



IMPORTANT: DO NOT ALLOW LICENSED PRODUCT (AS DEFINED BELOW) TO BE INSTALLED OR USED WITHOUT READING THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE NOT WILLING TO ACCEPT THESE TERMS AND CONDITIONS, YOU MUST RETURN THE LICENSED PRODUCT TO CROW CANYON WITHIN TEN (10) DAYS OF RECEIPT. BY INSTALLING AND USING THE LICENSED PRODUCT AS PERMITTED BY THIS LICENSE, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

LICENSED PRODUCT AGREEMENT – CROW CANYON SYSTEMS (PERPETUAL LICENSE ONLY)

Note: This Licensed Product Agreement covers the Crow Canyon Systems software when licensed on a perpetual license basis only. If Licensee is purchasing a license to the Crow Canyon Systems software on a subscription basis (i.e., for a specific, renewable license term), a different agreement applies; please contact Crow Canyon to obtain a copy of the subscription agreement.

1. DEFINITIONS. Crow Canyon Systems, Inc., the licensor of Licensed Product pursuant to this Agreement, is referred to herein as “Crow Canyon”. The entity licensing Licensed Product is referred to herein as “Licensee.” This Licensed Product Agreement is referred to herein as the “Agreement.” In addition, the following definitions shall apply:

1.1 Documentation means all written user information, whether in electronic, printed or other format, delivered or made available to Licensee by Crow Canyon with respect to Licensed Product, now or in the future, including instructions, manuals, training materials, and other publications that contain, describe, explain or otherwise relate to Licensed Product.

1.2 Embedded Applications means software developed by third parties that may be embedded in or bundled with the software developed by Crow Canyon as part of Licensed Product.

1.3 Licensed Product means all software (including Embedded Applications) and all related Documentation licensed to Licensee pursuant to this Agreement, now or in the future.

1.4 Licensed Sites means those sites for which Licensee has paid applicable license fees for Licensed Product and at which Licensee is authorized to utilize Licensed Product, as specified in writing by Crow Canyon in Crow Canyon’s acknowledgment of Licensee’s order or otherwise.

2. LICENSE GRANT

2.1 Basic Terms. Subject to the terms and conditions of this Agreement, Crow Canyon grants to Licensee a restricted, non-exclusive, non-transferable license to use Licensed Product only at the Licensed Sites. Such license shall be perpetual, unless it is specified in Crow Canyon’s price quotation or proposal to Licensee that Licensee’s license will be limited to a specified length of time, or unless this license is terminated under the provisions of this Agreement. In no event may Licensed Product be: (a) used other than at the Licensed Sites; (b) made available via a network or otherwise to any third party other than the Licensed Sites; or (c) used to perform functions for third parties or to process or manage data for locations other than the Licensed Sites. Licensed Product will be provided by Crow Canyon and may be used by Licensee in executable code form only; source code to Licensed Product will not be provided. Licensed Product shall only be used as expressly authorized by this Agreement.

2.2 Copies. Licensee shall not make copies of or otherwise reproduce any Licensed Product, except that: (a) Licensee may make copies of the software component of any Licensed Product, in executable code form, only for backup or archival purposes; and (b) Licensee may make unlimited printed copies for Licensee’s internal use of any Documentation delivered by Crow Canyon to Licensee. Licensee shall retain and include all of Crow Canyon’s or any third parties’ copyright and other proprietary rights notices on all copies of Licensed Product. Licensee shall not otherwise reproduce Licensed Product.

2.3 Supplemental Terms and Conditions. The product-specific terms and conditions set forth in the Supplemental Terms and Conditions attached hereto are incorporated herein by reference. These additional terms and conditions are applicable to the extent that Licensee licenses any of the specific products or modules listed therein.

3. RESTRICTIONS ON USE OF LICENSED PRODUCT

3.1 Intellectual Property Rights. Licensed Product is proprietary to Crow Canyon and/or third parties and is protected by copyright, trade secret, and other intellectual property rights. The placement of a copyright notice on any portion of Licensed Product does not mean that such portion has been published and will not derogate any claim of trade secret protection for the same. Title to all complete or partial copies, and all

applicable rights to copyrights, patents, trademarks and trade secrets in Licensed Product, are and shall remain the property of Crow Canyon or their other owners, as applicable.

3.2 Confidentiality. Licensee agrees to keep Licensed Product confidential and to prevent unauthorized disclosure or use of Licensed Product in Licensee’s possession. Licensee shall not transfer, assign, provide or otherwise make Licensed Product available to any other party without the prior written consent of Crow Canyon. Any attempted sublicense, assignment or transfer of any rights, duties or obligations by Licensee in violation of this Agreement shall be void. Licensee shall notify Crow Canyon immediately in writing of any unauthorized use or distribution of Licensed Product of which Licensee becomes aware and shall take all steps necessary to ensure that such unauthorized use or distribution is terminated. For any Licensed Product for which Crow Canyon makes available passwords or other user identification technology to access such Licensed Product, Licensee shall advise all users of such passwords or other user identifications that such passwords or user identifications must be maintained in confidence and not transmitted or shared.

3.3 Modifications. Licensee shall not, and shall not allow any third party to, modify, decompile, disassemble or reverse engineer Licensed Product or attempt to create source code for Licensed Product by any means without Crow Canyon’s express written authorization.

4. SUPPORT AND SERVICES. Any support and/or services ordered from Crow Canyon by Licensee in connection with the license of Licensed Product shall be provided by Crow Canyon pursuant to Crow Canyon’s terms, conditions and policies applicable at the time of order to the particular support and/or services purchased. Crow Canyon’s current terms, conditions and policies for delivery of support and services, which are subject to change from time to time, are attached hereto as the Support and Services Policies. Licensee’s license of Licensed Product does not, by itself, entitle Licensee to any support, upgrades, patches, fixes or the like for Licensed Product; Licensee must maintain a current support subscription and pay any applicable support fees to be eligible for support services.

5. FEES AND TAXES. Licensee agrees to pay Crow Canyon, in accordance with Crow Canyon’s invoice terms, the fees charged for the Licensed Products and related support, services and/or other items ordered by Licensee, together with any other charges made in accordance with this Agreement, and all applicable sales, use or other taxes or duties, however designated, except for taxes based on Crow Canyon’s net income. If Licensee claims tax exempt status, Licensee agrees to provide evidence of such tax exemption upon Crow Canyon’s request. To the extent that such tax exemption cannot be properly claimed or does not extend to certain taxes or transactions, Licensee shall be responsible for any and all taxes and assessments that arise from this Agreement and related transactions (except for taxes based upon Crow Canyon’s net income). Licensee shall pay a monthly charge of 1.5% (18% annually) on all amounts not paid when due, or, if a lower maximum rate is established by law, then such lower maximum rate. All pricing set forth in any Crow Canyon quotation or invoice is in United States dollars unless otherwise specified.

6. EMBEDDED APPLICATIONS; OPEN SOURCE SOFTWARE. Licensed Product may contain Embedded Applications. If any additional license terms are identified in the Supplemental Terms and Conditions with respect to any Embedded Applications, Licensee shall comply with such conditions with respect to such applications. Certain Embedded Applications may also be subject to “open source” licensing terms. In some cases, the open source licensing terms may conflict with portions of this Agreement, and to the extent of any such conflict, the open source licensing terms shall govern, but only as to the software components subject to those terms. Notwithstanding the foregoing, Licensee acknowledges that if any open source software component is licensed under terms that permit Licensee to modify such component, and if Licensee does so modify such component, then Crow Canyon will not be responsible for any incompatibility with such modifications and the remainder of the Licensed Product.

7. COMPATIBLE PLATFORMS/HARDWARE. Licensee is responsible for obtaining and maintaining an appropriate operating environment with the necessary hardware, operating system software and other items required to use and access Licensed Product. Crow Canyon will not be responsible for any incompatibility between Licensed Product and any versions of operating systems, hardware, browsers or other products not specifically approved by Crow Canyon for Licensee’s use with Licensed Product. Crow Canyon will make written requirements available to Licensee at Licensee’s request.

8. LIMITED MEDIA WARRANTY. Crow Canyon warrants that the media on which Licensed Product is recorded shall be free from defects in materials and

workmanship under normal use for a period of ninety (90) days from the date of purchase. Licensee's exclusive remedy under this Section shall be replacement of the defective media.

9. DISCLAIMER OF OTHER WARRANTIES. LICENSED PRODUCT IS PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND (EXCEPT AS PROVIDED IN SECTION 8), AND CROW CANYON AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CROW CANYON DOES NOT WARRANT THAT THE FUNCTIONALITY CONTAINED IN THE LICENSED PRODUCT WILL MEET LICENSEE'S REQUIREMENTS, OR THAT THE OPERATION OF THE LICENSED PRODUCT WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED PRODUCT WILL BE CORRECTED. FURTHERMORE, CROW CANYON DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE LICENSED PRODUCT IN TERMS OF ITS CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. LICENSEE AGREES THAT THE USE OF LICENSED PRODUCT IS AT LICENSEE'S OWN RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY CROW CANYON OR A CROW CANYON REPRESENTATIVE SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT FULLY APPLY TO LICENSEE.

10. TERMINATION

10.1 Termination for Breach. Crow Canyon shall have the right to suspend performance under this Agreement in the event that Licensee is in breach of any of its obligations under this Agreement. In addition, either party shall have the right to terminate this Agreement in whole or in part upon thirty (30) days written notice to the other party, in the event the other party materially breaches this Agreement and fails to correct such breach within such thirty (30) day period, provided that Crow Canyon shall have the right to terminate this Agreement immediately upon written notice in the event that Licensee breaches any of its obligations under Section 3. Licensee further acknowledges that, as breach of the provisions of Section 3 could result in irreparable injury to Crow Canyon, Crow Canyon shall have the right to seek equitable relief against any actual or threatened breach thereof, without proving actual damages.

10.2 Effects of Termination. In the event of any termination of all or any portion of this Agreement, Licensee shall not be relieved of any obligation to pay any sums of money that have accrued prior to the date of termination. In addition, the provisions of Sections 3, 5, 6, 9, 10, 11 and 12 shall survive termination of this Agreement. Immediately upon any termination of a license for any Licensed Product under this Agreement, Licensee shall, at its own expense, either return to Crow Canyon or destroy all copies of such Licensed Product in its possession or control, and shall forward written certification to Crow Canyon that all such copies of such Licensed Product have either been destroyed or returned to Crow Canyon.

11. LIMITATION OF LIABILITY. CROW CANYON SHALL NOT BE LIABLE TO LICENSEE FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR LOST PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THIS AGREEMENT, LICENSED PRODUCT, SUPPORT, SERVICES, OR OTHER ITEMS PROVIDED, OR THE USE OR INABILITY TO USE ANY OF THE FOREGOING, EVEN IF CROW CANYON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE. IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND OR ACTION ARISING OUT OF THIS AGREEMENT, LICENSEE SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY LICENSEE

TO CROW CANYON HEREUNDER FOR THE APPLICABLE LICENSED PRODUCT, ITEM OR SERVICE ON WHICH THE CLAIM IS BASED. IN ADDITION, IN NO EVENT WILL THE LIABILITY OF CROW CANYON RELATING TO SUPPORT SERVICES EXCEED THE TOTAL AMOUNT OF MONEY PAID BY LICENSEE

TO CROW CANYON DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD WITH RESPECT TO THE PARTICULAR SUPPORT SERVICES ON WHICH THE CLAIM IS BASED.

12. GENERAL

12.1 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

12.2 General Provisions. Neither party shall be held liable to the other party for failure of performance where such failure is caused by supervening conditions beyond that party's control, including acts of God, civil disturbance, strikes or labor disputes. If any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, this Agreement shall be enforced to the maximum extent possible to effectuate the original express intent of the parties. Licensee may bring no action arising out of this Agreement, regardless of form, more than one (1) year after the cause of action has arisen. In the case of notices to Crow Canyon, such notices shall be sent to: Crow Canyon Systems, Inc., Attn.: Contracts Department, 565 Lori Drive #71, Benicia, CA 94510. In the case of notices to Licensee, such notices shall be sent to Crow Canyon's address of record for Licensee. Either party may change its notice address by notifying the other in like manner. Licensee agrees that the terms of this Agreement, including all pricing for Crow Canyon's products and services, shall be kept confidential and not disclosed to any third party without the prior written consent of Crow Canyon; provided, however, that Crow Canyon's consent shall not be required if Licensee is required to disclose the provisions of this Agreement in order to comply with applicable public records laws.

12.3 Export. Without in any way limiting the restrictions on transfer set forth elsewhere in this Agreement, Licensee specifically agrees that Licensee will not, directly or indirectly, export or transfer any export-controlled commodity, technical data or software:

(a) in violation of any laws, regulations, rules or other limitations imposed by any government authority; or (b) to any country for which an export license or other governmental approval is required at the time of export, without first obtaining all necessary licenses or other approvals.

12.4 U.S. Government Restricted Rights. Licensed Product is a "commercial item" as that term is defined in 48 C.F.R. §2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are defined in 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, as applicable, and all as amended from time to time. Consistent with 48 C.F.R. §12.212, 48 C.F.R. §227.7202 and 48 C.F.R.

§52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, and all as amended from time to time, all U.S. Government end users acquire Licensed Product only with those rights set forth herein.

12.5 Entire Agreement. This Agreement, inclusive of the Supplemental Terms and Conditions and the Support and Services Policies attached hereto, constitutes the complete and entire agreement between the parties with respect to its subject matter, and supersedes all prior discussions, understandings, arrangements, proposals and negotiations with respect to same. The terms and conditions of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any purchase order or other documentation submitted by Licensee with respect to Licensed Product or any related support or services, and Crow Canyon hereby refuses any such different or additional provisions in purchase orders or other documents. This Agreement shall not be subject to the Uniform Computer Information Transactions Act. This Agreement shall not be modified or amended without the written agreement of both parties.

SUPPLEMENTAL TERMS AND CONDITIONS

The following additional terms and conditions are applicable to Licensee's license of the Crow Canyon software and Crow Canyon's delivery of any associated support and services.

1. HOSTING SERVICES. If Licensee chooses to have Crow Canyon host the Licensed Product on its behalf (which service is available only at an additional annual, renewable cost), Licensee acknowledges and agrees that the Licensed Product may be inaccessible or inoperable from time to time due to maintenance or to causes that are beyond the control of Crow Canyon or are not reasonably foreseeable by Crow Canyon, including, but not limited to: the interruption or failure of telecommunication or digital transmission links; hostile network attacks;

SUPPORT AND SERVICES POLICIES

1. DEFINITIONS. Capitalized terms not defined herein shall have the meanings assigned to them in the applicable Licensed Product Agreement ("Agreement") between Licensee and Crow Canyon to which these Support and Services Policies ("Policies") are attached. In addition, for purposes of these Policies, the following definitions shall apply:

1.1 Errors shall mean a reproducible failure of Licensed Product to operate in accordance with its standard Documentation, despite the proper installation and use of Licensed Product in a proper operating environment and on hardware and system software sufficient to meet Crow Canyon's then-current minimum requirements, which are subject to change as New Versions are released. User mistakes are not Errors within the meaning of these Policies. Errors may be due to problems in Licensed Product, the Documentation, or both.

1.2 Fix shall mean a patch, service pack or corrective update of Licensed Product that Crow Canyon may prepare in its discretion on an interim basis, prior to issuance of a New Version, to correct programming Errors that prevent or obstruct normal operation of Licensed Product in accordance with the applicable then-current Documentation.

1.3 New Products shall mean new products, programs or modules developed by Crow Canyon that provide features, functions or applications not included in the Licensed Product originally licensed by Licensee and for which additional license fees apply as determined by Crow Canyon. A New Product may be usable with or in addition to the Licensed Product originally licensed by Licensee. New Products will be licensed to Licensee under the terms of Crow Canyon's then-current license agreement only after payment of applicable fees.

1.4 New Version shall mean an updated version of Licensed Product issued by Crow Canyon, which may include Fixes, together with such other modifications, updates, enhancements and improvements to Licensed Product that Crow Canyon may, in its discretion, develop and deem ready for distribution. Crow Canyon standardly makes New Versions available at a reduced cost to all customers with a current support subscription to such Licensed Product.

1.5 Support Services shall mean those support services described in Section 3.1 that will be provided hereunder with respect to Licensed Product during Licensee's Support Term.

1.6 Support Term shall mean the length of time Support Services are to be provided hereunder and for which Licensee has paid any applicable Support Services fees, including any initial Support Term and any renewal Support Terms.

1.7 Telephone and E-mail Support shall mean telephone and e-mail support services, available Monday through Friday, during Crow Canyon's normal business hours, exclusive of Crow Canyon's holidays, regarding Licensee's use of Licensed Product and any problems that Licensee experiences in using Licensed Product.

2. SUPPORT TERM; FEES. For Support Services purchased concurrently with Licensee's license to Licensed Product, Licensee's initial Support Term will begin upon shipment of Licensed Product (or, in the case of Licensed Product made available for download electronically, upon Crow Canyon's provision of the necessary licensing information to enable Licensee to download Licensed Product) and terminate one (1) year thereafter, unless a different Support Term is specified in Crow Canyon's written acknowledgment of Licensee's order, or unless terminated earlier in accordance with the terms of these Policies or the Agreement. For Support Services for Licensed Product that are purchased after the Licensee's initial purchase of Licensed Product, Licensee's Support Term will begin upon the date of purchase of said Support Services and terminate one (1) year thereafter, unless a different Support Term is specified in Crow Canyon's written acknowledgment of Licensee's order, or unless terminated earlier in accordance with the terms of these Policies or the Agreement. Either party may terminate the provision of Support Services as of the end of the then-current Support Term by providing written notice to the other party prior to the end of the then-current Support Term that such party does not wish to renew the Support Term. If no notice of non-renewal is given by either party, then Crow Canyon will invoice Licensee for the applicable renewal fees for a subsequent Support Term. If Licensee pays the applicable renewal fees, then Licensee's Support Term will renew for the applicable renewal

network congestion; or other failures (collectively "Downtime"). Crow Canyon shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Licensed Product caused by Downtime, whether scheduled or not. Should Licensee decide to terminate hosting services, Licensee will retain its license to Licensed Product, subject to the terms of this Agreement. Crow Canyon will provide Licensee with at least sixty (60) days' notice if Crow Canyon determines that it will no longer offer hosting services to Licensee (but in any event will continue providing hosting services for the balance of the current term for which Licensee has prepaid for such services). Notwithstanding the foregoing, Licensee acknowledges that Crow Canyon may terminate hosting services immediately at any time if Licensee does not remain current in its payment of Crow Canyon's applicable fees for such hosting services.

term stated on Crow Canyon's renewal invoice; otherwise, Licensee's Support Term will terminate at the end of Licensee's current paid-up Support Term. If Licensee's Support Term is so terminated due to non-payment, and then Crow Canyon subsequently reinstates Licensee's access to support, such reinstated access shall remain subject to the terms of these Policies. For the initial Support Term, Licensee shall pay the charges specified in Crow Canyon's initial invoice. For renewal Support Terms, Licensee shall pay Crow Canyon's then-current annual Support Services fees. Crow Canyon may supply new or modified Support and Services Policies or other terms and conditions to Licensee related to the provision of Support Services in a renewal term, in which event such new or modified Support and Services Policies or other terms and conditions will govern Crow Canyon's provision of Support Services in such renewal term.

3. SUPPORT SERVICES. Crow Canyon, or an entity under contract with and authorized by Crow Canyon to provide Support Services, will provide Support Services for Licensed Product during the Support Term. The scope of Support Services shall be as follows:

3.1 Support. Support Services shall include: (a) Telephone and E-mail Support; (b) access to an online support website, as maintained by Crow Canyon for customers maintaining a current support subscription; (c) Fixes, as developed and made generally available by Crow Canyon in its discretion to address Errors that Licensee is experiencing in using Licensed Product; and (d) reduced costs for New Versions, as developed and made generally available by Crow Canyon. Support Services do not include New Products. Crow Canyon determines, in its sole discretion, what constitutes a New Product (for which additional license fees apply), and what improvements and enhancements to existing Licensed Product functionality are to be included in a New Version (and are therefore provided at reduced cost to customers with a current support subscription).

3.2 Customizations to Programs. To the extent that Licensed Product includes any functionality that allows Licensee to customize the application, Crow Canyon will support the application infrastructure utilized to create such customizations but will not be responsible for supporting any such customizations.

4. LICENSEE RESPONSIBILITIES. To receive Support Services, Licensee shall: (a) report Errors or suspected Errors for which Support Services are needed, and supply Crow Canyon with sufficient information and data to reproduce the Error; (b) procure, install, operate and maintain hardware, operating systems and other software that are compatible with the most current supported version of Licensed Product; (c) establish adequate operational back-up provisions in the event of malfunctions or Errors; (d) maintain an operating environment free of any modifications or other programming that might interfere with the functioning of Licensed Product; (e) maintain hardware and system software consistent with Crow Canyon's minimum requirements; and (f) timely install all Fixes supplied by Crow Canyon in the proper sequence. Licensee acknowledges that Fixes and New Versions may be made available electronically, and that, in some cases, Crow Canyon may maintain e-mail distribution lists that are used to notify customers of the availability of Fixes and New Versions and to provide other information to customers that are maintaining a current support subscription. Licensee shall be responsible for including the appropriate Licensee personnel on any such e-mail distribution lists of Crow Canyon so that Licensee receives such notifications and other information.

SUPPORT FOR PRIOR VERSIONS. As set forth in Section 4 of these Policies, Licensee must timely install all Fixes to receive Support Services. In some cases, it may not be practical for certain customers to install a Fix or New Version immediately upon release. Therefore, Crow Canyon may, in its discretion, continue to provide Telephone and E-mail Support for the prior version of Licensed Product for a period of time after release of a New Version. Licensee acknowledges that Fixes and other code maintenance may not be available for prior versions of Licensed Product after the release of a New Version.

6. PROFESSIONAL SERVICES

6.1 Fees and Expenses. In addition to providing Support Services during the Support Term, Crow Canyon will perform such other professional services (training, installation, consulting, project management, etc.) as may be specified in Crow Canyon's written acknowledgment of Licensee's order, or as may be subsequently agreed upon by the parties; provided that Crow Canyon may, at its option, arrange for any such services to be performed by another entity on behalf of Crow Canyon. Licensee agrees to pay for such services at the rates and charges specified in Crow Canyon's written acknowledgment of Licensee's order, or, for work subsequently requested, at the rates agreed upon by Licensee and Crow Canyon for such subsequent work. Crow Canyon reserves the right to require a purchase order or equivalent documentation from Licensee prior to performing any services, or to require prepayment of certain services. Unless otherwise specified, all rates quoted are for services to be performed during Crow Canyon's normal business hours; additional charges may apply for evenings, weekends or holidays. Licensee shall also pay Crow Canyon for travel expenses (lodging, meals, transportation and other related expenses) incurred in the performance of services. All such additional charges will be due and payable concurrently with payment for services. Crow Canyon reserves the right to impose a minimum labor charge for each on-site visit. The rates and charges specified in Crow Canyon's acknowledgment of Licensee's order shall apply to those services originally ordered; however, Crow Canyon reserves the right to change service rates or other terms as a condition of entering into any subsequent service engagement. In the event that Licensee pays in advance for any services, all services must be scheduled and delivered within twelve (12) months of such payment, unless otherwise agreed in writing by Crow Canyon; any portion of any prepaid services amount that has not been used by Licensee toward services actually rendered within such twelve (12) month period shall be forfeited.

6.2 Facilities. Licensee acknowledges that certain services are intended to be performed by Crow Canyon off-site (e.g., through remote communication capabilities). If any portion of the work will be performed on Licensee's premises, Licensee agrees to provide appropriate access to utilities, work space and other on-site accommodations reasonably necessary to enable Crow Canyon to perform such work.

6.3 Confidentiality. Crow Canyon agrees to use commercially reasonable efforts to maintain the confidentiality of Licensee confidential information that is disclosed to Crow Canyon in connection with the performance of services, and to use such Licensee confidential information solely for purposes of performing services hereunder. Crow Canyon shall require its employees, agents and subcontractors performing work hereunder to do likewise. For purposes of this Section, "Licensee confidential information" shall mean any student or personnel data belonging to Licensee, or any other Licensee information or data labeled or identified as confidential at the time of disclosure, provided, however, that this definition and the obligations of this Section shall not extend to any information that: (a) is or becomes publicly known through no fault or negligence of Crow Canyon; (b) is or becomes lawfully available from a third party without restriction; (c) is independently developed by Crow Canyon; or (d) is disclosed without restriction by Licensee to any third party at any time.

7. OWNERSHIP OF MATERIALS. Crow Canyon shall be the owner of all copyrights, patent rights and other intellectual property rights in any software code, documentation, reports or other deliverables (collectively, "Deliverables") created for or provided to Licensee pursuant to these Policies or any associated Statement of Work entered into by the parties. Provided that Licensee pays Crow Canyon all fees and expenses associated with the development and provision of such Deliverables, Licensee shall have a paid-up, royalty-free license to use such Deliverables for Licensee's internal use only, solely for the purpose for which such Deliverables were provided. Nothing in this Agreement shall prevent Crow Canyon from providing any Deliverables to Crow Canyon's other customers or third parties. Notwithstanding the foregoing, Crow Canyon acknowledges and agrees that any Licensee confidential information (as defined in Section 6.3) that is incorporated into any Deliverable remains subject to the provisions of Section 6.3.

8. DISCLAIMER OF WARRANTIES. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES IN RELATION TO THE SUPPORT SERVICES OR OTHER PROFESSIONAL SERVICES THAT ARE THE SUBJECT MATTER OF THESE POLICIES, AND CROW CANYON EXPRESSLY DISCLAIMS ANY WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO LICENSEE.

9. LIMITATION OF LIABILITY. CROW CANYON SHALL NOT BE LIABLE TO LICENSEE FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR LOST PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THESE POLICIES OR CROW CANYON'S PROVISION OF SUPPORT SERVICES OR OTHER PROFESSIONAL SERVICES HEREUNDER, EVEN IF CROW CANYON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE. IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND OR ACTION ARISING OUT OF THESE POLICIES, LICENSEE SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY LICENSEE TO CROW CANYON HEREUNDER FOR THE APPLICABLE SUPPORT SERVICES OR OTHER PROFESSIONAL SERVICES ON WHICH THE CLAIM IS BASED (AND, IN THE CASE OF SUPPORT SERVICES, IN NO EVENT WILL THE LIABILITY OF CROW CANYON EXCEED THE TOTAL AMOUNT OF MONEY PAID BY LICENSEE TO CROW CANYON DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD WITH RESPECT TO THE PARTICULAR SUPPORT SERVICES ON WHICH THE CLAIM IS BASED.)