

**MASTER
SOFTWARE LICENSE & SUPPORT AGREEMENT**

Commencement Date:	November 30, 2004
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Party:	LICENSOR	LICENSEE
Name:	EMC Corporation	Citigroup Technology, Inc.
Address:	176 South Street Hopkinton, MA 01748	333 West 34 th Street, 8 th Floor New York, NY 10001
State of Incorporation:	Massachusetts	Delaware

IN CONSIDERATION of the mutual covenants and undertakings contained herein, and intending to be legally bound, Licensor and Licensee (as designated above) agree as follows.

1. DEFINITIONS

1.1 Specific Words or Phrases. For purposes of this Agreement, each word or phrase listed below shall have the meaning designated. Other words or phrases used in this Agreement may be defined in the context in which they are used, and shall have the respective meaning there designated.

“Acceptance Criteria” means the applicable Specifications and Documentation, together with such other test data, test conditions and exception conditions as may be specifically set forth or incorporated by reference in the License Schedule.

“Affiliate” means and includes any entity that directly or indirectly controls, is controlled by, or is under common control with Licensee, where “control” means the ownership of, or the power to vote, more than thirty (30%) of the voting stock, shares or interests of such entity. An entity that otherwise qualifies under this definition will be included within the meaning of “Affiliate” even though it qualifies after the execution of this Agreement.

“Agreement” means the terms of this Master Software License & Support Agreement (sometimes referred to as “Master Agreement”), together with the appendices and other exhibits attached hereto or incorporated herein by reference; provided, however, that for each particular License Schedule, reference to “Agreement” shall be construed solely as a reference to the agreement that arises as a result of the execution of the License Schedule, which agreement shall be a two party agreement between Licensor and the specific entity (either the entity designated above as “Licensee” or an “Affiliate”) that executes the License Schedule.

“Defect” means a defect, failure, malfunction, or nonconformity in the Software that prevents the Software from operating in accordance with the applicable Acceptance Criteria.

“Documentation” means all documents and materials (in any language, format or medium) that are normally supplied by Licensor to its commercial licensees to aid in the use and operation of the Software, and all modifications to such documents or materials that are made by or on behalf of Licensor from time to time (provided such modifications do not diminish the performance or operational capabilities of the Software), including: (i) functional, technical, design and performance specifications, (ii) installation, configuration, administration, operation and maintenance procedures and instructions, and (iii) training

guides and user manuals.

"Intellectual Property Rights" means all trade secrets, patents and patent applications, trade marks (whether registered or unregistered and including any goodwill acquired in such trade marks), service marks, trade names, business names, internet domain names, e-mail address names, copyrights (including rights in computer software), moral rights, database rights, design rights, rights in know-how, rights in confidential information, rights in inventions (whether patentable or not) and all other intellectual property and proprietary rights (whether registered or unregistered, and any application for the foregoing), and all other equivalent or similar rights which may subsist anywhere in the world.

"License" means a license to use the Software granted pursuant to the terms and conditions of a License Schedule.

"Licensee" means, for the general purposes of the Master Agreement, the entity designated above as "Licensee". However, for the particular purposes of any agreement that arises as a result of a License Schedule, reference to "Licensee" shall be construed solely as a reference to the specific entity (either the entity designated above as "Licensee" or an Affiliate) that executes the License Schedule.

"License Schedule" means a transactional document that is either submitted as an unsigned purchase order or executed by both Parties pursuant to this Master Agreement by either the entity designated above as "Licensee" or any Affiliate, and describes the Software and services to be provided by Licensor to such Licensee / Affiliate.

"Maintenance Services" consists of the support and maintenance services to be provided by Licensor in accordance with the requirements set forth or referenced in **Section 11**.

"Party" means either the "Licensor" or "Licensee", individually as the context so requires; and **"Parties"** means the "Licensor" and "Licensee", collectively.

"Personnel" means and includes a Party's or an Affiliate's directors, officers, employees, agents, auditors, consultants and subcontractors.

"Product Notice" means the notice by which Licensor informs Licensee of Licensor's then current generally published warranty, warranty upgrade and maintenance levels for Software by means of quotations, written notices, published specifications, contract riders and/or a posting on the applicable Licensor website (currently www.emc.com/products/warranty_maintenance/index.jsp), which apply to Software to the extent specified on a License Schedule.

"Software" means the computer programs made available to Licensee and the Affiliates by Licensor under this Master Agreement, including any customizations, enhancements, updates, upgrades, releases, Defect corrections, and other modifications thereto provided to Licensee by Licensor, together with the related Documentation. Software does not include maintenance aids (hardware, software and other aids) used by EMC in furnishing Maintenance Services.

"Source Code" means all or any identifiable portion of the source materials, in human or machine-readable form, from which the related object code for the Licensed Product is compiled or assembled in order to be executed on a computer processor, which source materials include, but are not limited to, annotated listings, flow charts, conversion tools, and supporting documentation necessary for support or modification thereof.

"Specifications" means and includes: (i) the standard published specifications for the Software (including

both Licensor's proprietary software and all third-party software that is embedded into, or otherwise furnished by Licensor with, the Software); and (ii) any additional written description of the functional, technical, design and performance characteristics of the Software provided by Licensor to the "Licensee".

1.2 **Common Words.** The following words shall be interpreted as designated: (i) "or" connotes any combination of all or any of the items listed; (ii) where "including" is used to refer to an example or begins a list of items, such example or items shall not be exclusive; and, (iii) "specified" requires that an express statement is contained in the relevant document.

2. TERM AND TERMINATION

2.1 **Term.** This Master Agreement shall commence as of the Commencement Date designated above, and shall continue in effect thereafter unless superceded or otherwise terminated by agreement of the Parties. Each License Schedule shall only become effective when duly signed on behalf of the Parties to be bound thereby, and shall continue in effect through the earlier of: (i) the expiration date for the Licenses granted thereunder, or (ii) the date of termination specified by either Party in accordance with the provisions hereof. For the avoidance of doubt, the termination of the Master Agreement shall not result in the termination of any License Schedule, each License Schedule being terminable only in accordance with its own provisions.

2.2 **Termination for Cause.** If either Party breaches a material obligation under a License Schedule and fails to cure such breach within thirty (30) days from the date it receives from the non-breaching Party a notice of the breach and a demand for cure, then the non-breaching Party may thereafter terminate the applicable License Schedule immediately on notice. Notice of termination for any License Schedule shall not be construed to be notice of termination for any other License Schedule. If a License Schedule is terminated for cause due to a material breach related to the use and/or scope of the License by Licensee, Licensee shall cease all use and return or certify destruction of Software (including copies) to Licensor.

2.3 **Orderly Transfer.** Upon the termination of a License Schedule for any reason whatsoever (including a default by either Party), each Party will provide such information, cooperation and assistance to the other party, as the other party may reasonably request, to assure an orderly return or transfer to the other Party all proprietary data (and related records and files) and materials of the other Party in their then current condition.

2.4 **Retention of Archival Copy.** If Licensee's right to use any Software is terminated for any reason whatsoever, then Licensee shall nevertheless be entitled to retain copies of the Software and Documentation for archival purposes and to satisfy Licensee's obligations under all applicable laws. Each archival copy shall include any copyright or other proprietary notices contained on the originals.

3 GRANTING OF SOFTWARE LICENSES

3.1 **Geographic Scope.** This Agreement applies to the license of Software worldwide. The Parties shall conduct business under the terms and conditions of this Agreement. The parties agree that transactions in countries outside the United States (the "Additional Ordering Country(ies)") shall be between each Party's local subsidiaries, parent company, and/or subsidiary(ies) of the parent company, or Affiliates, located in an Additional Ordering Country (the "Local Entity(ies)"), in which the Software will be installed each Party authorizes its Local Entity(ies) to establish terms and conditions for Software to be ordered, delivered and installed in the applicable Additional Ordering Country in accordance with the following:

3.1.1 All transactions in an Additional Ordering Country shall take place solely by means of a License

- Schedule placed by Licensee's Local Entity operating in the Additional Ordering Country with Licensor's Local Entity operating therein;
- 3.1.2 Before entering into any such transactions, each Party's Local Entity(ies) shall review this Agreement and determine if an addendum (the "Local Addendum") is required based on local law or regulation and business customs in the Additional Ordering Country. If each Party's Local Entity(ies) agree a Local Addendum is required, the Local Entity(ies) shall enter into a Local Addendum that provides that (i) any License Schedule placed between them shall be subject to the terms of this Agreement and those of the applicable Local Addendum; and (ii) the Local Addendum shall control in case of conflict with the Agreement with regard to Purchase Orders for the applicable Additional Ordering Country;
- 3.1.3 The Local Addendum shall provide for invoicing by and payment to Licensor's Local Entity in the local currency (unless otherwise agreed between the Local Entity (ies), and shall address such issues as are necessary to conform to the laws of the applicable Additional Ordering Country, as well as terms in this Master Agreement with which it is commercially impracticable for the Local Entity to comply;
- 3.1.4 Each such License Schedule shall (i) reference the Local Addendum; (ii) be subject to acceptance by such Licensor Local Entity; and (iii) utilize pricing that (a) is determined by the then current Citigroup Global list price in effect in the Additional Ordering Country less the discount, if any applicable thereto, agreed upon between the Parties; and (b) does not include any local fees or taxes as described in Section 9.4.
- 3.1.5 Each Local Addendum shall be executed by the Local Entities for the Additional Ordering Country.

3.2 **Obligation to License.** This Master Agreement does not by itself commit Licensee or any Affiliate to license any software from Licensor. Rather, this Master Agreement merely sets forth the terms and conditions that will govern the licensing of Licensor's Software (as listed in Licensor's then current price list) to Licensee or an Affiliate as a result of the execution of a License Schedule by Licensor and Licensee or an Affiliate.

3.3 **License Schedule.** License Schedules may be entered under this Master Agreement by either the entity designated above as "Licensee" or any Affiliate. All License Schedules are subject to acceptance by Licensor. Unless a written acceptance of a License Schedule is made by Licensor, invoicing by Licensee shall constitute acceptance of a License Schedule. The entity that executes a License Schedule with Licensor shall be considered the "Licensee" for all purposes of the License Schedule; and the License Schedule shall be considered a two party agreement between Licensor and such entity. Each License Schedule shall be substantially in the form of **Appendix A**, shall incorporate by reference either on the face of the Purchase Order or in the pre-printed terms the provisions of this Master Agreement as though such provisions were set forth therein in their entirety, and shall set forth: (i) a description of the Software to be licensed, (ii) the fees to be paid by Licensee for the Software License and the related Maintenance Services, and, (iii) such additional terms and conditions as may be mutually agree upon by Licensor and the respective Licensee. Each License Schedule shall be deemed to incorporate the applicable Specifications for the Software that are in effect on the date the License Schedule is executed by the "Licensee". In no event shall any shrinkwrap or any clickwrap (or other electronic agreement) constitute a License Schedule or binding agreement hereunder, even if a user or authorized officer of Licensee or an Affiliate purports to have affirmatively accepted such terms.

3.4 **Changes to License Schedules.** Licensee may, at its option, change the delivery location, delay the delivery date or installation date for any Software listed on a License Schedule, or add or delete Software or services to or from a License Schedule, by serving Licensor with notice of the change or delay at least five (5) business days prior to the scheduled delivery date specified on the License Schedule. If installation is to be performed by the Licensor, any delayed installation date is subject to the

mutual agreement of the Parties. The License Schedule shall be deemed to have been amended as necessary and appropriate to reflect the changes set forth in Licensee's notice and the mutual agreement of the Parties as described in the preceding sentence. However, any delayed installation date is subject to the mutual agreement of the Parties.

3.5 Divested Entities. If control of an entity, or a division or department within an entity, that is included within the definition of "Licensee" or an "Affiliate" is sold or otherwise transferred to one or more unrelated third parties, such entity, division or department ("Divested Entity") shall nevertheless continue to have a right to acquire Software licenses pursuant to this Master Agreement for one (1) year after the effective date of such transfer.

3.6 Evaluation License. If requested by Licensee and subject to Licensor's approval, Licensor will (at no charge) provide an evaluation license for any Software product. Licensee's request for the evaluation license shall be set forth on an Evaluation Schedule substantially in the form of **Appendix B**. After the copy (or copies) of the Software product has been delivered by Licensor, Licensee will have the right (without any obligation to purchase a permanent License) to evaluate the Software product for a period of at least thirty (30) days from the date of delivery or as mutually agreed to by the Parties. At any time during or immediately following the evaluation period, Licensee may, in its sole discretion, either: (i) return, or destroy and suitably account for, the Software product; (ii) enter into a License Schedule to change the evaluation license into a permanent license or (iii) extend the evaluation period upon the mutual agreement of the Parties.

3.7 Resale Transactions. For selected transactions as may be agreed upon between the Parties under which Licensee acquires Software from an authorized Licensor reseller, Licensor agrees to offer the terms and conditions specified in this Master Agreement to such an authorized reseller exclusively for the benefit of Licensee under the transaction between Licensee and such authorized reseller so that such authorized reseller may in turn offer the same terms and conditions to Licensee for Licensor Software and related services as those terms specified herein.

3.8 Electronic License Schedules. Licensee may submit License Schedules by means of electronic architecture using the access codes mutually agreed between Licensor and Licensee and/or may submit unsigned License Schedules ("Electronic Orders"). Each Party shall designate an individual to coordinate the implementation of the electronic ordering architecture with the other. Each Party shall establish an appropriate authentication code to enable access to and use of the electronic ordering architecture for the placement and processing of Electronic Orders. Licensee shall be solely responsible for (i) establishing its own internal security procedures and controls in order to prevent access to and/or use of the electronic ordering architecture by any unauthorized individual; and (ii) implementing and maintaining the equipment and network over which it submits Electronic Orders. Licensee and Licensor agree to not contest the enforceability or legal sufficiency of Electronic Orders placed pursuant to this Section 3.8. Licensor shall have the right, but not the obligation, to periodically request confirmation or verification of specific Electronic Orders, especially when the Electronic Order process is first being established. Licensee shall promptly notify Licensor if Licensee suspects that an Electronic Order (a) has been placed by someone who Licensee has not, or no longer wishes to be, authorized to submit an Electronic Order; or (b) has not been processed correctly by Licensor. Except as set forth below, Licensor shall not have any liability to Licensee as a result of any unavailability of the electronic ordering architecture or failure to correctly process an Electronic Order. **IF AN ERROR OCCURS IN THE PROCESSING OF ANY ELECTRONIC ORDER, AND SUCH ERROR IS SOLELY DUE TO THE NEGLIGENT ACTS OR OMISSIONS OF LICENSOR, OR A FAILURE OF LICENSOR'S ELECTRONIC ORDER PROCESSING SYSTEMS, THEN LICENSEE SHALL, HAVE THE RIGHT TO CANCEL SUCH ELECTRONIC ORDER.**

4. DELIVERY AND INSTALLATION

4.1 Delivery and Installation by Licensor. Licensor will deliver the Software and Documentation to the delivery location, on or before the delivery date, as specified in the applicable License Schedule or as otherwise agreed to by the Parties and confirmed in writing. If a delivery date is not specified on the License Schedule, then the scheduled delivery date shall be the date that is mutually agreed to by the Parties and confirmed in writing. As soon as practicable after delivery, Licensor will complete the Software installation, unless Licensee is designated on the License Schedule as the Party responsible for the installation. Licensor will not charge a fee for the installation services, unless an installation fee is separately specified on the License Schedule. If Licensor fails (through no fault of Licensee) to deliver the Software within ten (10) business days, or to install the Software (when obligated to do so) within twenty (20) business days, after the scheduled delivery date, then Licensee may terminate the applicable License Schedule (in whole or in part) upon notice to Licensor, without financial liability or obligation (for the portion terminated).

4.2 Installation by Licensee. If Licensee is responsible for installing the Software, then Licensor will provide (at no additional cost to Licensee) written instructions and such other assistance as Licensee may reasonably require to complete the installation.

5. ACCEPTANCE

5.1 Acceptance Testing. After the latter of (i) the date the Software has been installed at Licensee's premises, or (ii) the date a License Schedule has been signed by both parties to be bound thereby, Licensee will be entitled to test the Software to determine if it operates in accordance with, and otherwise conforms to, the Acceptance Criteria. If no Acceptance Criteria is set forth or incorporated by reference in the License Schedule, the Acceptance Criteria shall be the Documentation and Specifications. Licensor will provide (at no additional cost to Licensee) such assistance as Licensee may reasonably require to conduct the acceptance test. If the period or procedures for the acceptance test are not specified on the License Schedule, then (i) Licensee will have thirty (30) days from the date the Software was installed (or forty-five (45) days from the date the Software was delivered if Licensee is responsible for installing the Software) to conduct the test, and (ii) Licensee may use its own internal test procedures and any sample input. The Software shall be deemed to have been accepted on the last day of the acceptance test period unless Licensee has notified Licensor in accordance with Section 5.3 that the Software does not operate in conformance with the applicable Acceptance Criteria. . Acceptance of the Software shall not be deemed to constitute a waiver by Licensee of any rights it may have based on Licensor's warranties.

5.2 Acceptance or Rejection. If Licensee determines that the Software does not operate in accordance with, or otherwise conform to, the applicable Acceptance Criteria, then Licensee will provide Licensor with a notice describing the Defect. Licensor will have ten (10) days from the date it receives Licensee's notice of Defect to correct (at no additional cost to Licensee) the Software. If Licensor redelivers the Software, Licensee will be entitled to repeat the testing process. If (through no fault of Licensee) Licensor fails to deliver, within the ten (10) day period, Software that conforms to the Acceptance Criteria, then Licensee may reject the Software and terminate the applicable License Schedule (in whole or in part) upon notice to Licensor, without financial liability or obligation (for the portion terminated).

6. SCOPE OF LICENSE

6.1 Proprietary Rights to Software. As between Licensor and Licensee, Licensor shall be deemed to own the Intellectual Property Rights in or to the Software; and nothing contained in this Agreement

shall be construed to convey any Intellectual Property Rights in or to the Software to Licensee (or to any party claiming through Licensee) other than the license rights expressly set forth in this Master Agreement and in the applicable License Schedule.

6.2 Type of License. Each License granted by Licensor pursuant to this Agreement shall be a fully paid up, non-exclusive, non-transferable (except to the extent described herein), perpetual, worldwide license to use the Software in the furtherance of Licensee's or its Affiliates' business purposes, subject to the grant of license and use restrictions set forth in this Section unless specified otherwise on the applicable License Schedule. Unless otherwise expressly set forth on the applicable License Schedule, each License shall also entitle authorized users (as designated in **Section 6.6**) to access and use the Software, or applications developed using the Software, in connection with, through or on any associated or interconnected networks (including internet or intranet) without payment of any additional fees.

6.3 Term of License. Unless otherwise specified on a License Schedule, the term of each license commences on shipment and remains in effect as long as a License Schedule is not terminated for cause by Licensor in accordance with Subsection 2.2.

6.4 Grant of License. Licensor grants Licensee a license to use the Software, up to the permitted capacity (if applicable) for the applicable license fee, on shipment by Licensor for as long as Licensee complies with this Agreement and only on the equipment as defined in the applicable License Schedule or as transferred in accordance with Section 6.5.

6.5 Relocation of Software. Licensee shall be entitled to transfer the Software from the applicable equipment as defined in the applicable License Schedule for which it was originally licensed to equipment, network or device or CPU of the same product type on which the Software was designed to operate. Such transfer may be from one installation site to another, from one country or region to another, or from Licensee to an Affiliate. Licensee will provide Licensor with written notice following any such transfer. Licensee's right to transfer Software is subject to Licensee's agreement to pay, if applicable, any additional license fee for exceeding permitted capacity and provided maintenance fees for the Software are not past due.

6.6 Authorized Users. Unless otherwise specifically set forth on the applicable License Schedule, each License granted pursuant to this Master Agreement shall include the right for Licensee to permit the Software to be used by or on behalf of: (i) Affiliates, (ii) joint ventures or partnerships of which Licensee or an Affiliate is a joint venturer or partner, (iii) third parties engaged by Licensee or an Affiliate to conduct all or any portion of Licensee's or an Affiliate's information processing, programming, network services, disaster, back up, or recovery services, and (iv) consultants and clients of Licensee or an Affiliate, provided that such usage by Affiliates, joint ventures or partnerships of which Licensee or an Affiliate is a joint venturer or partner, consultants and clients ("Authorized Users") must be considered part of the business of Licensee or an Affiliate. Licensee shall apply all reasonable efforts to insure to Licensor the compliance of Authorized Users with the license obligations set forth in this Master Agreement. If Software was acquired, or is being used by or on behalf of a Divested Entity, so that the Divested Entity is the "Licensee" from an operating perspective (whether the acquisition occurred prior or subsequent to the change in status), then the Divested Entity will continue to enjoy its status as the Licensee, provided (i) the Divested Entity is the legal entity that submitted the applicable License Schedule or received an assignment thereof, or (ii) the legal entity assuming control of the Divested Entity agrees in writing to be bound by the terms and conditions of the License. In addition, a Licensee that is not a Divested Entity may (at no additional charge) permit the Software to be used on behalf of a Divested Entity for up to two years after its change in status, provided the Divested Entity or the legal entity assuming control of the Divested Entity agrees in writing to be bound by the terms and conditions of the License. If Licensee or an Affiliate, acquires a company (or portion or line of business thereof) that

uses software licensed from Licensor, Licensee may (at its sole option and with no additional cost or fees) elect to have such software become subject to the terms and conditions of this Agreement by providing notice to Licensor.

6.7 Reproductions. Licensor or its Affiliates may reproduce the Software as Licensor may reasonably deem necessary for backup and archival purposes. All copies of the Software (including partial copies, physical and electronic copies) shall reproduce any copyright or other proprietary notices contained on the originals.

6.8 Substitute Equipment and Parallel/Transition Processing. Unless specified otherwise in the License Schedule, each License includes (at no additional charge) the right to install and use the Software on temporary substitute or back-up equipment. If Licensee (i) relocates the installation site, (ii) acquires additional equipment (including replacement equipment), (iii) acquires an entity or business that Licensee elects to transition to the use of the Software, or (iv) divests an entity or business that has been using the Software, Licensor grants to Licensee a temporary license (at no additional charge) to use a duplicate copy of the Software to conduct parallel and transition processing during the time required (up to six months unless a longer period is agreed upon between the parties; Licensor will not unreasonably withhold agreement to such a longer period) to accomplish and facilitate such relocation, transition, acquisition or divestiture. Licensee shall notify Licensor prior to its utilization of such duplicate copy of the Software including the circumstances of its intended use.

6.9 Disaster Recovery and Non-Production Use. Unless specified otherwise in the License Schedule, each License includes the right (at no additional charge) to have the Software tested periodically for viability at any Licensee location or at a location of a third-party engaged by Licensee to provide disaster recovery, contingency or business continuity services for Licensee. If a third party performs such tests, Licensee will require such third party to be bound by written agreement which obligates such third-party (i) to treat the Software as confidential information, (ii) limits such third-party's use to the specific purposes described in this Section and (iii) includes disclosure and use restrictions no less restrictive than those specified in this Agreement. Licensee shall apply all reasonable efforts to ensure to Licensor the compliance of such third-party with the license obligations set forth in this Agreement. Licensee will also be entitled to make and keep copies of Software and its Documentation at a separate facility for backup, archival and emergency purposes.

6.10 Replacement Version of Software. If Licensee changes or upgrades the operating system, or replaces or modifies the equipment on which Licensee operates the Software, then Licensor will offer to Licensee a version of the Software compatible with such changed operating system, or replaced or modified equipment on the same basis such version of the Software is offered to Licensor's other customers provided Licensor has developed, and is currently maintaining, such a version.

6.11 Restrictions. Except to the extent authorized or permitted in this Agreement or by applicable law without the possibility of contractual waiver, Licensee shall not: (i) copy, transfer or distribute the Software (electronically or otherwise); (ii) reverse assemble, reverse engineer, reverse compile, or otherwise translate the Software; or (iii) sublicense or assign the license for the Software.

7. SOURCE CODE

7.1 Escrow Arrangement. Licensor will deposit a current copy of the Source Code with Licensor's escrow agent, currently DSI Technology Escrow Services. Throughout the term of the License, Licensor will keep the Source Code complete and current by delivering to the escrow agent any and all changes to the Source Code for all related modifications. The escrow agreement shall require the escrow agent to release and deliver the Source Code to Licensee upon certification from Licensee to Licensor and the

escrow agent that any one of the circumstances described in 7.1.1 or 7.1.2 has occurred and provided Licenser does not, within thirty (30) days after receipt of the notice from Licensee, provide written notice with the escrow agent, with a copy to the Licensee, stating that the conditions for release have not been met.

7.1.1 Licenser (i) files a voluntary petition in bankruptcy, (ii) makes a general assignment for the benefit of its creditors, (iii) suffers or permits the appointment of a trustee or receiver for its business assets, (iv) becomes subject to any proceeding under any bankruptcy or insolvency law which is either consented to by Licenser or is not dismissed within sixty (60) days, (v) initiates actions to wind up or liquidate its business voluntarily or otherwise, (vi) ceases doing business in the ordinary course, or (vii) suffers, permits or initiates the occurrence of anything analogous to any of the events described in this Subsection under the laws of any applicable jurisdiction.

7.2.2 Licenser defaults in any material obligation to provide Maintenance Services for the Software under any maintenance agreement entered into in connection with the Software or during the warranty period for such Software, and fails to remedy such default within thirty (30) days (or such longer period as mutually agreed upon between the parties) after Licenser's receipt of notice from Licensee detailing the nature of the claimed failure.

7.2 Licensee must pay the escrow agent's then current standard fees for the release to Licensee of the source code. Licenser reserves the right to change the escrow agent or revise the agreement with the escrow agent, provided such actions do not materially and adversely impact Licensee rights under this Section.

7.3 **License.** If Source Code for Software is delivered to Licensee (either directly by Licenser or by an escrow agent in fulfillment of its obligations under an applicable escrow agreement), then the Source Code will be subject to the License for the applicable Software. Each such License shall entitle Licensee to use and modify the Source Code and the Software, as reasonably necessary, in order to: (i) integrate the Software with Licensee's other systems and programs; (ii) cause the Software to comply with changes in applicable laws, regulations, industry standards or market practice; (iii) enable the Software to remain current with technological innovations; and (iv) enable the Software to fulfill Licensee's business purposes within the scope of the License granted pursuant to the terms and condition of this Agreement. Any modified versions of the Software resulting from Licensee's use of the Source Code shall be subject to all the terms and conditions of this Agreement.

7.4 **Notification.** Vendor shall notify the escrow agent that Customer is a beneficiary to the escrow arrangement between Vendor and the escrow agent and of the conditions release applicable to Customer.

7.5 **Exception.** The foregoing obligations do not apply to the extent Licenser does not have the right to deposit or release third party source-code.

8. DOCUMENTATION AND TRAINING

8.1 **Documentation.** On or before the date the Software is delivered, Licenser will (at no additional charge) deliver to Licensee at least one (1) electronic and one (1) printed form copy of all generally available Documentation for the Software. The Documentation shall be sufficient to enable Licensee's Personnel to use and to understand the use and operation of the Software, and shall conform to generally accepted industry standards for the use, operation and internal operating logic of software. Throughout the warranty period or the term of any maintenance service agreement, Licenser will provide copies of any revisions, improvements, enhancements, modifications and updates to the Documentation, at no additional cost. Licensee may make a reasonable number of copies of the Documentation for Licensee's use, provided Licensee reproduces copyright notices and any other legends of ownership on each copy.

8.2 **Training.** If Licensee's Personnel require training in order to properly use the Software, Licensor will provide on-site training in the use of such Software for all users designated by Licensee, at times agreed to by the Parties. All initial training generally offered by Licensor in connection with the license of Software the proper use of the Software (as well as initial training in the proper use of new updates, features, functions and other enhancements furnished by or on behalf of Licensor) shall be at no additional charge. Additional training shall be provided for the fee specified in the License Schedule.

9. FEES AND PAYMENT TERMS

9.1 **Fees and Discounts.** The License fees and all other charges to be paid by Licensee for the Software or services provided by Licensor pursuant to this Agreement shall be set forth on the applicable License Schedule. All such fees and other charges shall be based on the prices, fees and charges which are mutually agreed upon between the Parties and specified in a pricing agreement executed by the Parties or such other prices, fees and charges as may be mutually agreed upon by the Parties. Such pricing agreement shall be reviewed and updated by the Parties each calendar quarter or revised as mutually agreed to by the Parties

9.2 **Pricing Adjustments.** During the term of this Master Agreement, Licensor will not increase the prices for Maintenance Services specified on any executed License Schedule provided to Licensee or an Affiliate by more than the lesser of: (i) the amount by which Licensor increased the comparable fees or charges for its other commercial customers; (ii) five percent (5%) for each twelve (12) month period; and (iii) the percentage rate of increase in the CPI (all items) for Urban Wage Earners and Clerical Workers from the preceding calendar year as determined by the United States Bureau of Labor Statistics. In addition, if the Parties agree to a fee schedule covering certain Software or services for a specified period then such fee schedule will apply to the licensing of Software or the purchasing of services by Licensee or an Affiliate for the period specified, subject to Licensor's price changes.

9.3 **Taxes.** Licensor may invoice Licensee for sales and use taxes properly levied against or upon (i) the furnishing of the Software and any related services to Licensee by Licensor pursuant to this Agreement, or (ii) the use thereof by Licensee. However, Licensee shall not be obligated to pay any penalties, interest, or late charges imposed as a result of Licensor's failure to remit such taxes to the taxing authority on a timely basis. In addition, if Licensor fails to provide Licensee with timely notice of any tax audit that could result in an increase in the amount of sales or use taxes assessed hereunder, then Licensee shall not be required to pay any additional taxes assessed as a result of such audit. Licensor shall be solely responsible for the payment of all other taxes, including personal property taxes, franchise taxes, corporate excise or corporate privilege, property or license taxes, all taxes relating to Licensor's Personnel, and all taxes based on the net income or gross revenues of Licensor.

9.4 **Reimbursable Expenses.** To the extent applicable, Licensor will only be reimbursed for expenses that are reasonable, warranted and cost effective, and that have been approved in advance by Licensee. For each item of expense for which reimbursement is requested, Licensor will submit substantiating documentation in accordance with Licensee's policies. All approved business expenses and pass-through charges will be reimbursed at cost (as actually incurred), without mark-up.

9.5 **Terms of Payment.** No amount arising under this Agreement shall be due from Licensee prior to Licensee's receipt of a fully executed copy of and Licensee's receipt of an invoice: (i) referencing this Agreement and the applicable License Schedule; (ii) separately itemizing the charges for the Software, services or other items covered therein, and setting forth, in reasonable detail, the basis for the charges; and (iii) including, in the case of any reimbursable expenses or other charges (including taxes), receipts or other documentation acceptable to Licensee. Unless otherwise specified on a License Schedule, Licensor

may invoice Licensee for the License fee on or after the date the Software has been shipped by Licensor. If applicable, Licensor may invoice Licensee upon receipt of a purchase order for the Maintenance Service fees for the initial Maintenance Service term after the warranty period has expired. Maintenance Service fees for renewal terms may be invoiced not more than sixty (60) days prior to the effective date of renewal. Such Maintenance Service fees shall be set forth on a License Schedule. Licensor may invoice Licensee for any other charges payable under this Agreement after the occurrence of the event giving rise to the payment obligation underlying the invoice. All invoices shall be submitted to Licensee at the billing address designated on the applicable License Schedule. Each properly and accurately prepared invoice shall be payable within sixty (60) days after its receipt by Licensee. In the event Licensee pays Licensor's invoice within ten (10) days of the date of receipt of the invoice, Licensee shall be entitled to deduct from such payment an early payment credit in the amount of 2% of the invoice amount. The Parties agree to work together to implement a procedure to verify the date of receipt of each invoice. Licensee will not be liable for interest or other late fees on past due invoices. Licensor specifically covenants that it will not use any methods of electronic repossession for any reason. For three years after an invoice has been paid, Licensor will maintain records in accordance with generally accepted accounting practices and (upon Licensee's reasonable request) make available the records necessary to substantiate the correctness of the invoices. All payments shall be in the applicable currency of the region of the Affiliate executing the License Schedule. The applicable currency exchange rate and related conversion procedures shall be determined between the Party's Local Entities.

9.6 Disputed Invoices. Licensee may withhold payments for any item(s) on Licensor's invoice that Licensee reasonably disputes provided Licensor promptly notifies Licensor of the dispute and promptly pays the undisputed amounts in accordance with the payment terms of this Agreement. Pending settlement or resolution of the issue(s), Licensee's non-payment of these items shall not constitute default by Licensee, and shall not entitle Licensor to suspend or delay its furnishing of the Software or performance of services.

10. REPRESENTATIONS AND WARRANTIES

10.1 Authority and Non-Infringement. Licensor represents and warrants that Licensor has all rights and authority required to enter into this Agreement and each License Schedule, and to provide the Software and perform the services contemplated by this Agreement, free from all liens, claims, encumbrances, security interests and other restrictions. Subject to the applicable terms and conditions of this Agreement and the applicable License Schedule, Licensee and Affiliates will be entitled to use and enjoy the benefit of all Software and services without adverse interruption or disturbance by Licensor or any entity asserting a claim under or through Licensor. Licensor further represents and warrants that to the best of its knowledge the services, Software and all other materials of whatsoever nature furnished under this Agreement, and the use thereof by Licensee or the Affiliates in accordance with the terms and conditions of this Agreement, will not infringe, misappropriate or violate the Intellectual Property Rights of any third party, or violate the laws, regulations or orders of any governmental or judicial authority.

10.2 Personal Dealing and Non-Subornation. Licensor warrants that no officer, director, employee of Licensee, or any of their immediate family members, will receive anything of value of any kind from Licensor or its Personnel in connection with this Agreement. Licensor further warrants that Licensor has not and will not make (or offer to make) any payments to, or confer (or offer to confer) any benefit upon, any employee, agent or fiduciary of any third party, with the intent to influence the conduct of such employee, agent or fiduciary in any manner relating to the subject of this Agreement.

10.3 Conformity to Specifications. Licensor warrants that at the time of delivery, and thereafter throughout the applicable warranty period, (i) the Software will conform to the applicable Acceptance Criteria, and, (ii) the Software and the Documentation will be free from any defects in materials and

workmanship. In addition, Licensor will (at no additional charge) make available to Licensee any updates to the Software that are generally released by Licensor during the warranty period. The warranty period for purposes of Software performance shall commence on shipment and continue for the warranty period specified on the License Schedule measured from the date of acceptance of the Software. Pursuant to the mutual written agreement of the Parties, the warranty period for the Software will be extended by the aggregate time Licensee is unable to effectively use the Software during the specified warranty period as a result of a Defect. If Licensor receives notice of a Software Defect during the warranty period, then Licensor will, as Licensor's entire liability and Licensee's exclusive remedy (i) correct the Defect at no additional charge or (ii) if (through no fault of Licensee) Licensor is unable or unwilling to correct a Defect that has been identified by Licensee during the warranty period, then Licensee may terminate the applicable License Schedule (in whole or in part) upon notice to Licensor, without financial liability or obligation (for the portion terminated). The warranties described above and Maintenance Service do not include services required or efforts to remedy, repair or replace Software as a result of: (i) accidents or neglect by other than Licensor or its authorized representatives; (ii) problems relating to or residing in other hardware, software or services not provided or supported by Licensor and with which the Software are used unless caused by Licensor or its authorized representatives; (iii) installation of the Software not in accordance with Licensor's instructions or the Acceptance Criteria unless the improper installation was performed by Licensor or its authorized agents; (iv) use of the Software in an environment, in a manner or for a purpose for which it was not designed; and (v) installation of non-customer installable Software modification, alteration or repair of the Software by anyone other than Licensor or its authorized representatives. Licensor will have no Maintenance Service or warranty obligations whatsoever with respect to Software which is installed on hardware on which it is not authorized or Software on which the original identification marks have been removed or altered.

10.4 Documentation. Licensor represents and warrants that the Documentation provided by Licensor will fully and accurately reflect the functionality of the applicable Software.

10.5 Standard of Service. Licensor warrants that all services provided by Licensor pursuant to this Agreement or any other agreement relating to the Software will be performed in a timely and professional manner, in conformity with standards generally accepted in the Software industry, by qualified and skilled individuals. If Licensor fails to provide the services as warranted and Licensee so notifies Licensor within thirty (30) days after the date Licensor declares the services to have been completed, then Licensor will re-perform the services at no additional charge. Licensor further warrants that its Personnel will provide services with a minimal amount of interference to Licensee's normal business operations and subject to Licensee's security and work place policies and procedures.

10.6 Disabling Devices. Licensor represents and warrants that prior to delivering the Software to Licensee, Licensor will test the Software and the media on which it is to be delivered with a current version of a leading anti-virus application in efforts to detect, and if so detected, to eliminate, any computer code (sometimes referred to as "viruses" or "worms") designed to damage, disrupt, disable, harm, or otherwise impede in any manner, the orderly operation of the Software or any other software, data files, firmware, hardware, computer system or network. Licensor further represents and warrants that upon shipment of the Software, the Software (and all other software delivered or installed by Licensor) shall not contain any computer code or any other procedures, routines or mechanisms designed by Licensor (or its Personnel or licensors) to: (i) disrupt, disable, harm or impair in any way the Software's (or any other software's) orderly operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral (sometimes referred to as "time bombs", "time locks", or "drop dead" devices); (ii) cause the Software to damage or corrupt any of Licensee's, its Affiliates', or their respective customers' data, storage media, programs, equipment or communications, or otherwise interfere with Licensee's or its Affiliates' operations, or (iii) permit Licensor, its Personnel, its licensors or any other third party, to access the Software (or any other

software or Licensee's or its Affiliates' computer systems) for any reason (sometimes referred to as "traps", "access codes" or "trap door" devices). Licensor will not unilaterally (*i.e.*, without appropriate judicial order) remove, deinstall, repossess, modify, delete, damage, deactivate, disable, or interfere with the Software for any reason (including a dispute relating to this Agreement).

10.7 Availability of Maintenance. Licensor warrants that, during the warranty period, Licensor will (at no additional charge) provide Licensee with maintenance and support services for the Software at least as comprehensive as the Maintenance Services described in **Appendix C** of the Master Purchase and Maintenance Agreement between the Parties.

10.8 Favorable Pricing. Licensor warrants that the pricing for the Software will be comparable to or better than the pricing offered by Licensor to any of its similarly situated commercial customers of equal or lesser size for comparable Software or services in similar quantities under substantially similar circumstances and terms and conditions within sixty (60) days of execution of a License Schedule. If Licensor agrees to more favorable prices within sixty (60) days of execution of the License Schedule, such prices will be made available to Licensee within thirty (30) days from the execution of such agreement.

10.9 Disclaimer. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT OR ESTABLISHED BY APPLICABLE LAW AS RIGHTS THAT CAN NOT BE WAIVED OR LIMITED BY CONTRACT, LICENSOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE.

11. MAINTENANCE SERVICES

11.1 Support Obligation. For a minimum period of five (5) years commencing from the date the applicable warranty period expires, Licensor will make Maintenance Services available for the Software on terms at least as comprehensive as those set forth in **Appendix C** of the Master Purchase and Maintenance Agreement between Licensee and Licensor. Such Maintenance Services shall be provided on an annual renewable term basis, at Licensee's election and subject to Licensee's payment of the applicable Maintenance Services fee. Licensee will be entitled to terminate the Maintenance Services at any time, for its convenience, by providing Licensor with no less than thirty (30) days prior notice of termination; and in the event of such termination, Licensee shall be entitled to recover any unused portion of the pre-paid Maintenance Service fees. For the avoidance of doubt, nothing contained in this Section shall be construed to restrict Licensee's right to access and use the Source Code pursuant to **Subsection 7.2** during or after the five (5) year period specified above provided the Software if Licensor is obligated to provide Maintenance Services; except, however, termination of Maintenance Services pursuant to Section 5 of **Appendix C** of the Master Purchase and Maintenance Agreement between Licensor and Licensee shall not be considered a default of a material obligation by Licensor.

11.2 Long Term Archiving Solutions. Notwithstanding anything to the contrary stated in Paragraph 11.1, Licensor shall provide a continuous upgrade path for Software designed to or related to products designed to manage long term archiving solutions for regulatory compliance, which may include content migration services, for the purpose of providing customers with access to such content for required retention periods. The cost for the migration services shall not exceed ten (10) percent of the purchase price of the Equipment on which the content resides.

12. CONFIDENTIAL INFORMATION

12.1 **Licensor's Confidential Information.** Licensor's "Confidential Information" means and refers to the Software, Documentation, and all other materials furnished by Licensor that are expressly identified or marked by Licensor as "confidential" at the time of their delivery to Licensee.

12.2 **Licensee's "Confidential Information".** Licensee's "Confidential Information" means and refers to all tangible or intangible information and materials, in any form or medium (and without regard to whether the information or materials are owned by Licensee or by a third party), whether furnished or disclosed to Licensor by Licensee or an Affiliate, or otherwise obtained, accessed or observed by Licensor from Licensee or an Affiliate, that satisfies at least one of the following criteria:

- 12.2.1 Information or materials related to Licensee's, an Affiliates', or any of their respective customer's business, trade secrets, customers (including identities, characteristics and activities), business plans, strategies, forecasts or forecast assumptions, operations, methods of doing business, records, finances, assets, technology (including software, data bases, data processing or communications networking systems), data or information or materials that reveal research, technology, practices, procedures, processes, methodologies, know how, or other systems or controls by which Licensee's or an Affiliate's products, services, applications and methods of operations or doing business are developed, conducted or operated, and all information or materials derived therefrom or based thereon;
- 12.2.2 Information or materials designated or identified as confidential by Licensee or an Affiliate, whether by letter or by an appropriate proprietary stamp or legend, prior to or at the time such information or materials are disclosed by Licensee or an Affiliate to Licensor;
- 12.2.3 Information disclosed orally or visually, or written or other form of tangible information or materials without an appropriate letter, proprietary stamp or legend, if it would be apparent to a reasonable person, familiar with Licensee's (or the Affiliates') business and the industry in which it operates, that such information or materials are of a confidential or proprietary nature; or,
- 12.2.4 Any non-public, personal, financial or identifying information of an individual, including Licensee's or an Affiliate's customers or employees ("Nonpublic Personal Information").

12.3 **Duty of Care.** The Party receiving ("Receiving Party") Confidential Information of the other Party ("Disclosing Party") will exercise at least the same degree of care with respect to the Disclosing Party's Confidential Information that the Receiving Party exercises to protect its own Confidential Information; and, at a minimum, the Receiving Party will maintain adequate security measures to safeguard the Disclosing Party's Confidential Information from unauthorized disclosure, access, use and misappropriation. Without limiting the generality of the foregoing, the Receiving Party will only use or reproduce the Disclosing Party's Confidential Information to the extent necessary to enable the Receiving Party to fulfill its obligations under this Agreement, or in the case of Licensee, to exercise its rights as contemplated by this Agreement. In addition, the Receiving Party will disclose the Disclosing Party's Confidential Information only to those of the Receiving Party's (or in the case of Licensee, also to its Affiliates') Personnel who have a "need to know" such Confidential Information (and only to the extent necessary) in order to fulfill the purposes contemplated by the Agreement. Prior to disclosing Licensee's Confidential Information to any of its Personnel, Licensor will ensure that each of its Personnel who will be providing services for Licensee is bound by a written non-disclosure agreement with terms and conditions no less restrictive than those set forth herein. If the Receiving Party becomes aware of any threatened or actual unauthorized access to, use or disclosure of, or any inability to account for, the Disclosing Party's Confidential Information, the Receiving Party will promptly notify the Disclosing Party thereof and will assist the Disclosing Party with its efforts to terminate such access, to curtail such threatened or actual unauthorized use or disclosure, or to recover such information or materials. The

Receiving Party will be liable to the Disclosing Party for any non-compliance by its agents or contractors to the same extent it would be liable for non-compliance by its employees.

12.4 Exclusions. The obligations of confidentiality assumed under this Agreement shall not apply to the extent the Receiving Party can demonstrate, by clear and convincing evidence, that such information:

- 12.4.1 is or has become generally available to the public, without any breach by the Receiving Party of the provisions of this Agreement or any other applicable agreement between the Parties;
- 12.4.2 was rightfully in the possession of the Receiving Party, without confidentiality restrictions, prior to such Party's receipt pursuant to this Agreement;
- 12.4.3 was rightfully acquired by the Receiving Party from a third party who was entitled to disclose such information, without confidentiality or proprietary restrictions;
- 12.4.4 was independently developed by the Receiving Party without using or referring to the Disclosing Party's Confidential Information; or,
- 12.4.5 is subject to a written agreement pursuant to which the Disclosing Party authorized the Receiving Party to disclose the subject information.

12.5 Legally Required Disclosures. The obligations of confidentiality assumed under this Agreement shall not apply to the extent that the Receiving Party is required to disclose the Disclosing Party's Confidential Information under any applicable law, regulation or an order from a court, regulatory agency or other governmental authority having competent jurisdiction, provided that the Receiving Party:

- 12.5.1 promptly notifies the Disclosing Party of the order in order to provide the Disclosing Party an opportunity to seek a protective order;
- 12.5.2 provides the Disclosing Party with reasonable cooperation in its efforts to resist the disclosure, upon reasonable request by the Disclosing Party and at the Disclosing Party's expense; and,
- 12.5.3 disclose only the portion of the Disclosing Party's Confidential Information that is required to be disclosed under such law, regulation or order.

12.6 Nonpublic Personal Information. Notwithstanding any other provision of this Agreement, to the extent Nonpublic Personal Information is, either intentionally or unintentionally, disclosed to or otherwise obtained by Licensor in connection with the matters contemplated by this Agreement, Licensor will keep such Nonpublic Personal Information strictly confidential and strictly limit its use of such information to the purposes contemplated by this Agreement. Licensor agrees that Licensee shall have the right to conduct a review of the procedures used by Licensor to maintain the confidentiality of such Nonpublic Personal Information.

12.7 Accounting for Confidential Information. Except as otherwise expressly provided in this Agreement, upon the request of the Disclosing Party at any time after the termination of this Agreement, the Receiving Party will return (or purge its systems and files of, and suitably account for) all tangible Confidential Information supplied to, or otherwise obtained by, the Receiving Party in connection with this Agreement. The Receiving Party will certify in writing that it has fully complied with its obligations under this Section within seven (7) days after its receipt of a request by the Disclosing Party for such a certification. For the avoidance of doubt, this **Section 12.7** shall not be construed (i) to require Licensee to return the Software, or (ii) to limit either Party's right to seek relief from damages that are caused by the other Party's default.

13. PUBLICITY

Licensor will not disclose the identity of Licensee as a customer of Licensor or the existence, nature or terms of this Master Agreement or any License Schedule, without the prior written consent of

Licensee, which Licensee may withhold in its sole discretion. Neither Party will use the other Party's proprietary indicia, trademarks, service marks, trade names, logos, symbols or brand names (collectively "Marks"), or otherwise refer to or identify the other Party in advertising, publicity releases, or promotional or marketing publications or correspondence to third parties without, in each case, securing the prior written consent of the other Party.

14. INDEMNITY

14.1 Infringement Indemnity Licensor will defend Licensee, its Affiliates and their Personnel (collectively the "Indemnitees") at Licensor's expense against any third party claim that the Software or any other materials of any nature furnished by Licensor to Licensee (or the use thereof) infringes, misappropriates or violates such third party's Intellectual Property Rights in the country where the Software is installed, and will pay the costs and damages (collectively "Damages") owed to the third party as a result of such claim. Licensor's indemnity obligation under this Section shall not extend to claims based on: (i) an unauthorized modification of the Software made by an Indemnitee where the Software would not be infringing without such modification, (ii) customized portions of the Software designed in accordance with written specifications provided by Licensee where the Software would not be infringing without such customized portions or (iii) use of the Software in combination with products not furnished by Licensor except for Licensor's current, unmodified (unless modified by Licensor) Licensor branded software by Licensor authorized reseller, (iv) use of the Software when use of and update or revision made available from Licensor would have avoided such infringement, and (v) any Intellectual Rights owned or licensed by Licensee (other than the Software licensed from Licensor hereunder).

14.2 Confidential Information Indemnity. Licensor shall, at its expense, defend Indemnitees from and against any third party claim stemming from Licensor's breach of Section 12 and indemnify and hold harmless the Indemnitees against all damages owed to the third party by an Indemnitee as a result of such claim.

14.3 Indemnification Procedures. If an Indemnitee seeks indemnification under this Agreement, the Indemnitee will: (i) give prompt notice to Licensor concerning the existence of the indemnifiable event; (ii) grant sole authority and control to Licensor to defend or settle any related action or claim; and, (iii) provide, at Licensor's expense, such information, cooperation and assistance to Licensor as may be reasonably necessary for Licensor to defend or settle the claim or action. An Indemnitee's failure to give prompt notice shall not constitute a waiver of the Indemnitee's right to indemnification and shall affect Licensor's indemnification obligations only to the extent that Licensor's rights are materially prejudiced by such failure or delay. Notwithstanding anything to the contrary set forth herein, (i) an Indemnitee may participate, at its own expense, in any defense and settlement directly or through counsel of its choice, and (ii) Licensor will not enter into any settlement agreement on terms that would diminish the rights provided to the Indemnitee (except as provided in and subject to Subsection 14.3) or increase the obligations assumed by the Indemnitee under this Agreement, without the prior written consent of the Indemnitee which shall not be unreasonably withheld.

14.4 Mitigation of Damages. If any Software becomes, or (in Licensor's opinion) is likely to become, the subject of any such third party claim, then Licensor (at its sole cost and expense) may either: (i) procure the right for the Indemnitee to continue using the Software as contemplated hereunder; (ii) modify the Software to render it non-infringing (provided such modification does not materially degrade the Software's functionality); or (iii) replace and install the Software with equally suitable, functionally equivalent, compatible, non-infringing Software. If none of the foregoing is commercially practicable despite Licensor using all reasonable efforts and if Licensee is not permitted to continue using the Software, then Licensee shall be entitled to recover from Licensor the following. If Licensee is prohibited from using the Software within two years after the date the Software was accepted, then Licensee shall be

entitled to recover an amount equal to all License fees paid for the Software, plus all fees paid for services related to the Software and for any other products furnished by Licensor to Licensee that were provided in conjunction with the Software and can not be utilized effectively or completely by Licensee without using the Software. If Licensee is prohibited from using the Software more than two years after the date the Software was accepted, then Licensee shall be entitled to recover an amount equal to a pro-rated portion of the License fees paid for the Software, plus a pro-rated portion of the fees paid for any other products furnished by Licensor to Licensee that were provided in conjunction with the Software and that can not be utilized effectively or completely by Licensee without using the Software (with the pro-rated portions equal to the remaining book value based on a straight line five (5) year basis).

14.4 Notification of 3rd Party Claims. Licensor will promptly notify Licensee concerning any threat, warning, claim or action against Licensor or its customers or suppliers, which Licensor's believes in its discretion has a reasonable possibility of having an adverse impact on Licensee's use of any Software provided or made available to Licensee pursuant to this Agreement.

14.5 This Section 14 states Licensor's entire liability and Licensee's exclusive remedies with respect to infringements of Intellectual Property Rights.

15. INSURANCE REQUIREMENTS

15.1 Required Coverage. During the term of this Agreement and for so long as any License Schedule has not yet been completed or terminated, Licensor will maintain insurance coverage with limits no less than those set forth below, and with insurers and under forms of policies satisfactory to Licensee.

15.1.1 Professional Liability Insurance ("Errors and Omissions") in the minimum amount of \$5,000,000 per occurrence, covering losses from operating errors, omissions, negligence, breach of contract and misrepresentations related to Licensor's obligations under this Agreement.

15.1.2 General Liability providing coverage against liability for bodily injury, death, and property damages in the minimum amount of \$5,000,000 per occurrence.

15.1.3 Workers Compensation insurance coverage at the statutory limits required for each state in which the Licensor will operate in fulfilling its obligations under this Agreement, and Employer's liability coverage in the minimum amount of \$1,000,000 per occurrence.

15.1.4 Umbrella Liability providing excess liability coverage in the minimum amount of \$5,000,000 per occurrence, to supplement the primary coverage provided in the policies listed above.

15.2 Certificates of Insurance. Licensor will deliver Certificates of Insurance to Licensee within ten (10) days after the Master Agreement has been executed. Each Certificate shall provide that no less than thirty (30) days notice will be given in writing to Licensee prior to cancellation, termination, or redemption of any one of the policies. Licensor will deliver to Licensee a certificate of insurance attesting to the renewal of such insurance as soon as reasonably possible after renewal of such insurance. In addition, each policy required pursuant to **Subsections 15.1.1, 15.1.2 and 15.1.4** shall (by endorsement) name Licensee and the Affiliates as additional insured. Licensee's acceptance of delivery of a Certificate of Insurance that does not conform to the requirements of this Section shall not relieve Licensor of its obligation to provide insurance conforming to the requirements hereof.

15.3 No Limitation. The requirements set forth above as to types, limits and approval of insurance coverage to be maintained by Licensor will not in any manner limit the liabilities and obligations assumed by Licensor under this Agreement.

16. LIMITATION OF LIABILITY

- 16.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY AS SET FORTH IN THIS AGREEMENT, IT IS ACKNOWLEDGED AND AGREED THAT THE EXPRESS REMEDIES SET FORTH IN SECTIONS 10.3 AND 22.2 OF THIS AGREEMENT AND SECTION 12 OF THE ADDENDUM FOR PROFESSIONAL SERVICES (APPENDIX D OF THE MASTER PURCHASE AND MAINTENANCE AGREEMENT) FOR A CLAIM BASED UPON A BREACH OF THE WARRANTIES SET FORTH IN SECTION 10.3 AND THE EXPRESS REMEDIES SET FORTH IN ARTICLE 14 BASED UPON ANY THIRD PARTY INTELLECTUAL PROPERTY CLAIM SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR SUCH CLAIMS.
- 16.2 WITH RESPECT TO ANY CLAIM FOR DIRECT DAMAGES THAT EITHER PARTY MAY BRING AGAINST THE OTHER UNDER THIS AGREEMENT IT IS AGREED THAT IN NO EVENT MAY EITHER PARTY'S LIABILITY IN ANY SUCH CLAIM EXCEED AN AMOUNT EQUAL TO THE GREATER OF (i) TWO (2) TIMES THE TOTAL FEES PAID OR PAYABLE BY CUSTOMER IN ASSOCIATION WITH THE TRANSACTION THAT FORMS THE BASIS OF SUCH CLAIM, or (ii) TWO MILLION DOLLARS (\$2,000,000).
- 16.3 EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED IN THIS SECTION, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (OR TO ANY PERSON OR ENTITY CLAIMING THROUGH THE OTHER PARTY) FOR LOST PROFITS OR FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH PARTY HAS BEEN INFORMED OF, OR OTHERWISE MIGHT HAVE ANTICIPATED, THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS OF LIABILITY SET FORTH IN SECTIONS 16.2 AND THIS SECTION 16.3 SHALL NOT APPLY TO DAMAGES, (i) RESULTING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY OR ITS PERSONNEL, (ii) STEMMING FROM PERSONAL INJURY OR DEATH, CAUSED BY A PARTY OR ITS PERSONNEL OR DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY (EXCLUDING LOSSES THAT ARE THE CONSEQUENCE OF DAMAGE TO ANY SUCH PROPERTY WHICH LOSSES SHALL BE SUBJECT TO SUCH LIMITATIONS), (iii) ARISING FROM CLAIMS STEMMING FROM A BREACH OF THE CONFIDENTIALITY OBLIGATIONS OF A PARTY OR (iv) VENDOR'S INDEMNITY OBLIGATIONS AS DESCRIBED IN ARTICLE 14.

17. SUBCONTRACTORS

Licensor may use a subcontractor to perform Licensor's obligations under this Agreement. However, Licensor's use of a subcontractor shall not constitute a waiver of any rights Licensee may have based on Licensor's representations and warranties and Licensor will be fully responsible for all acts and omissions of its subcontractors and the compliance of its subcontractors with the terms and conditions of this Agreement. Licensee may terminate Licensor's right to utilize a particular subcontractor upon thirty (30) days prior written notice for such subcontractor's failure to comply with the applicable terms and conditions of this Agreement. Nothing in this Agreement shall be construed to create any contractual relationship between Licensee and any subcontractor, nor any obligation on the part of Licensee, to pay or to ensure the payment of any money due any subcontractor.

18. ASSIGNMENT

Either party may, with notice to the other, assign this Agreement or any of its rights or interests hereunder, or delegate any of its obligations hereunder, to (i) a business entity controlling or under common control with the assigning Party, (ii) a Party's successor pursuant to a merger, reorganization, consolidation or sale, or (iii) an entity that acquires all or substantially all of that portion of the assigning Party's assets or business. Except as otherwise provided above, neither Party may assign this Agreement nor any of its rights or interests hereunder, nor delegate any obligation to be performed hereunder, without the prior written consent of the other Party. Any attempted assignment or delegation in contravention of this Section shall be null and void, and of no force or effect. This Agreement shall be binding upon, and shall inure to the benefit of, the legal successors and permitted assigns of the Parties.

19. NOTICES

Any notice, demand or other communication (collectively "notice") required or permitted under this Agreement shall be made in writing and shall be deemed to have been duly given (i) when delivered personally to the representative(s) designated to receive notices for the intended recipient, or (ii) when mailed by certified mail (return receipt requested) or sent by overnight courier to the representative(s) designated to receive notices for the intended recipient at the address set forth in the introductory paragraph of this Master Agreement or in the applicable License Schedule, as appropriate. Notices concerning the Master Agreement shall be given to the person who signed the Master Agreement on behalf of the intended recipient. Notices concerning a License Schedule shall be given to the person designated on, or (if no designation is made) the person signing, the License Schedule on behalf of the intended recipient. Any notice from Licensor that either (i) relates to the Master Agreement, or (ii) alleges Licensee committed a material breach shall also be sent to Licensee's General Counsel's Office, to the attention of the managing attorney responsible for intellectual property and technology. Either Party may change its address(es) or representative(s) for receiving notices upon notice to the other.

20. COMPLIANCE WITH LAW

20.1 General. In performing its obligations under this Agreement, each Party will comply, and will cause its Personnel to comply, with the requirements of all applicable laws, ordinances, regulations, codes and executive orders.

20.2 Export Controls. Without limiting the generality of **Section 20.1**, each Party specifically agrees to comply, and will cause its Personnel to comply, with the requirements of all applicable export laws and regulations, including but not limited to the U.S. Export Administration Regulations. Unless authorized by U.S. regulation or Export License, neither Party will export or reexport, directly or indirectly, any software or technology received from the other Party, or allow the direct product thereof to be exported or reexported, directly or indirectly, to (a) any country in Country Group E:2 of the Export Administration Regulations of the Department of Commerce (see <http://www.bxa.doc.gov>) or any other country subject to sanctions administered by the Office of Foreign Assets Control (see <http://www.treas.gov/ofac/>); or (b) any non-civil (i.e. military) end-users or for any non-civil end-uses in any country in Country Group D:1 of the Export Administration Regulations, as revised from time to time. Each Party understands that countries other than the U.S. may restrict the import or use of strong encryption products and may restrict exports agrees that it shall be solely responsible for compliance with any such import or use restriction with respect to their own exporting activities.

20.3 Rights in Bankruptcy. All rights and licenses granted under or pursuant to any section of this Agreement are, and shall be deemed to be, for purposes of Section 365(n) of the Bankruptcy Code, 11

U.S.C. § 101 et seq., licenses of rights to "intellectual property" as defined under Section 101(35A) of the Bankruptcy Code; and Software is, and shall be deemed to be, "embodiment[s]" of "intellectual property" for purposes of same. Licensee shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code or equivalent legislation in any other jurisdiction. Without limiting the generality of the foregoing, Licensor acknowledges that the rights and license granted to Licensee pursuant to this Agreement shall not be affected by Licensor's rejection of this Agreement in bankruptcy, and shall continue subject to the terms and conditions of this Agreement.

21. CHOICE OF LAW AND JURISDICTION

21.1 Governing Law. The substantive laws of the State of New York shall in all respects govern this Agreement as though this Agreement was entered into, and was to be entirely performed within, the State of New York. The Parties expressly disclaim the applicability of, and waive any rights based upon, the Uniform Computer Information Transactions Act or the United Nations Convention on the Sale of Goods. For the avoidance of doubt, nothing stated in this Agreement will prejudice or limit the rights or remedies of either Party to enforce any award or decree under the laws of any jurisdiction where property or assets of the other Party may be located.

21.2 Jurisdiction. All claims or disputes arising out of or in connection with this Agreement shall be heard exclusively by any of the federal or state court(s) of competent jurisdiction located in the Borough of Manhattan, New York City, NY, USA. To that end, each Party irrevocably consents to the exclusive jurisdiction of, and venue in, such court(s), and waives any, (i) objection it may have to any proceedings brought in any such court, (ii) claim that the proceedings have been brought in an inconvenient forum, and (iii) right to object (with respect to such proceedings) that such court does not have jurisdiction over such Party. Without limiting the generality of the foregoing, Licensor specifically and irrevocably consents to personal and subject matter jurisdiction for such claims or disputes in the federal or state court sitting in New York City, NY, USA, and to the service of process in connection with any such claim or dispute by the mailing thereof by registered or certified mail, postage prepaid to Licensor, at the address for notice set forth in, or designated pursuant to, this Agreement.

22. REMEDIES

22.1 Equitable Relief. Licensor and Licensee each acknowledge that the failure to perform their respective duties under **Sections 12 or 13** may cause the other Party to suffer irreparable injury for which such injured Party may not have an adequate remedy available at law. Accordingly, the injured Party may seek to obtain injunctive or other equitable relief to prevent or curtail any such breach, threatened or actual, without posting a bond or security and without prejudice to such other rights as may be available under this Agreement or under applicable law. For purposes of this Agreement, "equitable relief" means and includes those remedies traditionally and historically granted by courts of equity, including without limitation, injunction, attachment, declaratory relief, lis pendens, receivership and replevin.

22.2 Recovery of Fees. If Licensee terminates a License Schedule pursuant to **Section 4.1 or Section 5.2, or Section 10.3** then Licensee will be entitled, as Licensor's entire liability and Licensee's exclusive remedy, to recover from Licensor all amounts paid by Licensee pursuant to the License Schedule on account of (i) the defective Software, and (ii) the services or other products furnished by Licensor to Licensee in conjunction with such Software, that Licensee is unable to utilize effectively or completely as a result of Licensor's failure to fulfill (in a timely manner) its obligation to furnish conforming Software or to correct the Defect. Upon Licensee's receipt of such amounts, Licensee will return to Licensor the affected Software and such related products.

22.3 Cumulative Remedies and Off Sets. Except as otherwise expressly provided in this Agreement,

all remedies in this Agreement are cumulative and in addition to (not in lieu of) any other remedies available to a Party at law or in equity.

23. WAIVER

No course of dealing, failure by either Party to require the strict performance of any obligation assumed by the other hereunder, or failure by either Party to exercise any right or remedy to which it is entitled, shall constitute a waiver or cause a diminution of the obligations or rights provided under this Agreement. No provision of this Agreement shall be deemed to have been waived by any act or knowledge of either Party, but only by a written instrument signed by a duly authorized representative of the Party to be bound thereby. Waiver by either Party of any default shall not constitute a waiver of any other or subsequent default.

24. FORCE MAJEURE

A Party will be excused from a delay in performing, or a failure to perform, its obligations under this Agreement to the extent such delay or failure is caused by the occurrence of any contingency beyond the reasonable control, and without any fault, of such Party. In such event, the performance times shall be extended for a period of time equivalent to the time lost because of the excusable delay. However, if an excusable delay continues more than sixty (60) days, the Party not relying on the excusable delay may, at its option, terminate the affected License Schedule(s) in whole or in part, upon notice to the other Party. In order to avail itself of the relief provided in this Section for an excusable delay, the Party must act with due diligence to remedy the cause of, or to mitigate or overcome, such delay or failure. For purposes of this Section, the phrase "due diligence" shall, at a minimum, require Licensor to maintain a contingency plan (and provide evidence of its current and periodic testing if requested by Licensee) for the continuation of business so that despite any disruption in Licensor's ability to fulfill its service obligations from any particular location or through the efforts of any particular individuals, Licensor will be able to fulfill its service obligations from an alternative/backup location.

25. LICENSEE'S POLICIES AND PROCEDURES

25.1 General. Licensor will ensure that its Personnel comply with the corporate policies promulgated by Licensee or an Affiliate that are designed to adhere to applicable laws and regulations, and with the security and work place policies and procedures in effect for any facility of Licensee or an Affiliate where services are performed (including Information Security Standards and any supplementary practices or procedures provided by Licensee to Licensor). Licensor will insure that all services are performed in a manner that will minimize any interference with Licensee's normal business operations. However, if Licensor reasonably objects to any security and workplace procedures, Licensee shall discuss the procedures with Licensor and the implementation of such shall be subject to the mutual agreement of the parties.

25.2 Equipment and Network Security. If access to Licensee's or an Affiliate's computer systems, other equipment or personal property ("Licensee's Systems") is required in order for Licensor to fulfill its services obligations to Licensee, then Licensee shall determine the nature and extent of such access. If Licensee or an Affiliate provides Licensor with remote access to Licensee's Systems, then any and all information relating to such remote access shall be considered Licensee's Confidential Information and shall be subject to the obligations of confidentiality set forth in **Section 12** above. In addition, any and all access to Licensee's Systems shall be subject to the following.

25.2.1 Licensee's Systems shall be used solely to perform services for Licensee, and shall not be used for any purpose other than the legitimate business purposes of Licensee.

- 25.2.2 Access to Licensee's Systems shall be restricted to Licensor's Personnel who need access in order for Licensor to fulfill its obligations under this Agreement; and no access rights will be transferred to any other individuals without the prior written consent of Licensee.
- 25.2.3 Licensor will ensure that its Personnel do not attempt to break, bypass or circumvent Licensee's or an Affiliate's security systems, or attempt to obtain access to any hardware, programs or data beyond the scope of the access granted by Licensee in writing.
- 25.2.4 Without limiting any of its other rights, Licensee reserves (for itself and its Affiliates) the rights to restrict and monitor the use of Licensee's Systems, and to access, seize, copy and disclose any information, data or files developed, processed, transmitted, displayed, reproduced or otherwise accessed in conjunction with such use. Licensee or an Affiliate may exercise its rights reserved hereunder: (i) to verify the performance of services; (ii) to assure compliance by Licensor's Personnel with Licensee's or an Affiliate's policies and procedures; (iii) to investigate conduct that may be illegal or may adversely affect Licensee, an Affiliate or its or their employees; or (iv) to prevent inappropriate or excessive personal use of Licensee's Systems. Licensor will advise its Personnel concerning Licensee's rights hereunder.

25.3 Removal of Licensor's Personnel. If any of Licensor's Personnel fails to comply with any applicable laws, ordinances, regulations, codes, or with Licensee's security or work place policies and procedures (whether or not specified herein), or fails (in Licensee's sole determination) to perform assignments in a professional and competent manner, then Licensor will bar such individual from performing any services for Licensee immediately upon receiving a request from Licensee.

25.4 Diversity Initiative. Licensor acknowledges that Licensee has implemented a Supplier Diversity Program which, among other initiatives, encourages the use of minority and women-owned businesses ("Diverse Suppliers") as suppliers and subcontractors to the fullest possible extent consistent with the efficient performance of its business strategies. To assist Licensee in complying with these goals, Licensor will (at no additional cost to Licensee) report to Licensee within thirty (30) days of the last day of each calendar quarter or such other period agreed upon between the Parties, the dollar amount spent by Licensor in connection with this Agreement with any Diverse Suppliers which are involved in the provision of the Products and services under this Agreement. These reports shall be forwarded to the attention of the Citigroup Supplier Diversity Program, 333 West 34th Street, 8th Floor, New York, NY 10001, attention Director Supplier Diversity Program. All such reports shall be kept and treated by Licensee in accordance with Licensee's confidentiality obligations herein. Licensor further acknowledges that Licensee prefers, when contracting with suppliers that are not directly Diverse Suppliers, to contract with suppliers who can substantiate that a minimum of ten percent (10%) of the subcontractors or suppliers that they utilize in providing their products or services to Licensee are Diverse Suppliers. As such, Licensee reserves the right to remove from its approved supplier lists any supplier that fails to meet this minimum requirement.

26. CONSTRUCTION

26.1 Inconsistencies. In the event of any inconsistency between the provisions of this Master Agreement and any License Schedule, the provisions of the License Schedule shall govern for purposes of such License Schedule. The provisions of this Master Agreement and the applicable License Schedule shall supersede the provisions of any shrink-wrap, clickwrap or other license provisions included with the Software.

26.2 Modification. The terms, conditions, covenants and other provisions of this Agreement may hereafter be modified, amended, supplemented or otherwise changed only by a written instrument (excluding e-mail or similar electronic transmissions) that specifically purports to do so and is physically executed by a duly authorized representative of each Party.

26.3 **Severability.** If a court of competent jurisdiction declares any provision of this Agreement to be invalid, unlawful or unenforceable as drafted, the Parties intend that such provision be amended and construed in a manner designed to effectuate the purposes of the provision to the fullest extent permitted by law. If such provision can not be so amended and construed, it shall be severed, and the remaining provisions shall remain unimpaired and in full force and effect to the fullest extent permitted by law.

26.4 **Survival.** The provisions of this Agreement that, by their nature and content, must survive the completion, rescission, termination or expiration of this Agreement in order to achieve the fundamental purposes of this Agreement, shall so survive and continue to bind the Parties. Without limiting the generality of the forgoing, the Parties specifically acknowledge that the following provisions shall survive and continue to bind the Parties: **Subsection 2.3**, entitled "Orderly Transfer"; **Subsection 2.4**, entitled "Retention of Archival Copy"; **Section 6**, entitled "Scope of License" (to the extent applicable); **Section 7**, entitled "Source Code"; **Subsection 10.1**, entitled "Authority and Non-Infringement"; **Subsection 10.6**, entitled "Disabling Devices"; **Section 12**, entitled "Confidential Information"; **Section 13**, entitled "Publicity"; **Subsection 14**, entitled "Indemnity"; **Section 16**, entitled "Limitation of Liability"; **Section 18**, entitled "Assignment"; **Section 21**, entitled "Choice of Law and Jurisdiction"; and **Section 22**, entitled "Remedies".

26.5 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

27. AUDITED FINANCIAL STATEMENTS

Upon Licensee's request, Licensor will provide a completed audited statement of the financial condition of Licensor's organization, including (i) audited year-end results for the three (3) previous years, including revenues, expenses, net income, total assets, liabilities and footnotes; and (ii) the most recent financial interim statement.

28. COMPLETE UNDERSTANDING

This Agreement (together with the schedules, exhibits, and other appendices attached hereto or specifically incorporated herein by reference) constitutes the complete understanding of the Parties, and supersedes all prior or contemporaneous agreements, discussions, negotiations, promises, proposals, representations, and understandings (whether written or oral) between the Parties, with regard to the subject matter hereof. This Agreement also supersedes any pre-printed terms or conditions contained on printed forms submitted with Purchase Orders or invoices or other Licensee or Licensor standard forms which relate to the subject matter of this Agreement. Provided however, that any preprinted reference to an existing master agreement shall remain in effect and shall be binding upon the Parties to such Order. Licensor specifically acknowledges and agrees that it did not enter into this Agreement in reliance upon any agreement, promise, representation, or understanding made by or on behalf of Licensee that is not contained herein.

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized officers, have executed this Master Software License and Support Agreement as of the Commencement Date designated above.

LICENSOR:

By:



Name:

Kenneth M. Litvin
Director, Global Sales Contracts

LICENSEE:

By:


DIANE VOLLMER, DIRECTOR
Technology Financial Management
(212) 615-9858

Name:

EMC
CONTRACTS
APPROVED


12/2/04

Kenneth M. Litvin
Director, Global Sales Contracts

Title:

(type or print)

Date:

December 6, 2004

Title:

Date:

12/2/04

APPENDIX A LICENSE SCHEDULE

License Schedule #:	
Effective Date:	

THIS LICENSE SCHEDULE is entered as of the Effective Date designated above, by and between Licensor and the Licensee designated below. The Parties hereto acknowledge that they are entering into this License Schedule pursuant to the provisions of the Master Software License and Support Agreement dated as of November 30, 2004, between Licensor and Citigroup Technology, Inc. The Parties further acknowledge and agree that the provisions of the Master Software License and Support Agreement shall apply to this License Schedule as though such provisions were set forth herein in their entirety.

LICENSOR		LICENSEE
Name:		
Address:		
State of Incorporation:		

Software (Itemize)	List Price	Discount %	License Fee

Third-Party Software (Itemize)	Owner

Delivery Site:

Delivery Date:

Installation Site:

Installation Date:

Billing Address

Installation Fees: \$

Training Fees: \$

Development Fees: \$

Implementation Fees: \$

Maintenance Fees: \$

Payment Cycle (select one): Annually
 Quarterly
 Monthly

Maintenance Term:

Warranty Period:

Additional Terms and Conditions:

Specifications: Attached as **Annex 1** to this License Schedule

Acceptance Criteria: Attached as **Annex 2** to this License Schedule

Configuration: Attached as **Annex 3** to this License Schedule

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized officers, have executed this License Schedule to the Master Software License and Support Agreement as of the Effective Date designated above.

LICENSOR:

By: _____

Name: _____

Title: _____

Date: _____

(type or print)

LICENSEE:

By: _____

Name: _____

Title: _____

Date: _____

APPENDIX B EVALUATION SCHEDULE

Evaluation Schedule #:	
Effective Date:	

THIS EVALUATION SCHEDULE is entered as of the Effective Date designated above, by and between Licensor and the Licensee designated below. The Parties hereto acknowledge that they are entering into this Evaluation Schedule pursuant to the provisions of the Master Purchase Agreement and Master Software License and Support Agreement both dated as of November 30, 2004, between Licensor and Citigroup Technology, Inc.

	LICENSOR	LICENSEE
Name:		
Address:		
State of Incorporation:		

Software (Itemize)

Third-Party Software (Itemize)	Owner

Delivery Site:

Delivery Date:

Installation Site:

Installation Date:

Evaluation Period:

Additional Terms and Conditions:

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized officers, have executed this Evaluation Schedule to the Master Software License and Support Agreement as of the day, month and year of first above written.

LICENSOR:

LICENSEE:

By: _____

Name: _____

Title: _____

(type or print)

Date: _____

By: _____

Name: _____

Title: _____

Date: _____