



APPENDIX D TO DIR CONTRACT NO. DIR-TSO-2567

SOFTWARE LICENSE AGREEMENT

This is a Software License Agreement (“Agreement”) dated as of _____, (the “Effective Date”) by and between _____ (“Customer”) having a place of business at _____, and CGI Technologies and Solutions Inc. (“CGI”), a Delaware corporation having its principal place of business at 11325 Random Hills Road, Fairfax, Virginia, 22030.

1. LICENSE

- A. CGI hereby grants to Customer a perpetual, nonexclusive, nontransferable license commencing on the Effective Date to use the computer software components (the “Software”) and documentation (the “Documentation”) listed in *Exhibit A* on the terms and conditions of this Agreement. The term “Software” as used in this Agreement includes any maintenance releases to the Software that may be provided to Customer from time to time under a separate maintenance agreement executed by the parties, if any, but specifically excludes any other modifications or customizations to the Software.
- B. Customer may use the Software only to process the work of the parties set forth in *Exhibit A* and only on the terms and conditions of this Agreement. Customer may not use the Software as part of a commercial time-sharing or service bureau operation or in any other resale capacity. Customer may use the Documentation solely in support of the Software.
- C. This Agreement does not convey to Customer title or ownership of the Software and Documentation, but only a right of limited use in accordance with this Agreement. All terms and conditions of this Agreement are material terms of the license granted by this Agreement.
- D. The source code version of the CGI Software is installed during implementation; however, the Customer’s right to access and use such source code shall be pursuant to a source code license arrangement made available to the Customer as a maintenance customer under the separate maintenance agreement executed between CGI and Customer. Customer is otherwise prohibited from using the source code under this Agreement.

2. LICENSE FEE

- A. As compensation for the license provided under this Agreement, Customer will pay the license fees in accordance with rates set forth in Appendix C to DIR Contract No. DIR-TSO-2567 and Exhibit A to Appendix D.
- B. As per Appendix A, Section 8.E. of DIR Contract No. DIR-TSO-2567, Customer is a tax exempt entity and will provide CGI a copy of Customer’s tax exemption certificate. If Customer’s tax exempt status is modified or revoked during the term of this Agreement, Customer agrees to pay directly or reimburse CGI for any taxes arising out of this Agreement or CGI’s performance under this Agreement, excluding taxes on CGI’s net income and all employer reporting and payment obligations with respect to its personnel.
- C. All fees and expenses are to be paid to CGI in United States Dollars, by wire transfer of funds to an account designated by CGI or by check sent to CGI at 15038 Collections Center Drive, Chicago, IL 60693. Invoicing and Payment shall be in accordance with Sections 8.I. and 8.J of Appendix A of DIR Contract No. DIR-TSO-2567.

3. NONDISCLOSURE

- A. **“Confidential Information”**. “Confidential Information” means, to the extent consistent with the Texas Public Information Act, information belonging to or in the possession of a party which is confidential or a trade secret and is furnished or disclosed to the other party under the Entire Agreement (including information exchanged in contemplation of entering into the Entire Agreement): (i) in tangible form and marked or designated in writing in a manner to indicate it is confidential or a trade secret; or (ii) in intangible form and that either is of a nature that a reasonable person would understand to be confidential or a trade secret or is identified as confidential or a trade secret in a writing provided to the receiving party within thirty (30) business days after disclosure. For the avoidance of doubt, “Confidential Information” includes the Software and Documentation.
- B. **Exclusions**. “Confidential Information” does not include any information that, as evidenced by written documentation: (i) is already known to the receiving party without restrictions at the time of its disclosure by the furnishing party; (ii) after its disclosure by the furnishing party, is made known to the receiving party without restrictions by a third party having the right to do so; (iii) is or becomes publicly known without violation of the Entire Agreement; (iv) is independently developed by the receiving party without reference to the furnishing party’s Confidential Information; or (v) is required to be disclosed pursuant to the Texas Public Information Act.
- C. **Standard of Care**. Confidential Information will remain the property of the furnishing party, and the receiving party will not be deemed by virtue of the Entire Agreement or any access to the furnishing party’s Confidential Information to have acquired any right, title or interest in or to the Confidential Information. The receiving party agrees, to the extent allowed by the Texas Public Information Act: (i) to hold the furnishing party’s Confidential Information in strict confidence affording the furnishing party’s Confidential Information at least the same level of protection against unauthorized disclosure or use as the receiving party normally uses to protect its own information of a similar character, but in no event less than reasonable care; (ii) to limit disclosure of the furnishing party’s Confidential Information to personnel furnished by the receiving party to perform Services under a Statement of Work or otherwise having a need to know the information for the purposes of the Entire Agreement; (iii) not to disclose any such Confidential Information to any third party; (iv) to use the furnishing party’s Confidential Information solely and exclusively in accordance with the terms of the Entire Agreement in order to carry out its obligations and exercise its rights under the Entire Agreement; and (v) to notify the furnishing party promptly of any unauthorized use or disclosure of the furnishing party’s Confidential Information and cooperate with and assist the furnishing party in every reasonable way to stop or minimize such unauthorized use or disclosure.
- D. **Compelled Disclosure**. If the receiving party receives a subpoena or other valid administrative or judicial notice requesting the disclosure of the furnishing party’s Confidential Information, the receiving party will promptly notify the furnishing party. If requested, the receiving party will provide reasonable cooperation to the furnishing party in resisting or limiting the disclosure at the furnishing party’s expense. Subject to its obligations stated in the preceding sentence, the receiving party may comply with any binding subpoena or other process to the extent required by law.
- E. **Return or Destruction**. Upon termination or expiration of this Agreement and all Statements of Work issued under this Agreement, the receiving party, at the furnishing party’s option, will return or destroy, if authorized under applicable records retention laws and policies, all Confidential Information of the furnishing party that the receiving

party does not possess under a valid license; provided that CGI may retain one (1) copy of all of its work products (including working papers) produced under the Entire Agreement for archival purposes, provided that CGI cleanses the retained work product of all of Customer's confidential Information.

- F. **Relief.** If a court of competent jurisdiction determines that the receiving party has breached, or attempted or threatened to breach, any of its confidentiality obligations to the furnishing party or the furnishing party's proprietary rights, money damages may not provide an adequate remedy. To the extent authorized by Texas Law and Constitution, the furnishing party may seek appropriate injunctive relief and other measures restraining further attempted or threatened breaches of such obligations.

4. PERMISSION TO COPY THE SOFTWARE

- A. Customer may copy the Software for back-up and archival purposes. Customer may copy the Documentation to support Customer's licensed use of the Software in accordance with this Agreement, subject to any restrictions specified in *Exhibit A*. Any copies Customer makes of the Software or Documentation, in whole or in part, are CGI's property.
- B. Customer agrees not to reverse engineer, decompile, disassemble or extract, as applicable, any ideas, algorithms or procedures from the Software or Documentation for any reason.
- C. Customer agrees to reproduce and include CGI's copyright, trademark, and other proprietary rights notices on any copies of the Software and Documentation, including partial copies and copied materials in derivative works.

5. LIMITED WARRANTIES AND REMEDIES FOR BREACH OF WARRANTY

- A. CGI warrants that, during the Warranty Period specified in *Exhibit A*, performance of the Software will not deviate materially from its specifications as identified in *Exhibit A* (the "Specifications"). A material deviation of the Software from its Specifications is referred to in this Agreement as an "Error." If Customer believes there has been a breach of this warranty it must notify CGI in writing within the Warranty Period describing the Error in sufficient detail to enable CGI to recreate it. If there has been a breach of this warranty, then CGI's sole obligation, and Customer's exclusive remedy, will be for CGI to correct or modify the Error at no charge. However, if CGI is unable to correct a breach of this warranty after repeated efforts, Customer will also be entitled to an equitable adjustment in the CGI charges for the Software (up to the total amount of such charges under this Agreement) to reflect any reduction in the value of the Software as a result of the uncorrected Error. CGI may investigate and correct breaches of warranty at CGI's offices to the extent possible. If Customer requires CGI to travel to Customer's place of business to correct a breach of warranty that could have reasonably been corrected at CGI's place of business, Customer will reimburse CGI for reimbursable travel expenses of CGI's personnel in accordance with Appendix A, Section 8.F. of DIR Contract No. DIR-TSO-2567. If a reported breach of warranty is attributable to a cause other than a breach of this warranty, then CGI will be entitled to payment for its investigation and correction efforts on a time and materials basis at the rates set forth in Appendix C of DIR Contract No. DIR-TSO-2567.
- B. CGI warrants that the Software and Documentation do not infringe any third party copyrights, patents or trade secrets that exist on the Effective Date and that arise or are enforceable under the laws of the United States of America.

- (1) If a third party brings an action against Customer making allegations that, if true, would constitute a breach of this warranty, then CGI will, at its own expense and subject to the infringement indemnity provisions of Section 10.A.3 of Appendix A of DIR Contract No. DIR-TSO-2567, defend, indemnify and hold Customer harmless in such proceeding, and CGI will pay all settlements, costs, damages and legal fees finally awarded.

If such a proceeding is brought or appears to CGI to be likely to be brought, CGI may, at its sole option and expense, either obtain the right for Customer to continue using the allegedly infringing item(s) or replace or modify the item(s) to resolve such proceeding. If after exercising prompt and diligent efforts to accomplish the foregoing options, CGI finds that neither of these alternatives is available to it on commercially reasonable terms, CGI may require Customer to return the allegedly infringing item(s), in which case Customer will receive a refund of the amounts paid by it for the returned item(s), less a reasonable adjustment for depreciation of the returned item(s). If CGI terminates customer's access due to infringement claims then, regardless of any other provision of this agreement or the DIR Contract No. DIR-TSO-2567, CGI will be liable for all damages suffered by customer from the termination of access. This Section 5.B states CGI's entire obligation to Customer and Customer's exclusive remedy with respect to any claim of infringement and is in lieu of any implied warranties of non-infringement or non-interference with use and enjoyment of information.

- C. CGI is not responsible for any claimed breaches of the foregoing warranties caused by: (i) modifications made to the Software or Documentation by anyone other than CGI and its subcontractors working at CGI's direction; (ii) the combination, operation or use of the Software or Documentation with any items that CGI did not supply; (iii) Customer's failure to use any new or corrected versions of the Software or Documentation made available by CGI; or (iv) CGI's adherence to Customer's specifications or instructions.
- D. CGI does not warrant that the Software will be error-free or that its operation will be uninterrupted. Customer acknowledges that it is responsible for the results obtained from use of the Software, including without limitation the completeness, accuracy and content of such results.
- E. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INTEGRATION, PERFORMANCE AND ACCURACY AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

6. LIMITATION OF LIABILITY

- A. Limitation of Liability shall be in accordance with Section 10.K. of Appendix A of DIR Contract No. DIR-TSO-2567.

7. INDEMNIFICATION

- A. Indemnification shall be in accordance with Section 10.A. of Appendix A of DIR Contract No. DIR-TSO-2567.

8. TERMINATION

- A. Termination shall be in accordance with Section 11.B. of Appendix A of DIR Contract No. DIR-TSO-2567.
- B. Any provision of this Agreement that imposes or contemplates continuing obligations on a party will survive the expiration or termination of this Agreement, including but not limited to Sections 3 and 6.

9. LAW AND DISPUTES

- A. This Agreement will be governed by the laws of the State of Texas., Nothing herein shall be construed to waive the sovereign immunity of the State of Texas.
- B. Dispute Resolution shall be in accordance with Section 11A. of Appendix A of the DIR Contract No. DIR-TSO-2567.

10. GENERAL

- A. Notices shall be in accordance with Section 12.A. of Appendix A of DIR Contract No. DIR-TSO-2567.

In the case of Customer: _____ _____ _____ Attn: _____ Fax: _____ Phone: _____ E-Mail: _____	with a copy of legal notices to: _____ _____ _____ Attn: _____ Fax: _____ Phone: _____ E-Mail: _____
In the case of CGI:	with a copy of legal notices to:
CGI Technologies and Solutions Inc. 11325 Random Hills Road Fairfax, Virginia 2203 Attn: Fax: Phone:	CGI Technologies and Solutions Inc. 11325 Random Hills Road, 8 th Floor Fairfax, Virginia 22030 Attn: Office of General Counsel Fax: 703.267.7288 Phone: 703.267.8000

- B. Force Majeure shall be in accordance with Section 11.C. of Appendix A of DIR Contract No. DIR-TSO-2567.
- C. Assignment shall be in accordance with Section 4.D. of Appendix A of DIR Contract No. DIR-TSO-2567.
- D. DIR Contract No. DIR-TSO-2567 and this Agreement constitute the entire agreement between the parties, and supersede all other prior or contemporaneous communications between the parties (whether written or oral) relating to the subject matter of this Agreement. This Agreement may be modified or amended solely in a writing signed by both parties. In the event of a conflict between this Agreement and the DIR Contract No. DIR-TSO-2567, the DIR Contract will control.
- E. The provisions of this Agreement will be deemed severable, and the unenforceability of any one or more provisions will not affect the enforceability of any other provisions. In addition, if any provision of this Agreement, for any reason, is declared to be unenforceable, the parties will substitute an enforceable provision that, to the maximum



extent possible under applicable law, preserves the original intentions and economic positions of the parties.

- F. No failure or delay by a party in exercising any right, power or remedy will operate as a waiver of that right, power or remedy, and no waiver will be effective unless it is in writing and signed by the waiving party. If a party waives any right, power or remedy, the waiver will not waive any successive or other right, power or remedy the party may have under this Agreement.
- G. During the term of this Agreement and for twelve (12) months after its expiration or termination, neither party will directly solicit for employment or employ (except as otherwise permitted by this Section 10.F) any employee of the other party (or any of its Affiliates) who was involved in the performance of the party's obligations under this Agreement, unless the hiring party obtains the written consent of the other party. General advertisements for employment, to which an employee freely responds, do not constitute a breach of this provision.
- H. The Exhibits referred to in and attached to this Agreement are made a part of it as if fully included in the text.

Each party has caused its authorized representative to execute this Agreement as of the Effective Date.

CGI Technologies and Solutions Inc. (CGI)

_____ (Customer)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____



EXHIBIT A

**CGI Technologies and Solutions Inc.
Proprietary Software License Agreement**

[see separate Exhibit A template]