Authorized Federal Supply Schedule Price List

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA Advantage!®, a menu-driven database system. The INTERNET address GSA Advantage!® is: GSAAAdvantage.gov.

Multiple Award Schedule

FSC Group: Information Technology
Contract number: 47QTCA21D00EH

For more information on ordering from Federal Supply Schedules go to the GSA Schedules page at GSA.gov.

Contract period: September 3, 2021 to September 2, 2026

OmniSystems, Inc.
8201 Greensboro Drive, Suite 600
McLean VA 22102
703-448-5300
Fax: 703-448-5350

www.omnisystems.com

Contract administration source: Ian Tomlinson, Ian.tomlinson@omnisystems.com

Business size: Small, Disadvantaged Business

Price list current as of Modification # PS-0004 effective September 21, 2022

Prices Shown Herein are Net (discount deducted)
CUSTOMER INFORMATION

1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).

<table>
<thead>
<tr>
<th>SINs</th>
<th>Recovery</th>
<th>SIN Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>54151S</td>
<td>Yes</td>
<td>Information Technology Professional Services</td>
</tr>
<tr>
<td>511210</td>
<td>Yes</td>
<td>Software Licenses</td>
</tr>
<tr>
<td>OLM</td>
<td>YES</td>
<td>Order Level Materials</td>
</tr>
</tbody>
</table>

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply. See Page 5

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate “Not applicable” for this item. See Page 6

2. Maximum order:

<table>
<thead>
<tr>
<th>SINs</th>
<th>Maximum Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>54151S</td>
<td>$500,000</td>
</tr>
<tr>
<td>511210</td>
<td>$500,000</td>
</tr>
<tr>
<td>OLM</td>
<td>$250,000</td>
</tr>
</tbody>
</table>

3. Minimum order: $100

4. Geographic coverage (delivery area). Domestic

5. Point(s) of production (city, county, and State or foreign country). McLean Virginia

6. Discount from list prices or statement of net price. Government Net Prices (discounts already deducted.)

7. Quantity discounts. SIN 54151S – additional 1% on single task orders over $400,000
   SIN 511210 - none

8. Prompt payment terms. Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions. Net 30 days
9. Foreign items (list items by country of origin). Not Applicable

10a. Time of delivery. To Be Determined at the Task Order level

10b. Expedited Delivery. Items available for expedited delivery are noted in this price list. To Be Determined at the Task Order level

10c. Overnight and 2-day delivery. To Be Determined at the Task Order level

10d. Urgent Requirements. To Be Determined at the Task Order level

11. F.O.B. point(s). Destination

12a. Ordering address(es).
   OmniSystems, Inc.
   8201 Greensboro Drive, Suite 600
   McLean VA

12b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA’s) are found in Federal Acquisition Regulation (FAR) 8.405-3.

13. Payment address(es).
   OmniSystems, Inc.
   8201 Greensboro Drive, Suite 600
   McLean VA

14. Warranty provision. Standard Commercial Warranty Terms & Conditions

15. Export packing charges, if applicable. Not Applicable

16. Terms and conditions of rental, maintenance, and repair (if applicable). Not Applicable

17. Terms and conditions of installation (if applicable). Not Applicable

18a. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable). Not Applicable

18b. Terms and conditions for any other services (if applicable). Not Applicable

19. List of service and distribution points (if applicable). Not Applicable

20. List of participating dealers (if applicable). Not Applicable
21. Preventive maintenance (if applicable). Not Applicable

22a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants). Not Applicable

22b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor’s website or other location.) The EIT standards can be found at: www.Section508.gov/. www.subject7.com

23. Unique Entity Identifier (UEI) number: YDSCLCANCHJ5

24. Notification regarding registration in System for Award Management (SAM) database. Contractor registered and active in SAM
## OmniSystems, Inc.
### Labor Rates

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>54151S</td>
<td>Application Administrator</td>
<td>$91.86</td>
<td>$94.16</td>
<td>$96.51</td>
<td>$98.92</td>
<td>$101.40</td>
</tr>
<tr>
<td>54151S</td>
<td>Application Developer - Expert</td>
<td>$108.26</td>
<td>$110.97</td>
<td>$113.74</td>
<td>$116.58</td>
<td>$119.50</td>
</tr>
<tr>
<td>54151S</td>
<td>Database Admin</td>
<td>$85.73</td>
<td>$87.87</td>
<td>$90.07</td>
<td>$92.32</td>
<td>$94.63</td>
</tr>
<tr>
<td>54151S</td>
<td>Database Admin - Senior</td>
<td>$96.02</td>
<td>$98.42</td>
<td>$100.88</td>
<td>$103.41</td>
<td>$105.99</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Functional Lead</td>
<td>$288.31</td>
<td>$295.52</td>
<td>$302.91</td>
<td>$310.48</td>
<td>$318.24</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Project Manager</td>
<td>$288.31</td>
<td>$295.52</td>
<td>$302.91</td>
<td>$310.48</td>
<td>$318.24</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Senior Functional Analyst</td>
<td>$288.31</td>
<td>$295.52</td>
<td>$302.91</td>
<td>$310.48</td>
<td>$318.24</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Systems Architect</td>
<td>$288.31</td>
<td>$295.52</td>
<td>$302.91</td>
<td>$310.48</td>
<td>$318.24</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Technical Lead</td>
<td>$288.31</td>
<td>$295.52</td>
<td>$302.91</td>
<td>$310.48</td>
<td>$318.24</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Functional Consultant I</td>
<td>$179.83</td>
<td>$184.32</td>
<td>$188.93</td>
<td>$193.66</td>
<td>$198.50</td>
</tr>
<tr>
<td>54151S</td>
<td>Help Desk Engineer</td>
<td>$74.04</td>
<td>$75.89</td>
<td>$77.79</td>
<td>$79.74</td>
<td>$81.73</td>
</tr>
<tr>
<td>54151S</td>
<td>Information Technology Architect</td>
<td>$128.38</td>
<td>$131.59</td>
<td>$134.88</td>
<td>$138.25</td>
<td>$141.71</td>
</tr>
<tr>
<td>54151S</td>
<td>Project Manager - Expert</td>
<td>$171.13</td>
<td>$175.41</td>
<td>$179.79</td>
<td>$184.29</td>
<td>$188.90</td>
</tr>
<tr>
<td>54151S</td>
<td>QA/QC Analyst (Tester)</td>
<td>$88.89</td>
<td>$91.11</td>
<td>$93.39</td>
<td>$95.72</td>
<td>$98.12</td>
</tr>
<tr>
<td>54151S</td>
<td>QA/QC Audit Analyst</td>
<td>$89.82</td>
<td>$92.06</td>
<td>$94.36</td>
<td>$96.72</td>
<td>$99.14</td>
</tr>
<tr>
<td>54151S</td>
<td>Security Analyst</td>
<td>$75.52</td>
<td>$77.41</td>
<td>$79.34</td>
<td>$81.32</td>
<td>$83.36</td>
</tr>
<tr>
<td>54151S</td>
<td>Security Manager</td>
<td>$139.21</td>
<td>$142.69</td>
<td>$146.26</td>
<td>$149.91</td>
<td>$153.66</td>
</tr>
<tr>
<td>54151S</td>
<td>Security Risk Analyst</td>
<td>$89.82</td>
<td>$92.06</td>
<td>$94.36</td>
<td>$96.72</td>
<td>$99.14</td>
</tr>
<tr>
<td>54151S</td>
<td>Software Engineer - Senior</td>
<td>$118.50</td>
<td>$121.46</td>
<td>$124.50</td>
<td>$127.61</td>
<td>$130.80</td>
</tr>
<tr>
<td>54151S</td>
<td>Systems Engineer - Expert</td>
<td>$140.53</td>
<td>$144.04</td>
<td>$147.64</td>
<td>$151.34</td>
<td>$155.12</td>
</tr>
</tbody>
</table>

**Service Contract Labor Standards:** The Service Contract Labor Standards (SCLS), formerly known as the Service Contract Act (SCA), is applicable to this contract as it applies to the entire Multiple Award Schedule (MAS) and all services provided. While no specific labor categories have been identified as being subject to SCLS/SCA due to exemptions for professional employees (FAR 22.1101, 22.1102 and 29 CFR 541.300), this contract still maintains the provisions and protections for SCLS/SCA eligible labor categories. If and/or when the contractor adds SCLS/SCA labor categories to the contract through the modification process, the contractor must inform the Contracting Officer and establish a SCLS/SCA matrix identifying the GSA labor category titles, the occupational code, SCLS/SCA labor category titles and the applicable WD number. Failure to do so may result in cancellation of the contract.
<table>
<thead>
<tr>
<th>SIN/SIN(s)</th>
<th>Labor Category/Service Title</th>
<th>Labor Category/Service Description (250 words)</th>
<th>Minimum Education</th>
<th>Min Years of Exp</th>
</tr>
</thead>
<tbody>
<tr>
<td>54151S</td>
<td>Application Administrator</td>
<td>Perform the daily activities of configuration and operation of systems which may be mainframe, mini, or client/server based. Perform the optimizing of system operation and resource utilization, and perform system capacity analysis and planning. Provide assistance to users in accessing and using business systems. Commensurate experience and education.</td>
<td>Bachelors</td>
<td>5</td>
</tr>
<tr>
<td>54151S</td>
<td>Application Developer - Expert</td>
<td>Analyze and develop computer software possessing a wide range of capabilities, including numerous engineering, business and record management functions.</td>
<td>Associates</td>
<td>2</td>
</tr>
<tr>
<td>54151S</td>
<td>Database Admin</td>
<td>Analyze database requirements of assigned projects. Analyze and determine information needs and elements, database relationships and attributes, proposed manipulation, data flow and storage requirements, and data output and reporting capabilities. Apply knowledge of database management systems to coordinate maintenance and changes to databases. Test and implement changes or new database designs. Write logical and physical database descriptions, including location, space, access method, and security requirements. Provide direction to programmers and analysts as required to affect changes to database management systems. Provide answers to database questions. Knowledge of and ability to monitor databases and to analyze and organize data and apply new technology designs and programs.</td>
<td>Bachelors</td>
<td>5</td>
</tr>
<tr>
<td>54151S</td>
<td>Database Admin - Senior</td>
<td>Analyze database requirements of assigned projects. Analyze and determine information needs and elements, database relationships and attributes, proposed manipulation, data flow and storage requirements, and data output and reporting capabilities. Apply knowledge of database management systems to coordinate maintenance and changes to databases. Test and implement changes or new database designs. Write logical and physical database descriptions, including location, space, access method, and security requirements. Provide direction to programmers and analysts as required to affect changes to database management systems. Provide answers to database questions. Knowledge of and ability to monitor databases and to analyze and organize data and apply new technology designs and programs.</td>
<td>Bachelors</td>
<td>8</td>
</tr>
<tr>
<td>SIN/SIN(s)</td>
<td>Labor Category/Service Title</td>
<td>Labor Category/Service Description (250 words)</td>
<td>Minimum Education</td>
<td>Min Years of Exp</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------</td>
<td>-----------------------------------------------</td>
<td>-------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Functional Lead</td>
<td>Analyze and study complex system requirements. Design software tools and subsystems to support software reuse and domain analyses and manages their implementation. Estimate software development costs and schedule. Review existing programs and assists making refinements, reducing operating time and improving current techniques. Supervise software configuration management.</td>
<td>Bachelors</td>
<td>5</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Project Manager</td>
<td>Responsible for the effective management of funds and personnel, and is accountable for the quality and timely delivery of contractual items. Operates within client guidance, contractual limitations, and Company business and policy directives. Serves as focal point of contact with Contracting Officer (CO) on program activities. Ensures that all required resources including manpower, production standards, and facilities are available for program implementation. Participates in contract negotiations.</td>
<td>Bachelors</td>
<td>10</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Senior Functional Analyst</td>
<td>Analyze functional business applications and design specifications for functional activities. Develop block diagrams and logic flow charts. Translate detailed design into operational software through coding or configuration of ERP solutions such as FICO Debt Manager, SalesForce, ServiceNow, and Tyler entilitrak. Test, debug, and refine the computer software to produce the required product. Prepare required documentation, including both program-level and user-level documentation</td>
<td>Bachelors</td>
<td>5</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Systems Architect</td>
<td>Possess a thorough understanding of business processes and extensive experience in coordination with program and project leaders to identify requirements for system architecture. Must be able to identify strategies for addressing requirements. Must have extensive experience with analysis of requirements against fiscal, schedule, and performance issues. Must have extensive experience in taking program requirements and be able to create an architecture vision that will meet the customers’ current and projected future needs for ERP systems such as FICO Debt Manager, SalesForce, ServiceNow, and Tyler entilitrak. Experience in creating and conveying to team members the architectural vision for a program or project. Must be responsible for dictating design choices to software developers, including but not limited to: platforms, coding and technical levels. Experience in establishing and enforcing standards and practices. Must have extensive software development experience and thorough knowledge of a variety of programming languages and logic.</td>
<td>Bachelors</td>
<td>5</td>
</tr>
<tr>
<td>SIN/SIN(s)</td>
<td>Labor Category/Service Title</td>
<td>Labor Category/Service Description (250 words)</td>
<td>Minimum Education</td>
<td>Min Years of Exp</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Technical Lead</td>
<td>Provide technical and administrative direction for personnel performing software development tasks, including the review of work products for correctness, adherence to the design concept and to user standards, and for progress in accordance with schedules to deliver ERP systems such as FICO Debt Manager, SalesForce, ServiceNow, and Tyler entiltrak.</td>
<td>Bachelors</td>
<td>5</td>
</tr>
<tr>
<td>54151S</td>
<td>ERP Functional Consultant I</td>
<td>Apply an enterprise-wide set of disciplines for the planning, analysis, design and construction of information systems on an enterprise-wide basis or across a major sector of the enterprise. Develop analytical and computational techniques and methodology for problem solutions using ERP systems such as FICO Debt Manager, SalesForce, ServiceNow, and Tyler entiltrak.</td>
<td>Bachelors</td>
<td>5</td>
</tr>
<tr>
<td>54151S</td>
<td>Help Desk Engineer</td>
<td>Provide phone, email, web, and in-person support to users in the areas of e-mail, directories, computer operating systems, desktop applications for all types of computer systems, and applications developed or deployed under this contract. Serve as the first point of contact for troubleshooting hardware/software, all types of computer systems (PC and Mac), and printer problems.</td>
<td>Associates</td>
<td>3</td>
</tr>
<tr>
<td>54151S</td>
<td>Information Technology Architect</td>
<td>Establish system information requirements using analysis of the information engineer(s) in the development of enterprise-wide or large-scale information systems. Design architecture to include the software, hardware, and communications to support the total requirements as well as provide for present and future cross-functional requirements and interfaces. Ensure these systems are compatible and in compliance with the standards for open systems architectures, the OSI and ISO reference models, and profiles of standards - such as IEEE OSE reference model - as they apply to the implementation and specification of information management solution of the application platform, across the API, and the external environment/software application. Ensure that the common operating environment is compliant with the Agency enterprise architecture and applicable reference models. Evaluate analytically and systematically problems of workflows, organization, and planning and develop appropriate corrective action. Provide daily supervision and direction to staff.</td>
<td>Bachelors</td>
<td>15</td>
</tr>
<tr>
<td>SIN/SIN(s)</td>
<td>Labor Category/Service Title</td>
<td>Labor Category/Service Description (250 words)</td>
<td>Minimum Education</td>
<td>Min Years of Exp</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------------------------</td>
<td>------------------------------------------------</td>
<td>-------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>54151S</td>
<td>Project Manager - Expert</td>
<td>Leads Software Development Lifecycle (SDLC) projects using industry standards such as ITIL, ISO, and CMMI. Retains overall responsibility for performance including cost, schedule, deliverables and contractual compliance. May work under a Program Manager or Senior Project Manager for multiple projects. Identifies, acquires, and utilizes company resources to achieve project technical objectives. Establishes priorities, task assignment and completion.</td>
<td>Bachelors</td>
<td>6</td>
</tr>
<tr>
<td>54151S</td>
<td>QA/QC Analyst (Tester)</td>
<td>Evaluate, recommend, and implement automated test tools and strategies. Design, implement, and conduct test and evaluation procedures to ensure system requirements are met. Develop, maintain, and upgrade automated test scripts and architectures for application products. Write, implement, and report status for system test cases for testing. Analyze test cases and provide regular progress reports. Serve as subject matter specialist providing testing know-how for the support of user requirements of complex to highly complex software/hardware applications. Direct and/or participate in all phases of risk management assessments and software/hardware development with emphasis on analysis of user requirements, test design and test tools selection.</td>
<td>Associates</td>
<td>5</td>
</tr>
<tr>
<td>54151S</td>
<td>QA/QC Audit Analyst</td>
<td>Develop and implement quality control methodologies to ensure compliance with quality assurance standards, guidelines, and procedures in a large computer-based organization. Develop and define major and minor characteristics of quality including quality metrics and scoring parameters and determines requisite quality control resources for an actual task order. Establish and maintain a process for evaluating hardware, software, and associated documentation and/or assist in the evaluation. Conduct and/or participate in formal and informal reviews at pre-determined points throughout the development life cycle.</td>
<td>Bachelors</td>
<td>7</td>
</tr>
<tr>
<td>SIN/SIN(s)</td>
<td>Labor Category/Service Title</td>
<td>Labor Category/Service Description (250 words)</td>
<td>Minimum Education</td>
<td>Min Years of Exp</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------------------------</td>
<td>-----------------------------------------------</td>
<td>-------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>54151S</td>
<td>Security Analyst</td>
<td>Identification and reporting of detected events through persistent monitoring and analysis of I&amp;W and AS&amp;W indicators, dissemination and reporting (daily/weekly) of cyber related activity. Identification and management of network and system vulnerabilities and security events; receipt, acknowledgement, dissemination, tracking and reporting (daily/weekly) of Vulnerability Management (VM) alerts, vulnerability/risk management, vulnerability assessments, red/blue team events, security incidents and VM COP. Maintaining the security baseline of sites. Provide security certification test and evaluation of assets, vulnerability management and response, security assessments, and provides customer support and guidance. Respond to identified network cyber incidents; provides analysis, containment, eradication of malicious code. Create and disseminate AS&amp;W to enterprise and CND-SP community. Conduct cyber trend analysis.</td>
<td>Bachelors</td>
<td>5</td>
</tr>
<tr>
<td>54151S</td>
<td>Security Manager</td>
<td>Perform a variety of Information Assurance (IA) and Computer Network Defense (CND) functions which are broad in nature and support multi-tier IA and CND functions to include, but not limited to, systems engineer, audit/inspection, infrastructure support, certification and accreditation, vulnerability management, detection and response support services. Provide support for a program, organization, system, or enclave's information assurance program. Provide security certification test and evaluation of assets, vulnerability management and response, security assessments, and customer support. Provide support for proposing, coordinating, implementing, and enforcing information systems security policies, standards, and methodologies. Maintain operational security posture for an information system or program to ensure information systems security policies, standards, and procedures are established and followed.</td>
<td>Bachelors</td>
<td>10</td>
</tr>
<tr>
<td>54151S</td>
<td>Security Risk Analyst</td>
<td>Ensure that the architecture and design of information systems are functional and secure. As needed, design and develop IA or IA enabled products, interface specifications, and approaches to secure the environment. Assess threats to the environment. Provide inputs on the adequacy of security designs and architectures. Participate in risk assessment during the certification and accreditation process. Ensure that the architecture and design of information systems are functional and secure.</td>
<td>Bachelors</td>
<td>8</td>
</tr>
<tr>
<td>SIN/SIN(s)</td>
<td>Labor Category/Service Title</td>
<td>Labor Category/Service Description (250 words)</td>
<td>Minimum Education</td>
<td>Min Years of Exp</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>54151S</td>
<td>Software Engineer - Senior</td>
<td>Analyze functional business applications and design specifications for functional areas such as finance, accounting, personnel, manpower, logistics, and contracts. Develop block diagrams and logic flow charts. Translate detailed design into computer software. Test, debug, and refine the computer software to produce the required product. Prepare required documentation, including both program-level and user-level documentation. Enhance software to reduce operating time or improve efficiency. Provide technical direction to programmers to ensure program deadlines are met. Experience in information system design, including application programming on large-scale DBMS and the development of complex software to satisfy design objectives.</td>
<td>Bachelors</td>
<td>10</td>
</tr>
<tr>
<td>54151S</td>
<td>Systems Engineer - Expert</td>
<td>Ensures that proper system maintenance schedules are in place. Maintenance includes hardware, software, back ups, virus protection and security. Manage the Information Systems department and its staff. Maneuver through the maze of information and provide a consistent flow of technology related information throughout the organization and its customers.</td>
<td>Bachelors</td>
<td>10</td>
</tr>
</tbody>
</table>
OmniSystems End User License and Services Agreement

This END USER LICENSE AND SERVICES AGREEMENT ("Agreement"), entered into as of the last date of execution as set forth in the Purchase Order, by and between OMNI SYSTEMS, INC., a Virginia LLC having its principal offices at 12901 Worldgate Drive, Suite 800, Herndon, VA 20170 ("OmniSystems") and Licensee (as set forth in the Purchase Order). This Agreement is comprised of four (4) different Sections: (1) Section A (License Terms and Conditions); (2) Section B (General Terms and Conditions); (3) Section C (Annual Support and Maintenance Terms and Conditions); and (4) Section D (Professional Services Terms and Conditions). The parties are referred to herein individually as “Party” or collectively as “Parties”.

WHEREAS, OmniSystems has designed, developed, purchased or configured certain computer software systems which OmniSystems markets and sell as the OmniAIPI Software; and

WHEREAS, Licensee desires to acquire from OmniSystems and OmniSystems wishes to grant to Licensee a non-exclusive license to use the Licensed Software on the terms and conditions set forth herein and in OmniSystems’ GSA Multiple Award Schedule contract ("MAS Contract") (as applicable).

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, and in consideration of covenants and obligations hereafter set forth, the Parties agree to be bound by the terms and conditions as follows:

A1. **ORIGIN OF LICENSED SOFTWARE**

The Parties expressly agree that the Licensed Software is fully commercial software developed by or for OmniSystems exclusively at private expense under the specification, direction and control of OmniSystems.

A2. **OWNERSHIP OF LICENSED SOFTWARE, OMNISYSTEMS LICENSOR’S SOFTWARE, ISV SUPPORTED SOFTWARE, OR THIRD PARTY SOFTWARE**

a. **Software and Documentation.** The Licensed Software also has been or may be in the future reconfigured for utilization in one or more other programs. The Parties expressly agree that ownership of the Licensed Software resides solely and exclusively in OmniSystems and, if applicable, its licensors, and together with all Intellectual Property Rights (as defined in this Agreement) pertaining thereto including copyright, trademark, trade secret, and patent rights. To the extent applicable by law, OmniSystems and, if applicable, its licensors, shall have sole and exclusive ownership of all right, title, and interest in and to the Licensed Software and Documentation, all copies thereof, and all modifications, derivatives, Correction, Update and enhancements thereto (including ownership of all copyrights, trade secrets, inventions, patents and patent applications, trade, product or service names and all other Intellectual Property Rights pertaining thereto) (collectively, a "Derivative"), subject only to the right and License expressly granted to Licensee herein. This Agreement does not provide Licensee or its Affiliates with title or ownership of the Licensed Software, but only a right of limited use as further delineated herein. OmniSystems’ licensors, ISV Supported Software and Third Party Software vendors also retain ownership, title and all rights and interest, including, without limitation, Intellectual Property Rights in and to their own respective software and documentation. To the extent permitted by applicable law, any Derivatives created by OmniSystems’ licensor, ISV Supported Software or Third Party Software vendor’s software or documentation shall be owned solely and exclusively by the respective party whom owns the Intellectual Property Rights of the underlying software, as applicable. To the extent permitted by applicable law, Licensee assigns title, ownership, and all rights to OmniSystems in any Derivative not otherwise owned by OmniSystems.
For U.S. Government Licensees, ownership of derivative works should be as set forth in the copyright statute, 17 USC 103, and the FAR clause at 52.227-14. Notwithstanding the foregoing, for U.S. Government Licensees, Licensee acknowledges and agrees the Licensed Software is commercial computer software within the meaning of the applicable U.S. federal acquisition regulations and any supplement thereto and the use, duplication, modification, disclosure, or transfer of the Licensed Software is restricted by the terms, conditions and covenants contained in this Agreement in accordance with FAR 12.212. To the extent an assignment is not effective under applicable law, Licensee grants OmniSystems an exclusive, perpetual, fully-paid, transferable, irrevocable license to use, reproduce, distribute, and commercialize the Derivative to the fullest extent permissible and effective under applicable law.

b. **Developments.** OmniSystems reserves ownership, title and all rights and interest in any software and documentation, including customizations, developed and delivered in the course of providing Annual Support and Maintenance Services and Professional Services under this Agreement, subject to each Party's confidentiality rights and obligations under this Agreement.

c. **Feedback.** Licensee’s comments, suggestions, or other feedback regarding OmniSystems’ products, services, or business are provided voluntarily, and OmniSystems may use any feedback as it sees fit without obligation or restriction of any kind, other than its obligations under this Agreement with respect Confidential Information.

**A3. THIRD PARTY SOFTWARE**

This Agreement does not constitute or provide Licensee with any license to the Third Party Software that may have been used as tools in the development of the Licensed Software, or have been integrated in the Licensed Software, as permitted by OmniSystems’ license(s) with such third parties, other than to use the Licensed Software under the terms of this Agreement. Except to the extent that Licensee uses, or has used any Third Party Software as a function of its or its customer’s use of the Licensed Software under the terms of this Agreement, this Agreement provides no rights to use, distribute, sublicense, modify, create derivative works, or copy any Third Party Software. Licensee shall not (i) modify, disassemble, decompile, reverse engineer, or otherwise attempt to discover any source code or underlying ideas or algorithms of any component of the Third Party Software, nor permit any third party to do so; (ii) copy the Third Party Software, or include the Third Party Software on any media that contains other software; (iii) post, publish or create derivative works based upon the Third Party Software, or (iv) intentionally remove any company name, copyright notice, any proprietary trade or service marks, notices, logo, or brand name or mark, of a Third Party Software owner from the any software or material or Documentation received under this Agreement. By entering into this Agreement, Licensee understands and agrees that it assumes the risk of any violation of these restrictions regarding Third Party Software by any of its employees, agents or contractors, and, if it needs licenses to any such Third Party Software, that it assumes full responsibility for obtaining and complying with such licenses. For U.S. Government Licensees, by executing this Agreement, the Licensee does not agree to be bound by any Third Party terms without executing an agreement in writing. Licensee acknowledges that Third Party Software may have different terms.

**A4. LICENSE GRANT: AUTHORIZED USAGE**

a. **License Grant for On-Premise Licenses.** To the extent the Purchase Order includes an on-premise License Grant, the License Grant shall become effective on the Effective Date and remain in effect during the License Period or until this Agreement is otherwise terminated as further specified in Section B7. This Agreement grants a limited, revocable, worldwide, non-exclusive, non-sublicensable, non-transferable personal license (“License”) to install and use one copy of the Licensed Software for the License Period. The License is to the object code version of the Licensed Software only (as identified by OmniSystems in its proposal/quotation in the Purchase Order) on a single registered computer (CPU) located at the Licensed Location as defined in the Purchase Order and related Documentation as provided (“Documentation”) for which the appropriate fee (“License Fee”) is paid, provided the Licensed Software is in
use on only one registered CPU at any time by only the number of users for which Licensee has paid a License Fee for its own internal business use. Concurrent use on two or more CPUs is only authorized to the extent that Licensee has acquired such authorization by the payment of the appropriate server-based License Fees. If the anticipated number of Concurrent Users of the Licensed Software will exceed the number of applicable Licenses, then Licensee must have a reasonable mechanism or process in place to assure that the number of persons using the Licensed Software concurrently does not exceed the number of Licenses. Internal business use as used herein means that Licensee may not use the Licensed Software to process accounts or records or to generate output data for the direct benefit of, or for purposes of rendering services to, any other business entities or organizations.

Except as otherwise described in the Purchase Order, Licensee may not install a separate Instance of the Licensed Software on an additional server.

b. License Grant for Infrastructure as a Service (IaaS), Platform as a Service (PaaS), Software as a Service (SaaS). To the extent the Purchase Order includes IaaS, PaaS, or SaaS, the License Grant shall become effective on the Effective Date and remain in effect through the License Period or until this Agreement is otherwise terminated as further specified in Section B7. This Agreement grants a License to use one copy of the Licensed Software for the License Period. The License is to the object code version of the Licensed Software, any Configuration, Third Party Software, and/or any application or operation software installed on equipment located at a physical data center as further delineated (as applicable) in the Purchase Order for which the appropriate License Fee is paid. Licensee may only use the Licensed Software under this Section A4(b) for its own internal business use. If the anticipated number of Concurrent Users of the Licensed Software will exceed the number of applicable Licenses, then Licensee must have a reasonable mechanism or process in place to assure that the number of persons using the Licensed Software concurrently does not exceed the number of Licenses. Internal business use as used herein means that Licensee may not use the Licensed Software to process accounts or records or to generate output data for the direct benefit of, or for purposes of rendering services to, any other business entities or organizations.

c. Licensee’s Compliance with Laws; Limitation of Use and Other Use Restrictions.

1. Licensee’s Compliance with Laws. Licensee agrees that all activities with regard to the Licensed Software, Documentation, ISV Supported Software and Third Party Software shall at all times comply with applicable United States laws and regulations and any state, county or local government laws (unless Licensee is a U.S. Government Licensee, then only compliance with United States laws and regulations shall apply).

2. Limitations of Use. Licensee may not use, copy, modify, or distribute the Licensed Software (electronically or otherwise), or any copy, adaptation, transcription, or merged portion thereof, except as expressly authorized by OmniSystems, in the Purchase Order, or expressly agreed to by OmniSystems or a separate written agreement signed by OmniSystems. Licensee’s License may not be transferred, leased, assigned, or sublicensed without OmniSystems’ prior written consent, except for commercial customer licensees, for a transfer of the Licensed Software in their entirety to a successor in interest of Licensee’s entire business who assumes the obligations of this Agreement and whose computer is duly registered with OmniSystems. The Licensed Software shall be installed only at the Licensed Location as identified in the Purchase Order and shall not be transferred to any other location without OmniSystems’ prior written consent (which will not be unreasonably withheld), provided that Licensee may transfer the Licensed Software to another location temporarily in the event of an interruption of computer operations at the Licensed Location.

3. Object Code. The Licensed Software is provided in and shall be used in machine-readable object code form only. In no event does this license permit Licensee to reverse-compile or in any way reverse-engineer the Licensed Software object code into source code, translate or otherwise attempt to discover the underlying source code. More specifically, Licensee shall not (i) modify, disassemble, decompile, reverse engineer, or otherwise attempt to discover any source code or underlying ideas or algorithms of any component of the Licensed Software, nor permit any third party to do so; (ii) copy the Licensed Software, or include the Licensed Software on any media that contains other
software; (iii) post, publish or create derivative works based upon the Licensed Software, or (iv) intentionally remove OmniSystems’ name, copyright notice, any proprietary trade or service marks, notices, logo, or brand name or mark, from the Licensed Software, material or Documentation received under this Agreement.

4. Disaster Recovery and Back-up Copies. To the extent the Purchase Order includes an on-premise License Grant, Licensee may make one (1) archival copy of the Licensed Software in machine-readable, object code form for nonproductive archival or backup purposes only, provided that the (i) copies are kept in a secure location (such other location to be owned or controlled by Licensee or Licensee’s disaster recovery vendor); (ii) disaster recovery and archival copies of the Licensed Software are not used for production purposes unless the primary copy of the Licensed Software is not being used for production purposes; and (iii) Licensee reproduces and includes OmniSystems’ copyright and other intellectual property notices. Each backup copy must be stored in a safe and secure location and its contents must be kept confidential. All copies of all Licensed Software must be returned to OmniSystems, or their destruction certified, immediately upon OmniSystems’ request. Licensee shall have no other right to copy, in whole or in part, the Licensed Software. Any copy of the Licensed Software made by Licensee shall be the exclusive property of OmniSystems.

d. Documentation. Documentation that is delivered with the Licensed Software contain the technical specifications for the use and operation of the Licensed Software and are provided solely to support Licensee’s authorized use of the Licensed Software. Licensee may not use, copy, modify, or distribute the Documentation, or any copy, adaptation, transcription, or merged portion thereof, except as expressly authorized by OmniSystems by separate written agreement.

e. Proprietary Rights; Licensee’s Obligations to Protect. The Licensed Software and Documentation contain proprietary and trade secret information of OmniSystems and Licensee agrees to keep the Licensed Software strictly confidential. Licensee also agrees to keep any Third Party Software and ISV Supported Software strictly confidential in accordance with this Agreement. For US Government Licensees, OmniSystems recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as “confidential” by OmniSystems. The Parties agree that executing this Agreement or a Purchase Order referencing this Agreement in writing constitutes an acceptance of and agreement to the terms and conditions of this Agreement, and, further agree that only this Agreement shall govern and control Licensee’s and its Affiliate’s use of the Licensed Software, Third Party Software, and the Documentation, notwithstanding any intellectual property terms, FAR, or DFARS or other clauses in any licenses, orders, or contracts.

f. Installation of an Instance. Except as otherwise provided in the Non-production Instances Section or unless specifically licensed for multiple servers, Licensee shall install one Instance of the server portion of the Licensed Software only at the Licensed Location.

g. Making Software Copies. Licensee may not copy the Licensed Software, except as set forth in the Non-Production Instances Section or as otherwise agreed in the Purchase Order and in Section A4(c)3 of this Agreement.

h. Additional Usage Restrictions. Licenses must be used in accordance with the parameters set forth in this Agreement, including limitations (describing the scope of the permissions OmniSystems grants, excess of which by Licensee or others constitutes infringement of Intellectual Property Rights), conditions (breaches of which shall automatically terminate the Licenses granted herein), and contractual covenants and obligations of Licensee. Licensee may not use or permit use of the Software or Documentation for more than the Licensee’s current number of Concurrent Users as specified in the Purchase Order, as may be amended from time to time, and may not permit use of the Licensed Software by anyone other than Licensee’s employees or users and (1) a Support Contractor, (2) Licensee’s disaster recovery vendor, or (3) an Affiliate. Licensee may not sublicense, assign or otherwise transfer any rights to the Licensed Software granted under this Agreement, except as expressly provided herein. A breach of any of the above
provisions shall be a material breach of this Agreement, which may result in termination or cancellation of this Agreement. For US Government Licensees, a breach of any of the above provisions will be resolved through the Contracts Disputes Act.

i. **Use of Cookies.** Most Licensed Software contains cookies. OmniSystems uses cookies for usage tracking purposes and statistical analysis, which helps OmniSystems to improve the Licensed Software by giving OmniSystems some insight into how the Licensed Software is being used. Please email support@OmniSystems.com for any further information on OmniSystems’ use of cookies. Licensee consents to such use of cookies, and represents and warrants that it has provided adequate notice to all users of the Licensed Software of, and obtained their informed consent to, the use of cookies by the Licensed Software in accordance with applicable Privacy Laws. Licensee is responsible for providing appropriate information and obtaining any required consent from its users of the Licensed Software in accordance with applicable Privacy Laws prior to any Processing of Personal Information by and through the Licensed Software. In the event Licensee is the Government, OmniSystems shall not use cookies in Licensed Software distributed to the Licensee unless otherwise mutually agreed in writing.

j. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, THE LICENSE SET FORTH IN THIS SECTION REPRESENTS LICENSEE’S ONLY RIGHTS WITH RESPECT TO THE LICENSED SOFTWARE. ANY USE OF THE LICENSED SOFTWARE OUTSIDE THE SCOPE OF THE ABOVE-DESCRIBED LICENSES IS PROHIBITED.

A5. **Relocation.** For the Instances that are installed at Licensee’s Licensed Location or at Licensee’s Support Contractor, Licensee may change the Licensed Location with OmniSystems’ prior written consent and subject to applicable relocation fees, or as set forth in the MAS Contract for U.S. Government Licensees, if applicable. OmniSystems’ consent shall entitle Licensee to move its installed Instance of the server portion of the Licensed Software or the computers or server(s) on which the Licensed Software is installed from the existing Licensed Location specified in this Agreement to a new Licensed Location and may operate the Licensed Software concurrently at the old and new Licensed Locations for a period of not more than ninety (90) days without having to obtain an additional License.

A6. **NON-PRODUCTION INSTANCES**

a. **Test, Development, and Training Instance.** Unless otherwise provided in the Purchase Order, Licensee may use one Instance of the Licensed Software in a non-production environment solely for Licensee’s internal testing, development, and training purposes. Licensee’s installation and use of the Licensed Software for these purposes is limited to the same number of licensed users as permitted under the Purchase Order and this Agreement.

b. **Additional Non-Production Instances.** Additional Licenses for non-production Instances other than what is described in this Non-Production Instances Section may be purchased by Licensee and such additional non-production Instances shall be subject to the additional terms and conditions, including additional license and/or maintenance fees as set forth in the MAS Contract for U.S. Government Licensees, if applicable, or as otherwise contained in the applicable Purchase Order at the time of purchase for all other Licensees. Any copies made of the Licensed Software or Documentation pursuant to this Section A7(b) shall contain OmniSystems’ proprietary and/or copyright notice(s).

c. **Support on Non-Production Instances.** Support for non-production Instances of Licensed Software under a current maintenance plan will be limited to set up.

A7. **DELIVERY AND ACCEPTANCE**

a. OmniSystems agrees to deliver to Licensee the current version of the Licensed Software as described in the agreed upon Purchase Order. OmniSystems will deliver the Licensed Software, Documentation and Updates via
electronic transmission (1) from a server in the United States, FOB shipping point (as defined per the Uniform Commercial Code) for Licensees in the United States, including U.S. Government Licensees; or (2) from a server outside of the United States, FCA shipping point (as defined per the Incoterms 2020) for all other Americas, EMEA and Asia-Pacific Licensees. OmniSystems shall have no obligation to maintain or to make any enhancements to the Licensed Software except as set forth in the agreed upon Purchase Order. OmniSystems will also deliver to Licensee the electronically formatted documentation manual relating to the Licensed Software as enumerated in the Purchase Order and Section A of this Agreement. Except for delivery of the Licensed Software and materials as provided in this paragraph, OmniSystems shall have no further or continuing obligations to Licensee under this Agreement, including any obligation concerning support, support services, training, installation, debugging, updates, enhancements, or any further services whatsoever.

b. OmniSystems will use commercially reasonable efforts to ensure delivery of the Licensed Software is in accordance with the delivery schedule outlined in the Purchase Order and Section A of this Agreement. OmniSystems will not be responsible for delays caused by events or circumstances beyond its reasonable control or delays caused or related to Licensee’s delay or its failure to meet its obligations under this Agreement.

The Parties hereby agree that acceptance of the application is defined in Federal Acquisition Regulation (FAR) 52.212-4(a) Inspection/Acceptance for U.S. Government Licensees. All other Licensees hereby agree that installation of the applicable constitutes acceptance.

A8. LICENSEE RESPONSIBILITIES

a. Licensee acknowledges that data conversion is subject to the likelihood of human and machine errors, omissions, delays, and losses, including inadvertent loss of data or damage to media, that may give rise to loss or damage. OmniSystems shall not be liable to Licensee nor its Affiliates for any such errors, omissions, delays, or losses, unless caused by the willful misconduct of OmniSystems’ employees. Licensee is responsible for adopting reasonable measures to limit the impact of such problems, including backing up data, and adopting procedures to ensure the accuracy of input data; examining and confirming results prior to use; and adopting procedures to identify and correct errors and omissions, replace lost or damaged media, and reconstruct data. Licensee is also responsible for complying with all local, state and federal laws pertaining to the use and disclosure of any data. If Licensee is a U.S. Government Licensee, then only compliance with federal laws and regulations shall apply.

b. In addition, Licensee is responsible for the following actions:

(i) Supplying all hardware, software, integration components and environmentally sound location(s) required to support intended product performance as described in product literature (except where OmniSystems is providing IaaS, PaaS, or SaaS services that includes the hardware, software, integration components and environmentally sound location(s));

(ii) Supplying skilled personnel to support the application’s performance while in use at Licensee’s site(s), including any applicable technical and/or administrative training required;

(iii) Maintaining strict control of all copies of the Licensed Software and related documentation. Licensee shall promptly notify OmniSystems of any change in the registered computer(s) or Licensed Location covered by this Agreement and noted in the Purchase Order and Section A; and

(iv) Maintaining the confidentiality of the Licensed Software and related documentation from all Third Parties, subject, for U.S. Government Licensees, to the requirements of the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as “confidential” by OmniSystems.
A9. **AUDIT RIGHTS**

a. **Audit Rights.** Licensee authorizes OmniSystems to enter Licensee’s premises in order to inspect the Licensed Software(s) during regular business hours to verify compliance with the terms of this Agreement. Licensee further agrees to make its personnel available to OmniSystems in order to reasonably assist in its compliance investigation. OmniSystems shall bear the expense of an audit with the exception of instances where the Licensee is found, through such an audit, to be in violation of this Agreement, in which case Licensee will bear all costs and agrees to remit payment for documented violations. The provision in the previous sentence applies to all Licensee’s except for U.S. Government Licensees. For U.S. Government Licensees, (i) the licensee will, subject to applicable U.S. Government security requirements, provide reasonable access for OmniSystems to enter Licensee’s premises in order to inspect the Licensed Software(s) during regular business hours to verify compliance with the terms of this Agreement; (ii) should a discrepancy or violation be found during an audit, such discrepancy or violation shall be resolved and remedies shall be sought by OmniSystems via filing an equitable adjustment claim in accordance with the Contracts Dispute Act.
Section B
General Terms and Conditions

B1. DEFINITIONS

a. “Affiliates” shall mean any entity that is controlled by Licensee, under common control with Licensee, with at least fifty-one percent (51%) ownership (or via board of directors for a non-profit organization). For Licensees who are Government Licensees or US Government Licensees, the “Affiliate” definition and provisions related thereto does not apply.

b. “Americas Licensee” means a party that has licensed the Licensed Software from OmniSystems or an authorized OmniSystems Partner located in North or South America.

c. “Annual Support and Maintenance Services” means the ongoing support provided by OmniSystems in connection with the Licensed Software and in accordance with Section D.

d. “Asia-Pacific Licensee” means a party that has licensed the Licensed Software from OmniSystems or an authorized OmniSystems Partner located in Australia or Asia (except for the Middle East).

e. “Concurrent Users” means the maximum number of users who may be logged on to the Licensed Software concurrently or at the same time.

f. “Configuration” means the design and underlying meta-data that controls the interface and behavior of the Licensed Software in a certain manner to capture Licensee data in accordance with Licensee’s requirements.

g. “Correction” means a bug fix, patch or other minor modification to the Licensed Software made on a prospective, “when and if available” basis.

h. “Documentation” means user manuals, training materials, operations manuals, in paper or electronic format, for the Licensed Software, which may include information on various functions of the Licensed Software and explanations of procedures by which the Licensed Software may be utilized.

i. “Defect” means a failure of the Licensed Software to substantially operate in accordance with the Documentation as it exists at the time of the Licensed Software was delivered or made available to Licensee.

j. “Dispute” means any dispute or claim arising out of or in relation to this Agreement.

k. “Effective Date” means the date set forth in the Purchase Order or the date of last signature of the Quote incorporated into the Purchase Order. If a Government or US Government is the Licensee, then the Effective Date is the date of the contract award or order issued by the government agency to purchase the Licensed Software and/or any Professional Services or Annual Support and Maintenance Services.

l. “EMEA” means Europe, Middle East (as so determined by OmniSystems), and Africa.

m. “EMEA Licensee” means a party that has licensed the Licensed Software from OmniSystems or an authorized OmniSystems reseller located in Europe, Middle East or Africa.
n. **“Government Licensee”** means the U.S. or other country, state, or local government, an agency, or entity of the U.S. or other country, state, or local government, or an authorized non-governmental organization acting on behalf of the U.S. or other country, state, or local government that has licensed Software. Unless otherwise specified, Americas Licensee provisions shall apply to Government Licensees.

o. **“Infrastructure as a Service”** or **“IaaS”** means a service provided by OmniSystems in a shared or dedicated environment that includes a physical data center, with associated physical security, backups, power, operating systems, databases, application servers, internet, and connectivity. IaaS does not include Licensed Software.

p. **“Instances”** means an installed copy of the Licensed Software. Once installed or copied, an Instance exists (whether or not it is actually executing) until it is completely removed from memory and uninstalled from disk storage.

q. **“Intellectual Property Rights”** means all copyrights, expressions, moral rights, database rights, patents, patentable ideas, inventions, patent applications, patent registrations, patent renewals, trade secrets, know-how, trademarks, service marks, trade names, service names, all rights in the nature of unfair competition rights, and rights to sue in passing off, and confidentiality or any other similar proprietary right arising or enforceable under applicable law.

r. **“ISV Supported Software”** means Third Party Software which an independent software vendor partner (“ISV Partner”) supplies that may integrate with the Licensed Software, and for which the ISV Partner solely and directly provides the license or software as a service subscription, maintenance and services terms (including warranty and liability limits) for ISV Supported Software to the Licensee or subscriber. For U.S. Government Licensees, nothing herein shall bind the Licensee to any Third Party terms unless the terms are provided for review and agreed to in writing by all applicable parties.

s. **“License Grant”** means for Licensed Software, a non-exclusive, non-transferable, limited, revocable, non-sublicensable right to access and use the Licensed Software in a machine-readable form, together with the Documentation, solely for Licensee’s internal business purposes.

t. **“License Fees”** means those fees paid to OmniSystems by Licensee for the Licensed Software and any Third Party Software. License Fees exclude fees for Annual Support and Maintenance Services.

u. **“Licensed Location”** means the physical location where the server-installed portion of the Licensed Software (where applicable) is or will be installed on equipment that Licensee owns, leases, or otherwise controls.

v. **“Licensed Software”** means the object code version of OmniSystems’ OmniAIPI Software and any specified Third Party Software set forth in a Purchase Order, and their modules (if licensed), (including the object code for Updates and Corrections thereto) as set forth in Section A and licensed to Licensee by OmniSystems. For U.S. Government Licensees, Licensed Software was developed exclusively at private expense and is a Commercial Item, including commercial computer software, as those terms are defined in the Federal Acquisition Regulation ("FAR"), 48 C.F.R. 2.101.

w. **“License Period”** means the date the license will begin, which will be the Effective Date, and shall continue through the period set forth in the Purchase Order, unless otherwise terminated as set forth in Section B7.

x. **“Major Defect”** means a Defect that causes the Licensed Software to become completely inoperable with no immediate workarounds to repair the Defect, even if just a temporary workaround.
y. “Minor Defect” means a defect that allows the Licensed Software to operate substantially with the Documentation; does not interrupt Licensee’s use of the Licensed Software; and which a workaround is readily available within a reasonable period of time.

z. “Misuse” or “Misused” means any use of the Licensed Software in disregard of any known or reasonably anticipated adverse consequences, warning messages, or other written instructions.

aa. “OmniAIPI Software” means all programs, routines, object code, designs, configurations, all derivative software, and related documentation that comprise or relate to this proprietary software system.

bb. “Partner” means an entity with whom OmniSystems has an independent contractor business relationship such as a reseller or supplier of software and/or services. The Parties acknowledge and agree that in this context, the term “partner” shall not imply any legal or statutory partnership concepts.

c. “Personal Information” means any information (including information forming part of a database), about an individual data subject whose identity is apparent, or can reasonably be ascertained from the information, that is disclosed by one party to this Agreement to another.

dd. “Platform as a Service” or “PaaS” means those services provided under IaaS in either a shared or dedicated environment including Licensed Software without Configuration.

ee. “Privacy Laws” means legislation, statutory instruments and any other enforceable laws, codes, regulations, or guidelines regulating the collection, use, disclosure and/or free movement of Personal Information that applies to any of the Parties or to this Agreement, including in particular any legislation implementing the EU Data Protection Directive 95/46/EC or similar directive or regulation that takes the place of that Directive and the Privacy and Electronic Communications Directive 2002/58/EC (as amended by Directive 2009/136/E) in the applicable EU member state.

ff. “Process” or “Processing” Personal Information means any operation or set of operations performed upon Personal Information, whether or not by automatic means, including collection, recording, organization, use, transfer, disclosure, storage, manipulation, combination and deletion of Personal Information.

gg. “Professional Services” means, collectively, any consulting or training services provided by OmniSystems and as further delineated in Section D.

hh. “Purchase Order” means, the document with signature lines that references the attached Quote and defines the business terms, Support, Licensed Software, Maintenance, and/or Professional Services.

ii. “Quote” means an estimate provided by OmniSystems for the Licensed Software, Annual Support and Maintenance Services, and/or Professional Services as further defined in the Purchase Order.

jj. “Software as a Service” or “SaaS” means those services provided under PaaS in either a shared or dedicated environment including Licensed Software with Configuration.

kk. “SOW” means statement of work, work order or any other document authorizing Professional Services (excluding purchase orders), executed by Licensee or by both Parties.
II. "Support Contractor" means a third party with whom Licensee has contracted to install, maintain, host, or operate the Licensed Software for and on behalf of Licensee subject to the terms and conditions of this Agreement. Licensee must provide written notice to OmniSystems identifying any Support Contractor that is given access to the Licensed Software. For U.S. Government Licensees, each Support Contractor must be subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement. All Licensed Software disclosed to a Support Contractor must, if in physical form, bear the following restrictive marking: “Commercial Computer Software: The software herein is proprietary to OmniSystems and may not be used, disclosed, reproduced, modified, performed, or displayed without the prior written approval of OmniSystems.”

mm. "Third Party Software" includes any software (including ISV Support Software) not owned by OmniSystems that may be a tool, development aid, or other type of software that accompanies or has been used as a tool in the production, compilation, or development of the Licensed Software provided under this Agreement. For U.S. Government Licensees, nothing herein shall bind the Licensee to any Third Party terms unless the terms are provided for review and agreed to in writing by all applicable parties.

nn. "Updates" means any modifications or other changes to the Licensed Software, including but not limited to new releases thereof, which OmniSystems makes generally available to its customers and that are identified by a new release number. The terms and conditions governing Updates are set forth in Section C.

oo. "U.S. Government Licensee” means the U.S. government, a U.S. government agency or entity, or an authorized non-governmental organization acting on behalf of the U.S. Government or a U.S. government agency or entity.

B2. FEES AND OTHER CHARGES

a. License Fees. Unless otherwise provided herein, Licensee agrees to pay the License Fees for the Licensed Software as set forth in Section A or the Purchase Order upon the date of shipment by OmniSystems, plus any applicable taxes, payable within thirty (30) days of the invoice receipt date. If additional License Fees are specified for the Licensed Software in Section A (e.g., annual License Fees or incremental License Fees for multi-copy or LAN Licenses), a modification, purchase order or subsequent Section A may be issued to purchase such additional licenses. Licensed Software license sales are final and deemed accepted upon delivery. Except for U.S Government Licensees, OmniSystems reserves the right to suspend the License Grant if Licensee fails to pay License Fees due in accordance with this Agreement. For IaaS, SaaS, or PaaS Licenses, the first invoice will be for either the first twelve months of the License Period or the portion thereof to correspond with the term for other term products, at OmniSystems' option. For IaaS, SaaS, or PaaS License renewals, OmniSystems will invoice approximately thirty (30) days in advance of the expiration of the current term or the end of the current billing period if renewal is agreed upon in writing by both Parties. Except for adjustments related to increases in the applicable number of Concurrent Users, the IaaS, SaaS, or PaaS License Fee will not be increased during any twelve-month term. For IaaS, SaaS, or PaaS License Fees after the first year and for any renewals will be due and payable thirty (30) days from the invoice receipt date. For U.S. Government Licensees, all license fees shall be paid in accordance with the terms of the MAS Contract, if applicable, and any delivery orders issued thereunder. For U.S. Government Licensees, OmniSystems shall state separately on invoices taxes excluded from the fees, and the Licensee agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

b. Other Charges. License Fees do not include Annual Support and Maintenance Services or Professional Services, travel and living expenses for installation and training, file conversion costs, optional products and services or other consulting services requested by Licensee, or the costs of any recommended hardware or third party software. If
Professional Services are included in the Purchase Order and Quote, Licensee agrees to pay such fees when the Professional Services are rendered and/or the Licensed Software is delivered, as agreed in the Purchase Order or otherwise invoiced by OmniSystems. OmniSystems reserves the right to request a modification or purchase order for additional service fees if Licensee or its Affiliates seeks OmniSystems’ assistance outside the scope of this Agreement. For U.S. Government Licensees, any other charges shall be in accordance with the terms of the MAS Contract, if applicable.

c. **Maintenance.** OmniSystems will invoice Licensee for the first maintenance payment as specified in the Purchase Order, payable within thirty (30) days of invoice receipt date. OmniSystems will invoice Licensee for subsequent annual maintenance payments prior to the start of each next maintenance period, payable within thirty (30) days of invoice date. Except for adjustments related to increases in the applicable number of Licenses or the license of additional Licensed Software or a different maintenance level, maintenance fees will be increased no more than once in any twelve-month period. For U.S. Government Licensees, any maintenance fees shall be in accordance with the terms of the MAS Contract, if applicable.

d. **Late Charges.** With respect to late payments, the Parties will abide by the Prompt Payment Act, 31 USC 3901-3907 and Treasury regulations at 5 CFR 1315 for U.S. Government Licensees. For all other Licensees, OmniSystems may charge interest at the rate of one and one-half percent (1.5%) per month, eighteen percent (18%) per annum, or at the highest rate allowed by law, whichever is less, from the date due until paid. Except for U.S. Government Licensees, OmniSystems may suspend Licenses, Annual Support and Maintenance Services, Professional Services or other performance if Licensee fails to make full payment of any undisputed amount owed under this Agreement within ten (10) days after written notice from OmniSystems. For U.S. Government Licensees, OmniSystems shall not charge interest for a late payment; however, OmniSystems reserves its right to pursue equitable adjustment claim in accordance with the Contracts Dispute Act if the Government fails to make payment in accordance with the Prompt Payment Act.

e. **Support.** In order for OmniSystems to provide software support for the Licensed Software, Licensee must purchase annual support at 20% of the software license base price as specified in the Purchase Order. OmniSystems shall have no responsibility to maintain the Licensed Software unless Licensee purchases annual support provided by OmniSystems. In the event that Licensee requests Annual Support and Maintenance Services that are beyond the scope of this Agreement, as further stated in Section C, such services will be deemed as Professional Services and OmniSystems’ then prevailing standard support policies and procedures, OmniSystems may provide such Professional Services or recommend appropriate outside consultants. In all cases, fees for such Professional Services will be charged at the rate agreed upon in the Purchase Order. For U.S. Government Licensees, all support fees shall be in accordance with the terms of the MAS Contract, if applicable, and travel reimbursement in accordance with Public Law 99-234 and FAR Part 31.

f. **Professional Services.** Unless otherwise agreed, during a Professional Services engagement OmniSystems will submit monthly invoices to Licensee for Professional Services furnished, except that OmniSystems will submit an invoice for Professional Services upon completion of all Professional Services expected to be performed in a given month. All Professional Services invoices are payable within thirty (30) days after invoice date. Each invoice will provide a breakdown and distribution of charges by name of the Consultant(s) (as defined below) who provided the Professional Services, the hours charged (for Professional Services performed on a time and materials basis) and the type and amount of expenses incurred. Upon request, OmniSystems will provide additional back-up documentation for expenses (such as itemized receipts), but will charge Licensee an administrative fee of six percent (6%) of the invoiced expenses. Additional details required by Licensee concerning the invoice or backup information will be specified in the SOW, Quote or other writing by the Licensee before Professional Services commence. For U.S. Government Licensees, all professional services fees shall be in accordance with the terms of the MAS Contract, if applicable.

g. **Payment.** Payments to OmniSystems can be either mailed to: OmniSystems, Attn: Accounts Receivable, 8201 Greensboro Suite 600 McLean, VA 22102; or can be electronically made through Electronic Funds
Transfer to the bank information under “ACH Payment Information” as delineated in the Purchase Order. All fees and other charges referred to in the Agreement will be paid in the currency specified in the Purchase Order, or SOW or Quote as applicable. Unless otherwise specified, the currency is US Dollars. All payments made under this Agreement are non-refundable, except for U.S. Government Licensees, and as otherwise specifically provided in this Agreement. OmniSystems reserves the right to assign payments under this Agreement to any third party entity of its choosing. For U.S. Government Licensees, all payments shall be in accordance with the terms of the MAS Contract, if applicable. In the event OmniSystems desires to assign payments due under the MAS Contract, if applicable, it will make such arrangements with the U.S. Government Licensee issuing the order.

h. **Disputed Invoices.** Licensee will notify OmniSystems within fifteen (15) days after date of an invoice if there is a dispute about that invoice. OmniSystems will work in good faith with Licensee to promptly correct errors or resolve disputes. Licensee shall pay the undisputed portion of the invoice in full when due and notify OmniSystems in writing as to the nature and substance of any disputed portion. For U.S. Government Licensees, any disputed invoice notifications shall be in accordance with the Prompt Payment Act.

i. **Taxes.** Fees, costs and expenses described in this Agreement do not include any sales, use, personal property, duty, levy or similar government charge, value added or goods/services taxes. OmniSystems may list applicable taxes as separate items on Licensee’s invoice, and Licensee shall be responsible to pay and/or reimburse OmniSystems for all taxes (other than taxes based on OmniSystems’ income). If withholding taxes are imposed by any foreign government, Licensee shall remit such withholding taxes in accordance with applicable law, gross up the applicable payment amounts to ensure that OmniSystems receives the full amount of fees invoiced, and provide OmniSystems with evidence of withholding, if applicable. OmniSystems may invoice taxes unless Licensee has provided adequate evidence of exemption upon execution of this Agreement. (Note: Licensee is not permitted to resell the Licensed Software, so a resale certificate does not qualify as a tax exemption certificate unless specifically agreed in this Agreement or unless Licensee has a separate reseller agreement with OmniSystems.) OmniSystems shall not issue credits for taxes billed before Licensee provides evidence of a valid exemption. Licensee shall be liable to OmniSystems for any costs, fees and taxes that OmniSystems incurs due to any invalid tax exemption claimed by Licensee. Notwithstanding the foregoing, this Section B2(i) shall not apply to U.S. Government Licensees purchasing Licensed Software, Annual Support and Maintenance Services, and Professional Services under the MAS Contract, if applicable. For U.S. Government Licensees, OmniSystems shall state separately on invoices taxes excluded from the fees, and the Licensee agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

j. **Leasing Payments.** Licensee may separately arrange with a lessor to make some or all payments to OmniSystems required by this Agreement if Licensee so elects to lease the Licensed Software rather than to purchase a license. Licensee must notify OmniSystems and provide reasonable documentation to OmniSystems of the arrangement requested before OmniSystems will invoice a lessor directly. If OmniSystems has not received notice and documentation of a lessor/lessee payment arrangement prior to invoicing, OmniSystems will not re-issue invoices. If a lessor fails to make any undisputed payment when due, Licensee shall promptly pay OmniSystems and OmniSystems may invoice Licensee directly for all amounts due. This Section B2(j) shall not apply to U.S. Government Licensees. In the event a U.S. Government Licensee elects to lease software and hardware through a lessor, such arrangement will be addressed at the individual delivery order level, subject to the terms and conditions of the MAS Contract, if applicable.

B3. **WARRANTY**

a. **Effective on the first day of the License Period, for a period of ninety (90) days, OmniSystems warrants** that the Licensed Software, when operated with the equipment configuration and in the operating environment specified by OmniSystems, will perform substantially in accordance with the technical specifications included or referred to in the applicable Purchase Order. The ninety (90) day period shall commence on the Effective Date. OmniSystems does
not warrant that the Licensed Software will be error or defect-free in all circumstances. In the event of any defect or error covered by such warranty, Licensee agrees to provide OmniSystems with sufficient detail to allow OmniSystems to reproduce the defect or error. Licensee’s exclusive remedy for any Defect or error in the Licensed Software covered by such warranty, and as OmniSystems’ entire liability in contract, tort, or otherwise, OmniSystems will correct such error or defect at OmniSystems’ facility by issuing corrected instructions, a restriction, or a bypass or any other correction technique in its sole discretion. If OmniSystems is unable to correct such defect of error after a reasonable opportunity, OmniSystems will refund the remaining unused portion of any License Fees for such Licensed Software. However, OmniSystems is not responsible for any defect or error not reported during the warranty period or any defect or error in a Program which Licensee has modified, Misused, or damaged or installed on a non-registered computer or in a non-Licensed Location.

b. Professional Services Warranty. Any Professional Services warranty will be mutually agreed in an SOW or Quote depending on the Professional Services provided. If the SOW or Quote does not contain a warranty, the Professional Services therein are provided “AS IS”. For any Professional Services warranty, the sole and exclusive remedy will be the re-performance of the Professional Services.

c. Personal Warranties. All warranties described herein are personal to and intend solely for the benefit of the Licensee and do not apply to any third parties, including Affiliates.

d. ENTIRE WARRANTY. EXCEPT AS SET FORTH ABOVE IN THIS SECTION B3, AND NOTWITHSTANDING ANY PROVISION TO THE CONTRARY OTHERWISE CONTAINED HEREIN, THE LICENSED SOFTWARE, ANNUAL SUPPORT AND MAINTENANCE SERVICES AND PROFESSIONAL SERVICES RELATED THERETO ARE PROVIDED “AS IS”, WITH ALL FAULTS, AND OMNISYSTEMS DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, QUALITY, PERFORMANCE, SYSTEMS INTEGRATION, EFFORTS, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. OMNISYSTEMS DOES NOT REPRESENT OR WARRANT THAT (A) THE USE OF LICENSED SOFTWARE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, OR (B) LICENSED SOFTWARE WILL MEET LICENSEE’S REQUIREMENTS OR EXPECTATIONS. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH, OMNISYSTEMS SHALL HAVE NO LIABILITY FOR THE LICENSED SOFTWARE OR ANY PROFESSIONAL SERVICES PROVIDED, INCLUDING ANY LIABILITY FOR NEGLIGENCE. THIS AGREEMENT DOES NOT LIMIT OR DISCLAIM ANY OF THE WARRANTIES SPECIFIED IN THE GSA MULTIPLE AWARD SCHEDULE CONTRACT UNDER FAR 52.212-4(O). IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL APPLICABLE RIGHTS AND REMEDIES UNDER THE AGREEMENT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 U.S.C. 7101-7109.

B4. LIMITATION OF LIABILITY

a. The cumulative liability of OmniSystems to Licensee for all claims for direct damages relating to the Licensed Software and any services rendered hereunder, in contract, tort, or otherwise, shall not exceed the amount paid by Licensee to OmniSystems for software, documentation or services pursuant to the Purchase Order(s) giving rise to the claim.

b. EXCEPT FOR LICENSEE’S VIOLATION OF THE TERMS OF ITS LICENSE OR INFRINGEMENT OF OMNISYSTEMS’ INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER (WHETHER IN TORT OR CONTRACT) FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES INCLUDING BUT NOT LIMITED TO LOST DATA, AND LOST PROFITS, LOST OPPORTUNITY COSTS, EVEN IF SUCH PARTY HAS BEEN ADVISED
OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE. THE FOREGOING LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY REGARDLESS OF THE SUCCESS OR EFFECTIVENESS OF OTHER REMEDIES. IF LICENSEE IS COMPOSED OF MORE THAN ONE PERSON OR ENTITY, EACH SUCH PERSON AND ENTITY SHALL BE JOINTLY AND SEVERALLY LIABLE UNDER THIS AGREEMENT. THIS AGREEMENT SHALL NOT IMPAIR THE U.S. GOVERNMENT’S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. 3729-3733. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT’S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE MAS CONTRACT. The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Licensor’s gross negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

   c. FAR 52.212-4 (p) is hereby incorporated by reference and is applicable only to licenses to the U.S. Government Licensee.

   d. FOR EMEA LICENSEES, NOTHING IN THIS LIMITATION OF LIABILITY SECTION OR OTHERWISE IN THE AGREEMENT SHALL EXCLUDE OR IN ANY WAY LIMIT OMNISYSTEMS’ LIABILITY TO LICENSEE FOR (1) FRAUD, (2) DEATH OR PERSONAL INJURY CAUSED BY OMNISYSTEMS’ NEGLIGENCE (INCLUDING NEGLIGENCE AS DEFINED IN S. 1 UNFAIR CONTRACT TERMS ACT 1977), (3) BREACH OF TERMS REGARDING TITLE IMPLIED BY S. 12 SALE OF GOODS ACT 1979 AND/OR S. 2 SUPPLY OF GOODS AND SERVICES ACT 1982, OR (4) ANY LIABILITY TO THE EXTENT THE SAME MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF LAW.

B5. INDEMNIFICATION

   a. If a third party claims that the Licensed Software infringes any U.S. copyright, trademark, or trade secret (a “Claim”), OmniSystems will (as long as Licensee is not in default under this Agreement or any other agreement with OmniSystems) defend Licensee against such Claim at OmniSystems’ expense and pay all damages that is fully adjudicated and finally awarded; provided, however, that Licensee (i) promptly notifies OmniSystems in writing of the claim; (ii) allows OmniSystems control of any defense or settlement of the Claim; (iii) reasonably cooperates with OmniSystems (at OmniSystems’ expense) in, the defense or any related settlement negotiations; and (iv) Licensee complies with OmniSystems’ direction to cease using any Licensed Software that in OmniSystems’ reasonable judgment may be ruled to cause an infringement of a third party’s Intellectual Property Rights. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice’s right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

   b. For U.S. Government Licensees, (i) OmniSystems will indemnify and hold harmless the U.S. Government Licensee (except for those instances of infringement that arise pursuant to Subsection d. below) Licensee against a Claim at OmniSystems’ expense and pay all damages that is fully adjudicated and finally awarded; and (ii) OmniSystems will work in good faith and conjunction with the Department of Justice to defend or settle any infringement claim that may arise hereunder. The U.S. Government Licensee will provide OmniSystems with prompt notice of any infringement claim and will work in good faith to comply with any requirement to cease using the Licensed Software that is determined in OmniSystems’ reasonable judgment to cause an infringement of a third party’s Intellectual Property Rights. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice’s right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.
c. If a temporary or a final injunction is obtained against Licensee’s use of the Licensed Software or Documentation by reason of an infringement or misappropriation or if OmniSystems believes such an injunction is likely, OmniSystems may, at its option, (i) secure for Licensee the right to continue to use the Licensed Software; (ii) modify or replace the Licensed Software so it is non-infringing; or (iii) if neither of the foregoing options is available in OmniSystems’ sole judgment, require Licensee to return the Licensed Software and refund the License Fees paid for the Licensed Software by the Licensee based on a pro-rata, 3-year straight-line depreciation schedule. For U.S. Government Licensees, if neither subsection (i) or (ii) are available to defend/settle an infringement claim, then the U.S. Government Licensee will remove any Licensed Software from its systems and return such to OmniSystems. Any applicable refund shall be in accordance with The Contract Disputes Act, of 1978, as amended.

d. OmniSystems shall have no liability to Licensee to the extent that any infringement action or claim is based upon or arises out of (1) use of ISV Supported Software, (2) modification of the Licensed Software or Documentation by OmniSystems according to Licensee’s specifications, (3) modification of the Licensed Software or Documentation by Licensee or any third party or the use of the Software or Documentation or any portion thereof in combination with any other equipment or software, (4) Licensee’s failure to use the most recent version of the Licensed Software supplied by OmniSystems, (5) Licensee’s failure to comply with OmniSystems’ direction to cease any activity that in OmniSystems’ reasonable judgment may be ruled to cause an infringement of a third party’s Intellectual Property Rights, or (6) Licensee’s use of the Software or Documentation that is not strictly in accordance with the terms of this Agreement.

e. THIS SECTION STATES OMNISYSTEMS’ ENTIRE AND EXCLUSIVE OBLIGATION TO LICENSEE WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.

B6. DEFAULT

Should Licensee fail to pay any fees or charges due hereunder, or fail to carry out any other obligation under this Agreement or any other agreement with OmniSystems, OmniSystems may, at its option, pursue remedy in accordance with the Contract Disputes Act, 41 USC 601-613 if Licensee is the US Government. If Licensee is a commercial entity, OmniSystems may, at its option, pursue remedy as afforded to it, whether in law or equity, under the laws of the state set forth in Section B11 (Governing Law).

B7. TERMINATION; SURVIVAL

a. Termination. Either Party may terminate this Agreement for a material default by providing the other Party with thirty (30) days prior written notice and a chance to cure any such default. OmniSystems may terminate this Agreement immediately upon notice to Licensee in the event Licensee materially defaults on the terms and conditions of this Agreement. Notwithstanding the foregoing, for U.S. Government Licensees, recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the Contract Disputes Act. During any dispute under the Contract Disputes Act, OmniSystems shall continue performance of this Agreement to the extent required by the Contracts Dispute Act. For U.S. Government Licensees, termination shall be in accordance with the terms and conditions of the MAS Contract, if applicable.

b. Effect of Termination. In the event of a termination, Licensee’s right to use the Licensed Software as set forth in Section A4 shall terminate in its entirety and shall not survive termination. For avoidance of doubt, Licensee’s failure to fully and completely adhere to the terms hereof pertaining to License Grant; Authorized Usage; or Limitation of Use; or a breach of Confidentiality, or failure to timely pay any fees agreed under this Agreement and set forth in the Purchase Order shall be deemed a material default under this Agreement. Upon termination of this Agreement as a result of Licensee’s default, or upon expiration of the Licensed Software License Period if applicable, Licensee’s License
will terminate and Licensee shall be required to cease all use of the Licensed Software and Documentation, and return or certify destruction, as requested by OmniSystems, all copies of the Licensed Software and Documentation (including any training materials) in Licensee’s possession (whether modified or unmodified) and all other materials pertaining to the Licensed Software, including all copies thereof. Licensee agrees to certify its compliance with such requirement upon OmniSystems’ request. Within thirty (30) days after the termination of a License (five business days for non-renewal of a SaaS, IaaS or PaaS License), a corporate officer of Licensee shall execute a statement certifying that Licensee has fully complied with the terms of this Section B7 and acknowledging that all rights to use the Licensed Software and Documentation have been terminated and that any further use of the Software or Documentation is unauthorized and would be in violation of OmniSystems’ rights. Licensee acknowledges that following the expiration or termination of a SaaS, IaaS or PaaS License, any data that is retained in formats only readable by the Licensed Software will not be accessible. Any use of the Licensed Software or the Documentation after termination shall be considered infringement of OmniSystems’ Intellectual Property Rights. Termination of any License shall not relieve Licensee of its obligations to pay any amounts then due OmniSystems and, except for U.S. Government Licensees, shall not entitle Licensee to a refund of any amounts paid under this Agreement, except as otherwise specified herein.

c. **Survival.** The following sections shall survive termination of this Agreement: Sections A1 (Origin of Licensed Software) and A2 (Ownership of Licensed Software, OmniSystems Licensor’s Software, ISV Supported Software, or Third Party Software), Section A3 (Third Party Software), Section A9 (Audit Rights), Section B1 (Definitions), Section B2 (Fees and Other Charges), B3(d) (Entire Warranty), B4 (Limitation of Liability), Section B5 (Indemnification), Section B6 (Default), Section B7(b) (Effect of Termination) and Section B7(c) (Survival); Section B9 (Confidentiality and Non-Disclosure), Section B10 (Notices), Section B11 (Governing Law), Section B12 (Disputes), Section B13 (Non-Solicitation of Employees), Section B16 (Modifications and Waiver), Section B18 (Commercial Computer Software), Section B19 (Compliance with Law), Section B20 (Export Control) and Sections B21 through B26.

**B8. PUBLICITY AND MARKETING**

Licensee agrees to be included on a list of OmniSystems clients as a reference. Furthermore, Licensee hereby authorizes OmniSystems to use its name, including the name of any related project for which the Licensed Software will be used to support, in a press release relating to the sale of Licensed Software, Annual Support and Maintenance Services, and Professional Services hereunder. OmniSystems shall allow Licensee to review, modify, and authorize, as reasonably necessary, such press release prior to its publication. Additionally, if requested by OmniSystems, Licensee agrees to participate in the OmniSystems Client Testimonial Program, which includes, but is not limited to, the production and publication of a press release, Q&A and/or case study to provide a written analysis of Licensee’s experience in the selection, implementation and use of the Licensed Software. The production of such documents is at OmniSystems’ expense, and no such documents or any content relating thereto will be made public without Licensee’s express, written permission which will not be withheld unreasonably. The aforementioned clause shall not apply to awards under the MAS Contract.

**B9. CONFIDENTIALITY AND NON-DISCLOSURE**

a. “Confidential Information” means any information which one party (“Disclosing Party”) provides, either directly or indirectly, to the other (“Receiving Party”) in connection with this Agreement, including the Licensed Software and Personal Information, the terms of this Agreement, or information related to the business of the Disclosing Party that (1) if in tangible form, is clearly marked at the time of disclosure as being confidential, or (2) if disclosed orally or visually, is designated at the time of disclosure as confidential, or (3) is reasonably understood to be confidential or proprietary information, whether or not marked.

b. Except as required by the Freedom of Information Act, as amended, Confidential Information will be protected
and held in confidence by the Receiving Party and will be used only for the purposes of this Agreement and related internal administrative purposes. Disclosure of the Confidential Information will be restricted to the Receiving Party’s affiliates, employees, contractors and business partners on a “need to know” basis, provided that they are bound by written confidentiality obligations no less stringent than those in this Agreement prior to any disclosure. Confidential Information does not include information that (1) is already known to Receiving Party at the time of disclosure, (2) is or becomes publicly known through no wrongful act or failure of the Receiving Party, (3) is independently developed by Receiving Party without benefit of Disclosing Party’s Confidential Information, or (4) is received from a third party which is not under and does not thereby breach an obligation of confidentiality. In the event of any FOIA requests, U.S. Government Licensee’s shall take all steps necessary to protect Licensor’s Confidential information. When the end user is the Federal Government, neither this Agreement nor the pricing terms are confidential information notwithstanding any such markings.

c. Each party agrees to protect the other’s Confidential Information at all times and in the same manner as each protects the confidentiality of its own proprietary and confidential materials of similar kind, but in no event with less than a reasonable standard of care. A Receiving Party may disclose Confidential Information to the extent required by law, provided that the party required to disclose the Confidential Information provides the original Disclosing Party with notice as soon as reasonably practicable to allow the Disclosing Party an opportunity to respond to such requirement, and provided further that such disclosure does not relieve Receiving Party of its confidentiality obligations with respect to any other party. These confidentiality restrictions and obligations will remain in effect until the information ceases to be Confidential Information. If Licensee participates in an OmniSystems-sponsored group event, this Section B9 shall apply to Confidential Information disclosed by any group participant, and OmniSystems may provide a copy of this Section B9 to any Disclosing Party seeking to enforce its provisions.

d. Upon the request of Disclosing Party, the Receiving Party shall promptly return to the Disclosing Party all copies of the Confidential Information, and any documents derived from the Confidential Information, or at the Disclosing Party’s option, shall certify in writing that all copies of the Confidential Information and derivative documents have been destroyed. The Receiving Party may return any Confidential Information to the Disclosing Party at any time. This obligation to return or destroy materials or copies thereof does not extend to automatically generated computer back-up or archival copies generated in the ordinary course of Receiving Party’s information systems procedures, provided that Receiving Party shall make no further use of Confidential Information contained in those copies.

e. Licensee may provide Confidential Information to OmniSystems in connection with an Annual Support and Maintenance Services request or a Professional Services engagement. Prior to disclosing or delivering any Confidential Information that is subject to restrictions under Privacy Laws or export control laws and regulations, including without limitation any restrictions, laws or regulations that will apply to the transfer by OmniSystems of the Confidential Information to any of its affiliates, employees, contractors and alliance partners located anywhere in the world (“Restricted Data”), Licensee shall identify to OmniSystems in writing (including email) such Restricted Data. OmniSystems may add a surcharge to cover additional costs of handling Restricted Data (except that the surcharge shall not apply to U.S. Government Licensees). For all Licensees except for U.S. Government Licensees, if Licensee fails to identify Restricted Data, Licensee shall be responsible for any liability or claims related to OmniSystems’ handling or export of any such Restricted Data in the normal course of OmniSystems’ business. For U.S. Government Licensees, OmniSystems shall not be liable for any liability or claims for OmniSystems’ handling or export of any Restricted Data that the U.S. Government Licensee fails to identify as Restricted Data. All Licensees except for the U.S. Government Licensee shall indemnify, defend and hold OmniSystems harmless for any handling of Restricted Data that is not otherwise identified as stated herein and that such handling causes harm to a person with whom the Restricted Data concerns. OmniSystems may use Confidential Information for testing or development purposes, provided that OmniSystems remains bound by the confidentiality obligations of any applicable license or nondisclosure agreement and applicable Restricted Data obligations.
B10. **NOTICES**

All notices or other communications required to be given hereunder shall be in writing and delivered either personally, by U.S. mail or electronic mail. If by US mail, certified, return receipt requested, postage prepaid, and addressed as provided in this Agreement or as otherwise requested by the receiving party. Notices delivered personally shall be effective upon delivery and notices delivered by mail shall be effective upon their receipt by the party to whom they are addressed. Notices delivered by electronic mail shall be delivered and read receipt requested through the notice provider's electronic mail service.

Notices by either Party to the other shall be addressed to the individuals and to the addresses or electronic mail addresses set forth in the Purchase Order.

B11. **GOVERNING LAW**

a. **For Americas Licensees (except for U.S. Government Licensees):** This Agreement shall be governed by the laws of the Commonwealth of Virginia, U.S.A., without regard to any conflicts of laws provisions.

b. **For U.S. Government Licensees:** The Agreement shall be governed by the applicable U.S. federal law of government contracts, without regard to any conflicts of laws provisions.

c. **For Asia-Pacific Licensees:** This Agreement shall be governed by the laws of Australia and particularly the laws of South Australia, without regard to any conflicts of laws provisions.

d. **For EMEA Licensees:** This Agreement shall be governed by the laws of England, without regard to any conflicts of laws provisions.

e. **For all Licensees:** The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

B12. **Dispute Resolution.**

a. **Informal Dispute Resolution.** In the event of any Dispute arising from or relating to this Agreement or the breach thereof, the Parties hereto shall endeavor to use their best efforts to settle the Dispute. To this effect, the management-level representative from each party shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If the management-level representatives are unable to reach such solution within thirty (30) days of the commencement of such negotiations, then the Dispute will be referred to executive-level representatives of each party for an additional thirty (30) day period of negotiation. The aforementioned clause shall not apply to awards under the MAS Contract.

b. **For Americas Licensees (except for U.S. Government Licensees):** If a Dispute is not resolved at the end of the sixty (60) day period described in Subsection (a) above, then upon notice by either party to the other, the Dispute shall be settled by final and binding arbitration in accordance with the American Arbitration Association (“AAA”) Commercial Arbitration Rules. A single arbitrator appointed as provided in the AAA Commercial Arbitration Rules will be an attorney experienced in computer software, licensing, and information technology disputes. The arbitrator will have exclusive authority to resolve any and all disputes relating to procedural and substantive questions concerning the arbitration, including choice of venue and choice of law issues, and the formation, interpretation, applicability, scope, and enforceability of this agreement to arbitrate. The arbitration proceeding shall be conducted in the English language and shall occur in the Washington, DC metropolitan area, or, with the consent of the arbitrator and parties, another mutually
agreeable metropolitan area. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§1-16, and judgment upon the award rendered by the arbitrator may be entered by any court of competent jurisdiction.

c. For U.S. Government Licensees: Any Dispute that cannot be resolved by the Parties will be subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the Parties to this Agreement to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this Agreement shall be a dispute to be resolved in accordance with the FAR Disputes clause at 48 C.F.R. 52.233-1, which is incorporated by reference.

d. For Asia-Pacific and EMEA Licensees: If a Dispute is not resolved at the end of the sixty (60) day period described in Subsection (a) above, then upon notice by either party to the other, the Dispute shall be finally resolved by binding arbitration before a single arbitrator pursuant to the Rules of Arbitration ("Rules") and under the auspices of the International Chamber of Commerce (ICC). In accordance with the Rules the parties shall select the arbitrator, and if they do not, an arbitrator shall be selected by the ICC in accordance with the Rules. The arbitrator shall be a lawyer knowledgeable in the chosen law and information technology disputes. At either party’s request, the arbitrator shall give a written opinion stating the factual basis and legal reasoning for his/her decision. The arbitrator will have exclusive authority to resolve any and all disputes relating to procedural and substantive questions concerning the arbitration, including choice of venue and choice of law issues, and the formation, interpretation, applicability, scope, and enforceability of this agreement to arbitrate. The arbitration proceeding shall be conducted in the English language and shall occur in Adelaide, Australia (for Asia-Pacific Licensees) or London, UK (for EMEA Licensees), or, with consent by the arbitrator and parties, another mutually agreeable metropolitan area.

i. Arbitration. The arbitrator shall award appropriate fees and costs to the prevailing party. If it becomes necessary for either party to compel arbitration or to enforce an arbitration award, that party may bring an action in any court of competent jurisdiction and the prevailing party will be entitled to recover from the other party its costs and expenses, including court costs and reasonable attorneys’ fees (including allocable costs of in-house counsel). The arbitration and all related proceedings and discovery will take place pursuant to a protective order entered by the arbitrator that protects the confidential nature of the parties’ proprietary and confidential information. No arbitration award may provide a remedy beyond those permitted under this Agreement, and any award providing a remedy not permitted under this Agreement will not be valid and will be vacated. No Dispute may be brought as a class action, and neither party may act as a class representative or participate as a member of a class of claimants with respect to any Dispute. BOTH PARTIES HEREBY WAIVE ALL RIGHT OR ENTITLEMENT TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE THAT ARISES OUT OF OR RELATES IN ANY WAY TO THIS AGREEMENT.

e. Litigation Rights. Either party may, without waiving any remedy under this Agreement, seek temporary or permanent injunctive relief including without limitation equitable relief from any court of competent jurisdiction to protect its Confidential Information, non-solicitation rights, License rights and Intellectual Property Rights, regardless of the arbitration requirements. OmniSystems reserves the right to pursue legal action in a court of competent jurisdiction to compel payment due hereunder and, in such a case, OmniSystems shall be entitled to recover its costs and reasonable attorneys’ fees (including the allocable costs of in-house counsel), regardless of the arbitration requirements. The aforementioned clause shall not apply to awards under the MAS Contract.

B13. NON-SOLICITATION OF EMPLOYEES.

i. For one year after delivery of Licensed Software under Section A and the Purchase Order, or after termination of an SOW or Quote (as appropriate), neither party shall solicit for hire
as an employee, consultant or otherwise any of the other party's personnel who have had direct involvement with the Licenses, Annual Support and Maintenance Services or Professional Services or proposal for the Licenses Annual Support and Maintenance Services or Professional Services specified in Section A or SOW or Quote or Purchase Order (as appropriate), without the other party's express written consent. However, neither party will be precluded from hiring any employee of the other party who responds to any public notice or advertisement of an employment opportunity or who terminated his/her employment with the other party at least six months previously, provided that the hiring party did not solicit the termination.

ii. A party shall not be in breach of this Non-solicitation of Employees Section if (i) the candidate applying for the position does so via a general advertisement (e.g., online job posting via Monster, Career Builder, etc.; paper advertisement; recruitment fair) and without encouragement to apply by the hiring party; or (ii) those responsible for the solicitation, hiring or retention of the other party's personnel were not aware of these restrictions. However, personnel of either party working on a proposal or the Purchase Order for any Licenses Annual Support and Maintenance Services or Professional Services under this Agreement shall be presumed to know of the restriction.

iii. This Section B13 shall not apply to U.S. Government Licensees. Any Non-Solicitation of Employees shall be addressed in the individual Delivery Orders, as mutually agreed and issued by U.S. Government Licensees.

B14. INDEPENDENT CONTRACTOR. Each party is at all times acting as an independent contractor under this Agreement and not as an agent, employee, joint venturer or partner of the other.

B15. PARTNER TRANSACTIONS. Where Licensee acquires Licensed Software or receives maintenance, support or services from a Partner, any specific term regarding warranty, maintenance and/or services, as applicable, may be contracted directly between Licensee and that Partner and conflicting terms of this Agreement shall not apply to such Licensed Software, maintenance, support or services.

B16. MODIFICATIONS AND WAIVERS

This Agreement may not be modified or otherwise amended except by a writing signed by authorized representatives of both Parties. A waiver by either party of its rights hereunder shall not be binding unless contained in a writing signed by an authorized representative of the party waiving its rights. The non-enforcement or waiver of any provision on one (1) occasion shall not constitute a waiver of such provision on any other occasions unless expressly so agreed in writing. It is agreed that no use of trade or other regular practice or method of dealing between the Parties hereto shall be used to modify, interpret, supplement, or alter in any manner the terms of this Agreement.

B17. FORCE MAJEURE

For U.S. Government Licensees, excusable delays shall be governed by FAR 52.212-4(f). For all other Licensees, neither Party shall be liable for any loss or delay resulting from any event beyond such party’s reasonable control, including acts of God, fire, natural disaster, terrorism, labor stoppage, war or military hostilities, communications failures, power outages, or inability of carriers to make scheduled deliveries, and any payment or delivery date shall be extended to the extent of any delay resulting from any such force majeure event.

B18. COMMERCIAL COMPUTER SOFTWARE
The Licensed Software provided under this Agreement is commercial computer software developed exclusively at private expense. Use, duplication, and disclosure by civilian agencies of the U.S. Government shall be in accordance with FAR 52.227-19 (c) or other agency data rights provisions, as may be applicable. Use, duplication and disclosure by DOD agencies is subject solely to the terms of standard software License Agreement as stated in DFARS 227.7202. "Unpublished-All rights reserved under the Copyright Laws of the United States".

B19. **COMPLIANCE WITH LAW**

   a. Licensee warrants to OmniSystems that it will comply with all applicable laws and will collect, use, transfer and otherwise Process any Personal Information collected by or through the Licensed Software or that Licensee discloses to OmniSystems under this Agreement in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments, including Privacy Laws.

   b. Licensee will remain the controller of Personal Information it provides to OmniSystems and that it will not instruct OmniSystems to Process any such Personal Information in any way that will violate any applicable laws including Privacy Laws.

   c. Licensee will use the Licensed Software Annual Support and Maintenance Services and Professional Services in compliance with any laws, enactments, regulations, collective labor agreements, orders, standards and other similar instruments that might be applicable to Licensee.

   d. Licensee will obtain all necessary approvals, authorizations, or other consents, and will maintain any registrations, requirements, mandatory procedures or similar obligations that may be applicable to Licensee.

   e. For all Licensees (except for U.S. Government Licensees), Licensee shall be responsible to OmniSystems for any costs, loss or damage OmniSystems incurs as a direct or indirect result of Licensee’s breach of this Section or Licensee’s failure to comply with laws. For U.S. Government Licensees, Licensee shall indemnify, defend and hold OmniSystems harmless for any loss or damage OmniSystems incurs as a direct or indirect result of a breach of this Compliance with Law Section by the U.S. Government Licensee.

B20. **EXPORT CONTROL**

   a. Licensed Software and Documentation furnished to under this Agreement may be controlled for export purposes under the International Traffic in Arms Regulations ("ITAR") controlled by the U.S. Department of State or the Export Administration Regulations ("EAR") controlled by the U.S. Department of Commerce. ITAR controlled technology may not be exported without prior written authorization and certain EAR technology requires a prior license depending upon its categorization, destination, end-user and end-use. Both Parties are bound by U.S. export statutes and regulations and shall comply with all U.S. export laws.

   b. Each Party agrees to comply with all applicable U.S. export control laws and regulations, specifically including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. § 2751-2794, the ITAR 22 C.F.R. § 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the EAR, 15 C.F.R. § 730- 774; including the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, the receiving Party agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons (as defined by the ITAR) employed by or associated with, or under contract to the such receiving Party or its respective lower-tier suppliers, without the disclosing Party’s prior approval and the authority of an export license, agreement, or applicable exemption or exception.
c. Each Party will promptly notify the other if it is or becomes, listed in any Denied Parties List or its export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

B21. **Entire Agreement.**

a. This Agreement, which consists of Sections A-D with a separate Purchase Order: Software and Services Business Terms for each Licensed Software order, and a separate SOW or Quote (as appropriate) for each Professional Services engagement plus any attachments identified as incorporated into this Agreement (including the MAS Contract and Schedule Pricelist for those U.S. Government Licensees purchasing the Licensed Software and Services under such vehicle), is the entire agreement between Licensee and OmniSystems relating to the specific Licensed Software order or Professional Services engagement and supersedes all prior or contemporaneous oral or written communications, proposals and representations relating to that transaction. Any purchase order or other document issued by the Licensee (including any online terms as part of a required procurement process) will be for administrative purposes only and any such terms will not alter or supplement this Agreement.

b. This Agreement will not be modified by any other act, document, usage, custom, or course of dealing unless it is signed by both Parties. However, only Licensee’s signature or affirmation is required to agree to an unmodified Order Form, or other transaction document or language provided by OmniSystems. Specified terms in a Quote or SOW (as applicable) will prevail over conflicting terms in the remainder of the Agreement for that transaction or engagement. OmniSystems reserves the right to periodically update maintenance terms. For those U.S. Government Licensees purchasing maintenance under the MAS Contract, changes the maintenance terms shall be agreed upon by both parties in writing and incorporated into the MAS Contract before taking effect.

c. Unless otherwise agreed in writing, this Agreement (1) does not terminate the Licensee’s license rights and maintenance (support) obligations of any prior OmniSystems license agreement for other OmniSystems Licensed Software, and (2) supersedes any previous "clickwrap" license incorporated in the Licensed Software.

B22. **E-mail Communications.** Licensee consents to receiving email messages from OmniSystems that may constitute “commercial e-mails” under the U.S. CAN-SPAM Act of 2003, 15 U.S.C. §§ 7701-7713. Licensee may at any time “opt out” of receiving future e-mails from OmniSystems.

B23. **BINDING EFFECT.** This Agreement shall be binding upon the Parties and their respective legal successors and permitted assigns.

B24. **ASSIGNMENT.** Licensee may not in whole or part, assign, transfer, novate, subcontract or sublicense this Agreement or any right or obligation under it, and any assignment made in violation of this provision shall be invalid. However, Licensee may assign this Agreement, without OmniSystems’ written consent, to any successor in interest by way of merger or consolidation or the acquisition of substantially all of Licensee’s assets; provided that (1) assignor’s account with OmniSystems is current at the time of assignment, (2) assignee is not a direct competitor of OmniSystems, and (3) assignee shall be bound by the terms and conditions of this Agreement, as written. The assignee shall provide evidence of the transaction and, if applicable, shall convert, true up, expand, or relocate the assigned Licenses subject to OmniSystems’ then-current fees.

B25. **SEVERABILITY.** If any provision of this Agreement is illegal or unenforceable in any jurisdiction, that provision shall remain effective with respect to any jurisdiction in which it is legal and enforceable, and the remainder of this Agreement will remain valid and enforceable anywhere. The exclusion of damages in Section B4(b) shall survive a finding that an exclusive remedy failed of its essential purpose.
B26. **ORDER OF PRECEDENCE.** In the event of a conflict among any of the terms set forth in the Purchase Order or this Agreement, the Purchase Order will govern. For contracts issued by the US Government, the order of precedence shall be in accordance with FAR 15.406-3(b) unless otherwise stated in the order issued by the US Government.
Section C
Annual Support and Maintenance Terms and Conditions

C1. **GENERAL.** "Licensee" means the single end-user customer organization. The License, granted hereunder shall extend to Licensee’s wholly owned subsidiaries or divisions or organizations within the agency, but not to other entities, Federal agencies or governmental departments.

C2. **MAINTENANCE.** During any period for which Licensee has made the required maintenance payment, Licensee shall be entitled to receive the following from OmniSystems:

a. Updates (as described below);
b. Defect Correction (as described below); and
c. Support Requests (as determined by Licensee’s specific support plan located in the Purchase Order or maintenance invoice, and as further described below).

C3. **SUPPORT.** Subject to Licensee’s payment of the annual support fee, OmniSystems agrees to provide annual support of the Licensed Software delivered to Licensee pursuant to this Agreement. For Licensees other than U.S. Government Licensees, Licensee agrees to subscribe to the Annual Support Agreement unless a written notification of termination is submitted to OmniSystems prior to commencement of annual support anniversary date. In the event that Licensee allows its payment for Annual Support and Maintenance Services to lapse, OmniSystems shall charge (at its discretion) and Licensee shall pay (i) all back maintenance fees to cause the Annual Support and Maintenance Services to be current; and (ii) a reinstatement fee equal to $5,000. For U.S. Government Licensees, any agreement for Annual Support (or renewal thereof) shall be in accordance with the exercise of an option year and application of the funding for such renewal. Any fees for the lapsed coverage period, OmniSystems will be entitled to pursue such fees via an equitable adjustment claim under the Contracts Dispute Act. A “lapse” as used herein means any period of time that occurs after the Annual Support and Maintenance period has expired.

C4. **UPDATES.** OmniSystems shall provide Licensee (i) all upgrades, modifications, improvements, enhancements, extensions, and other changes to the Licensed Software which are generally made available to other Licensed Software customers of OmniSystems.

C5. **DEFECT CORRECTION**

a. Licensee shall report suspected Defects in the Licensed Software to OmniSystems using the OmniSystems hotline or the Internet, and shall document the suspected Defect. If the Defect is confirmed, OmniSystems shall use commercially reasonable efforts to provide a Correction to Licensee.

b. OmniSystems shall not be responsible for Defect Correction in any version of the Licensed Software other than the most recent release of the Licensed Software, provided that OmniSystems shall continue to support prior Licensed Software releases for a period of not more than six months after the most recent release.

c. OmniSystems reserves the right to decline Licensee maintenance/support requests that could be resolved by reference to the Documentation or implementation of Corrections, or that arise from Licensee’s negligence, Misuse of the Licensed Software, or issues relating to third party equipment and Licensed Software unless subject to a mutually agreed SOW or Quote (as applicable) to provide such Professional Services for additional fees.

d. Licensee will take all reasonable steps to carry out procedures for the Correction of Defects or implementation
of Corrections and Updates provided by OmniSystems within a reasonable time after such procedures have been received.

C6. SUPPORT REQUESTS. OmniSystems shall provide support so as to allow Licensee to report problems and to seek assistance in the use of the Licensed Software. OmniSystems provides support from 9AM to 5PM Eastern Time, Monday through Friday, excluding any US federal holidays. Upon receipt of the initial request OmniSystems will provide a maintenance identification number. OmniSystems shall respond to support requests within a commercially reasonable time, normally one (1) hour, after receipt of Licensee’s request. In response to the request, OmniSystems will employ reasonably commercial efforts to either resolve the problem or provide Licensee with an identification of the level of severity of the problem, and an estimated completion time for resolution of the problem.

C7. MAJOR DEFECT. When Licensee reports a Major Defect to OmniSystems using the OmniSystems hotline, OmniSystems shall immediately proceed with diligent and sustained effort to (i) recreate and verify such Major Defect, and then employ reasonable commercial efforts to correct such Major Defect and (ii) unless the Major Defect is corrected within forty-eight hours of OmniSystems’ receipt of Licensee’s report thereof (or such longer period as Licensee may agree), implement a temporary solution to avoid or significantly minimize the impact of the Major Defect on the operation of the Licensed Software until the major defect is corrected.

C8. MINOR DEFECT. When Licensee reports a Minor Defect to OmniSystems using the OmniSystems hotline, OmniSystems shall within a commercially reasonable time initiate efforts to (i) recreate and correct such Minor Defect within a reasonable time and (ii) suggest solutions to avoid and minimize the impact of the minor defect on the operation of the Licensed Software until the Minor Defect is corrected.

C9. DOCUMENTATION. OmniSystems will provide to Licensee, at OmniSystems’ option, either in hard copy or by electronic media updated Documentation for any upgrades, modifications, improvements, enhancements, extensions, and other changes to the Licensed Software.

C10. SUPPORTED VERSIONS. OmniSystems shall not be responsible for correcting Major Defects or Minor Defects in any version of the Licensed Software other than the most recent release of the Licensed Software, provided that OmniSystems shall continue to support prior releases superseded by recent releases for a reasonable period sufficient to allow Licensee to implement the newest release.

C11. LICENSEE RESPONSIBILITIES. OmniSystems shall not be obligated (i) to provide assistance (beyond an initial response to Support Requests) or consulting time relating to problems, errors or malfunctions caused by (A) malfunction of Licensee’s equipment, (B) software not licensed pursuant to this Agreement, (C) Misuse or (D) any other cause not attributable to OmniSystems; (ii) to provide extensive training that would normally be provided in formal training classes; or (iii) to perform Professional Services that would normally be provided at Licensee’s business location.

C12. EXCLUDED ITEMS.

a. OmniSystems’ maintenance/support obligations shall not include:
   1. providing assistance (beyond an initial communication) or consulting time relating to problems, caused by (i) malfunction or failure of the computer system and communications network on which Licensee has installed and is using the Licensed Software, (ii) Licensed Software not licensed pursuant to this Agreement, (iii) Misuse, (iv) improper installation or configuration by Licensee, third party consultants, or Support Contractors, (v) failure to incorporate Updates or Corrections, or (vi) any other cause not attributable to OmniSystems;
   2. providing training covered in formal training classes;
3. performing Professional Services that would normally be provided at Licensee’s business location;
4. development or support for any Licensed Software customizations or custom reports;
5. database schema changes, or supporting application program interfaces (“APIs”) not provided or approved by OmniSystems;
6. supporting hosting providers not certified by OmniSystems; or
7. OmniSystems’s training guides e-learning modules, training kits, "train the trainer" programs or other learning resources provided by OmniSystems.

b. If OmniSystems notifies Licensee that a problem, error or malfunction for which Licensee has requested maintenance is not covered, OmniSystems will work with Licensee to develop a mutually agreed SOW or Quote (as applicable) under which OmniSystems will perform such services at OmniSystems’ then-current rates. For those U.S. Government Licensees who purchased maintenance services under the MAS Contract, and such services require professional services, the then-current rates set forth in the MAS Contract shall apply when agreed upon by both parties in writing.
Section D
Professional Services Terms and Conditions

D1. PROFESSIONAL SERVICES. OmniSystems shall provide Professional Services when mutually agreed in an SOW or Quote (as applicable). Unless otherwise agreed in writing by OmniSystems, the terms and conditions of this Agreement will apply to any Professional Services provided to Licensee by OmniSystems after the Effective Date, whether or not this Agreement is referenced and whether or not an SOW or Quote (as applicable) is executed. Licensee acknowledges that the ultimate responsibility for the Professional Services rests with Licensee and that OmniSystems’ role is to assist Licensee in that endeavor. Any staff or personnel provided by OmniSystems to provide the Professional Services under an SOW or Quote (as applicable) are referred to as “Consultants”.

D2. PROJECT MANAGEMENT. Licensee shall appoint an individual to authorize SOWs, receive progress reports and address problems that may arise in connection with the Professional Services (the “Project Manager”) and shall provide OmniSystems in writing with the name and contact information for that Project Manager.

D3. WORK ON LICENSEE’S PREMISES. OmniSystems shall require its Consultants to observe the reasonable security, safety and other policies of the Licensee while such Consultants are on Licensee’s premises, provided that Licensee provides OmniSystems with reasonable advance notice of those policies. For U.S. Government Licensees, OmniSystems shall comply with all security requirements as set forth in the contract award.

D4. LICENSEE’S COOPERATION. OmniSystems’ performance depends upon Licensee’s timely and effective cooperation in connection with the Professional Services, including providing OmniSystems with reasonable facilities, timely and sufficient access to appropriate data, information, and appropriately skilled Licensee personnel, and prompt responses to questions and requests. OmniSystems will not be liable for any failure or delays in performing the Professional Services to the extent that the failure or delay is caused by Licensee’s failure to cooperate. Unless otherwise specified in an SOW or Quote (as applicable), OmniSystems may rely upon the accuracy and completeness of data, material, and other information furnished by Licensee, without any independent investigation or verification. Should the data contain errors or inaccuracies, Licensee shall be responsible for the time it requires for OmniSystems’ consultants to expend to resolve the identified errors or issues.

D5. STATEMENT OF WORK. All work performed by OmniSystems will be documented in an SOW or Quote (as applicable). Each SOW or Quote (as applicable) shall establish the general nature of the work to be performed, the number of Consultants to be assigned, the estimated duration of the Professional Services, the approximate number of hours, and the applicable hourly rate or fee. If there is a conflict between this Agreement and the SOW or Quote (as applicable), the SOW shall control. For those U.S. Government Licensees who purchased professional services under the MAS Contract, the then-current hourly rates as well as the terms and conditions set forth in the MAS Contract shall apply.

D6. CHANGE ORDERS. Either party may propose changes in the scope of the SOW or Quote (as applicable), but neither party will be bound by any proposed change until both Parties have agreed to that change in writing (a “Change Order”).

D7. SCHEDULING. OmniSystems will try to accommodate work schedule requests of Licensee to the extent commercially practicable. OmniSystems reserves the right to change such schedule for any SOW if the assigned Consultants are unable to perform scheduled Professional Services because of illness, resignation, weather, or other causes beyond OmniSystems’ reasonable control. OmniSystems will make commercially reasonable efforts to replace any such Consultant within a reasonable time in order to limit impact on the schedule.

D8. CANCELLATION OR RESCHEDULING OF SOWs. Licensee may cancel or reschedule (if previously scheduled) all or part
of any SOW upon thirty (30) days' advance written notice ("Notice Period") and provide a detailed reason for the cancellation. Upon cancellation of an SOW in progress, Licensee will pay all fees and expenses for work performed through the effective cancellation date (partially completed fixed fee engagements will be prorated) as well, except for U.S Government Licensees, as reasonable costs directly related to Licensee’s cancellation (such as lodging cancellation charges or air travel change fees). An SOW may be rescheduled at no cost, except for U.S Government Licensees, any reasonable costs directly related to rescheduling (such as lodging cancellation charges or air travel change fees). OmniSystems will make reasonable efforts to accommodate Licensee’s requested dates but the rescheduled SOW dates, although mutually agreed, shall be based on availability of Consultants. If Licensee cancels or reschedules an SOW with less than the Notice Period, except for U.S Government Licensees, Licensee will also pay a fee equal to the total daily rates for Consultants assigned to the SOW for every day that the actual notice was less than the Notice Period. Moreover, the fee may not exceed the remaining number of days scheduled on the SOW. Notwithstanding the foregoing, for those U.S. Government Licensees who purchased professional services under the MAS Contract, Changes shall be made in accordance with FAR 52.212-4 (Changes).

D9. FEES AND EXPENSES. Unless otherwise provided in an SOW or Quote (as applicable), Licensee shall pay OmniSystems on a time and materials basis at OmniSystems’ then-current rates. Hourly rates or fees for Professional Services performed shall be set forth in the applicable SOW or Quote (as applicable). Unless otherwise agreed in writing in the SOW or Quote (as applicable), the minimum labor charge for any single day is eight hours. This previous sentence shall not apply to U.S. Government Licensees purchasing Services under the MAS Contract. Billable amounts incurred in excess of eight hours per day will be billed at the standard, straight-time hourly rate. Estimated fees for Professional Services under this Agreement do not include travel or other expenses. Licensee agrees to reimburse OmniSystems for and will be invoiced for all travel and other expenses. Out-of-pocket expenses will be reimbursed on a pass-through basis based on the net cost paid or invoiced at the time of purchase, which includes airfare, ground transportation, lodging, meals and incidentals. Licensee acknowledges that OmniSystems or its affiliates may receive frequent flyer miles, hotel "points", commissions, rebates, fees or other consideration ("Benefits") as a result of relationships with travel service providers, alliance companies, software, hardware, and other vendors. Licensee agrees that OmniSystems is not obligated to provide a credit for or reimbursement to Licensee for Benefits. Notwithstanding the foregoing, for those U.S. Government Licensees who purchased professional services under the MAS Contract, fees and expenses owed to OmniSystems shall be in accordance with the authorized Task or Delivery Order written against the MAS Contract. Moreover, payment by U.S. Government Licensees for travel shall be reimbursed in accordance with Public Law 99.234 and FAR Part 31.

D10. ACCEPTANCE OF DELIVERABLES. The process for accepting any and all deliverables under a SOW or Quote (as applicable) and this Section D will be in accordance with the following:

- OmniSystems and Licensee will follow the below process for accepting any and all deliverables that require Licensee acceptance:
  - OmniSystems will submit all deliverables other than software in writing.
  - Licensee will have a period of 10 business days to respond to the submitted deliverable with any requested changes.
  - Within 10 business days of the requested changes OmniSystems will resubmit the deliverable.
  - Licensee will then have 10 business days to accept the resubmitted deliverable. If Licensee does not find the resubmitted deliverable acceptable the above process will continue.
  - If Licensee does not respond within the intervals outlined above the submitted deliverable will be considered accepted by Licensee.

Notwithstanding the foregoing, for those U.S. Government Licensees who purchased professional services under the MAS Contract, the acceptance process shall be in accordance with FAR 52.212-4(a) and the above referenced terms if incorporated into the contract award.
D11. **PROJECTION EQUIPMENT.** If requested by OmniSystems, Licensee will make available for use projection equipment for on-site training classes. Alternatively and upon prior written request, OmniSystems will provide projection equipment for an additional charge. For U.S. Government Licensees, any charges for projection equipment shall be included in the contract award and be funded accordingly.