses, the Inventory Option (Mobile Inventory Management) can be licensed individually for each Business Unit/plant/warehouse. Within each Business Unit/plant/warehouse using the Inventory Option, the Option must be licensed equal to or greater than the same user count as Inventory or the actual user count, whichever is greater.
- ¹⁶ If the customer is intending to use release 8.9 of PeopleSoft Supplier Contract Management, please contact Charlotte Jorgenson (charlotte.jorgenson@oracle.com) in the PeopleSoft Product Management team to discuss the Microsoft Word integration with this product. If customer is intending to use release 9.0 or later, there is no need to contact PeopleSoft Product Management.
- ²² When licensing Oracle User Productivity Kit Standard, you must license a minimum of one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; When licensing Oracle User Productivity Kit Professional, you must license a minimum of one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional; When licensing any UPK Content Modules, you must license a minimum of: one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; OR, one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional.
- ⁴⁶ For PeopleSoft eSupplier Connection and PeopleSoft Strategic Sourcing, use by your external suppliers is included with your application user licenses.
- ⁴⁷ Due to the deprecation of PeopleTools Mobile functionality, the Mobile PAR Count feature within Inventory is no longer available to new customers.
- ⁴⁸ Due to the deprecation of PeopleTools Mobile functionality, the Mobile Time and Expense product within Expenses is no longer available to new customers.
- ⁴⁹ Due to the deprecation of PeopleTools Mobile functionality, the Mobile Time and Labor component within PeopleSoft Time and Labor is no longer available to new customers.

JD Edwards Component Supplemental Pricing Notes v021414

	Metric	Notes
EnterpriseOne		
Customer Relationship Management		
Branch Scripting	Application User	14
Solution Advisor	Application User	14
Manufacturing and Supply Chain Management		
Blend Management	Application User	14
Demand Scheduling Execution	Application User	14
Plant Manager Dashboard	Application User	14
Product Variants	Application User	14
RFID Processor	Application User	14
Supply Chain Planning		
Oracle Advanced Planning Command Center	\$M Cost of Goods Sold	2
Oracle Advanced Supply Chain Planning	\$M Cost of Goods Sold	2
Option: Oracle Constraint Based Optimization	\$M Cost of Goods Sold	2, 7
Oracle Collaborative Planning	\$M Cost of Goods Sold	2
Oracle Global Order Promising	\$M Cost of Goods Sold	2
Oracle Inventory Optimization	\$M Cost of Goods Sold	2
Oracle Production Scheduling	\$M Cost of Goods Sold	2
Option: Oracle Repetitive Manufacturing Optimization	\$M Cost of Goods Sold	2, 7
Oracle Rapid Planning	\$M Cost of Goods Sold	2
Oracle Service Parts Planning	\$M Cost of Goods Sold	2, 14
Oracle Strategic Network Optimization	\$M Cost of Goods Sold	2
Demantra Demand Management	\$M Cost of Goods Sold	2
Option: Demantra Advanced Forecasting and Demand Modeling	\$M Cost of Goods Sold	2, 7
Option: Demantra Real-time Sales and Operations Planning	\$M Cost of Goods Sold	2, 7
Demantra Predictive Trade Planning	\$M Cost of Goods Sold	2
Option: Demantra Deduction and Settlement Management	\$M Cost of Goods Sold	2, 7
Option: Demantra Trade Promotion Optimization	\$M Cost of Goods Sold	2, 7
Demand Signal Repository	\$M Revenue Under Mgmt	2, 14
In-Memory Consumption Driven Planning	\$M Revenue Under Mgmt	2, 14
In-Memory Performance Driven Planning	\$M Cost of Goods Sold	2, 14
Supply Management		
Operational Sourcing	Application User	46
Supplier Self Service	Application User	46
Financial Management Suite		
Expense Management	Expense Report	2
Financial Management and Compliance Console	Application User	14
Option: Environmental Accounting and Reporting	Application User	7
Health and Safety		
Health and Safety Incident Management	Employee	2
Human Capital Management		
eRecruit	Employee	2, 14
Human Resources	Employee	2
Payroll	Employee	2
Self-Service Human Resources	Employee	2
Time and Labor	Employee	2
Tools & Technology		
Technology Foundation	Application User	2, 14a
Technology Foundation Upgrade	Application User	2, 14a
Oracle Technology Foundation for JD Edwards EnterpriseOne	Application User	2, 3
Oracle Technology Foundation for JD Edwards EnterpriseOne Upgrade	Application User	2, 3
Application Testing		
Functional Testing Suite for Oracle Applications	Named User Plus	2, 3
Load Testing Suite for Oracle Applications	Named User Plus	2, 3

JD Edwards Component Supplemental Pricing Notes v021414

	Metric	Notes
Application Integration Architecture		
Application Integration Architecture Foundation Pack	Processor	2, 3
Application Integration Architecture Foundation Pack	Named User Plus	2, 3
Application Integration Architecture Foundation Pack Extension for Communications	Processor	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Communications	Named User Plus	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Insurance	Processor	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Insurance	Named User Plus	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Utilities	Processor	2, 3, 14
Application Integration Architecture Foundation Pack Extension for Utilities	Named User Plus	2, 3, 14
Oracle Demantra Sales and Operations Planning Integration to Hyperion Planning	Processor	2, 3, 14
Oracle Design to Release Integration Pack for Agile Product Lifecycle Management	Processor	2, 3, 14
Oracle Project Portfolio Management Integration Pack for Primavera P6 and JD	Processor	2, 3, 14
Oracle Utilities Customer Care and Billing Integration to JD Edwards Financials for	Processor	2, 3, 14
UPK		
Oracle User Productivity Kit Standard	UPK Developer	22
Oracle User Productivity Kit Standard	Application User	22
Oracle User Productivity Kit Standard	Employee	22
Oracle User Productivity Kit Professional	UPK Developer	22
Oracle User Productivity Kit Professional	Application User	22
Oracle User Productivity Kit Professional	Employee	22
User Productivity Kit Content Materials for Manufacturing and Supply Chain Management		
JD Edwards EnterpriseOne UPK for Blend Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Configurator (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Grower Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Grower Pricing and Payments (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Manufacturing Management Discrete Shop (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Manufacturing Management Engineer to Order (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Manufacturing Management, Process Manufacturing (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Requirements Planning (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Financial Management		
JD Edwards EnterpriseOne UPK Accounts Payable (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK Accounts Receivable (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Fixed Assets Accounting (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK General Ledger (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Supply Chain Management		
JD Edwards EnterpriseOne UPK for Advanced Pricing (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK Inventory Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22

JD Edwards Component Supplemental Pricing Notes v021414

	Metric	Notes
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK Manufacturing - PDM (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Sales Order Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Supplier Relationship Management		
JD Edwards EnterpriseOne UPK Procurement and Subcontract Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Asset Lifecycle Management		
JD Edwards EnterpriseOne UPK for Advanced Real Estate Forecasting (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Capital Asset Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Real Estate Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Project Management		
JD Edwards EnterpriseOne UPK for Homebuilder Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Project Costing (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Human Capital Management		
JD Edwards EnterpriseOne UPK for Human Capital Management Fundamentals (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne User Productivity Kit for Human Resources, Benefits (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards EnterpriseOne UPK for Time and Labor (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
Other User Productivity Kit Content Materials		
JD Edwards EnterpriseOne UPK Fundamentals for EnterpriseOne (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
World Products		
Quality Management	Application User	6
Multi-Site Consolidations	Application User	6
Human Resources Management	Employee	2
Payroll	Employee	2
Purchase Card Management	1K Transactions	2
UPK		
Oracle User Productivity Kit Standard	UPK Developer	22
Oracle User Productivity Kit Standard	Application User	22
Oracle User Productivity Kit Standard	Employee	22
Oracle User Productivity Kit Professional	UPK Developer	22
Oracle User Productivity Kit Professional	Application User	22
Oracle User Productivity Kit Professional	Employee	22
User Productivity Kit Content Materials for Distribution Management		
JD Edwards World UPK for Advanced Pricing (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Inventory Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	22

JD Edwards Component Supplemental Pricing Notes v021414

	Metric	Notes
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Project Costing		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Procurement		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Sales Order Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Manufacturing Management		
JD Edwards World UPK for Base Configurator		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Product Costing and Manufacturing Accounting		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Product Data Management and Shop Floor Control		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Requirements Planning and Production Scheduling		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Financials Management		
JD Edwards World UPK for Accounts Payable		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Accounts Receivable		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for FASTR		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Fixed Assets		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for General Ledger		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Foundation		
JD Edwards World UPK for Address Book		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Common Foundation		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for EDI		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Technical Foundation		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for World Writer		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
User Productivity Kit Content Materials for Human Capital Management		
JD Edwards World UPK for Human Resources Management		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22
JD Edwards World UPK for Payroll		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	22
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	22

JD Edwards Component Supplemental Pricing Notes v021414

JD Edwards Component Notes

- ¹ This product is not available to be sold under Component Pricing.
- ² This product is not available to be sold under Custom Suite Pricing.
- ³ This product is not available to be sold under Enterprise Pricing.
- ⁵ There is no compensation for selling this product.
- ⁶ This product is available for World Releases A8.1, A9.1 and A9.2 only
- ⁷ An option must be licensed at the same level (or greater than) as its parent. Example: number of Demantra Advanced Forecasting and Demand Modeling COGS = number of Demantra Demand Management COGS. If the parent has multiple metrics, the option must be licensed at the same level as its parent for each metric.
- ¹⁴ This product is on Controlled Availability and requires approval. Please refer to the Controlled Availability Questions that are posted on eSource: <http://esource.oraclecorp.com> for more information. If you are an Oracle Partner, please contact your Oracle Representative for additional information.
- ^{14a} This product is on Controlled Availability. Technology Foundation and Technology Foundation Upgrade are no longer available for add on licensing nor available for net new deals. Existing customers licensed for this product needing additional licenses can license Core Tools & Infrastructure and then go to IBM directly for additional licenses for the IBM Technology components. Or an alternate option is to migrate to Oracle Technology Foundation for JD Edwards EnterpriseOne. Customers not currently licensed for either of these products cannot license them going forward. Please refer to the Controlled Availability Questions that are posted on eSource: <http://esource.oraclecorp.com> for more information. If you are an Oracle Partner, please contact your Oracle Representative for additional information.
- ²² When licensing Oracle User Productivity Kit Standard, you must license a minimum of one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard;
When licensing Oracle User Productivity Kit Professional, you must license a minimum of one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional;
When licensing any UPK Content Modules, you must license a minimum of: one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; OR, one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional.
- ⁴⁶ For JD Edwards Supplier Self Service and JD Edwards Operational Sourcing, use by your external suppliers is included with your application user licenses.

Siebel CRM Component Supplemental Pricing Notes v120113

	Metric	Notes
Siebel CRM Tools and Servers		
Siebel Server Extensions for UNIX	Computer	1
Siebel CRM General		
Siebel Server Sync - Microsoft Exchange Server	Application User	2, 55
Siebel Handheld	Application User	6
Siebel Mobile Sales Assistant Data Access	Application User	7
Siebel Signature Capture Tool	Application User	8
Siebel CRM Customer Order Management		
Siebel Configurator Administration Server	Computer	3
Siebel Configurator Runtime	Application User	4
Siebel CRM Service		
Siebel HelpDesk Option	Application User	14
Siebel CRM Field Service		
Siebel Scheduling	Application User	55
Siebel CRM Marketing Automation		
Siebel Campaign Management	Application User	9
Siebel CRM Marketing Server		
Siebel Marketing Server - up to 500,000 records	Computer	10
Siebel Marketing Server - up to 1,000,000 records	Computer	10
Siebel Marketing Server - up to 3,000,000 records	Computer	10
Siebel Marketing Server - up to 5,000,000 records	Computer	10
Siebel Marketing Server - up to 10,000,000 records	Computer	10
Siebel Marketing Server - unlimited records	Computer	10
Siebel CRM Loyalty		
Siebel Loyalty Engine Standard Edition	100K Member Records	11
Siebel Loyalty Engine Multi-Partner Edition	100K Member Records	11
Siebel Loyalty In-Store Engine	Retail Register	11
Siebel Loyalty Manager	Application User	11
Siebel Loyalty Member Services Representative	Application User	11
Siebel CRM Warranty		
Siebel Warranty Validation Server	Computer	12
Siebel CRM Not Requiring a Base - General		
Siebel Customer Content	Application User	13
Siebel HelpDesk	Application User	14
Siebel CRM Not Requiring Base - Marketing and Loyalty		
Siebel Loyalty Service Agent Console	Application User	11
Siebel Segment Manager Stand Alone	Application User	
Siebel CRM Not Requiring Base - Customer Order Management		
Siebel Configurator Administration Server	Computer	3
Siebel CRM Self-Service		
Siebel E-Commerce	Processor	55
Siebel E-Support	Processor	55
Siebel Configurator Runtime for E-Commerce	Processor	55
Siebel Dynamic Pricer for E-Commerce	Processor	55
Siebel CRM Customer Portal		
Siebel Loyalty Customer Portal	Processor	11
Siebel CRM Customer Portal Modules		
Siebel Configurator Runtime for Customers	Processor	15

Siebel CRM Component Supplemental Pricing Notes v120113

	Metric	Notes
Siebel CRM Partner Portal		
Siebel Loyalty Partner Portal	Registered User	11
Siebel CRM Partner Portal Modules		
Siebel Customer Order Management Administrator for Partners	Registered User	17
Siebel Communications, Media and Energy Customer Order Management		
Siebel CME Quote and Order Capture	Application User	18
Siebel Multisite Ordering	100 Sites	55
Siebel Communications, Media and Energy Self-Service		
Siebel Communications E-Commerce	Processor	55
Siebel Communications E-Support	Processor	55
Siebel Communications, Media and Energy Partner Portal Modules		
Siebel CME Quote and Order Capture for Partners	Registered User	19
Siebel Financial Services Customer Order Management		
Siebel Financial Services Customer Order Management for Banking	Application User	21
Siebel Financial Services Insurance Service		
Siebel Insurance Field Service	Application User	20
Siebel Life Sciences Medical Sales		
Siebel Medical Handheld	Application User	6
Siebel Life Sciences Pharma Sales		
Siebel Signature Capture	Application User	6
Siebel Life Sciences Pharma Marketing Server		
Siebel Pharma Marketing Server-First Brand	Customer Record	22
Siebel Pharma Marketing Server-Additional Brand	Customer Record	22
Siebel Pharma Marketing Server-Unlimited Brands – Unlimited records	Processor	22
Siebel Life Sciences not requiring a Base - General		
Siebel Medical Handheld Stand Alone	Application User	6
Siebel Pharma Handheld Stand Alone	Application User	6
Siebel Life Sciences Pharma Handheld Stand Alone Modules		
Siebel Expense Reports for Handheld Stand Alone	Application User	6
Siebel Medical Education for Handheld Stand Alone	Application User	6
Siebel Samples for Handheld Stand Alone	Application User	6
Siebel Signature Capture Stand Alone	Application User	6
Siebel Life Sciences Pharma eService Modules		
Siebel Details	Application User	23
Siebel Life Sciences Partner Portal Modules		
Siebel Details	Application User	23
Siebel Manufacturing Oil, Gas and Chemicals Partner Portal Modules		
Siebel OGC Quote and Order Capture for Partners	Registered User	26
Siebel Distribution Consumer Goods General		
Demantra Predictive Trade Planning	\$Million COGS	24.55
option: Demantra Trade Promotion Optimization	\$Million COGS	24.55
Siebel Distribution Consumer Goods Sales		
Siebel Consumer Goods Sales Handheld	Application User	6
Siebel Distribution Hospitality Sales		
Siebel Group Inventory and Execution	Application User	25

Siebel CRM Component Supplemental Pricing Notes v120113

	Metric	Notes
Siebel Distribution Not Requiring a Base - General		
Siebel Consumer Goods Sales Handheld DSS	Application User	6
Siebel Group Sales and Event Management	Guest Room	25
Siebel Public Sector Self-Service		
Siebel Public Sector E-Support	Processor	55
Oracle Self-Service E-Billing		
Oracle Self-Service E-Billing Consumer Edition	Registered User	27
Siebel Self-Service eBilling		
The below Siebel Self-Service eBilling products are under Controlled Availability (CA) and all quotes require approval. Siebel Self-Service eBilling can be sold only to an existing customer with Self-Service eBilling in production purchasing additional licenses.		
Siebel eBilling Manager for Consumer	Customer Account	55
Siebel ePayment Manager	Customer Account	55
Siebel eStatement Manager	Customer Account	55
Siebel Self-Service Communications		
Siebel Communications Billing Analytics Manager	Telephone Number	55
Siebel Communications Billing Manager for Business	Telephone Number	55
Siebel Communications Billing Manager for Consumer	Telephone Number	55
Policy Automation Deployment		
Oracle Policy Automation for Mobile Devices	Application User	55
Oracle Policy Automation for Oracle CRM On Demand	Application User	28, 29
Policy Automation General		
Oracle Policy Automation Connector for Oracle CRM On Demand	Connected Instance	30
ATG Commerce		
WebCenter Sites for Oracle ATG Web Commerce	500,000 Requests per day	32.33
ATG Web Commerce Search	Processor	31,55
ATG Knowledge Manager		
ATG Web Knowledge Manager	Application User	55
ATG Web Knowledge Manager Self-Service	Processor	55
ATG Business Intelligence		
ATG Web Commerce Business Intelligence	Computer	34, 35, 54, 55
ATG Web Commerce Business Intelligence Administrator	Application User	34, 35, 54, 55
UPK		
Oracle User Productivity Kit Standard (UPK)	UPK Developer	49
Oracle User Productivity Kit Standard (UPK)	Application User	49
Oracle User Productivity Kit Standard (UPK)	Employee	49
Oracle User Productivity Kit Professional	UPK Developer	49
Oracle User Productivity Kit Professional	Application User	49
Oracle User Productivity Kit Professional	Employee	49
UPK Content Materials for CRM		
Siebel UPK Fundamentals for Siebel CRM Base <i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	49
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	49
Siebel UPK for Oracle Customer Hubs <i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	50
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	50
Siebel UPK for Siebel Customer Order Management <i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	49
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	49

Siebel CRM Component Supplemental Pricing Notes v120113

	Metric	Notes
Siebel UPK for Siebel Loyalty		
<i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	49
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	49
Siebel UPK for Siebel Partner Manager		
<i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	49
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	49
Siebel UPK for Siebel Marketing		
<i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	49
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	49
Siebel UPK for Siebel Sales		
<i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	49
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	49
Siebel UPK for Siebel Service		
<i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	49
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	49
Siebel UPK for Siebel Territory Management		
<i>(Up to 4K employees and up to \$1 billion in revenue)</i>	UPK Module	49
<i>(Over 4K employees and/or over \$1 billion in revenue)</i>	UPK Module	49
Foundation Packs		
Application Integration Architecture Foundation Pack Extension for		
<i>per Processor</i>	Processor	55
<i>per Named User Plus</i>	Named User Plus	55
Application Integration Architecture Foundation Pack Extension for		
<i>per Processor</i>	Processor	55
<i>per Named User Plus</i>	Named User Plus	55
Application Integration Architecture Foundation Pack Extension for Utilities		
<i>per Processor</i>	Processor	55
<i>per Named User Plus</i>	Named User Plus	55
Process Integration Packs		
Oracle Lead to Order Integration Pack for Oracle CRM On Demand and Oracle E-	Processor	55
Oracle Order Management Integration Pack for Oracle Transportation	Processor	55
Siebel CRM Integration Pack for Oracle Communications Billing and Revenue	Processor	55
Siebel CRM Integration Pack for Oracle Order Management	Processor	55
Process Integration Packs (Base + Options)		
Customer Master Data Management Integration Base Pack	Processor	55
Customer Master Data Management Integration Option	Processor	55, 50
Product Master Data Management Integration Base Pack	Processor	55
Product Master Data Management Integration Option	Processor	55, 51
Direct Integrations		
Demantra Integration Pack for Siebel CRM Consumer Goods	Processor	55
Siebel Call Center Integration Pack for Oracle Adverse Event Reporting System	Processor	55
Siebel CRM Integration to Oracle Incentive Compensation	Processor	55
Siebel Field Service Integration to Oracle Real-Time Scheduler	Processor	55
Master Data Management - Customer Hub for B2B		
Oracle Customer Hub B2B	Record	52
Oracle Customer Hub Add-on B2B for Siebel CRM and Oracle E-Business Suite	Record	52
Master Data Management - Customer Hub for B2C		
Oracle Customer Hub B2C	Record	52
Oracle Customer Hub Add-on B2C for Siebel CRM and Oracle E-Business Suite	Record	52
Customer Hub & Customer Hub Add-on options		
option: Oracle Activity Hub B2C	Record	53
option: Oracle Field Service Hub B2C	Record	53
option: Oracle Marketing Hub B2C	Record	53

Siebel CRM Component Supplemental Pricing Notes v120113

	Metric	Notes
option: Oracle Privacy Management Policy Hub B2C	Record	53
option: Oracle Sales Hub B2C	Record	53
option: Oracle Service Hub B2C	Record	53
Master Data Management - Vertical Customer Hub		
Oracle Automotive Captive Finance Customer Hub	Record	53
Oracle Case Hub	Record	53
Oracle Higher Education Constituent Hub	Record	53
Oracle Life Sciences Customer Hub	Record	53
Master Data Management - Product Information Management (PIM)		
Oracle Product Hub	Record	52
Oracle Product Hub Add-on	Record	52
Master Data Management - Administrative & Development		
Oracle Customer Hub Data Steward	Application User	52
Oracle Higher Education Constituent Hub Data Steward	Application User	52
Oracle Product Hub Data Steward	Application User	52
Master Data Management - Data Quality		
Oracle Data Quality Address Validation Server	Processor	5
Oracle Data Quality Matching Server	Processor	5
Oracle Data Quality Parsing and Standardization Server	Processor	5
Oracle Data Quality Profiling Server	Processor	5

Siebel CRM Component Supplemental Pricing Notes v120113

Siebel CRM Component Notes

- ¹ Siebel Server Extensions for UNIX is required to operate Siebel on a supported Unix or Linux operating system. See the SR&SP for specifics on supported platforms.
- ² Application Users of Siebel Server Sync-Microsoft Exchange Server must include anyone that accesses the MS Exchange server and benefits from the sync to Siebel whether or not they are a licensed Siebel user.
- ³ Access to the Siebel Configurator runtime user interface requires a user of Siebel Configurator – Runtime for each user accessing the Siebel Configurator functionality.
- ⁴ To utilize the constraints engine, Siebel Configurator - Runtime requires a license of the Siebel Configurator Administration Server.
- ⁵ To cleanse data at the time of data entry in Siebel CRM, customers must purchase Siebel Data Quality.
- ⁶ All Siebel Handheld options are certified on a limited list of MS Windows devices (and only MS Windows). Refer to the current Siebel SRSP for a list of certified devices.
- ⁷ Note: Siebel Mobile Sales Assistant Data Access is available on a limited set of devices. Refer to the current documentation for a list of certified devices.
- ⁸ Note that this module may require some configuration using Siebel Tools.
- ⁹ If the segmentation feature of Campaign Management is desired, a license for the Siebel Marketing Server is required.
- ¹⁰ The Siebel Marketing Server is licensed on the basis of the number of unique Marketing Records (including contact records, prospect records and records in external data sources), which the Customer may access using the Siebel Marketing Server.
- ¹¹ Siebel Loyalty is available only with the Siebel Industry base applications (SIA builds). It is not available with the Siebel Horizontal base applications (SEA builds).
- ¹² Siebel Warranty Validation Server requires licensing only the computers on which Oracle Policy Automation is installed.
- ¹³ Siebel Customer Content may be purchased without a Siebel base. This is useful for situations where the user requires a small subset of Siebel CRM functionality. In this situation each Application User of Siebel Customer Content requires an Application User of either Siebel HelpDesk Online or Siebel Content Publishing.
- ¹⁴ Each employee agent responding to employee service requests requires a Siebel HelpDesk Application User license.
- ¹⁵ Siebel Communications, Media and Energy customers are recommended to license Siebel CME Quote and Order Capture for Customers for each User of Siebel Configurator – Runtime for Customers.
- ¹⁶ Note that use of Siebel Smart Answer for both customer and employee facing applications enables increased feedback to the self-learning capabilities of Siebel Smart Answer and improves overall accuracy.
- ¹⁷ The Siebel Customer Order Management Administrator for Partners is required for each user that wishes to administer the Siebel Customer Order Management Administration Server from the partner side. Partner administrator licenses are not included with the Siebel Customer Order Management Administration Server for Partners.
- ¹⁸ Oracle Order and Service Management (OSM), on the Communications GBU price list, should be positioned for communications industry prospects who require decomposition and orchestration capabilities for order delivery. OSM is pre-integrated to Siebel CRM in Oracle's end-to-end market solution "Rapid Offer Design and Order Delivery". Please contact: comms_order_mgt_us_grp@oracle.com, for more information about OSM and Rapid Offer Design and Order Delivery. For Oracle partners, you are welcome to also contact the above email alias, but please contact your Oracle PRN Representative for additional information.
- ¹⁹ Siebel CME Quote and Order Capture for Partners is not available in IEOP (SI) mode. Both Siebel Partner Commerce (Siebel CRM) and Siebel CME Quote and Order Capture for partners options are required to enable full Siebel Communications, Media and Energy order processing functionality.
- ²⁰ All Siebel Field Service options are available to users of Siebel Insurance Field Service.
- ²¹ It is recommended that customers implementing Siebel Financial Services Customer Order Management for Banking also license, in addition to the required modules, Siebel Dynamic Pricer and Siebel Configurator Runtime.

Siebel CRM Component Supplemental Pricing Notes v120113

Siebel CRM Component Notes

- ²² The Siebel Pharma Marketing Server is licensed on the number of unique customer records (including both contact records, prospect records and records in external data sources) which the Customer may access using the Siebel Pharma Marketing Server. A "Brand" is a Application product offering that corresponds to a specific molecular entity, including multiple dosage forms and multiple strengths for the same molecular entity.
- ²³ Siebel Details is priced per Application User and the per Computer capacity is based on Concurrent Users. Additional server capacity for each Computer is purchased through a server pack. All employees, partners and customers of Siebel accounts utilizing Siebel Details require a Application User license.
- ²⁴ Demantra products are placed in the Siebel price list for reference only. They are quotable under the Oracle-Supply Chain Planning section of the quoting tool. While they do not require a Siebel base application, they are complementary to Siebel Trade Promotions.
- ²⁵ Siebel Group Inventory and Execution and Siebel Group Sales and Event Management require approval prior to quoting to a customer. See Controlled Availability listing for approvers.
- ²⁶ Siebel OGC Quote and Order Capture for Partners is not available in IEOP (Hi) mode. Both Siebel Partner Commerce (Siebel CRM) and Siebel OGC Quote and Order Capture for Partners options are required to enable full order processing functionality.
- ²⁷ Oracle Self-Service E-Billing Consumer Edition excludes use of Hierarchy Manager, Hierarchal Reporting and Hierarchal Payments. The Oracle Self-Service E-Billing Business Edition license is required for these capabilities.
- ²⁸ Oracle Policy Automation for Oracle CRM On Demand licenses are limited for use directly with Oracle CRM On Demand. Any customer wishing to use Oracle Policy Automation with other applications, must purchase the standard full use Oracle Policy Automation licensing. Customers may license Oracle Policy Automation for use with Oracle CRM On Demand using standard licensing rather than this limited use license. The Oracle Policy Automation Connector for Oracle CRM On Demand is required in either use case.
- ²⁹ Minimum users of Oracle Policy Automation for Oracle CRM On Demand can be shared across more than one Oracle CRM On Demand instance.
- ³⁰ Oracle Policy Automation Connector for Oracle CRM On Demand is licensed for each instance of Oracle CRM On Demand to which Oracle Policy Automation is being connected.
- ³¹ For the purposes of the following program: Oracle ATG Web Commerce Search, only the processors on which queries are processed must be counted. You do not need to count processors on which the program is running for indexing content in configured content sources as long as the foregoing is the only use of the program on all the processors installed in a given server.
- ³² Oracle WebCenter Sites for Oracle ATG Web Commerce can only be used to serve content to ATG, either by delivering it to ATG Web Commerce or by delivering it directly to the end user browser. In addition, WebCenter Sites for ATG Web Commerce can only be used to serve content to Web sites that are also being served by ATG Web Commerce under a common fully qualified domain name. Any content delivered for a standalone Web site (e.g. a marketing Web site) or to a separate fully qualified domain name not being served by ATG Web Commerce requires a full use license of WebCenter Sites.
- ³³ The number of licenses for Oracle WebCenter Sites for Oracle ATG Web Commerce must be, at a minimum, equal to the number of licenses of Oracle ATG Web Commerce.
- ³⁴ The Oracle ATG Web Commerce Business Intelligence program and the Oracle ATG Web Commerce Business Intelligence Administrator program may only be used in conjunction with either the Oracle ATG Web Commerce program and/or the Oracle ATG Web Knowledge Manager program. You may, however, expand your data model to include other information provided the additional information supplements information that is already included in the Oracle ATG Web Commerce program or in the Oracle ATG Knowledge Manager program.
- ³⁵ The Cognos BI Consumer Bundle is included in the Oracle ATG Web Commerce Business Intelligence program and is comprised of (a) one (1) reporting engine for anonymous viewers consisting of no more than two (2) processors and four (4) total cores, (b) unlimited anonymous report viewer seat licenses, (c) one (1) Named BI Web Administrator seat license and one (1) Named BI Professional Report Author seat license. Any additional seat licenses must be licensed separately by purchase of Oracle ATG Web Commerce BI Administrator seat licenses at an additional cost and are not included in any enterprise-wide or similar license.
- ³⁶ The Oracle ATG Web Commerce Business Intelligence Administrator program has a discounting limit of 40% and does not receive the midsize price list adjustment for any size customer.
- ⁴⁹ When licensing Oracle User Productivity Kit Standard, you must license a minimum of one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; When licensing Oracle User Productivity Kit Professional, you must license a minimum of one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional; When licensing any UPK Content Modules, you must license a minimum of: one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; OR, one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional.

Siebel CRM Component Supplemental Pricing Notes v120113

Siebel CRM Component Notes

- ⁵⁰ Oracle Customer Master Data Management Integration Options are available for: Siebel CRM; Oracle E-Business Suite; Oracle Communications Billing and Revenue Management. Each Option must be licensed separately.
- ⁵¹ Oracle Product Master Data Management Integration Options are available for: Siebel CRM; and Oracle E-Business Suite, and Oracle Communications Billing and Revenue Management. Each Option must be licensed separately.
- ⁵² Licensing Customer Hub provides rights to use Oracle Customer Data Hub (CDH) and/or Siebel Universal Customer Master (UCM). If running both, licenses for the sum total of item records managed across the 2 products must be purchased. Customers using both Oracle and Siebel technology must be sure to purchase licenses to cover the sum total of item records managed across the 2 product sets.
- ⁵³ This option is not available with Oracle eBusiness based MDM Hubs. It is only available with Siebel Universal Customer Master (UCM) and Siebel CRM applications.
- ⁵⁴ This product contains third-party functionality and can be licensed only using the standard, assigned price list metric. No enterprise metric or other non-standard metric may be used to license this product. This product must also be sold with a fixed quantity and cannot be sold with an unlimited quantity, as part of a ULA, capped ULA, or otherwise. The spreadsheet found at <http://my.oracle.com/site/fin/gfo/GlobalProcesses/InboundLicenseRoyalties/index.htm> (on the resulting page, under General Information, click on "Products with Metric and ULA Restrictions") contains a complete list of all products that cannot be licensed with non-standard metrics and cannot be sold with unlimited quantities. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.
- ⁵⁵ This product is on Controlled Availability and requires approval. For more information on CA process and approval, please refer to the Siebel Controlled Availability section on eSource at <http://esource.oraclecorp.com> > Home > Controlled Availability Sales Questions. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.

Oracle Primavera Supplemental Pricing Notes v013014

	Metric	Notes
Products		
Primavera Earned Value Management	Application User	1, 2
Primavera Capital Planning and Investment Control Budgeting	Application User	2
Primavera Contractor	Application User	1
Products: Unifier		
Primavera Facility Management	Application User	2
Primavera Real Estate Management	Application User	2
Integration Products		
Primavera P6 Enterprise Project Portfolio Management Web Services	Application User	3
Primavera Contract Management Web Services	Application User	4
Application Integration Architecture		
Project Portfolio Management Integration Pack for Primavera P6 and JD Edwards Enterpris	Processor	2
User Productivity Kit		
User Productivity Kit Standard	UPK Developer	5
User Productivity Kit Standard	Application User	5
User Productivity Kit Standard	Employee	5
User Productivity Kit Professional	UPK Developer	5
User Productivity Kit Professional	Application User	5
User Productivity Kit Professional	Employee	5
User Productivity Kit Content Materials for Primavera		
Oracle User Productivity Kit for Primavera P6 Enterprise Project Portfolio Managemen (up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5
Oracle User Productivity Kit for Primavera P6 Enterprise Project Portfolio Management, Reporting		
(up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5
Oracle User Productivity Kit for Primavera P6 Progress Reporter (up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5
Oracle User Productivity Kit for Primavera Contract Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5
Oracle User Productivity Kit for Primavera Portfolio Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5
Oracle User Productivity Kit for Primavera Unifier Platform (up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5
Oracle User Productivity Kit for Primavera Project Delivery Management (up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5
Oracle User Productivity Kit for Primavera Cost Controls (up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5
Oracle User Productivity Kit for Instantis EnterpriseTrack (up to 4K employees and up to \$1 billion in revenue)	UPK Module	5
(over 4K employees and/or over \$1 billion in revenue)	UPK Module	5

Oracle Primavera Supplemental Pricing Notes v013014

Oracle Primavera Notes

- ¹ These products have limited technical support, which is described in Oracle's Technical Support Policies.
- ² Please refer to the Primavera Controlled Availability (CA) questionnaire for the list of questions and approvers for sale of this product. CA questionnaire can be found on eSource at <http://esource.oraclecorp.com> -> Global Business Units -> PGBU -> Pricing Practices -> Controlled Availability.
- ³ This product should be licensed by developers and end users who are not licensed for Primavera P6 Enterprise Project Portfolio Management, and who (i) need access to applications created using the product's Web Services and/or Java APIs, or (ii) who directly or indirectly access or create data in Primavera P6 Enterprise Project Portfolio Management.
- ⁴ This product should be licensed by developers and end users who are not licensed for Primavera Contract Management, and who (i) need access to applications created using the product's Web Services and/or Java APIs, or (ii) who directly or indirectly access or create data in Primavera Contract Management.
- ⁵ When licensing Oracle User Productivity Kit Standard, you must license a minimum of one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard;
- When licensing Oracle User Productivity Kit Professional, you must license a minimum of one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional;
- When licensing any UPK Content Modules, you must license a minimum of: one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; OR, one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional.

Oracle Engineered Systems Supplemental Pricing Notes v010714

	Metric	Notes
ORACLE ENGINEERED SYSTEMS HARDWARE & SOFTWARE		
Exadata Storage Server		
Exadata Storage Server X4-2 HP	NA	1,3,13
Exadata Storage Server X4-2 HC	NA	1,3,13
Database Machine		
Exadata Database Machine X4-2 HP Full Rack	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HC Full Rack	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HP Half Rack	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HC Half Rack	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HP Quarter Rack	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HC Quarter Rack	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HP Eighth Rack	NA	13
Exadata Database Machine X4-2 HC Eighth Rack	NA	13
Exadata Database Machine X3-8 HP Full Rack	NA	2, 3, 11, 13
Exadata Database Machine X3-8 HC Full Rack	NA	2, 3, 11, 13
Database Machine Upgrades		
Exadata Database Machine X4-2 HP Quarter Rack to Half Rack Upgrade	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HC Quarter Rack to Half Rack Upgrade	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HP Half Rack to Full Rack Upgrade	NA	2, 3, 11, 13
Exadata Database Machine X4-2 HC Half Rack to Full Rack Upgrade	NA	2, 3, 11, 13
Exadata Database Machine X4-2 Eighth Rack to Quarter Rack Upgrade	NA	2, 3, 13
Exadata Storage Expansion Racks		
Exadata Storage Expansion X4-2 HC Full Rack	NA	3, 7, 11, 13
Exadata Storage Expansion X4-2 HC Half Rack	NA	3, 7, 11, 13
Exadata Storage Expansion X4-2 HC Quarter Rack	NA	3, 7, 11, 13
Exadata Storage Expansion X4-2 HP Full Rack	NA	3, 7, 11, 13
Exadata Storage Expansion X4-2 HP Half Rack	NA	3, 7, 11, 13
Exadata Storage Expansion X4-2 HP Quarter Rack	NA	3, 7, 11, 13
Exadata Storage Expansion Racks Upgrades		
Exadata Storage Expansion X4-2 HC Half to Full Rack Upgrade	NA	3, 7, 11, 13
Exadata Storage Expansion X4-2 HC Quarter to Half Rack Upgrade	NA	3, 7, 11, 13
Exadata Storage Expansion X4-2 HP Half to Full Rack Upgrade	NA	3, 7, 11, 13
Exadata Storage Expansion X4-2 HP Quarter to Half Rack Upgrade	NA	3, 7, 11, 13
Exalogic Elastic Cloud		
Exalogic Elastic Cloud X4-2 Full Rack	NA	5,11,13
Exalogic Elastic Cloud X4-2 Half Rack	NA	5,11,13
Exalogic Elastic Cloud X4-2 Quarter Rack	NA	5,11,13
Exalogic Elastic Cloud X4-2 Eighth Rack	NA	5,11,13
Exalogic Elastic Cloud Upgrades		
Exalogic Elastic Cloud X4-2 Half Rack to Full Rack Upgrade for X3-2 and X2-2 racks	NA	5,11,13
Exalogic Elastic Cloud X4-2 Quarter Rack to Half Rack Upgrade for X3-2 and X2-2 racks	NA	5,11,13
Exalogic Elastic Cloud X4-2 Eighth Rack to Quarter Rack Upgrade for X3-2 and X2-2 racks	NA	5,11,13
Exalogic Elastic Cloud Software		
Exalogic Elastic Cloud Software	Named User Plus	14
Exalytics		
Exalytics In-Memory Machine X3-4	NA	11
Exalytics In-Memory Machine T5-8	NA	11
Exalytics Software		
TimesTen In-Memory Database for Exalytics	Named User Plus	9
	Processor	9
Exalytics In-Memory Software	Named User Plus	15
	Processor	15

Oracle Engineered Systems Supplemental Pricing Notes v010714

	Metric	Notes
Oracle SuperCluster		
Oracle SuperCluster T5-8 HP Full Rack	NA	3,4,11,13
Oracle SuperCluster T5-8 HC Full Rack	NA	3,4,11,13
Oracle SuperCluster T5-8 HP Half Rack	NA	3,4,11,13
Oracle SuperCluster T5-8 HC Half Rack	NA	3,4,11,13
Oracle SuperCluster M6-32 (Minimum Configuration)	NA	16
SPARC SuperCluster Upgrades		
SPARC SuperCluster T4-4 HP Half Rack to Full Rack	NA	4,11,13
SPARC SuperCluster T4-4 HC Half Rack to Full Rack	NA	4,11,13
Big Data Appliance		
Big Data Appliance X4-2 Full Rack	NA	11,13
Big Data Appliance X4-2 Starter Rack	NA	13
Big Data Appliance X4-2 In-Rack Expansion	NA	13

Oracle Engineered Systems Supplemental Pricing Notes v010714

Metric

Notes

ORACLE ENGINEERED SYSTEMS SERVICES

Exadata Configuration

Oracle Exadata Full Rack Configuration service	-	a
Oracle Exadata Half Rack Configuration service	-	a
Oracle Exadata Quarter Rack Configuration service	-	a
Oracle Exadata Eight Rack Configuration service	-	a

Exalogic Configuration

Oracle Exalogic Full Rack Configuration service	-	a
Oracle Exalogic Half Rack Configuration service	-	a
Oracle Exalogic Quarter Rack Configuration service	-	a
Oracle Exalogic Eight Rack Configuration service	-	a
Oracle Exalogic on SPARC SuperCluster Configuration Service	-	a

Exadata Storage Expansion Racks Configuration

Oracle Exadata Storage Expansion Quarter Rack Configuration Service	-	a
Oracle Exadata Storage Expansion Half Rack Configuration Service	-	a
Oracle Exadata Storage Expansion Full Rack Configuration Service	-	a

Oracle Engineered Systems Supplemental Pricing Notes v010714

Oracle Engineered Systems Notes

- ¹ Exadata Storage Server X4-2 (HP & HC) include: Hardware, Hardware Warranty, and Oracle Enterprise Linux. It does not include hardware installation or software configuration services.
- ² Exadata Database Machine X4-2 Full Rack (HP & HC), Exadata Database Machine X3-8 Full Rack (HP & HC), Exadata Database Machine X4-2 Half Rack (HP & HC), Exadata Database Machine X4-2 Quarter Rack (HP & HC), as well as Exadata Database Machine Upgrades include: Hardware, Hardware Warranty, and Oracle Enterprise Linux (including Enterprise Linux installed on the database servers that are provided with the Exadata Database Machine X4-2 Full Rack, Exadata Database Machine X3-8 Full Rack, Exadata Database Machine X4-2 Half Rack, Exadata Database Machine X4-2 Quarter Rack, and the Exadata Database Machine X4-2 Upgrades). Hardware installation and software configuration services are not included.
- ³ The included Hardware Warranty is a 1 year warranty with a 4 hour web/phone response during normal business hours (Mon-Fri 8am-5pm), and with a 2 Business Day on-site response/Parts Exchange.
- ⁴ Oracle SuperCluster T5-8 Full Rack (HP & HC), Oracle SuperCluster T5-8 Half Rack (HP & HC), and SPARC SuperCluster T4-4 Upgrades include: Hardware, Hardware Warranty, and Oracle Solaris 11 (installed on the compute servers that are provided with the Oracle SuperCluster T5-8 Full Rack, Oracle SuperCluster T5-8 Half Rack and SPARC SuperCluster T4-4 Upgrades). Hardware installation and software configuration services are not included.
- ⁵ Exalogic Elastic Cloud X4-2 Full Rack, Exalogic Elastic Cloud X4-2 Half Rack, Exalogic Elastic Cloud X4-2 Quarter Rack, Exalogic Elastic Cloud X4-2 Eighth Rack, and Exalogic Elastic Cloud Upgrades include: Hardware, Hardware Warranty, Oracle Enterprise Linux (including Enterprise Linux installed on the physical servers that are provided with the Exalogic Elastic Cloud X4-2 Full Rack, Exalogic Elastic Cloud X4-2 Half Rack, Exalogic Elastic Cloud X4-2 Quarter Rack, Exalogic Elastic Cloud X4-2 Eighth Rack, and Exalogic Elastic Cloud Upgrades) and Oracle Solaris. Hardware installation and software configuration services are not included.
- ⁶ Exadata Database Machine Expansion Switch Kit includes: Hardware and Hardware Warranty. Hardware installation and software configuration services are not included.
- ⁷ Exadata Storage Expansion (HP & HC) Full Rack, Exadata Storage Expansion (HP & HC) Half Rack, Exadata Storage Expansion (HP & HC) Quarter Rack, and Exadata Storage Expansion Upgrades includes: Hardware, Hardware Warranty, and Oracle Enterprise Linux. Hardware installation and software configuration services are not included.
- ⁸ Memory Expansion Kit – Sixteen 32 GB DIMMs and Memory Expansion Kit – Twelve 16 GB DIMMs includes: Hardware and Hardware Warranty. Hardware installation and software configuration services are not included. Valid for use in specific Engineered System models and multiple units needed based on the Engineered Systems configuration size. Refer to the relevant Engineered System documentation for supportability and quantities needed.
- ⁹ If licensing by Named User Plus, the minimum is 20 Named User Plus licenses per Customer. Business Intelligence Foundation Suite or Business Intelligence Suite Enterprise Edition Plus is a licensing pre-requisite for this product. All TimesTen In-Memory Database for Exalytics users must have license entitlement to either Business Intelligence Foundation Suite or Business Intelligence Suite Enterprise Edition Plus.
- ¹⁰ This product is in Category U, and follows the standard Hardware discounting model.
- ¹¹ Subscriptions for IaaS require a minimum term of 3 years.
- ¹³ This product is eligible for Business Critical Service for Systems. Base pricing is 6% of list hardware price. Additional information regarding deliverables and obligations can be found here . Please refer here for a complete list of eligible products.
- ¹⁴ If licensing by Named User Plus, the minimum is 10 Named User Plus licenses per Processor.
- ¹⁵ If licensing by Named User Plus, the minimum is 20 Named User Plus licenses per Customer. The licensing prerequisites for this product are Business Intelligence Foundation Suite, or Business Intelligence Foundation Suite for Oracle Applications, or Business Intelligence Suite Enterprise Edition Plus or Business Intelligence Suite Enterprise Edition Plus for Oracle Applications and/or Essbase Plus and/or Hyperion Planning Plus.
- ¹⁶ Oracle SuperCluster M6-32 quotes must be assembled using the Configurator; this is representative pricing for a minimum configuration. The M6-32 component parts (e.g., SuperCluster M6-32 Base, M6 System Boards) are in Discount Category V, while the Engineered Systems parts (Exadata Storage and ZS3-ES) follow the standard engineered systems discount approval model (25% max discount). See the Configurator.
- ^a Contact Oracle if an order for ACS Exadata and Exalogic Software Configuration Services requires more than one installation and/or upgrade.

Oracle Application Integration Architecture Supplemental Pricing Notes v010214

	Metric	Notes
Foundation Packs		
Application Integration Architecture Foundation Pack Extension for Communications	Processor	1
	Named User Plus	1
Application Integration Architecture Foundation Pack Extension for Insurance	Processor	1
	Named User Plus	1
Application Integration Architecture Foundation Pack Extension for Utilities	Processor	1
	Named User Plus	1
Process Integration Packs		
Agile Product Lifecycle Management Integration Pack for Oracle E-Business Suite: Design to Release	Processor	1
Agile Product Lifecycle Management Integration Pack for SAP: Design to Release	Processor	1
Communications Order to Cash Integration Pack for Oracle Communications Billing and Revenue Management	Processor	1
Communications Order to Cash Integration Pack for Oracle Communications Order and Service Management	Processor	1
Communications Order to Cash Integration Pack for Siebel CRM	Processor	1
Customer Data Synchronization Integration Pack for Oracle Utilities Customer Care and Billing and Siebel Energy	Processor	1
Design to Release Integration Pack for Agile Product Lifecycle Management and JD Edwards EnterpriseOne	Processor	1
Design to Release Integration Pack for Agile Product Lifecycle Management for Process and Oracle Process Manufacturing	Processor	1
Driver Management Integration Pack for Oracle Transportation Management and Oracle E-Business Suite	Processor	1
Financial Management Integration Pack for Oracle Transportation Management and Oracle E-Business Suite	Processor	1
Health Sciences Adverse Event Integration Pack for Oracle Health Sciences InForm and Oracle Argus	Processor	1
Lead to Order Integration Pack for Oracle CRM On Demand and Oracle E-Business Suite	Processor	1
Order Management Integration Pack for Oracle Transportation Management, Oracle E-Business Suite and Siebel CRM	Processor	1
Process Integration Pack for Oracle Utilities Field Work	Processor	1
Product Data Synchronization Integration Pack for Oracle Utilities Customer Care and Billing and Siebel Energy	Processor	1
Project Portfolio Management Integration Pack for Primavera P6 and JD Edwards EnterpriseOne	Processor	1
Serialization and Tracking Integration Pack for Oracle Pedigree and Serialization Manager and Oracle E-Business Suite	Processor	1
Siebel CRM Integration Pack for Oracle Communications Billing and Revenue Management: Agent Assisted Billing Care	Processor	1
Siebel CRM Integration Pack for Oracle Order Management	Processor	1
Study, Subject, and Visit Synchronization Integration Pack for Siebel Clinical and Oracle Clinical	Processor	1
Process Integration Packs (Base + Options)		
Customer Master Data Management Integration Base Pack	Processor	1
Customer Master Data Management Integration Option	Processor	1, 2
Product Master Data Management Integration Base Pack	Processor	1
Product Master Data Management Integration Option	Processor	1, 3
Partial Process Integration Packs		
Clinical Trial Payments Integration Pack for Siebel Clinical	Processor	1
Direct Integrations		
Communications Billing and Revenue Management Integration Pack for Oracle E-Business Suite: Revenue Accounting	Processor	1

Oracle Application Integration Architecture Supplemental Pricing Notes v010214

	Metric	Notes
Demantra Integration Pack for Siebel CRM Consumer Goods	Processor	1
Demantra Sales and Operations Planning Integration to Hyperion Planning	Processor	1
Enterprise Taxation Management Integration to Oracle E-Business Suite Financials General Ledger and Accounts Payable	Processor	1
Enterprise Taxation Management Integration to PeopleSoft Enterprise Financials General Ledger and Accounts Payable	Processor	1
Siebel Call Center Integration Pack for Oracle Adverse Event Reporting System	Processor	1
Siebel Field Service Integration to Oracle Real-Time Scheduler	Processor	1
Siebel CRM Integration to Oracle Incentive Compensation	Processor	1
Utilities Customer Care and Billing Integration to JD Edwards Financials for General Ledger and Accounts Payable	Processor	1
Utilities Customer Care and Billing Integration to Oracle E-Business Suite Financials for General Ledger and Accounts Payable	Processor	1
Utilities Customer Care and Billing Integration to Oracle Utilities Meter Data Management	Processor	1
Utilities Customer Care and Billing Integration to Oracle Utilities Network Management System	Processor	1
Utilities Customer Care and Billing Integration to PeopleSoft Enterprise Financials for General Ledger and Accounts Payable	Processor	1
Utilities Integration for Device Operations	Processor	1
Utilities Work and Asset Management Integration to Primavera P6 Enterprise Project Portfolio Management	Processor	1
Value Chain Planning Integration Base Pack	Processor	1

¹ This product is on Controlled Availability (CA) and requires approval. For more information on CA process and approval, please refer to the Controlled Availability section on eSource at <http://esource.oraclecorp.com> > Controlled Availability Sales Questions. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.

² Oracle Customer Master Data Management Integration Options are available for: Siebel CRM; Oracle E-Business Suite; and Oracle Communications Billing and Revenue Management. Each Option must be licensed separately.

³ Oracle Product Master Data Management Integration Options are available for: Siebel CRM; Oracle E-Business Suite; Oracle Communications Billing and Revenue Management; and Oracle Communications Design Studio. Each Option must be licensed separately.

**Oracle Solaris Premier Subscription for Non-Oracle Hardware
Supplemental Pricing Notes v120113**

	Metric	Notes
Subscription		
Oracle Solaris Premier Subscription for Non-Oracle Hardware (1-4 socket server)	Socket	1
Oracle Solaris Premier Subscription for Non-Oracle Hardware (5+ socket server)	Socket	1

**Oracle Solaris Premier Subscription for Non-Oracle Hardware
Supplemental Pricing Notes v120113**

Oracle Solaris Premier Subscription for Non-Oracle Hardware Notes

¹ If your order specifies "1 – 4 socket server" then you may only use the subscription on a server with not more than 4 sockets. If your order specifies "5+ socket server" then you may use the subscription for servers with any number of sockets.

Oracle Systems Software Supplemental Pricing Notes v010714

	Metric	Notes
Solaris		
Oracle Solaris Cluster Enterprise Edition	Processor	1
Storage Software - Archive/Hierarchical Storage Mgm't		
StorageTek Storage Archive Manager	Processor	1
StorageTek QFS	Processor	1
StorageTek QFS Client	Server	1
StorageTek Linear Tape File System	Server	1
Storage Software - Business Continuity		
StorageTek Availability Suite	Terabyte	1
Storage Software - Device Management		
StorageTek Automated Cartridge System Library Software (ACSL)	Server	1
StorageTek Automated Cartridge System Library Software (ACSL)	Server	1
High-Availability Agent (HA)	Server	1
StorageTek Enterprise Library Software	Server	1
StorageTek Tape Analytics	Server	1
Desktop Virtualization		
Oracle Virtual Desktop Infrastructure	Named User Plus	1
Oracle Virtual Desktop Infrastructure	Sun Ray Device	1
Oracle Secure Global Desktop for Microsoft Windows	Named User Plus	1
Oracle Secure Global Desktop for Microsoft Windows, AS/400, Solaris, Unix and Mainframe	Named User Plus	1
Virtual Networking		
Fabric Manager	Chassis	1
Fabric Monitor	Chassis	1
Oracle SDN	Physical Server	1
Library Content Manager		
Library Content Manager	CPU	1
SunRay		
Sun Ray Software	Named User Plus	1
Sun Ray Software	Sun Ray Device	1
Solaris Legacy Containers		
Oracle Solaris Legacy Containers (1 to 4 socket server)	Socket	1, 2
Oracle Solaris Legacy Containers (5+ socket server)	Socket	1, 2

¹ Discount Category X applies to this software

² If your order specifies "**1 – 4 socket server**" then you may only use the license on a server with not more than 4 sockets. If your order specifies "**5+ socket server**" then you may use the license for servers with any number of sockets.

MySQL Supplemental Pricing Notes v100112

	Metric	Notes
MySQL Perpetual License		
MySQL Cluster Carrier Grade Edition (1-4 socket server)	Server	2
MySQL Cluster Carrier Grade Edition (5+ socket server)	Server	2
MySQL Subscription		
MySQL Standard Edition Subscription (1-4 socket server)	Server	3
MySQL Standard Edition Subscription (5+ socket server)	Server	3
MySQL Enterprise Edition Subscription (1-4 socket server)	Server	3
MySQL Enterprise Edition Subscription (5+ socket server)	Server	3

MySQL Supplemental Pricing Notes v100112

MySQL Notes

² MySQL Cluster Carrier Grade Edition perpetual licenses are available for distribution by Oracle direct sales representatives and by Oracle partners subject to an applicable Application Specific Full Use Program Distribution Agreement, Embedded Software License Distribution Agreement or an applicable Full Use Distribution Agreement with Oracle.

³ These programs are designated 1-Click Ordering Desktop Programs.

Oracle Fusion Applications Supplemental Pricing Notes v020614

	Metric	Notes
Oracle Fusion Financials		
Fusion Accounting Hub	Employee	1
Fusion Advanced Collections	Application User	1
Fusion Automated Invoice Processing	1K Invoice Line	1
Fusion Expenses	Expense Report	1
Fusion Financial Reports Center	Employee	1
Fusion Financials	Application User	1
Fusion Transactional Business Intelligence for Financials	Application User	1
Oracle Fusion Procurement		
Fusion Procurement Contracts	Application User	1
Fusion Purchasing	Application User	1
Option: Fusion Sourcing	Application User	1, 2, 3
Option: Fusion Supplier Portal	Application User	1, 2, 3
Fusion Self Service Procurement	Application User	1
Fusion Transactional Business Intelligence for Procurement	Application User	1
Oracle Fusion Project Portfolio Management		
Fusion Project Billing	Application User	1
Fusion Project Contracts	Application User	1
Fusion Project Control	Application User	1
Fusion Project Costing	Application User	1
Fusion Project Integration Gateway	Application User	1
Fusion Project Performance Reporting	Application User	1
Fusion Transactional Business Intelligence for Projects	Application User	1
Fusion Project Management	Application User	1
Fusion Project Resource Management	Managed Resource	1
Fusion Task Management	Application User	1
Oracle Fusion Human Capital Management		
Fusion Benefits	Employee	1
Fusion Global Human Resources	Employee	1
Fusion Global Payroll	Employee	1
Fusion Global Payroll Interface	Employee	1
Fusion Goal Management	Employee	1
Fusion Performance Management	Employee	1
Fusion Talent Review and Succession Management	Employee	1
Fusion Transactional Business Intelligence for Human Capital Management	Application User	1
Fusion Workforce Compensation	Employee	1
Fusion Talent Management Base	Employee	1
Fusion Workforce Reputation Management	Employee	1
Oracle Fusion Supply Chain Management		
Fusion Distributed Order Orchestration	Electronic Order Line	1
Fusion Distributed Order Orchestration User	Application User	1
Fusion Global Order Promising	\$M Cost of Goods Sold	1
Fusion Inventory Management	Application User	1
Fusion Product and Catalog Management	Application User	1
Fusion Product Hub	Record	1
Fusion Product Hub Data Steward	Application User	1
Fusion Product Hub for Communications	Record	1
Fusion Product Hub for Retail	Record	1
Fusion Transactional Business Intelligence for Supply Chain Management	Application User	1
Oracle Fusion Customer Relationship Management - Sales		
Fusion CRM Base	Application User	1
Fusion CRM Desktop	Application User	1
Fusion Enterprise Contracts Base	Application User	1
Fusion Incentive Compensation	Compensated Individual	1
Fusion Opportunity Landscape	Application User	1
Fusion Quota Management	Compensated Individual	1

Oracle Fusion Applications Supplemental Pricing Notes v020614

	Metric	Notes
Fusion Sales Campaigns	Application User	1
Fusion Sales Catalog	Application User	1
Fusion Sales Predictor	Application User	1
Fusion Smart Phone Edition	Application User	1
Fusion Territory Management	Managed Resource	1
Fusion Transactional Business Intelligence for Customer Relationship Management	Application User	1
Oracle Fusion Customer Relationship Management - Marketing		
Fusion Email Marketing Server	Computer	1
Fusion Marketing	Application User	1, 4
Fusion Marketing Segmentation - up to 500,000 records	Computer	1, 5
Fusion Marketing Segmentation - up to 1,000,000 records	Computer	1, 5
Fusion Marketing Segmentation - up to 3,000,000 records	Computer	1, 5
Fusion Marketing Segmentation - up to 5,000,000 records	Computer	1, 5
Fusion Marketing Segmentation - up to 10,000,000 records	Computer	1, 5
Fusion Marketing Segmentation - unlimited records	Computer	1
Oracle Fusion Partner Relationship Management		
Fusion Incentive Compensation for Channel Managers	Compensated Individual	1
Fusion Partner Relationship Management for Channel Managers	Application User	1
Fusion Partner Relationship Management for Partners	Registered User	1
Fusion Territory Management for Channel Managers	Managed Resource	1
Oracle Fusion Customer Relationship Management - Customer Data Management		
Fusion Customer Hub Data Steward	Application User	1
Fusion Customer Hub for Organizations	Record	1
Fusion Customer Management Foundation for Organizations	Record	1
Fusion Customer Hub for Persons	Record	1
Fusion Customer Management Foundation for Persons	Record	1
Fusion Data Quality Address Cleansing	Processor	1
Fusion Data Quality Matching	Processor	1
Oracle Fusion Application Tools		
Fusion Applications Extensibility Framework	Application User	1
Oracle Fusion Governance, Risk and Compliance		
Fusion Application Access Controls Governor	Monitored User	1
Option: Fusion Application Access Controls for Fusion Applications	Monitored User	1, 2
User Productivity Kit		
User Productivity Kit Standard	UPK Developer	6
User Productivity Kit Standard	Application User	6
User Productivity Kit Standard	Employee	6
User Productivity Kit Professional	UPK Developer	6
User Productivity Kit Professional	Application User	6
User Productivity Kit Professional	Employee	6
User Productivity Kit Content Materials for Fusion Financials		
Oracle User Productivity Kit for Oracle Fusion Assets (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6
Oracle User Productivity Kit for Oracle Fusion General Ledger (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6
Oracle User Productivity Kit for Oracle Fusion Payables (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6
Oracle User Productivity Kit for Oracle Fusion Receivables (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6

Oracle Fusion Applications Supplemental Pricing Notes v020614

	Metric	Notes
User Productivity Kit Content Materials for Fusion Human Capital Management		
Oracle User Productivity Kit for Oracle Fusion Global Human Resources (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6
User Productivity Kit Content Materials for Fusion Procurement		
Oracle User Productivity Kit for Oracle Fusion Purchasing (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6
Oracle User Productivity Kit for Oracle Fusion Self Service Procurement (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6
User Productivity Kit Content Materials for Fusion Project Portfolio Management		
Oracle User Productivity Kit for Oracle Fusion Project Portfolio Management (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6
User Productivity Kit Content Materials for Fusion Supply Chain Management		
Oracle User Productivity Kit for Oracle Fusion Distributed Order Orchestration (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6
User Productivity Kit Content Materials for Other		
Oracle User Productivity Kit for Oracle Fusion Functional Setup Manager (up to 4,000 employees and up to \$1 billion in revenue)	UPK Module	6
(over 4,000 employees and/or \$1 billion in revenue)	UPK Module	6

Oracle Fusion Applications Supplemental Pricing Notes v020614

Oracle Fusion Applications Notes

¹ This product is on Controlled Availability (CA) and requires approval. For more information on CA process and approval, please refer to the Controlled Availability section on eSource at <http://esource.oraclecorp.com> > Controlled Availability Sales Questions. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.

² An option must be licensed at the same level (or greater than) as its parent. Example: number of Flow Manufacturing users = number of Discrete Manufacturing users. If the parent has multiple metrics, the option must be licensed at the same level as its parent for each metric. Example: number of Advanced Pricing users = number of Order Management users AND number of Advanced Pricing Electronic Order Lines = number of Order Management Electronic Order Lines.

³ For Fusion Supplier Portal, and Fusion Sourcing, use by your external suppliers is included with your licenses.

⁴ If the segmentation feature of Fusion Marketing is desired, a license for Fusion Marketing Segmentation is required.

⁵ Fusion Marketing Segmentation is licensed on the basis of the number of unique Marketing Records (including contact records, prospect records and records in external data sources), which the customer may access using Fusion Marketing Segmentation.

⁶ When licensing Oracle User Productivity Kit Standard, you must license a minimum of one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard;

When licensing Oracle User Productivity Kit Professional, you must license a minimum of one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional;

When licensing any UPK Content Modules, you must license a minimum of: one (1) UPK Developer and either Application Users for UPK Standard or Employees for UPK Standard; OR, one (1) UPK Professional Developer and either Application Users for UPK Professional or Employees for UPK Professional.

Oracle Linux Support and Oracle VM Support Supplemental Pricing Notes v011414

Oracle Linux Support

1 Year Support

Oracle Linux Network
 Oracle Linux Basic Limited
 Oracle Linux Basic
 Oracle Linux Premier Limited
 Oracle Linux Premier

Metric	Notes
System	1
System	1
System	1
System	1
System	1

Oracle Linux Support

3 Year Support

Oracle Linux Network
 Oracle Linux Basic Limited
 Oracle Linux Basic
 Oracle Linux Premier Limited
 Oracle Linux Premier

Metric	Notes
System	1
System	1
System	1
System	1
System	1

Oracle VM Support

1 Year Support

Oracle VM Premier Limited
 Oracle VM Premier

Metric	Notes
System	2
System	2

3 Year Support

Oracle VM Premier Limited
 Oracle VM Premier

System	2
System	2

Oracle VM VirtualBox Enterprise

Oracle VM VirtualBox Enterprise

Metric	Notes
Named User Plus	3
Socket	3

¹ Oracle Linux support services are provided at the support level and for the term defined in your order. When ordering Oracle Linux support services you must comply with the following availability rules:

- Oracle Linux Premier Limited and Oracle Linux Basic Limited support services are available only for systems with no more than 2 physical CPUs per system. Where computers are clustered, each system within the cluster must have no more than 2 physical CPUs.
- Oracle Linux Premier, Oracle Linux Basic and Oracle Linux Network support services are available for systems with any number of physical CPUs per system.

² Oracle VM support services are provided at the support level and for the term defined in your order. When ordering Oracle VM support services you must comply with the following availability rules:

- Oracle VM Premier Limited support services are available only for systems with no more than 2 physical CPUs per system.
- Oracle VM Premier support services are available for systems with any number of physical CPUs per system.

³ Oracle VM VirtualBox Enterprise is for commercial use.

VirtualBox is free for personal use, academic use, and evaluation, under the terms of the PUEL (PUEL - https://www.virtualbox.org/wiki/VirtualBox_PUEL).

Software Support for Development Tools Supplemental Pricing Notes v011414

	Metric	Notes
Java SE Support		
Java SE Support	Named User Plus	4,6
	Processor	5,6

⁴ The minimum for this program is 2000 Named User Plus

⁵ The minimum for this program is 40 Processors

⁶ Oracle Java SE Support for Independent Software Vendors is available to eligible independent software vendors by contacting an Oracle Java Embedded sales representative JAVA_EMBEDDED_WW_GRP@ORACLE.COM to determine eligibility and price.

ORACLE MANAGED CLOUD SERVICES COMMUNICATION WORKSHEET
FOR GSA VALUE ADDED RESELLERS

ORACLE MANAGED CLOUD SERVICES COMMUNICATION WORKSHEET ANNEXES

ANNEX III

ORACLE MANAGED CLOUD SERVICES SUPPLEMENTAL PRICING NOTES

	Metric	Notes
Oracle Technology Managed Cloud Services		
Others		
BPEL Process Manager Option	Processor	1
Customer Data Hub	Processor	2
Oracle Beehive Managed Cloud Services		
Beehive Managed Cloud Service	Named User Plus	3
Programs included in BeehiveManaged Cloud Service		
Beehive Enterprise Messaging Server, Beehive Enterprise Collaboration Server		
Oracle E-Business Suite Managed Cloud Service		
Professional Application User		
External Application User		
Category	Included Programs	
Procurement	Purchasing, Procurement Contracts, Services Procurement, Advanced Pricing, iProcurement, Sourcing, iSupplier Portal, Sourcing Optimization	4
Asset Lifecycle Management	Asset Tracking, Property Manager	4
Product Lifecycle Management	Product Lifecycle Management, Product Data Synchronization for GDSN and UCCnet Services	4
Financial	Financials, Activity Based Management, Advanced Collections, Internal Controls Manager, Internet Expenses, iReceivables	2
Self Service Application User		
Category	Included Programs	
Intelligence	Enterprise Planning and Budgeting, Profitability Manager	4
Financial	Internet Expenses, iReceivables, Internal Control Manager	4
Treasury	Module	4
Finance		
Treasury	Module	4
Supply Chain Planning		
Strategic Network Optimization	N/A	4
Demantra Managed Cloud Services	N/A	4
Programs included in Demantra Managed Cloud Services		
Demantra Demand Management, Demantra Advanced Forecasting and Demand Modeling, Demantra Real-time Sales and Operations Planning, Demantra Predictive Trade Planning, Demantra Deduction and Settlement Management, Demantra Trade Promotion Optimization		
Master Data Management		
Customer Hub B2B (Customer Data Hub)	N/A	4
Customer Hub Add-on B2B	N/A	4
Customer Hub B2C	N/A	4
Customer Hub Add-on B2C	N/A	4
Customer Hub Data Steward	N/A	4
Product Hub Data Steward	N/A	4
Master Data Management - Product Information Management		
Product Hub (Product Information Master (PIM) Data Hub)	N/A	4
Product Hub Add-on	N/A	4
Product Hub Options		
Option: Product Data Synchronization for GDSN and UCCnet Services	N/A	4
Other		
Content Services	N/A	4
Oracle E-Business Suite Managed Cloud Services		
Asset Tracking	Application User	2
Public Sector/University		
Loans	Application User	8
Agile Product Lifecycle Management Managed Cloud Service	Application User	28
Programs included in Agile Product Lifecycle Management Managed Cloud Services		
Agile Product Collaboration, Agile Product Governance and Compliance, Agile Product Cost Management, Agile Product Quality Management, Agile Product Portfolio Management, AutoVue 2D Professional for Agile, AutoVue Electro-Mechanical Professional for Agile, Agile Food and Drug Administration Validation Pack, Agile Engineering Data Management, Agile Product Workbench, Agile Distributed File Management, Agile Engineering Collaboration, Agile MCAD Connector, Agile ECAD Connector, Agile CAD Library Connector, Agile ERP Connector, Agile Content Catalog Connector		
Agile Product Lifecycle Management for Process Managed Cloud Services	Application User	28
Programs included in Agile Product Lifecycle Management Managed Cloud Services		
Agile Product Data Management for Process, Agile Formulation and Compliance for Process, Agile Product Supplier Collaboration for Process, Agile New Product Development and Introduction for Process		
PeopleSoft Managed Cloud Service		
PeopleSoft Enterprise Performance Management Processor		
Pillar/Category	Program	

		Metric	Notes
PeopleSoft Enterprise Performance Management	Asset Liability Management, Local Products, Activity-Based Management, Compensation Mart, CRM Warehouse, Customer Scorecard, EPM Portal Pack, Financials Warehouse, Global Consolidations, HCM Warehouse, Healthcare Scorecard, Learning and Development Mart, Manufacturing Scorecard, Payables Mart, Receivables Mart, Recruiting Mart, Scorecard, Workforce Planning, Workforce Profile Mart, Workforce Rewards, Workforce Scorecard, Advanced Cost Accounting Mart , Analytics Forecasting, Customer Behavior Modeling , Customer Mart , ESA Mart, Fulfillment and Billing Mart, Funds Transfer Pricing, General Ledger and Profitability Mart, Inventory Mart, Manufacturing Mart, Marketing Mart, Performance Management Warehouse, Planning and Budgeting, Predictive Analytics, Procurement Mart, Project Portfolio Management, Real Estate Mart, Risk Weighted Capital, Sales Mart, Service Mart, Spend Mart, Supplier Rating System, Supply Chain Planning Mart, Supply Chain Warehouse, Fusion Campus Solutions Intelligence, Campus Solutions Warehouse		9

Siebel CRM Managed Cloud Services

Siebel CRM – Communications, Media and Energy - Professional Application User

Vertical/Category	Program		
Communications, Media and Energy	Siebel CRM base, Siebel Communications, Media and Energy CRM Base Option, Siebel Deal Management, Dynamic Catalog, Dynamic Pricer, Events Manager, Partner Manager, Siebel Smart Answer Connector, Quotes, Quote and Order Capture, Territory Management, Portfolio Management Process (PMP), Field Service, HelpDesk Option, Barcode, Logistics Manager, Preventative Maintenance, Repair, Email/Web Offer Designer, Marketing Resource Manager, Customer Order Management Administrator, Server Extensions for UNIX, Network Order Entry, Siebel Bulk Order Capture, CME Quote and Order Capture, Loyalty Manager, Loyalty Member Services Representative, Siebel Loyalty In-Store Engine, Siebel CRM Web Channel for Employees - up to 15 objects, Pricing Authorization Management, Price Comparison, Contracts for CME, Siebel CME Contracts, Contract Terms and Conditions, Premises, Rollup, Work Orders, Call Reports, Design Opportunity Management, Siebel Field Service Assets, Billing Management, Credit Management, Fraud Management, Tools, Advanced Market Development Funds, Siebel Campaign Management, Change Management, Content Publishing, Contracts, Customer Content, Employee Self Service, Forecasting, SmartScript, Time and Expense Reporting, Enterprise Selling Process (ESP), Email Response, HelpDesk Online, Quality Management, Target Account Selling (TAS), Asset Management, Advisor, Anywhere, Client Sync, Mobile Connector, Siebel Connector for Satmetrix Exchange, Test Automation, Interfaces, Web UI Dynamic Developer Kit		10.11

Siebel CRM – Life Sciences - Professional Application User

Vertical/Category	Program		
Life Sciences	Siebel CRM Base, Siebel Life Sciences CRM Base Option, Data Quality, Advanced Contracts, Contracts Terms and Conditions, Managed Care, Managed Care Profile, Opportunities and Contracts, Pharma Campaigns, Territory Management, Medical Education, Prescription Analysis, Rollup, Samples, Design Opportunity Management, Collections, Tools, Advanced Market Development Funds, Advanced Search, Siebel Campaign Management, Change Management, Content Publishing, Contracts, Customer Content, Employee Self Service, Forecasting, Siebel Smart Answer Connector, SmartScript, Time and Expense Reporting, Training, Enterprise Selling Process (ESP), Email Response, HelpDesk Online, Siebel Lead Management, Quality Management, Dynamic Catalog, Dynamic Pricer, Events Manager, Partner Manager, Quotes, Quote and Order Capture, Portfolio Management Process (PMP), Field Service, HelpDesk Option, Barcode, Logistics Manager, Preventative Maintenance, Repair, Email/Web Offer Designer, Dialogue Manager, Marketing Resource Manager, Segment Manager, Automated Discovery, Automated Service, Customer Order Management Administrator, Siebel Deal Management, Server Extensions for UNIX, Business Rules, Network Order Entry, Pricing Authorization Management, Adverse Events and Complaints, Medical Field Service, Loyalty Manager, Loyalty Member Services Representative, Siebel Loyalty In-Store Engine, Siebel CRM Web Channels for Employees - up to 15 objects, Target Account Selling (TAS), Asset Management, Advisor, Siebel Configurator Runtime, Anywhere, Client Sync, Mobile Connector, Siebel Connector for Satmetrix Exchange, Test Automation Interfaces, Web UI Dynamic Developer Kit		10.11

Siebel CRM – Manufacturing and Distribution - Professional Application User

Vertical/Category	Program		
Manufacturing and Distribution	Siebel CRM Base, Siebel Manufacturing CRM Base Option, Siebel Distribution CRM Base Option, Design Opportunity Management, Advanced Contracts, Contract Terms and Conditions, Financial Accounts, Lease End-of-Term Processing, Personal Lines Claims, Title Management, Vehicle Contracts, Credit Origination, Collections, Consumer Goods Sales Option, Consumer Goods Service Option, Deductions, Trade Promotions, Contracts for OGC, Contract Terms and Conditions, Premises, Rollup, Work Orders, Call Reports, Billing Management, Fraud Management, Credit Management, , Dynamic Catalog, Dynamic Pricer, Events Manager, Partner Manager, Siebel Smart Answer Connector Quotes, Quote and Order Capture, Territory Management, Portfolio Management Process (PMP), Field Service, HelpDesk Option, Barcode, Logistics Manager, Preventative Maintenance, Repair, Email/Web Offer Designer, Dialogue Manager, Marketing Resource Manager, Segment Manager, Automated Discovery, Automated Service, Customer Order Management Administrator, Siebel Deal Management, Server Extensions for UNIX, Network Order Entry, Loyalty Manager, Loyalty Member Services Representative, Siebel Loyalty In-Store Engine, Siebel CRM Web Channels for Employees - Up to 15 Objects, Business Rules, OGC Quote and Order Capture, Pricing Authorization Management, Consumer Goods Dynamic Catalog, Consumer Goods Quote and Order Capture, Sales Volume Planning, Group Inventory and Execution, Van Sales/Delivery, Tools, Advanced Market Development Funds, Siebel Campaign Management, Change Management, Compensation Planning, Content Publishing, Contracts, Customer Content, Employee Self Service, Forecasting, Performance Management, SmartScript, Time and Expense Reporting, Training, Enterprise Selling Process (ESP), Email Response, HelpDesk Online, Siebel Lead Management, Quality Management, Target Account Selling (TAS), Asset Management, Advisor, Siebel Configurator Runtime, Anywhere, Client Sync, Mobile Connector, Siebel Connector for Satmetrix Exchange, Test Automation Interfaces, Web UI Dynamic Developer Kit		10.11

Siebel CRM Managed Cloud Services

Siebel CRM – Financial Services - Professional Application User

Vertical/Category	Program		
Financial Services	Siebel CRM Base, Siebel Financial Services CRM Base Option Data Quality, Siebel Deal Management, Dynamic Catalog, Dynamic Pricer, Events Manager, Partner Manager, Siebel Smart Answer Connector, Quotes, Quote and Order Capture, Territory Management, Portfolio Management Process (PMP), Field Service, HelpDesk Option, Barcode, Logistics Manager, Preventative Maintenance, Repair, Email/Web Offer Designer, Dialogue Manager, Marketing Resource Manager, Segment Manager, Automated Discovery, Automated Service, Customer Order Management Administrator, Server Extensions for UNIX, Customer Relationship Console – HTML, Finance Events Manager, Network Order Entry, Financial Services Quote and Order Capture, Financial Services Quotes, Loyalty Manager, Loyalty Member Services Representative, Siebel Loyalty In-Store Engine, Siebel CRM Web Channel for Employees - Up to 15 Objects, Wealth Management, Insurance Field Service, Financial Accounts, Rollup, Call Reports, Needs Analysis/Application - Non credit, Retirement/Pension Management, Commercial Banking Loan Approval, Corporate and Commercial Banking, Credit Origination, Institutional Sales and Research, Investment Banking, Investment Management, Small Business Banking, Collections, Group Coverage, Healthcare Providers and Facilities, Individual Coverage, Group Pensions, Group Policies, Individual Life and Annuities, Personal Lines Claims, Personal Lines Policies, Tools, , Advanced Market Development Funds, Siebel Campaign Management, Change Management, Compensation Planning, Content Publishing, Contracts, Customer Content, Employee Self Service, Forecasting, Performance Management, SmartScript, Time and Expense Reporting, Training, Enterprise Selling Process (ESP), Email Response, HelpDesk Online, Siebel Lead Management, Quality Management, Target Account Selling (TAS), Asset Management, Advisor, Siebel Configurator Runtime, Anywhere, Client Sync, Mobile Connector, Siebel Connector for Satmetrix, Test Automation Interfaces, Web UI Dynamic Developer Kit		10.11

Siebel CRM – Public Sector - Professional Application User

Vertical/Category	Program		
Public Sector	Siebel CRM Base, Siebel Public Sector CRM Base Option, Data Quality, Siebel Deal Management, Siebel Configurator Runtime, Dynamic Catalog, Dynamic Pricer, Events Manager, Partner Manager, Siebel Smart Answer Connector, Quotes, Quote and Order Capture, Territory Management, Portfolio Management Process (PMP), Field Service, Helpdesk Option, Barcode, Logistics Manager, Preventative Maintenance, Repair, Email/Web Offer Designer, Dialogue Manager, Marketing Resource Manager, Segment Manager, Automated Discovery, Automated Service, Customer Order Management Administrator, Server Extensions for UNIX, Network Order Entry, Loyalty Manager, Loyalty Member Services Representative, Siebel Loyalty In-Store Engine, Siebel CRM Web Channel for Employees - Up to 15 Objects, Tools, Advanced Market Development Funds, Siebel Campaign Management, Change Management, Compensation Planning, Content Publishing, Contracts, Customer Content, Employee Self Service, Forecasting, Performance Management, SmartScript, Time and Expense Reporting, Training, Enterprise Selling Process (ESP), Email Response, HelpDesk Online, Siebel Lead Management, Quality Management, Target Account Selling (TAS), Asset Management, Advisor, Anywhere, Client Sync, Mobile Connector, Siebel Connector for Satmetrix, Test Automation Interfaces, Web UI Dynamic Developer Kit		10.11

Siebel CRM – Horizontal Apps - Professional Application User

Vertical/Category	Program		

	Metric	Notes
Horizontal Apps	Siebel CRM Base, Data Quality, Dynamic Catalog, Dynamic Pricer, Events Manager, Partner Manager, Siebel Smart Answer Connector, Quotes, Quote and Order Capture, Territory Management, Portfolio Management Process (PMP), Field Service, HelpDesk Option, Barcode, Logistics Manager, Preventative Maintenance, Repair, Email/Web Offer Designer, Dialogue Manager, Marketing Resource Manager, Segment Manager, Automated Discovery, Automated Service, Customer Order Management Administrator, Server Extensions for UNIX, Tools, Advanced Market Development Funds, Campaigns, Change Management, Compensation Planning, Content Publishing, Contracts, Customer Content, Employee Self Service, Forecasting, Performance Management, SmartScript, Time and Expense Reporting, Training, Enterprise Selling Process (ESP), Email Response, HelpDesk Online, Siebel Lead Management, Quality Management, Target Account Selling (TAS), Asset Management, Advisor, Anywhere, Client Sync, Mobile Connector, Siebel CRM Web Channel for Employees - Up to 15 Objects, Test Automation Interfaces, Web UI Dynamic Developer Kit	10.11
Remote Client	Application User	12
Handheld	Application User	12
Programs included in Handheld		
Handheld, Siebel Store-and-Forward Messaging, Medical Handheld, Medical Inventory Management, Pharma Handheld, Siebel Signature Capture Tool, Consumer Goods Sales Handheld DSS, Siebel Van Sales/Delivery		
Wireless	Application User	12
Scheduling	Application User	12
Proposals and Presentations	Application User	12.13
Proposals and Presentations Setup	N/A	12
Programs included in Proposals and Presentations		
Siebel Proposals and Presentations, Siebel Financial Services Proposals and Presentations		
Email Marketing Server		12, 14
Tier 1 < 500K records	Module	12, 14
Tier 2 < 3M records	Module	12, 14
Tier 3 > 3M records	Module	12, 14
eCustomer	Processor	12
Programs included in eCustomer		
eCustomer, CME eCustomer, Price Comparison for Customers, CME Quote and Order Capture for Customers, Financial Services eCustomer, Finance Events, OGC eCustomer, OGC Quote and Order Capture for Customers, Advisor for Customers, Configurator Runtime for Customers, Content Publishing for Customers, Dynamic Pricer for Customers, Events, Self Service Wireless for Customers, SmartScript for Customers, Siebel CRM Web Channel for Customers - Up to 15 Objects		
eSales	Processor	12
Programs included in eSales		
eSales, CME eSales, Price Comparison for Customers, CME Quote and Order Capture for Customers, Financial Services eSales, Finance Events, OGC eSales, OGC Quote and Order Capture for Customers, Advisor for Customers, Configurator Runtime for Customers, Content Publishing for Customers, Dynamic Pricer for Customers, Events, Self Service Wireless for Customers, SmartScript for Customers, Siebel CRM Web Channel for Customers - Up to 15 Objects		
eService	Processor	12
Programs included in eService		
eService, CME eService, Price Comparison for Customers, CME Quote and Order Capture for Customers, Financial Services eService, Finance Events, Pharma eService, MedEd for Customers, Samples for Customers, OGC eService, OGC Quote and Order Capture for Customers, Public Sector for eService, Advisor for Customers, Configurator Runtime for Customers, Content Publishing for Customers, Dynamic Pricer for Customers, Events, Self Service Wireless for Customers, SmartScript for Customers, Siebel CRM Web Channel for Customers - Up to 15 Objects		
Order Management	Processor	12.15
Programs included in Order Management		
Siebel Configurator Administration Server, Siebel Customer Order Management Administration Server, Siebel Bulk Orders Administration Server, Siebel Consumer Goods Customer Order Management Administration Server		
Loyalty Engine Standard Edition	Processor	12
Loyalty Engine Multi-partner Edition	Processor	12
Loyalty Customer Portal	Processor	12.16
Partner Portal	Application User	12
Programs included in Partner Portal		
Siebel Partner Portal, Siebel Advanced Market Development Funds for Partners, Siebel Advisor for Partners, Siebel Anywhere for Partners, Siebel Campaigns for Partners, Siebel Campaign Management for Partners, Siebel Configurator Runtime for Partners, Siebel Content Publishing for Partners, Siebel Customer Order Management Administrator for Partners, Siebel Dynamic Pricer for Partners, Siebel Field Service for Partners, Siebel Forecasting for Partners, Siebel Logistics Manager for Partners, Siebel Marketing Resource Manager for Partners, Siebel Partner Commerce, Siebel PRM Wireless, Siebel Proposal and Presentations for Partners, Siebel Remote Client for Partners, Siebel Reports for Partners, Siebel Segment Manager for Partners, Siebel SmartScript for Partners, Siebel Loyalty Partner Portal		
CME Partner Portal, CME Partner Commerce, Credit Management for Partners, Design Opportunity Management for Partners, Fraud Management for Partners, Pricing Authorization Management for Partners, CME Quote and Order Capture for Partners, Finance Partner Portal, Agent Portal, Service Provider Portal, Individual and Group Coverage for Partners, Life and Pension for Partners, Siebel P&C Claims for Partners, Siebel P&C Policies for Partners, Siebel Financial Services Proposals and Presentations for Partners, Delegated Business Rules for Partners, Life Sciences Field Service for Partners, Dealer Portal, OGC Partner Portal, Credit Origination for Partners, Dealer Advanced Marketing, Financial Accounts for Partners, Siebel Remarketing for Partners, Showroom for Dealers, OGC Partner Commerce, OGC Quote and Order Capture for Partners, Deductions for Partners, Sales Volume Planning for Partners, Trade Promotions for Partners, Public Sector Partner Portal		

Oracle Business Intelligence Technology and Applications Managed Cloud Services

Oracle Business Intelligence Processor	Processor	
Vertical/Category	Program	
Oracle Business Intelligence	Business Intelligence Suite Enterprise Edition Plus, Business Intelligence Server Enterprise Edition, Business Intelligence Server Administrator, Answers, Delivers, Business Intelligence Publisher, Interactive Dashboard, Office Plug-in, Reporting and Publishing, Informatica PowerCenter and PowerConnect Adapters, Contact Center Telephony Analytics Fusion Edition, Marketing Analytics Fusion Edition, Partner Analytics Fusion Edition, Price Analytics Fusion Edition, Sales Analytics Fusion Edition, Service Analytics Fusion Edition, Project Analytics, Human Resources Analytics Fusion Edition, Loyalty Analytics, Supply Chain and Order Management Analytics Fusion Edition, Procurement and Spend Analytics Fusion Edition, Telecom Sales Analytics Fusion Edition, Telecom Marketing Analytics Fusion Edition, Telecom Service Analytics Fusion Edition, Finance Institutional Analytics Fusion Edition, Finance Marketing Analytics Fusion Edition, Finance Retail Analytics Fusion Edition, Finance Sales Analytics Fusion Edition, Finance Service Analytics Fusion Edition, Financial Services Profitability Analytics, Financial Analytics Fusion Edition, Insurance Marketing Analytics Fusion Edition, Insurance Partner Manager Analytics Fusion Edition, Financial Services Asset Liability Management Analytics, Insurance Sales Analytics Fusion Edition, Insurance Service Analytics Fusion Edition, Pharma Marketing Analytics Fusion Edition, Pharma Sales Analytics Fusion Edition, Consumer Goods Trade Funds Analytics Fusion Edition, Case Management Analytics Fusion Edition, Fusion Governance, Risk, and Compliance Intelligence, Fusion Transportation Intelligence, Demand Signal Repository, Advanced Planning Command Center, Manufacturing Analytics, Student Information Analytics	22

Oracle Hyperion Managed Cloud Services

Oracle Hyperion Managed Cloud Services	Processor	
Programs included in Oracle Hyperion Managed Cloud Services		

	Metric	Notes
Hyperion Planning Plus, Hyperion Workforce Planning, Hyperion Capital Asset Planning, Hyperion Public Sector Planning and Budgeting, Hyperion Profitability and Cost Management, Hyperion Strategic Finance, Hyperion Strategic Finance for Banking, Hyperion Performance Scorecard Plus, Essbase Plus, Essbase Visual Explorer, Hyperion Interactive Reporting, Hyperion Financial Reporting, Hyperion SQR Production Reporting, Hyperion Web Analysis, Data Integrator and Application Adapter for Data Integration, Hyperion Financial Data Quality Management, Hyperion Financial Data Quality Management Adapter Suite, Hyperion Data Relationship Management, Hyperion Data Relationship Management Steward, Hyperion Data Integration Management, Hyperion Data Integration Management Source Adapter, Hyperion Data Integration Management Team Based Development, Hyperion Project Financial Planning, Integrated Operational Planning, Integrated Margin Planning, Financial Services Balance Sheet Planning, Hyperion Financial Data Quality Management ERP Source Adapter for SAP, Hyperion Financial Management Plus, Hyperion Financial Close Suite, Hyperion Disclosure Management for Oracle Hyperion Financial Close Suite, Hyperion Data Relationship Management for Oracle Hyperion Financial Close Suite, Hyperion Financial Close Management, Hyperion Disclosure Management, Hyperion Strategic Finance, Hyperion Strategic Finance for Banking, Hyperion Performance Scorecard Plus, Essbase Plus, Essbase Visual Explorer, Hyperion Interactive Reporting, Hyperion Financial Reporting, Hyperion SQR Production Reporting, Hyperion Web Analysis, Data Integrator and Application Adapter for Data Integration, Hyperion Financial Data Quality Management, Hyperion Financial Data Quality Management Adapter for Financial Management, Hyperion Financial Data Quality Management Adapter Suite, Hyperion Data Relationship Management, Hyperion Data Relationship Management Steward, Hyperion Data Integration Management, Hyperion Data Integration Management Source Adapter, Hyperion Data Integration Management Team Based Development, Quantitative Management and Reporting for Solvency II, Essbase Analytics Link for Hyperion Financial Management, Hyperion Financial Data Quality Management ERP Source Adapter for SAP Hyperion Financial Management Plus, Hyperion Financial Close Suite, Hyperion Disclosure Management for Oracle Hyperion Financial Close Suite, Hyperion Financial Close Management, Hyperion Disclosure Management, Essbase Visual Explorer, Hyperion Web Analysis, Hyperion Financial Data Quality Management Adapter for Financial Management, Quantitative Management and Reporting for Solvency II, Essbase Analytics Link for Hyperion Financial Management, Hyperion Tax Provision		23
User Productivity Kit Managed Cloud Services		
Option: Knowledge Center		6
Options for Administration & Computer and Administration Services		
Additional VPN		24
Additional Non-Production Environment		24.25
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APAC Data Center Additional VPN		24
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Oracle Managed Cloud Services Notes

- ¹ Application Server Processor is a pre-requisite to BPEL Process Manager Option. Requires Technical and HQAPP approval. If approved by Technical, "technical exception language" must be included in contract.
- ² The following modules are not available on R12: Customer Data Hub, Internal Controls Manager for Professional or External Application User, Asset Tracking, Exchange Marketplace
- ³ This service requires approval as indicated in the Global Approval Matrix
- ⁴ The following modules are available on R12 only: Sourcing Optimization, Asset Tracking for Professional or External Application User, Property Manager, Product Data Synchronization for GDSN and UCCnet Services, Enterprise Planning and Budgeting, Profitability Manager, Internal Controls Manager for Self Service Application User, Intelligence, Strategic Network Optimization, Demantra Managed Cloud Services, Customer Hub B2B, Customer Hub Add-on B2B, Customer Hub B2C, Customer Hub Add-on B2C, Customer Hub Data Steward, Product Hub Data Steward, Product Hub, Product Hub Add-on, Content Services, Exchange Marketplace
- ⁵ Internal Control Manager with "Self-Service Application User - Single Module" pricing is available on R12 only.
- ⁶ User Productivity Kit -Content Center Managed Cloud Service does not include User Productivity Kit - Knowledge Center. Customers who wish to host Knowledge Center must separately purchase User Productivity Kiti - Knowledge Center Managed Cloud Services.
- ⁸ Oracle Managed Cloud Services for this product is on Controlled Availability and requires approval. Please refer to the Approval Matrix on <http://esource.oraclecorp.com> for more information. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.
- ⁹ Fusion Campus Solutions Intelligence requires Oracle Business Intelligence Enterprise Edition and Human Resources pillar
- ¹⁰ The customer is responsible for hosting MS Sharepoint
- ¹¹ Available to customers running v 7.8 or earlier
- ¹² Requires Siebel CRM Professional Application User as a prerequisite.
- ¹³ Computer and Administration Services for Proposals and Presentations requires Proposals and Presentations Setup .
- ¹⁵ Order Management includes the following modules: Siebel Customer Order Management Administration Server, Consumer Goods Order Management Administration Server, Siebel Configurator Administration Server, Siebel Configurator Administration Server, Siebel Configurator Runtime.
- ¹⁶ Loyalty Engine is a prerequisite for Loyalty Customer Portal and Siebel Loyalty Partner Portal.
- ¹⁷ Order Management is a prerequisite for Siebel Configurator Runtime for Partners, Siebel Customer Order Management Administrator for Partners, and Siebel Dynamic Pricer for Partners.
- ¹⁸ Wireless is prerequisite for Siebel PRM Wireless.
- ¹⁹ Proposals and Presentations is a prerequisite for Siebel Proposals and Presentations for Partners and for Siebel Financial Services Proposals and Presentations for Partners.
- ²⁰ Remote Client is a prerequisite for Siebel Remote Client for Partners.
- ²¹ Business Intelligence Processor is a prerequisite for Siebel Segment Manager for Partners.
- ²² Includes support for Business Intelligence Suite Enterprise Edition. Does not include support for Hyperion Interactive Reporting–System 9, Hyperion Financial Reporting–System 9, Hyperion Web Analysis–System 9, and Hyperion SQR Production Reporting–System 9.
- ²³ Oracle Hyperion Managed Cloud Services customers are limited to one ETL (extract, transform, load) tool per deployment - Oracle Data Inegrator or Hyperion Financial Data Quality Management or Hyperion Data Integration Management
- ²⁴ Setup/One Time Fee applies to Computer and Administration Services.
- ²⁵ Price may vary based on additional services and resources required to provide Additional OTO Non-Production environments.
- ²⁶ This fee is in addition to the Enhanced Refresh (up to 3 nodes) fee.
- ²⁷ Must be purchased in increments of two (2) processors.
- ²⁸ This service is on Controlled Availability (CA). Standard pricing is not available. Contact the Global Solutions Center for a price quote. If you are an Oracle partner, please contact your Oracle PRN Representative for additional information.
- ²⁹ This fee is in addition to the Additional Refresh (up to 3 nodes) fee. This fee also applies to any entitled refreshes where the target instance has the specified node count.

PTC, INC.

THIRD PARTY LICENSE ATTACHMENT TO SCHEDULE B OF ATTACHMENT A

Third Party License Attachment
To
SCHEDULE B

Attached are the Bundled Third Party Product licenses identified in SCHEDULE B.

License Agreement

1. Microsoft SQL Server 2012 Standard (Runtime) End-User License Agreement
2. Oracle Technology Network Development and Distribution License Terms
3. Oracle Binary Code License Agreement for the Java SE Platform Products and JavaFX
4. Microsoft Software License Terms, Microsoft Visual Studio 2010 Professional and Trial Edition
5. Mozilla Public License Version 2.0
6. Artistic License 2.0, Open Source Initiative
7. Apache License Version 2.0
8. Microsoft Software License Terms, Microsoft Office Access 2007 Runtime
9. Microsoft MSDN Code Gallery Licenses
10. Microsoft .NET Framework Redistributable EULA

(For ISV Royalty Program Only)

Microsoft® SQL Server® 2012 Standard _____¹ (Runtime)

Core Licenses: _____²

Server Licenses: _____³

User Client Access Licenses: _____⁴

Device Client Access Licenses: _____⁵

END-USER LICENSE AGREEMENT

These license terms are an agreement between the licensor of the software application or suite of applications with which you acquired the Microsoft software ("Licensor") and you. Please read them. They apply to the software named above, which includes the media on which you received it, if any. The terms also apply to any Microsoft

- updates,
- supplements, and
- Internet-based services

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¹ LICENSOR: For "Academic Edition" licensed software, please specify the name. For example: Microsoft® SQL Server™ 2012, Standard Edition and Academic Edition.

² LICENSOR: Specify the total number of core licenses for which the end user is licensed under this agreement.

³ LICENSOR: Specify the total number of server licenses for which the end user is licensed under this agreement.

⁴ LICENSOR: Specify the total number of user CALs that may access directly or indirectly instances of the server software licensed under this agreement.

⁵ LICENSOR: Specify the total number of device CALs that may access directly or indirectly instances of the server software licensed under this agreement.

or device.

IF YOU COMPLY WITH THESE LICENSE TERMS, YOU HAVE THE RIGHTS BELOW FOR EACH SERVER YOU PROPERLY LICENSE.

1. OVERVIEW.

1.1 Software. The software includes

- server software, and
- additional software that may only be used with the server software directly, or indirectly through other additional software.

1.2 License Model. The software is licensed based on either the:

- **Core License Model** – the number of physical and/or virtual cores in the server; or
- **Server + Client** – the number of instances of server software that you run, and the number of devices and users that access instances of server software.

1.3 Licensing Terminology.

- **Instance.** You create an "instance" of the software by executing the software's setup or install procedure. You also create an instance of the software by duplicating an existing instance. References to the "software" in this agreement include "instances" of the software.
- **Run an Instance.** You "run an instance" of the software by loading it into memory and executing one or more of its instructions. Once running, an instance is considered to be running (whether or not its instructions continue to execute) until it is removed from memory.
- **Operating System Environment ("OSE").** An "operating system environment" or "OSE" is
 - (i) all or part of an operating system instance, or all or part of a virtual (or otherwise emulated) operating system instance which enables separate machine identity (primary computer name or similar unique identifier) or separate administrative rights; and
 - (ii) instances of applications, if any, configured to run on the operating system instance or parts identified above.

A physical hardware system can have either or both of the following:

- one physical operating system environment;
- one or more virtual operating system environments.

A physical operating system environment is configured to run directly on a physical hardware system. The operating system instance used to run hardware virtualization software or to provide hardware virtualization services (e.g. Microsoft virtualization technology or similar technologies) is considered part of the physical operating system environment.

A virtual operating system environment is configured to run on a virtual (or otherwise emulated) hardware system.

- **Server.** A server is a physical hardware system capable of running server software. A hardware partition or blade is considered to be a separate physical hardware system.
- **Physical Core.** A physical core is a core in a physical processor. A physical processor consists of one or more physical cores.

- **Hardware Thread.** A hardware thread is either a physical core or a hyper-thread in a physical processor.
- **Virtual Core.** A virtual core is the unit of processing power in a virtual (or otherwise emulated) hardware system. A virtual core is the virtual representation of one or more hardware threads. Virtual OSEs use one or more virtual cores.
- **Assigning a License.** To assign a license is to designate that license to a server, device or user as indicated below.
- **Core Factor.** The core factor is a numerical value associated with a specific physical processor for purposes of determining the number of licenses required to license all of the physical cores on a server.

2. USE RIGHTS FOR CORE LICENSE MODEL.

2.1 Licensing a Server. Before you run instances of the server software on a server, you must determine the number of software licenses required and assign those licenses to that server as described below.

2.2 Determining the Number of Licenses Required. You have two license options:

(a) Physical Cores on a Server. You may license based on all of the physical cores on the server. If you choose this option, the number of licenses required equals the number of physical cores on the server multiplied by the applicable core factor located at <http://go.microsoft.com/fwlink/?LinkID=229882>.

(b) Individual Virtual OSE. You may license based on the virtual OSEs within the server in which you run the server software. If you choose this option, for each virtual OSE in which you run the server software, you need a number licenses equal to the number of virtual cores in the virtual OSE, subject to a minimum requirement of four licenses per virtual OSE. In addition, if any of these virtual cores is at any time mapped to more than one hardware thread, you need a license for each additional hardware thread mapped to that virtual core. Those licenses count toward the minimum requirement of four licenses per virtual OSE.

2.3 Assigning the Required Number of Licenses to the Server.

(a) Initial Assignment. After you determine the number of software licenses required for a server, you must assign that number of licenses to that server. The server to which a license is assigned is considered the "licensed server" for such license. You may not assign a license to more than one server. A hardware partition or blade is considered a separate server.

(b) Reassignment. You may reassign a license, but not within 90 days of its last assignment. You may reassign a license sooner if you retire the licensed server to which the license is assigned due to permanent hardware failure. If you reassign a license, the server to which you reassign the license becomes the new licensed server for that license.

2.4 Running Instances of the Server Software. Your right to run instances of the server software depends on the option chosen to determine the number of software licenses required:

(a) Physical Cores on a Server. For each server to which you have assigned the required number of licenses as provided in Section 2.2(a), you may run on the licensed server any number of instances of the server software in the physical OSE.

(b) Individual Virtual OSEs. For each virtual OSE for which you have assigned the required number of licenses as provided in section 2.2(b) , you have the right to run any number of instances of the software in that virtual OSE.

2.5 Running Instances of the Additional Software. You may run or otherwise use any

number of instances of the additional software listed below in physical or virtual OSEs on any number of devices. You may use the additional software only with the server software directly, or indirectly through other additional software.

- Business Intelligence Development Studio
- Client Tools Backward Compatibility
- Client Tools Connectivity
- Client Tools SDK
- Data Quality Client
- Data Quality Services
- Distributed Replay Client
- Distributed Replay Controller
- Management Tools - Basic
- Management Tools - Complete
- Reporting Services – SharePoint
- Reporting Services Add-in for SharePoint Products
- Master Data Services
- Sync Framework
- SQL Client Connectivity SDK
- SQL Server 2012 Books Online

2.6 Creating and Storing Instances on Your Servers or Storage Media. You have the additional rights listed below for each software license you acquire.

- (a) You may create any number of instances of the server software and additional software.
- (b) You may store instances of the server software and additional software on any of your servers or storage media.
- (c) You may create and store instances of the server software and additional software solely to exercise your right to run instances of the server software under any of your software licenses as described (e.g., you may not distribute instances to third parties).

2.7 No Client Access Licenses (CALs) Required for Access. Under this core license model, you do not need CALs for users or devices to access your instances of the server software.

2.8 Runtime-Restricted Use Software. The software is "Runtime-Restricted Use" software; as such, it may only be used to run the Unified Solution solely as part of the Unified Solution. The software may not be used either (i) to develop any new software applications, (ii) in conjunction with any software applications, databases or tables other than those contained in the Unified Solution, and/or (iii) as a standalone software application. The foregoing provision, however, does not prohibit you from using a tool to run queries or reports from existing tables.

3. USE RIGHTS FOR SERVER + CLIENT ACCESS LICENSE MODEL

3.1 Assigning the License to the Server.

- (a) **Initial Assignment.** Before you run any instance of the server software under a software license, you must assign that license to one of your servers. That server is considered the "licensed server" for such license. You may not assign the same license to more than one server, but you may assign other software licenses to the same server. A hardware partition or blade is considered to be a separate server.

(b) Reassignment. You may reassign a software license, but not within 90 days of the last assignment. You may reassign a software license sooner if you retire the licensed server due to permanent hardware failure. If you reassign a license, the server to which you reassign the license becomes the new licensed server for that license.

3.2 Running Instances of the Server Software. For each software license you assign to the server, you may run any number of instances of the server software in one physical or virtual OSE on the licensed server at a time.

3.3 Running Instances of the Additional Software. You may run or otherwise use any number of instances of the additional software listed below in physical or virtual OSEs on any number of devices. You may use the additional software only with the server software directly, or indirectly through other additional software.

- Business Intelligence Development Studio
- Client Tools Backward Compatibility
- Client Tools Connectivity
- Client Tools SDK
- Data Quality Client
- Data Quality Services
- Distributed Replay Client
- Distributed Replay Controller
- Management Tools - Basic
- Management Tools - Complete
- Reporting Services – SharePoint
- Reporting Services Add-in for SharePoint Products
- Master Data Services
- Sync Framework
- SQL Client Connectivity SDK
- SQL Server 2012 Books Online

3.4 Creating and Storing Instances on Your Servers or Storage Media. You have the additional rights listed below for each software license you acquire.

(a) You may create any number of instances of the server software and additional software.

(b) You may store instances of the server software and additional software on any of your servers or storage media.

(c) You may create and store instances of the server software and additional software solely to exercise your right to run instances of the server software under any of your software licenses as described (e.g., you may not distribute instances to third parties).

3.5 Client Access Licenses (CALs).

(a) Initial Assignment of CALs. You must acquire and assign a SQL Server 2012 CAL to each device or user that accesses your instances of the server software directly or indirectly. A hardware partition or blade is considered to be a separate device.

- You do not need CALs for any of your servers licensed to run instances of the server software.
- You do not need CALs for up to two devices or users to access your instances of the

server software only to administer those instances.

- Your CALs permit access to your instances of earlier versions, but not later versions, of the server software. If you are accessing instances of an earlier version, you may also use CALs corresponding to that version.

(b) Types of CALs. There are two types of CALs: one for devices and one for users. Each device CAL permits one device, used by any user, to access instances of the server software on your licensed servers. Each user CAL permits one user, using any device, to access instances of the server software on your licensed servers. You may use a combination of device and user CALs.

(c) Reassignment of CALs. You may

- permanently reassign your device CAL from one device to another, or your user CAL from one user to another; or
- temporarily reassign your device CAL to a loaner device while the first device is out of service, or your user CAL to a temporary worker while the user is absent.

4. ADDITIONAL LICENSING REQUIREMENTS AND/OR USE RIGHTS.

4.1 Alternative Versions and Editions. In place of any permitted instance, you may create, store and use an instance of any earlier version of the following editions of the software: Standard, Workgroup, or Standard Edition for Small Business.

This agreement applies to your use of these other versions or editions in this manner. If the earlier version or edition includes components not covered in this agreement, the terms that are associated with those components in the earlier version or edition apply to your use of them. Microsoft is not obligated to supply any prior or different versions or editions of the software to you.

The software may include more than one version, such as 32-bit and 64-bit. For each instance of the software that you are permitted to create, store and run, you may use either version.

4.2 Maximum Instances. The software or your hardware may limit the number of instances of the server software that can run in physical or virtual OSEs on the server.

4.3 Multiplexing. Hardware or software you use to

- pool connections,
- reroute information, or
- reduce the number of devices or users that directly access or use the software

(sometimes referred to as "multiplexing" or "pooling"), does not reduce the number of licenses of any type that you need.

4.4 No Separation of Server Software. You may not separate the server software for use in more than one OSE under a single license, unless expressly permitted. This applies even if the OSEs are on the same physical hardware system.

4.5 Fail-over Server. For any OSE in which you run instances of the server software, you may run up to the same number of passive fail-over instances in a separate OSE for temporary support. You may run the passive fail-over instances on a server other than the licensed server. However, if you have licensed the server software under section 2.2(a) and the OSE in which you run the passive fail-over instances is on a separate server, the number of physical cores on the separate server must not exceed the number of physical cores on the licensed server and the core factor for the physical processors in that server must be the same or lower than the core factor for the physical processors in the licensed server. If you have licensed the server software under section 2.2(b), the number of hardware threads used in that separate OSE must not exceed the number of hardware threads used in the

corresponding OSE in which the active instances run:

4.6 SQL Server Reporting Services Map Report Item. The software may include features that retrieve content such as maps, images and other data through the Bing Maps (or successor branded) application programming interface (the "Bing Maps APIs"). The purpose of these features is to create reports displaying data on top of maps, aerial and hybrid imagery. If these features are included, you may use them to create and view dynamic or static documents. This may be done only in conjunction with and through methods and means of access integrated in the software. You may not otherwise copy, store, archive, or create a database of the content available through the Bing Maps APIs. You may not use the following for any purpose even if they are available through the Bing Maps APIs:

- Bing Maps APIs to provide sensor based guidance/routing, or
- any Road Traffic Data or Bird's Eye Imagery (or associated metadata).

Your use of the Bing Maps APIs and associated content is also subject to the additional terms and conditions at go.microsoft.com/fwlink/?LinkId=21969.

4.7 Included Microsoft Programs. The software includes other Microsoft programs listed at <http://go.microsoft.com/fwlink/?LinkId=231864>, which are licensed under the terms and conditions associated with them. You may only use these programs in conjunction with the software licensed here. If you do not accept the license terms associated with a program, you may not use that program.

- 5. INTERNET-BASED SERVICES.** Microsoft provides Internet-based services with the software. It may change or cancel them at any time.
- 6. BENCHMARK TESTING.** You must obtain Microsoft's prior written approval to disclose to a third party the results of any benchmark test of the software. However, this does not apply to the Microsoft .NET Framework (see below).
- 7. .NET FRAMEWORK SOFTWARE.** The software contains Microsoft .NET Framework software. This software is part of Windows. The license terms for Windows apply to your use of the .NET Framework software
- 8. MICROSOFT .NET FRAMEWORK BENCHMARK TESTING.** The software includes one or more components of the .NET Framework (".NET Components"). You may conduct internal benchmark testing of those components. You may disclose the results of any benchmark test of those components, provided that you comply with the conditions set forth at go.microsoft.com/fwlink/?LinkId=66406. Notwithstanding any other agreement you may have with Microsoft, if you disclose such benchmark test results, Microsoft shall have the right to disclose the results of benchmark tests it conducts of your products that compete with the applicable .NET Component, provided it complies with the same conditions set forth at go.microsoft.com/fwlink/?LinkId=66406.
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- 13. ACADEMIC EDITION SOFTWARE.** You must be a "Qualified Educational User" to use software marked as "Academic Edition" or "AE." If you do not know whether you are a Qualified Educational User, visit www.microsoft.com/education or contact the Microsoft affiliate serving your country.
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- 15. TRANSFER TO A THIRD PARTY.** The first user of the software may transfer it and this agreement directly to another end user as part of a transfer of the integrated software turnkey application or suite of applications (the "Unified Solution") delivered to you by or on behalf of the Licensor solely as part of the Unified Solution. Before the transfer, that end user must agree that this agreement applies to the transfer and use of the software. The transfer must include the software and the Proof of License label. The first user may not retain any instances of the software unless that user also retains another license for the software.
- 16. EXPORT RESTRICTIONS.** The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use. For additional information, see www.microsoft.com/exporting.
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22. FOR AUSTRALIA ONLY. References to "Limited Warranty" are references to the express warranty provided by Microsoft. This warranty is given in addition to other rights and remedies you may have under law, including your rights and remedies in accordance with the statutory guarantees under the Australian Consumer Law.

If the Australian Consumer Law applies to your purchase, the following applies to you: Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

Oracle Technology Network Development and Distribution License Terms

Export Controls on the Programs

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- You are not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor are you listed on the United States Department of Commerce Table of Denial Orders.

You will not download or otherwise export or re-export the Programs, directly or indirectly, to persons on the above mentioned lists.

You will not use the Programs for, and will not allow the Programs to be used for, any purposes prohibited by United States law, including, without limitation, for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.

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SI LE PRODUIT OS VOUS A ÉTÉ CONCÉDÉ SOUS LICENCE PAR UNE ENTITÉ AUTRE QUE MICROSOFT OU QUE L'UNE QUELCONQUE DE SES FILIALES À 100%, MICROSOFT EXCLUT TOUTE GARANTIE RELATIVE AUX COMPOSANTS OS COMME CELA EST STIPULÉ CI-APRÈS :

EXCLUSION DE GARANTIE. DANS TOUTE LA MESURE PERMISE PAR LE DROIT APPLICABLE, MICROSOFT ET SES FOURNISSEURS VOUS FOURNISSENT LES COMPOSANTS OS, AINSI QUE, LE CAS ÉCHÉANT, TOUT SERVICE D'ASSISTANCE RELATIF À CES COMPOSANTS OS (LES "SERVICES D'ASSISTANCE"), « COMME TELS ET AVEC TOUS LEURS DÉFAUTS ». EN OUTRE, MICROSOFT ET SES FOURNISSEURS EXCLUENT PAR LES PRÉSENTES TOUTE AUTRE GARANTIE LÉGALE, EXPRESSE OU IMPLICITE, RELATIVE AUX COMPOSANTS OS ET AUX SERVICES D'ASSISTANCE, NOTAMMENT (LE CAS ÉCHÉANT), TOUTE GARANTIE : DE PROPRIÉTÉ, D'ABSENCE DE CONTREFAÇON, DE QUALITÉ, D'ADAPTATION À UN USAGE PARTICULIER, D'ABSENCE DE VIRUS, DE PRÉCISION, D'EXHAUSTIVITÉ DES RÉPONSES, DES RÉSULTATS OBTENUS, D'ABSENCE DE NÉGLIGENCE, OU DE DÉFAUT DE FABRICATION, DE JOUISSANCE PAISIBLE, D'ABSENCE DE TROUBLE DE POSSESSION ET DE CONFORMITÉ À LA DESCRIPTION. VOUS ASSUMEZ L'ENSEMBLE DES RISQUES DÉCOULANT DE L'UTILISATION OU DU FONCTIONNEMENT DES COMPOSANTS OS ET DES SERVICES D'ASSISTANCE.

EXCLUSION DE RESPONSABILITÉ POUR LES DOMMAGES ACCESSOIRES, INDIRECTS ET CERTAINS AUTRES TYPES DE DOMMAGES. DANS TOUTE LA MESURE PERMISE PAR LE DROIT APPLICABLE, MICROSOFT OU SES FOURNISSEURS NE POURRONT EN AUCUN CAS ÊTRE TENUS RESPONSABLES DE TOUT DOMMAGE SPÉCIAL, ACCESSOIRE, INCIDENT OU INDIRECT DE QUELQUE NATURE QUE CE SOIT (Y COMPRIS, MAIS NON DE FAÇON LIMITATIVE, LES PERTES DE BÉNÉFICES, PERTES D'INFORMATIONS CONFIDENTIELLES OU AUTRES INFORMATIONS, INTERRUPTIONS D'ACTIVITÉ, PRÉJUDICES CORPORELS, ATTEINTES À LA VIE PRIVÉE, MANQUEMENT À TOUTE OBLIGATION (NOTAMMENT L'OBLIGATION DE BONNE FOI ET DE DILIGENCE), NÉGLIGENCE, ET POUR TOUTE PERTE

PÉCUNIAIRE OU AUTRE DE QUELQUE NATURE QUE CE SOIT), RÉSULTANT DE, OU RELATIFS A, L'UTILISATION OU L'IMPOSSIBILITÉ D'UTILISER LES COMPOSANTS OS OU LES SERVICES D'ASSISTANCE, OU LA FOURNITURE OU LE DÉFAUT DE FOURNITURE DES SERVICES D'ASSISTANCE, OU AUTREMENT EN VERTU DE, OU RELATIVEMENT A, TOUTE DISPOSITION DE CE CLUF SUPPLÉMENTAIRE, MÊME SI LA SOCIÉTÉ MICROSOFT OU UN QUELCONQUE FOURNISSEUR A ÉTÉ PRÉVENU DE L'ÉVENTUALITÉ DE TELS DOMMAGES.

LIMITATION DE RESPONSABILITÉ ET RECOURS. NONOBTANT TOUT DOMMAGE QUE VOUS POURRIEZ SUBIR POUR QUELQUE MOTIF QUE CE SOIT (NOTAMMENT TOUS LES DOMMAGES ÉNUMÉRÉS CI-DESSUS ET TOUS LES DOMMAGES DIRECTS OU GÉNÉRAUX), L'ENTIÈRE RESPONSABILITÉ DE MICROSOFT ET DE L'UN QUELCONQUE DE SES FOURNISSEURS AU TITRE DE TOUTE STIPULATION DE CE CLUF SUPPLÉMENTAIRE ET VOTRE SEUL RECOURS EN CE QUI CONCERNE TOUS LES DOMMAGES PRÉCITÉS NE SAURAIENT EXCÉDER LE MONTANT QUE VOUS AVEZ EFFECTIVEMENT PAYÉ POUR LES COMPOSANTS OS OU 5 DOLLARS US (US\$ 5,00), SELON LE PLUS ÉLEVÉ DES DEUX MONTANTS. LES PRÉSENTES LIMITATIONS ET EXCLUSIONS DEMEURERONT APPLICABLES DANS TOUTE LA MESURE PERMISE PAR LE DROIT APPLICABLE QUAND BIEN MÊME UN QUELCONQUE REMÈDE À UN QUELCONQUE MANQUEMENT NE PRODUIRAIT PAS D'EFFET.

La présente Convention est régie par les lois de la province d'Ontario, Canada. Chacune des parties à la présente reconnaît irrévocablement la compétence des tribunaux de la province d'Ontario et consent à instituer tout litige qui pourrait découler de la présente auprès des tribunaux situés dans le district judiciaire de York, province d'Ontario.

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**ATTACHMENT B
GOVERNMENT PRICE LIST**

INSTRUCTIONS:

To view the Government Price List for this contract, please follow the below URL:

<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

Select the specific manufacturer. The Government Price List for that manufacturer is found under the "Contracts & Pricelists" section.

Sales Quotation

Coreen Toussaint
 CONNECTICUT, STATE OF
 , PH: 000.000.0000
 ctoussaint@elmcitycommunities.org

Contract No.: GS-35F-0265X
CAGE Code: 3CA29
DUNS No.: 09-869-2374
TAX ID#: 54-1912608
Terms: NET 45
FOB: Destination

Quote Number: QUO-1430024-X5S9D2
Quote Date: 1/12/2024
Expiration Date: 2/11/2024

Order Address:
 immixTechnology, Inc.
 8444 Westpark Drive, Suite 200
 McLean, VA 22102
 PH: 703-752-0610 FX: 703-752-0611

immixTechnology, Inc. Contact: Tessary, Terry
 +1 770-625-7611 ttearry@immixgroup.com

Manufacturer Quote #:
Manufacturer Ref #:

Manufacturer Contact: Win, Seng
 000.000.0000 win@bob.ai

Year 1 Cost - \$111,842.37
 Year 2 Cost - \$73,941.48
 Year 3 Cost - \$73,941.48

Item	Part Number	Contract	Trans Type	Product Description	Qty	Price	Extended Price
1	PHA-ALL-APPS-NO-AUTONOMOUS-AI	GS-35F-0265X	SUB	PHA ERP application with no autonomous AI agents for all processes. \$12.00/ACC Unit/YEAR. Integration to PIC or HIP. Finance module users are limited to 2 Designated Users (DU) per 1,000 ACC Units. Minimum quantity of 1000 units required.	6309	\$11.7201	\$73,942.11
2	SERVICES-TRAINING AND HYPERCARE	GS-35F-0265X	SVC	Onsite or video based training of human employees. Travel will be billed as is separately.. \$190/Hr to be billed as actuals.	200	\$189.5013	\$37,900.26

SUBSCRIPTION	\$73,942.11
SERVICES	\$37,900.26
Grand Total	\$111,842.37

Subject to the Terms and Conditions of GSA MAS Contract Number GS-35F-0265X; See GSA eLibrary: <http://www.gsaelibrary.gsa.gov/ElibMain/home.do>

Taxes: Sales tax shall be added at the time of an invoice, unless a copy of a valid tax exemption or resale certificate is provided.

All Purchase Orders must include: End User Name, Phone Number, Email Address, Purchase Order Number, Government Contract Number and Our Quote Number, Bill-To and Ship-To Address (Cannot ship to a PO Box), Period of Performance (if applicable), and a Signature of a duly Authorized Representative.



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Enterprise Resource Planning (ERP) for the PHA

Bob.ai

- » Bob.ai is a Dallas-based software company with expertise in AI and core business systems development.
- » Our product aims to move PHAs off paper to a ERP package with MS Dynamics as the Finance module



A complete ERP

The screenshot shows the user interface of the Dallas Housing Authority ERP system. At the top, it displays the DHA logo and the text "Welcome to the DALLAS HOUSING AUTHORITY". A search bar is located in the top right corner. The dashboard is organized into two main sections: "Core Apps" and "Apps for Voucher Programs".

Core Apps:

- Clients and Units
- My Team
- Documents
- Ask Bob

Apps for Voucher Programs:

- Applications
- Relocations
- Vouchers
- Units for my Clients
- RFTA
- Inspections Optimizer
- Inspections
- Rental Adjustments
- Finance
- Recertifications
- Portability

Each app tile includes an icon, a title, and a "Users" link with a small circular indicator.



Application & Waitlist Mgmt

- » Web and mobile app that your affordable housing applicants can use to submit affordable housing applications and recertifications
- » AI summarizes and validates application and recertification documents eliminating thousands of hours of manual effort

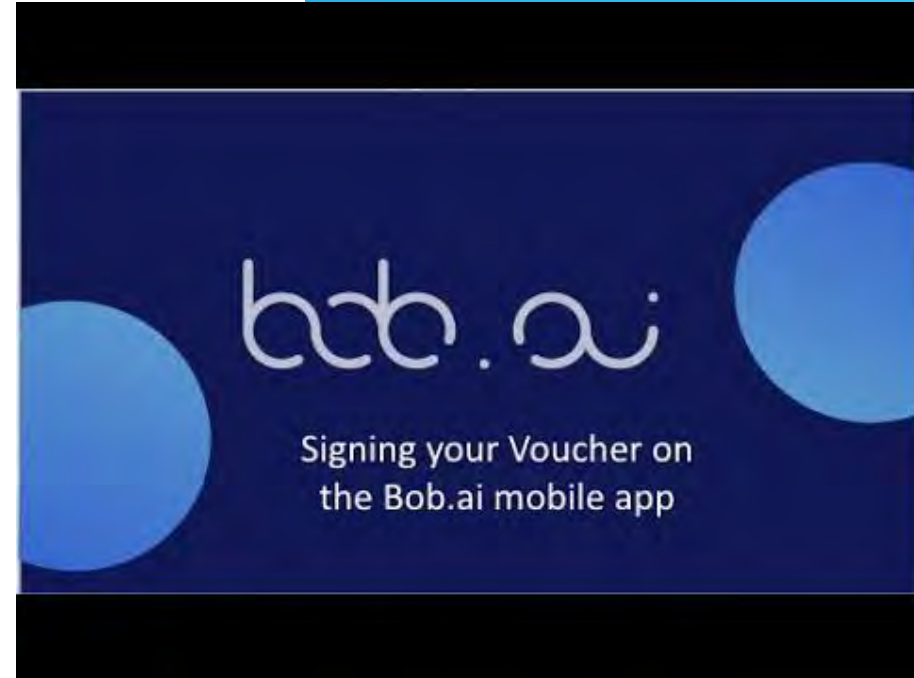


Verifying Document

Bob is reading your document. Sit tight

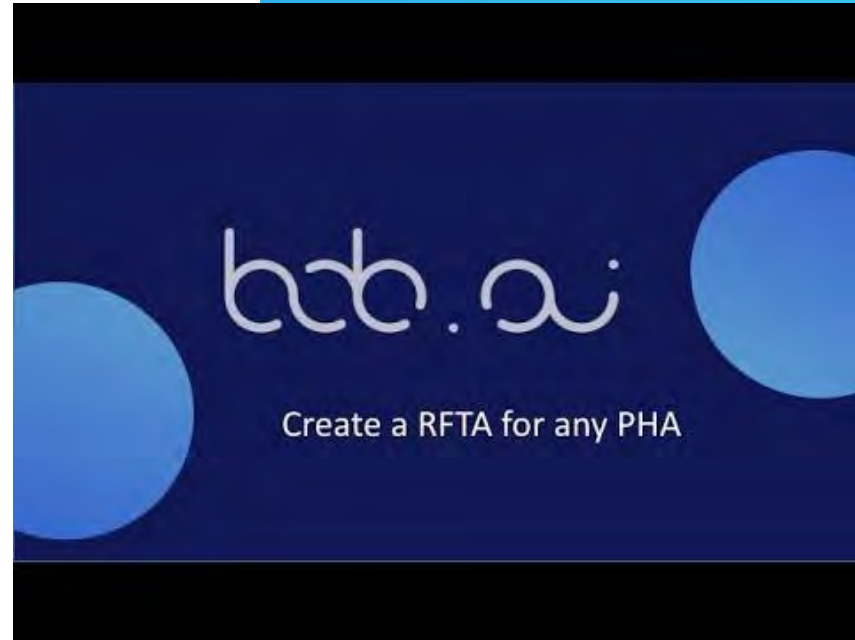
Voucher Signing

- » Clients can sign the voucher from the mobile app
- » Automated checks to ensure voucher is signed by Renter and PHA Staff before the RFTA is Submitted



eRFTA

- » Landlords create the RFTA
- » Software automates nearly all the tasks involved in processing the RFTA for the PHA
 - Affordability
 - Rent Reasonableness
 - Verification of attachments



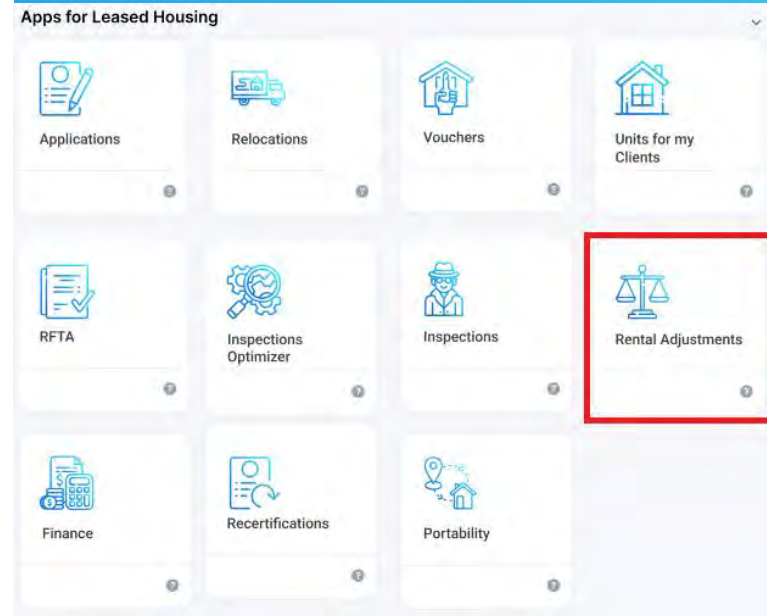
Rental Adjustments

» Web app for Housing Providers to submit the RIR

» 100% automation possible using AI with a Rent Reasonableness Service

- Affordablehousing.com
- Moodys


» We expect about 90% staff augmentation using AI



Relocations


» Clients can Request to Relocate and track the status of their request

» Automated Declaration of Tenant Compliance or Letter of Good Standing is mailed to the Landlord


 Requesting a Relocation

When do you intend to leave the current unit? (The initial lease term beginning on your new HAP cannot be earlier than this date. This date will be used on the Good Standing Letter with the current housing provider as the date you move out of your current unit. If you plan to move out earlier than this you can ask the current owner to change the date when they sign the Good Standing Letter.)

Date to Vacate The Unit

02/28/2023 

What is your reason for requesting relocation? (Select the response that best describes the reason you desire to relocate to another dwelling unit)

My landlord notified me that my lease will not be renewed 

Are you requesting to move outside of DHA's jurisdiction (portability)?

Yes

No

Good Standing Email

- » Housing Provider and PHA Staff receive an email when the request is submitted
- » Click on “Sign Good Standing Letter”, fill it out, and submit it back to the PHA



Hi,

A Relocation Request has been submitted by **CHARLES BOYD** whose current address is 500 WEST WALNUT HILL LANE IRVING TX 75039. Please log in to [Bob.ai](#) to review the Good Standing Letter.

The completion of this form is required in order for the client listed above to be considered to receive a voucher to relocate. Please have the current lease expiration date ready.

Failure to provide this notice to the Housing Authority within fifteen (15) calendar days from the date of this email will result in the Housing Authority deeming the Tenant is in good standing with the Lease Agreement.

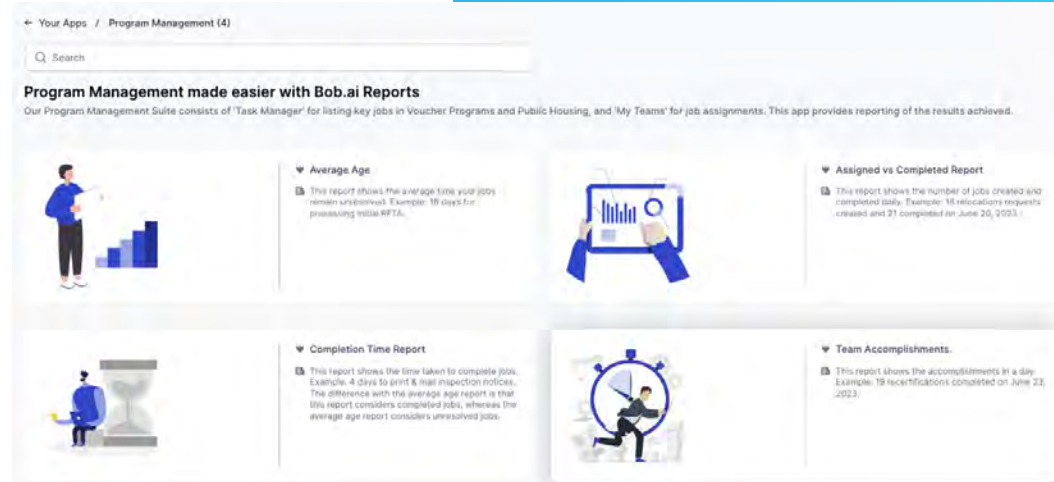
If the client's request to relocate is approved, you will receive a separate Notice to Vacate to provide you with sufficient time to list your unit.

[Sign Good Standing Letter](#)

Program Management Tools

» Reporting on every process

» Performance at team and Employee level



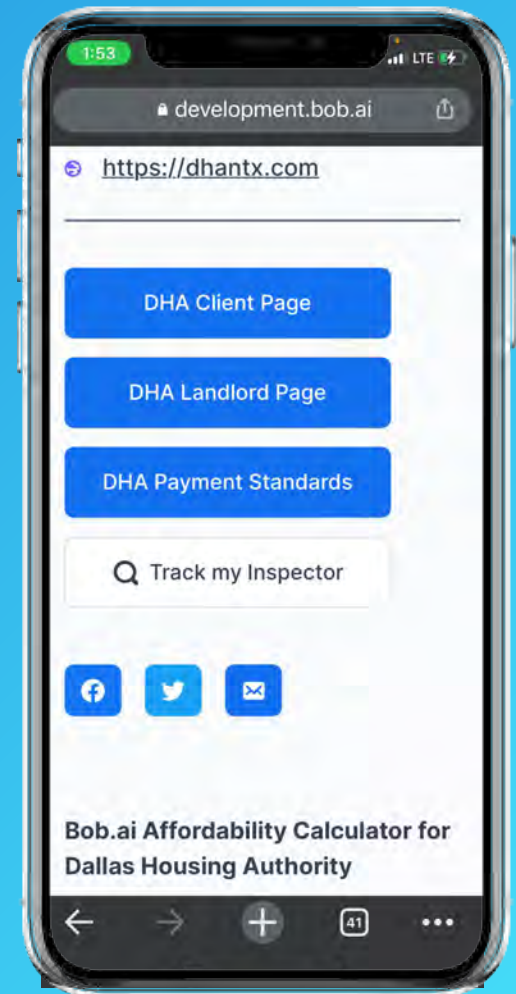
The screenshot displays a dashboard for 'Program Management (4)'. At the top, there is a search bar and a title 'Program Management made easier with Bob.ai Reports'. Below this, a subtitle reads: 'Our Program Management Suite consists of 'Task Manager' for listing key jobs in Voucher Programs and Public Housing, and 'My Teams' for job assignments. This app provides reporting of the results achieved.'

The dashboard features five report cards, each with an icon and a brief description:

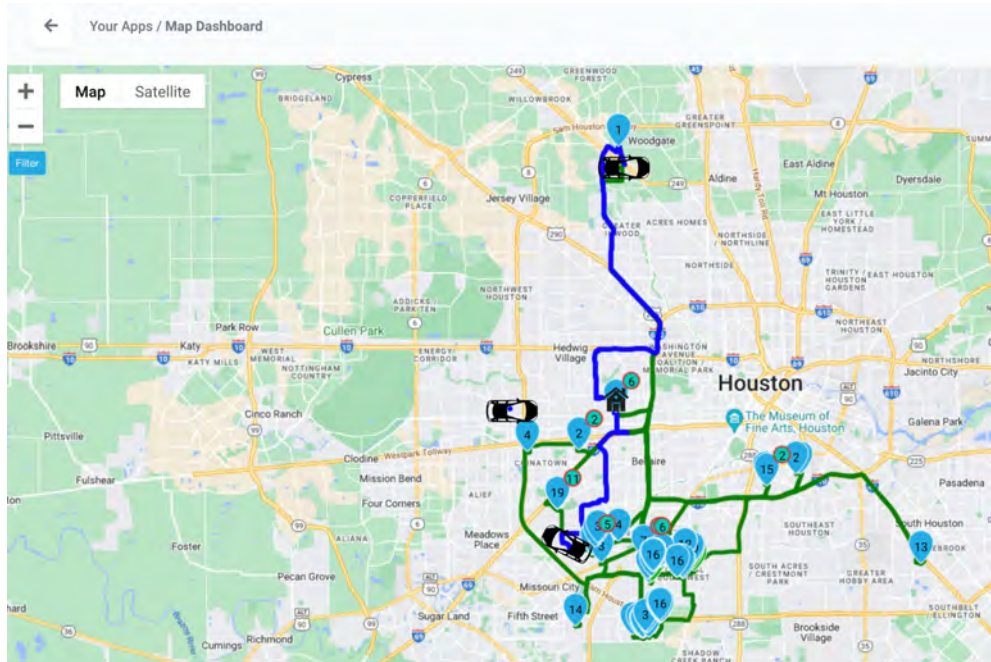
- Average Age:** This report shows the average time your jobs remain unresolved. Example: 18 days for processing initial RFTs. (Icon: Person with bar chart)
- Assigned vs Completed Report:** This report shows the number of jobs created and completed daily. Example: 18 relocations requests created and 21 completed on June 20, 2023. (Icon: Hands holding tablet with bar chart)
- Completion Time Report:** This report shows the time taken to complete jobs. Example: 4 days to print & mail inspection notices. The difference with the average age report is that this report considers completed jobs, whereas the average age report considers unresolved jobs. (Icon: Person with hourglass)
- Team Accomplishments:** This report shows the accomplishments in a day. Example: 18 relocations completed on June 23, 2023. (Icon: Person running with stopwatch)

Inspections

- » Complete Tech solution to plan inspections accurately and links on the PHA website for interested parties to see the ETA
- » Optimizer with inspectors working, out of office, grouping inspections in the same property



Command Center



- Dashboard view of all inspectors in real time
- Project it on a big monitor in the command center

Simple Pricing

» \$0.25/ACC Unit/ month
for one app

OR

» \$1/ ACC Unit/ month for
all our apps

Start with applications and voucher issuance/briefing in multiple languages. Evaluate these plug and play apps.

Q & A

MEMORANDUM

To: Board of Commissioners

Date: February 20, 2024

From: Karen DuBois-Walton, Ph.D., President

RE: Resolution Authorizing Change Order Number Five (5) to the contract with F.W. Webb Company (Contract # 15PSX0193) through the State of Connecticut, the Department of Administrative Services for plumbing & heating parts and equipment set to expire on December 31, 2024 for an additional amount of \$110,000.00 bringing the total not to exceed contract amount from \$245,711.00 to \$355,711.00.

ACTION: Recommend that the Board of Commissioners adopt Resolution # 02-06/24-R

TIMING: Immediately

DISCUSSION: HANH has determined a need for plumbing & heating parts and equipment agency wide. The F.W. Webb Company administers statewide Commodity Contracts for use by State Department and Local Governments. Statewide Commodity Contracts are a type of Leverage Procurement Agreement (LPA) used as one of the State's, main procurement vehicles for leveraging its buying power. This objective is accomplished by competitively soliciting quality products by a single lead public agency and making the resulting Contract available to other public agencies.

The State of Connecticut, through the Department of Administrative Services, has a contract with F.W. Webb Company (Contract # 15PSX0193) for plumbing & heating parts and equipment set to expire on December 31, 2024.

On January 2022, HANH issued PO-22219-13719 to F.W. Webb Company for plumbing & heating parts and equipment in the amount of \$45,000.00.

On September 14, 2022, HANH approved Change Order Number One (1) PO-22456-3574 with F.W. Webb Company for plumbing & heating parts and equipment in the amount of \$44,711.00.

On February 23, 2023, the Board approved Resolution Number #02-14/23-R for Change Order Number Two (2) to the contract with F.W. Webb Wholesale Company for plumbing and heating parts and equipment for an additional amount of \$58,000.00 bringing the total not to exceed contract amount from \$89,711.00 to \$147,711.00.

On September 19, 2023, the Board adopted Resolution Number # 09-75/23-R for Change Order Number Three (3) to the contract with F.W. Webb Company (Contract #15PSX0193) t for an additional amount of \$98,000.00 bringing the total not to exceed contract amount from \$147,711.00 to \$245,711.00.

On December 18, 2023, HANH approved of Change Order Number Four (4) PO-22456-3574 with F.W. Webb Company (Contract # 15PSX0193) for a no cost time extension through December 31, 2024.

HANH is now seeking authorization of Change Order Number Five (5) to the contract with F.W. Webb Company (Contract # 15PSX0193) for an additional amount of \$110,000.00 bringing the total not to exceed contract amount from \$245,711.00 to \$355,711.00.

In accordance with resolution 10-129/18-R for the Revised Procurement Policy, adopted by the Board of Commissioners on October 16, 2018, all contracts greater than \$150,000.00 inclusive of all optional years and all Change Orders and amendments in excess of 10% or \$50,000.00 (whichever is higher) and which results in a total contract greater than \$150,000.00 must be authorized by the Board of Commissioners prior to execution.

HANH is now seeking authorization of Change Order Number Five (5) to the contract with F.W. Webb Company (Contract # 15PSX0193) for an additional amount of \$100,000.00 bringing the total not to exceed contract amount from \$245,711.00 to \$355,711.00.

FISCAL IMPACT: \$70,000.00 Operating funds budgeted FY 2024
 \$40,000.00 Operating funds budgeted FY 2025

STAFF: Lee Purvis, Central Operations Manager

ELM CITY COMMUNITIES
Housing Authority of the City of New Haven

Resolution #02-06/24-R

Resolution Authorizing Change Order Number Five (5) to the contract with F.W. Webb Company (Contract # 15PSX0193) through the State of Connecticut, the Department of Administrative Services for plumbing & heating parts and equipment set to expire on December 31, 2024 for an additional amount of \$110,000.00 bringing the total not to exceed contract amount from \$245,711.00 to \$355,711.00

WHEREAS, the Housing Authority of the City of New Haven has a recurring need for plumbing & heating parts and equipment agency wide; and

WHEREAS, the F.W. Webb Company administers statewide Commodity Contracts for use by State Department and Local Governments making the resulting Contract available to other public agencies; and

WHEREAS, the State of Connecticut, through the Department of Administrative Services, has a Contract with F.W. Webb Company (Contract # 15PSX0193) for plumbing & heating parts and equipment set to expire on December 31, 2024; and

WHEREAS, justification for procurements with City or State agencies are noted in the A) HUD Procurement Hand Book 7460.8 Rev-1, Section 8 (Cooperative Purchasing Agreements); B) Federal Procurement Regulation SFR 85.6 (page 527); and C) HANH Procurement Policy (Page 14) Cooperative Purchasing which states “HANH may enter into State and Local Intergovernmental Agreements to purchase or use common goods and services; and

WHEREAS, on January 2022, HANH issued PO-22219-13719 to F.W. Webb Company for plumbing & heating parts and equipment in the amount of \$45,000.00; and

WHEREAS, on September 14, 2022, HANH approved Change Order Number One (1) PO-22456-3574 with F.W. Webb Company for plumbing & heating parts and equipment in the amount of \$44,711.00; and

WHEREAS, on February 23, 2023, the Board adopted Resolution Number #02-14/23-R for Change Order Number Two (2) to the contract with F.W. Webb Wholesale Company for an additional amount of \$58,000.00 bringing the total not to exceed contract amount from \$89,711.00 to \$147,711.00; and

WHEREAS, on September 19, 2023, the Board adopted Resolution Number # 09-75/23-R for Change Order Number Three (3) to the contract with F.W. Webb Company (Contract #15PSX0193) for an additional amount of \$98,000.00 bringing the total not to exceed contract amount from \$147,711.00 to \$245,711.00; and

WHEREAS, on December 18, 2023, HANH approved of Change Order Number Four (4) PO-22456-3574 with F.W. Webb Company (Contract # 15PSX0193) for a no cost time extension through December 31, 2024; and

WHEREAS, HANH is now seeking authorization of Change Order Number Five (5) to the contract with F.W. Webb Company (Contract # 15PSX0193) for an additional amount of \$110,000.00 bringing the total not to exceed contract amount from \$245,711.00 to \$355,711.00; and

WHEREAS, in accordance with resolution 10-129/18-R for the Revised Procurement Policy, adopted by the Board of Commissioners on October 16, 2018, all Contracts greater than \$150,000.00 inclusive of all optional years and

all Change Orders and amendments in excess of 10% or \$50,000.00 (whichever is higher) and which result in a total contract greater than \$150,000.00 must be approved by the Board of Commissioners prior to execution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF NEW HAVEN that:

1. Change Order Number Five (5) to the contract with F.W. Webb Company (Contract # 15PSX0193) for an additional amount of \$110,000.00 bringing the total not to exceed contract amount from \$245,711.00 to \$355,711.00 be and hereby is authorized; and
2. The President be and hereby is authorized, empowered and directed to take any and all such action ancillary, related and or/necessary action to fulfill the foregoing purposes and the purposes of this resolution.
3. The resolution shall take effect immediately.

I hereby certify that the above resolution was adopted by a majority of the Commissioners present at a meeting duly called at which a quorum was present, on February 20, 2024.

Karen DuBois-Walton, Ph. D.
Secretary/President

Date

REVIEWED:
MCCARTER & ENGLISH, LLP
GENERAL COUNSEL

By: _____
Rolan Joni Young, Esq.
A Partner

F. W. Webb Plumbing & Heating Wholesale and Supplier Change order Log

Date: 09/06/23

Vendor: F. W. Webb Plumbing & Heating Wholesale and Supplier

Intital Contract Term: 12/31/23 to 12/31/ 24
State Contract # 15PSX0193

Original Contract amount:		\$45,000.00
Change Order #1		\$44,711.00
Change Order #2		\$58,000.00
Change Order #3		\$98,000.00
Change Order #4	No cost extension of time	\$0.00
Change Order #5		\$110,000.00
Total Contract Value:		\$355,711.00

MEMORANDUM

To: Board of Commissioners

From: Karen DuBois-Walton, Ph.D., President

Date: February 20, 2024

RE: Resolution Authorizing Contract Change Order Number Three (3) to the contract with Yale Termite & Pest Control Elimination Corporation to provide pest control services agency wide, for an additional amount of \$75,000.00 bringing the total not exceed contract amount from \$130,500.00 to \$205,500.00.

ACTION: Recommend that the Board of Commissioners adopt Resolution #02-07/24-R

TIMING: Immediately

DISCUSSION: The Housing Authority of the City of New Haven (HANH) has determined a need for Pest Control Services agency wide.

HANH conducted a competitive procurement to identify a Contractor to provide these needed services. On April 20, 2022 HANH issued an Invitation for Bid # OP-22-C-612. Responses were due on May 17, 2022. HANH received (2) response. Yale Termite & Pest Control Elimination Corporation in the amount of \$43,500.00 and from Connecticut Pest Elimination, LLC in the amount of \$68,500.00

Upon completion of the review and evaluations of proposals, it was determined that Yale Termite and Pest Elimination Corporation had submitted the most responsive bid. Award of the Contract for Pest Control Services agency wide is recommended for a period of one (1) year with an option to renew for two (2) additional one (1) year terms for a total amount not to exceed \$130,500.00.

On May 27, 2022, HANH issued PO-22349-13782 with Yale Termite and Pest Elimination Corporation for Pest Control Services in the amount of \$43,500.00.

On February 6, 2023, HANH approved Change Order Number One (1) for the second-year option with Yale Termite and Pest Elimination Corporation for Pest Control Services in the amount of \$43,500.00 bringing the total not exceed amount from \$43,500.00 to \$87,000.00.

On October 26, 2023, HANH approved Change Order Number Two (2) for the third year and final year option to renew with Yale Termite and Pest Elimination Corporation for Pest Control Services in the amount of \$43,500.00 bringing the total not exceed amount from \$87,500.00 to \$130,500.00.

HANH is now seeking approval of Change Order Number Three (3) to the contract with Yale Termite & Pest Control Elimination Corporation, to provide pest control services agency wide, for an additional amount \$75,000.00 bringing the total not exceed contract amount from \$130,500.00 to \$205,500.00.

In accordance with resolution 10-129/18-R for the Revised Procurement Policy, adopted by the Board of Commissioners on October 16, 2018, all Contracts greater than \$150,000.00 inclusive of all optional years and all Change Orders and amendments in excess of 10% or \$50,000.00 (whichever is higher) and which results in a total contract greater than \$150,000.00 must be approved by the Board of Commissioners prior to execution.

HANH is now seeking authorization of Change Order Number Three (3) to the contract with Yale Termite & Pest Control Elimination Corporation, to provide pest control services agency wide, for an additional amount \$75,000.00 bringing the total not exceed contract amount from \$130,500.00 to \$205,500.00.

FISCAL IMPACT: \$75,000.00 Operating funds budgeted FY 2024

STAFF: Lee Purvis, Central Operations Manager

ELM CITY COMMUNITIES

Housing Authority of the City of New Haven

RESOLUTION #02-07/24-R

Resolution Authorizing Contract Change Order Number Three (3) to the contract with Yale Termite & Pest Control Elimination Corporation, to provide pest control services agency wide, for an additional amount of \$75,000.00 bringing the total not exceed contract amount from \$130,500.00 to \$205,500.00.

WHEREAS, the Housing Authority of the City of New Haven (HANH) determined a need for Pest Control Services agency wide; and

WHEREAS, on April 20, 2022 HANH released an Invitation for Bid #OP-22-C-612. Responses were due on May 17, 2022; and

WHEREAS, HANH received (2) responses, from Yale Termite & Pest Control Elimination Corporation in the amount of \$43,500.00 and from Connecticut Pest Elimination, LLC in the amount of \$68,500.00; and

WHEREAS, upon completion of the review of proposals it was determined that Yale Termite and Pest Elimination Corporation had submitted the most responsive bid; and

WHEREAS, HANH recommended award of the Contract for Pest Control Services agency wide to Yale Termite and Pest Elimination Corporation for period of one (1) year with an option to renew for two (2) additional one (1) year contracts at the discretion of the Contracting Officer for a total amount not to exceed \$130,500.00; and

WHEREAS, on May 27, 2022, HANH approved PO-22349-13782 with Yale Termite and Pest Elimination Corporation for Pest Control Services in the amount of \$43,500.00; and

WHEREAS, on February 6, 2023, HANH approved Change Order Number One (1) for the second-year option with Yale Termite and Pest Elimination Corporation for Pest Control Services in the amount of \$43,500.00 bringing the total not exceed amount from \$43,500.00 to \$87,000.00; and

WHEREAS, on October 26, 2023, HANH approved Change Order Number Two (2) for the third year and final year option to renew with Yale Termite and Pest Elimination Corporation for Pest Control Services in the amount of \$43,500.00 bringing the total not exceed amount from \$87,500.00 to \$130,500.00; and

WHEREAS, HANH is now seeking authorization of Change Order Number Three (3) to the contract with Yale Termite & Pest Control Elimination Corporation, to provide pest control services agency wide, for an additional amount \$75,000.00 bringing the total not exceed contract amount from \$130,500.00 to \$205,500.00; and

WHEREAS, in accordance with resolution 10-129/18-R for the Revised Procurement Policy, adopted by the Board of Commissioners on October 16, 2018 all Contracts greater than \$150,000.00 inclusive of all optional years and all Change Orders and amendments in excess of 10% or \$50,000.00 (whichever is higher) and which results in a total contract greater than \$150,000.00 must be authorized by the Board of Commissioners prior to execution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF NEW HAVEN that:

1. Change Order Number Three (3) to the contract with Yale Termite & Pest Control Elimination Corporation, to provide pest control services for an additional amount \$75,000.00 bringing the total not exceed contract amount from \$130,500.00 to \$205,500.00 be and hereby is authorized; and
2. The President be and hereby is authorized, empowered and directed to take any and all such ancillary, related and or/necessary action to fulfill the foregoing purposes and the purposes of this resolution; and
3. The resolution shall take effect immediately.

I hereby certify that the above resolution was adopted by a majority of the Commissioners present at a meeting duly called at which a quorum was present, on February 20, 2024.

Karen DuBois-Walton, Ph. D.
Secretary/President

Date

REVIEWED:
MCCARTER & ENGLISH, LLP
GENERAL COUNSEL

By: _____
Rolan Joni Young, Esq.
A Partner

Yale Termite & Pest Control Elimintion Corporation

Date: 020524

Vendor: Yale Termite & Pest Control Elimintion Corporation

Intital Contract Term: 5/17/22 to 6/1/25

Original Contract amount:		\$43,500.00
Change Order #1		\$43,500.00
Change Order #2		\$43,500.00
Change Order #2		\$75,000.00
Total Contract Value:		\$205,500.00

Increase in cost due to new State of CT requirements