



APPENDIX E TO DIR CONTRACT NO. DIR-TSO-3826
PROPRIETARY SOFTWARE LICENSE AGREEMENT

This is a Proprietary Software License Agreement (“Agreement”) dated as of _____ (the “Effective Date”) by and between _____ (“Customer”), a _____ corporation 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 nonexclusive, nontransferable license to use the computer software components (the “Software”) and documentation (the “Documentation”) listed in the applicable *Exhibit A* (with individual licenses granted under Exhibits numbered A-1, A-2, etc.), on the terms and conditions of DIR Contract No. DIR-TSO-3826 and this Agreement, for the term specified in the applicable *Exhibit A*. 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 maintenance exhibit to this Agreement (if a maintenance exhibit is a part of this Agreement) or under a separate agreement, 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 the applicable *Exhibit A* and only on the terms and conditions of DIR Contract No. DIR-TSO-3826 and 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 DIR Contract No. DIR-TSO-3826 and this Agreement. All terms and conditions of this Agreement are material terms of the license granted by this Agreement.

2. FEES

- A. As compensation for the license and maintenance services provided under this Agreement, Customer will pay the license fees in accordance with the applicable *Exhibit A* and Appendix C of DIR Contract No. DIR-TSO-3826 and the maintenance fees in accordance with the applicable Proprietary Software Maintenance Agreement.
- B. Taxes will be handled in accordance to Appendix A, Section 4E of DIR Contract No. DIR-TSO-3826.
- C. CGI’s invoices are due and payable in accordance to Appendix A, Sections 8I and 8J of DIR Contract No. DIR-TSO-3826; provided, however, that first year maintenance are payable in advance upon execution of the Agreement.

3. NONDISCLOSURE

- A. **“Confidential Information”**. To the extent allowable under the Texas Public Information Act, “Confidential Information” means 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 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.

- 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 Agreement; or (iv) is independently developed by the receiving party without reference to the furnishing party’s Confidential Information.
- 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 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: (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 employees of the receiving party to perform Services having a need to know the information for the purposes of the 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 Agreement in order to carry out its obligations and exercise its rights under the Agreement; and (v) to notify the furnishing party promptly of any unauthorized use or disclosure of the furnishing party’s Confidential Information and co-operate 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 validly issued administrative or judicial notice requesting the disclosure of the furnishing party’s Confidential Information or the receiving party is otherwise required to disclose such Confidential Information by law or under the rules of any stock exchange on which the receiving party’s securities are listed, the receiving party will promptly notify the furnishing party. Subject to its obligations stated in the preceding sentence, the receiving party will be entitled to comply with any binding subpoena or other process to the extent required by law, but will in doing so make every effort to secure confidential treatment of any materials it is compelled to disclose.
- E. **Return or Destruction.** Subject to record retention laws and policies, upon termination or expiration of this Agreement, the receiving party, at the furnishing party’s option, will return or destroy all Confidential Information of the furnishing party that the receiving party does not possess under a valid license; provided that each party may retain one (1) copy of all of its work products (including working papers) produced under the Agreement for archival purposes.
- F. **Third Party Access.** Should Customer require access by third parties to the Software for purposes of processing Customer work in accordance with this Agreement, Customer will obtain CGI’s prior written approval and CGI will require execution of a separate third party access agreement to provide for adequate protection of the Software.

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 the applicable *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 the applicable *Exhibit A*, performance of the Software will not deviate materially from its specifications as identified in the applicable *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 the Error at no charge. However, if CGI is unable to correct 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 the reasonable travel time and reimbursable expenses of CGI's personnel in accordance with the State of Texas Travel Management Guidelines maintained by the Comptroller of Public Accounts. 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 CGI's then-current rates as exhibited in Appendix C of DIR Contract No. DIR-TSO-3826.
- B. CGI warrants that the Software and Documentation do not, to CGI's knowledge, 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. Infringement shall be in accordance with Appendix A, Section 10A of the DIR Contract DIR-TSO-3826.
- 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. Customer acknowledges further that it is responsible for independent verification and testing of any such results prior to using them in its business.

- 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

Limitation of Liability will be handled in accordance to Appendix A, Section 10K of DIR Contract No. DIR-TSO-3826.

7. INDEMNIFICATION

Indemnification will be handled in accordance to Appendix A, Section 10A of DIR Contract No. DIR-TSO-3826

8. TERMINATION

Termination will be handled in accordance to Appendix A, Section 11B of DIR Contract No. DIR-TSO-3826

9. LAW AND DISPUTES

- A. This Agreement, and any claims, controversy or dispute arising hereunder, will be governed by the laws of Texas, without reference to conflict of laws principles. Nothing herein shall be construed to waive the sovereign immunity of the state of Texas.
- B. Both CGI and Customer agree to comply fully with all relevant export laws and regulations of the United States to ensure that no information or technical data provided pursuant to this Agreement is exported or re-exported directly or indirectly in violation of law.
- C. At the written request of either party, the parties will attempt to resolve any dispute arising under or relating to this Agreement through the informal means described in this Section 6.C. Each party will appoint a senior management representative who does not devote substantially all of his or her time to performance under this Agreement. The representatives will furnish to each other all non-privileged information with respect to the dispute that the parties believe to be appropriate and germane. The representatives will negotiate in an effort to resolve the dispute without the necessity of any formal proceeding. Formal proceedings for the resolution of the dispute may not be commenced until the earlier of: (i) the designated representatives conclude that resolution through continued negotiation does not appear likely; or (ii) thirty (30) calendar days have passed since the initial request to negotiate the dispute was made; provided, however, that a party may file earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or to apply for interim or equitable relief.
- D. Dispute Resolution will be handled in accordance to Appendix A, Section 11A of DIR Contract No. DIR-TSO-3826.
- E. No proceeding, regardless of form, arising out of or related to this Agreement may be brought by either party more than four (4) years after the accrual of the cause of action, except that (i) proceedings related to violation of a party's proprietary rights or any duty

to protect Confidential Information may be brought at any time within the applicable statute of limitations, and (ii) proceedings for non-payment may be brought up to four (4) years after the date the last payment was due.

10. GENERAL

- A. Notice will be handled in accordance to Appendix A, Section 12 of DIR Contract No. DIR-TSO-3826.
- B. Force Majeure will be handled in accordance to Appendix A, Section 11C of DIR Contract No. DIR-TSO-3826.
- C. Assignment will be handled in accordance to Appendix A, Section 4E of DIR Contract No. DIR-TSO-3826.
- D. DIR Contract No. DIR-TSO-3826 and this Agreement constitutes the entire agreement between the parties, and supersedes 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.
- 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, either directly or indirectly, solicit for employment or employ (except as permitted below) by itself (or any of its Affiliates) 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. The foregoing provision will not prohibit a general solicitation of employment in the ordinary course of business or prevent either party from employing any employee who contacts such party as a result of such a general solicitation or at his or her own initiative without any direct or indirect solicitation by or encouragement from such party.
- H. Either party has the right to audit, during normal business hours of the site to be audited, and upon written notice to the other party, to examine and copy reports, records and accounts of the other party relating to the performance of this Agreement. CGI's audits may include, without limitation, audits of the use of the Software, modifications, and/or customizations for the purposes of verifying Customer's compliance with the terms and conditions of this Agreement. Customer's audits may include, without limitation, audits of records related to costs incurred for travel. CGI and Customer agree during any such audit to abide by the other party's reasonable standard security procedures while at the other party's facilities, provided that such standards are provided to the other party within a reasonable amount of time prior to such onsite audit.

- I. 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: _____

TEMPLATE