



APPENDIX D TO DIR CONTRACT NO. DIR-SDD-1360
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-SDD-1360 and Exhibit A to Appendix D.
- B. As per Section 4.F. of DIR Contract No. DIR-SDD-1360, 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 accordance with Sections 7.B. and 7.C. of Appendix A of DIR Contract No. DIR-SDD-XXX.

3. NONDISCLOSURE

- A. "Confidential Information" to the extent consistent with the Texas Public Information Act, means any and all information which is confidential or a trade secret and is furnished or disclosed to Customer under this Agreement. To the extent consistent with the Texas Public Information Act, the Software and Documentation are Confidential Information of CGI. To the extent consistent with the Texas Public Information Act, Confidential Information includes the specific business terms of this Agreement and any other information that is marked as "proprietary," "confidential" or "trade secret", or in some other manner to indicate it is confidential or a trade secret.
- B. Confidential Information will remain the property of CGI, and Customer will not be deemed by virtue of this Agreement or any access to CGI's Confidential Information to have acquired any right, title or interest in or to the Confidential Information. Customer agrees, to the extent allowed by the Texas Public Information Act: (i) to hold the Confidential Information in strict confidence; (ii) to limit disclosure of the Confidential Information to Customer's own employees having a need to know the Confidential Information for the purposes of this Agreement; (iii) not to disclose any Confidential Information to any third party; (iv) to use the Confidential Information solely and exclusively in accordance with the terms of this Agreement in order to carry out its obligations and exercise its rights under this Agreement; (v) to afford CGI's Confidential Information at least the same level of protection against unauthorized disclosure or use as Customer normally uses to protect its own information of a similar character, but in no event less than reasonable care; and (vi) to notify CGI promptly of any unauthorized use or disclosure of the Confidential Information and to cooperate with and assist CGI in every reasonable way to stop or minimize such unauthorized use or disclosure.
- C. If a court of competent jurisdiction determines that Customer has breached, or attempted or threatened to breach, its confidentiality obligations to CGI or CGI's proprietary rights, money damages will not provide an adequate remedy. To the extent authorized by Texas Law and Constitution, CGI may seek appropriate injunctive relief and other measures restraining further attempted or threatened breaches of such obligations. Such relief or measures will be in addition to, and not in lieu of, any other rights and remedies available to CGI.

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 Section 4.G. of DIR Contract No. DIR-SDD-1360. 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-SDD-1360.

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 9.A.2) of Appendix A of DIR Contract No. DIR-SDD-1360, defend, indemnify and hold Customer harmless in such proceeding, and CGI will pay all settlements, costs, damages and legal fees finally awarded.

(2) 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 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).

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. If Customer should become entitled to claim damages from CGI (including without limitation, for breach of contract, breach of warranty, negligence or other tort claim), CGI will be liable only for the amount of Customer's actual direct damages, not to exceed (in the aggregate for all claims) the amount of the license fees paid by Customer to CGI for the applicable Software and Documentation. This limit also applies to CGI's licensors. It is the maximum liability for which CGI and its licensors are collectively responsible.
- B. In no event will CGI or any person or entity involved in the creation, manufacture or distribution of any software, services or other materials provided by CGI under this Agreement be liable for: (i) any damages arising out of or related to the failure of Customer or its Affiliates or suppliers to perform their responsibilities; (ii) any claims or demands of third parties (other than those third party claims covered by Section 9.A. of Appendix A of DIR Contract No. DIR-SDD-1360); or (iii) any lost profits, loss of business, loss of data, loss of use, lost savings or other consequential, special, incidental, indirect, exemplary or punitive damages, even if CGI has been advised of the possibility of such damages.
- C. The foregoing limitations do not apply to the payment of settlements, costs, damages and legal fees referred to in Section 9.A. of Appendix A of DIR Contract No. DIR-SDD-1360. The limitations of liability set forth in this Section 6 will survive and apply notwithstanding the failure of any limited or exclusive remedy for breach of warranty set forth in this Agreement.

7. INDEMNIFICATION

- A. Indemnification shall be in accordance with Section 9.A. of Appendix A of DIR Contract No. DIR-SDD-1360.

8. TERMINATION

- A. Termination shall be in accordance with Section 10.B. of Appendix A of DIR Contract No. DIR-SDD-1360.
- B. Within thirty (30) calendar days after the expiration or termination of this Agreement for any reason, Customer must, at CGI's option, either deliver to CGI or destroy the original and all copies (including partial copies) of the Software, the Documentation, all CGI Confidential Information, and any other materials provided by CGI under this Agreement, including copied portions contained in derivative works, and certify in writing to CGI that Customer has fully performed its obligations under this paragraph.

- C. 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 10.A. of Appendix A of the DIR Contract No. DIR-SDD-1360.

10. GENERAL

- A. Notices shall be in accordance with Section 11.A. of Appendix A of DIR Contract No. DIR-SDD-1360.

In the case of Customer:	with a copy of legal notices to:
 Attn: _____ Fax: _____ Phone: _____ E-Mail: _____	 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 10.C. of Appendix A of DIR Contract No. DIR-SDD-1360.
- C. Assignment shall be in accordance with Section 4.D. of Appendix A of DIR Contract No. DIR-SDD-1360.
- D. DIR Contract No. DIR-SDD-1360 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-SDD-1360, 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]