Motio, Inc.
7161 Bishop Rd STE 200
Plano, TX 75024-3646
Tel. (972) 447-9595
Fax (972) 447-9594

Internet: www.MOTIO.com

Business Size Classification: Small

Contract Number: GS-35F-059AA
Period Covered by Contract: 11/7/2012 thru 11/6/2027
Pricelist current through Modification PO-0037, dated 11/7/2022

511210 Software Licenses - Includes both term and perpetual software licenses and maintenance.
OLM - Order Level Materials (OLM)

General Services Administration – Federal Supply Service

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 GSAAdvantage®, a menu-driven database system. The Internet Address to GSAAdvantage!® is: GSAAdvantage.gov
About Motio...

Motio is a global software company and IBM Premier Business Partner. At Motio, we develop software solutions that enable more accurate and reliable Business Intelligence implementations. We don’t make BI software, we simply make it better.

For the past fifteen years, Motio has been a home for software professionals who are passionate about the art of software development. Our mission during this time has been centered around building innovative solutions which improve the lives of our customers. We don’t just do this for a living, we do this because it is our passion.

Why Motio?

Wouldn’t you like to have the most accurate and reliable BI implementation possible?

Many organizations are operating without a safety net, exposing themselves to all sorts of risks and unnecessary costs. Are you one of them?

An accurate and reliable BI implementation is essential for every organization that relies on information and analytics to make informed business decisions. BI managers who have realized this have put the following strategy in place:

- Complete insight into the BI environment
- Full control over processes and change
- Employ innovative software to lower risk and support a smarter way of working

Complete insight into IBM Cognos

Do you know what’s changing in your BI environment today? When using Cognos out of the box, how can you know who revised which BI object or when someone promoted it -- and to where? What happens when valuable BI content is changed or deleted and you all you want to do is get back to the version that you actually need? You spend the time reproducing that desired version, but can you rely on memory to replicate the exact version you had before? Have you thought about the time and cost associated with this methodology of BI content loss/recovery?

Do you have broken reports? Often times reports with errors get promoted to production, leaving the end consumer to discover them and file support tickets. That sounds like the perfect way to cultivate unhappy consumers and avoidable support issues! Wouldn’t it be nice if report authors could retest their work as they make changes, to avoid promoting broken content to production?

How complex are your reports? The more complex your reports are, the more prone they are to defects. Do you have the ability to test when these errors occur and then easily undo them? You won’t without version control and an automated testing plan in place.

How efficient are your current methods in maintaining SOX compliance? Are you absolutely certain that the data is verifiably accurate? How much time is consumed in ensuring?

Full control over processes and change

How do you debug? If you’re reacting to problems, you’re wasting time and money on unnecessary debugging. How do you pinpoint when and where the problem started? Wouldn’t it be more appealing and cost-effective to adopt a proactive approach, like automating test case scenarios that alert you when something is awry?

Are you throwing money down the drain each time you promote BI content? I hear a resounding "YES!" You are indeed throwing money down the drain if you don’t know who promoted what and when, if you cannot promote what and when you choose, and you cannot validate that the content will actually work in the new environment once promoted. Wouldn’t it make sense to stop users from promoting error-prone content to production if you could, thus avoiding all of the time and costs that come with repair?

Innovative software to lower risk and support working smarter

You simply cannot get complete insight and full control over processes and change without having innovative software. Motio’s product suite is designed for BI managers with a strong vision about how business analytics can help their organization perform better. They understand that by implementing our products, they gain full insight and control over change, and why Motio enables more accurate and reliable BI implementations.
Information for Ordering Activities

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

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<th>DESCRIPTION</th>
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1b. Lowest Priced Model for Each SIN:

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1c. Labor Category Descriptions and Hourly Rates

Not applicable, however descriptions of products available may be found in Attachment I.

2. Maximum Order

- 511210 $500,000
- OLM $250,000

3. Minimum Order

- 511210 $100.00
- OLM Not applicable

4. Geographic Coverage


5. Point(s) of Production (city, county, and State or foreign country)

USA

6. Discount from list prices or statement of net price

Prices shown in this pricelist are NET prices; basic discounts have been deducted. Please see GSA Net Pricing at Attachment I.

7. Quantity Discounts

None

8. Prompt Payment Terms

None

9. Foreign Items

None
10a. Time of Delivery After Receipt of Order (ARO)
   511210: 10 days ARO

10b. Expedited Delivery
   Contact Contractor

10c. Overnight and 2-day delivery
   Contact Contractor

10d. Urgent Requirements
   Contact Contractor

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

12a. Ordering Address
   Motio, Inc.
   7151 Bishop Rd, STE 200
   Plano, TX 75024

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
   Motio, Inc.
   7151 Bishop Rd, STE 200
   Plano, TX 75024

14. Warranty provisions
   See Attachment II.

15. Export packet charges
   Not applicable.

16. Terms and conditions of rental, maintenance, and repair
   Not applicable.

17. Terms and conditions of installation
   Not applicable.

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

18b. Terms and conditions for any other services
   Not applicable.

19. List of service and distribution points
   Not applicable.
20. **List of participating dealers**
   Not applicable.

21. **Preventive Maintenance**
   Not applicable.

22a. **Special attributes such as environmental attributes**
   Not applicable.

22b. **Section 508 compliance information is available on Electronic and Information Technology (IT) supplies and services at www.motio.com. The EIT standard can be found at: www.section508.gov.**

23. **Unique Entity Identifier (UEI) Number**
   MRK5C6KC2VH4

24. **Notification regarding registration in the System for Award Management (SAM) Database**
   Motio, Inc. is registered with the SAM database.
Attachment I: Products and Pricing

MotioPI Pro™

MotioPI Professional provides the ability to manage multiple users and handle hundreds of Cognos objects to save time and ensure uniformity. Includes the following features:

- **Bulk Update User Preferences** – Quickly and accurately manage Cognos user profiles & portal tabs en masse and assign groups and roles to users in bulk.
- **Bulk Update of Group/Role Memberships** – Bulk update memberships of Cognos groups and roles.
- **Model Editing** – Refactor Framework Manager Models and then apply the same changes to affected reports, queries and analyses in the Content Store. Publish modified packages directly from MotioPI. Recover framework models from published packages (if they have been lost or deleted).
- **Property Distributor** – Quickly replicate selected properties from one Cognos object onto many other target objects, sync security policies, blast parameter values between reports, schedules, etc.
- **Search and Replace** – Bulk search and replace across many types of Content Store objects (reports, queries, analyses, etc.). Validate the specifications before and after applying the replacement. Regular expressions now supported.
- **Schedule Delivery** – Identify schedule membership, manage and update schedule allocation.
- **Templatizer** – Replicate report fragments from a template onto many target reports (e.g. headers, footers, prompt pages, report pages, queries, etc.)
- **Cognos Outputs** – Archive Cognos outputs safely, with the download & delete feature.
- **Reference Objects** – Avoid broken referencing items when Cognos content is moved or deleted with the automated updating feature.
- **Orphaned Objects** – Easily recover Public and My Folders content from deleted Cognos users and re-assign ownership of the content.
- **User Access** – Identify and export Cognos users' group and role memberships and security access for individuals, groups, and Cognos objects. View the Content Store from a user or group’s perspective.
- **My folders** – Inspect a user’s My Folder content and storage capacity from their perspective.
- **Validation** – Verify pass or failure details for queries, analyses, agents and reports in bulk.
- **Schedules** – Manage and allocate Cognos jobs & schedules and their recipients, enable, disable and delete features as well.
- **Cognos Output** – See stored results for Cognos reports, queries and analyses: who, what & when it was run.
- **Content** – Query across all users’ My Folders and Public folders for reports, queries, analyses, report views, packages, etc. and view detailed info such as properties, policies, and more.
- **Environment** – Obtain comprehensive information on Cognos dispatchers, data sources, services and installed components.
- **Execution Time** – History and results for executed run time on any scheduled reports and jobs.
Site Subscription includes support for all on-site Cognos Administrators for the duration of 12 months.

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**MotioCI™ – Level 1**

MotioCI Enterprise augments IBM Cognos environments with version control, and release management. MotioCI Enterprise is the first and only life-cycle management system to truly support governance, risk management and compliance for IBM Cognos. Includes the following features:

- **Version Control** – Version all Cognos objects anywhere in the Content Store. Version BI artifacts (reports, analysis objects, etc.), dispatchers, data sources, groups/roles, properties, Framework Manager Models, Transformer Models, etc. Recover deleted Cognos content. Integrate with defect tracking systems. Check-in and check-out report locking system.
- **Impact Analysis** – Stage a promotion to test success or failure and the impact it may have in the new Cognos environment.
- **Promotion Groups** – Simultaneously deploy content to multiple Cognos environments for one-step promotions.
- **Schedule and "Undo" Deployments** – Deploy Cognos content at specific dates and times. Make a mistake? Simply click the "undo" link to reverse a deployment.
- **Promotion History** – Investigate events pertaining to promotions.
- **Unified View** – All Cognos environments in a single view.
- **Reference Tracking** – Expose the dependencies between Cognos objects.

MotioCI Enterprise – Level 1 includes the following features: Motio CI Server Instance, Version Control, Version Control Timeline Events Manager, Additional Timeline ‘Change’ Detectors and Full Timeline Management. Additional Version Control Instances and Studio Integration may be implemented at additional costs.

**MotioCI™ – Level 2**

MotioCI Enterprise augments IBM Cognos environments with version control, and release management. MotioCI Enterprise is the first and only life-cycle management system to truly support governance, risk management and compliance for IBM Cognos. Includes the following features:

- **Version Control** – Version all Cognos objects anywhere in the Content Store. Version BI artifacts (reports, analysis objects, etc.), dispatchers, data sources, groups/roles, properties, Framework Manager Models, Transformer Models, etc. Recover deleted Cognos content. Integrate with defect tracking systems. Check-in and check-out report locking system.
- **Impact Analysis** – Stage a promotion to test success or failure and the impact it may have in the new Cognos environment.
- **Promotion Groups** – Simultaneously deploy content to multiple Cognos environments for one-step promotions.
- **Schedule and "Undo" Deployments** – Deploy Cognos content at specific dates and times. Make a mistake? Simply click the "undo" link to reverse a deployment.
- **Promotion History** – Investigate events pertaining to promotions.
• **Unified View** – All Cognos environments in a single view.
• **Reference Tracking** – Expose the dependencies between Cognos objects.
• **Regression Testing** – Identify problems early in the BI development cycle. Tests can be configured on all executable and non-executable Cognos content such as, reports, queries, packages, data sources, dispatchers, etc.
• **Assertion Studio** – The sky is the limit when it comes to what you can test. Assertion Studio allows you to create and customize what you need to test specific to your organization.
• **Stress Testing** – Determine the load your BI environment can handle and identify critical breaking points with stress testing.
• **Continuous Verification** – Configure regression tests to run at regular intervals with MotioCI’s continuous integration capabilities.

MotioCI Enterprise Level 2 includes all the features of MotioCI Enterprise Level 1. MotioCI Enterprise Level 2 – Level 2 includes an additional Full Testing Suite and Stress & Load Testing. Additional Version Control and Testing Instances and Studio Integration may be implemented at additional costs.

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**MotioCAP™**

Motio’s Custom Authentication Provider is a well-designed custom framework which allows organizations to implement a fully supported custom authentication provides quickly and efficiently. Software includes convenient ‘flexpoints’ for supporting a wide variety of customer specific authentication scenarios, SSO and tokens, the ability to patch API ‘holes’, removes complexity, and built in fault tolerance. The MotioCAP framework embeds solutions to security issues so that they are taken care of automatically, and exposes convenient flexpoints for you to hook it in to your particular environment. Users will dramatically reduce time required to implement a full custom security provider by using the MotioCAP framework and will ensure a robust and fully functional implementation.

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**MotioADF™ – Production Cognos Dispatcher**

MotioADF (Application Development Framework) enables customers large and small to extend, customize or embed IBM Cognos BI content into portals, customer and vendor facing websites and just about any application a company can envision. Also allows companies to create and rapidly deploy highly tailored IBM Cognos BI solutions fast and more reliably than when using the raw IBM Cognos SDK. Also includes:

• **Toolkit Layer** – A powerful object oriented interface on top of the standard IBM Cognos SDK.
• **Services Layer** – An interface that implements a series of services which provide value added features on top of the default IBM Cognos capabilities.
• **Webtier** – A series of abstractions and building blocks which make it much easier to build custom web applications in front of Cognos based installations which also includes a powerful custom prompting framework which enables customers to easily build advanced custom prompts which can be shared across many reports.

• **Custom Portal** – Acts as an end user focused replacement for Cognos Connection.

This version of MotioADF applies to a Production Cognos Dispatcher.

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**Motio ReportCard**

Motio ReportCard is a cloud-based tool that gathers analytics about the user’s BI implementation. Identifies inefficiencies hindering overall performance, determines the overall state of your BI environment, and measures BI outputs against company standards. Users will have the ability to find query counts, find reports without prompt pages, match reports on duplicate queries, and find reports with the same name, etc. Motio ReportCard identifies unnecessary and duplicated reports that cause potential performance issues – results in time savings by means of reductions of report count and improvement of report performance. Includes annual maintenance and based on one of three categories:

**Discovery issues:** ReportCard discovers inefficiencies and reports back with a list of suggested improvements, including the ability to find duplicate reports.

**Improvements:** ReportCard will apply the suggested improvements. You may save these improvements to the report specifications for future use.

**Stress and load tests:** ReportCard runs stress and load tests on the BI system to determine maximum user capacities.

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### Annual Maintenance for MotioCI, MotioCAP, MotioADF, & Motio ReportCard

Motio, Inc. will provide assistance via telephone, facsimile, the Internet, and/or dial-up direct computer (to the extent provided by the customer). The customer may provide Motio, Inc., at Motio, Inc.’s cost, with full dial-up access to the Software so as to enable Motio to provide the maintenance services set forth herein.

Motio will provide the customer with all improvements and modifications to the Software as developed by Motio that Motio provides generally for no additional fee to its supported customer base.

Maintenance will be provided for the two most recent releases of the Software as specified by Motio.

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Attachment II: Warranty and Agreements

This Master Agreement (“Agreement”) is made and entered into this [BLANK] (“Effective Date”), by and between Motio, Inc. (“MOTIO”), having its principal place of business at 7161 Bishop, Suite 200, Plano, Texas 75024, and [BLANK] (“CUSTOMER”), having its principal place of business at [BLANK]

TERMS AND CONDITIONS

1. Definitions

For purposes of this Agreement, the following terms shall have the following meanings:

Confidential Information shall mean non-public information of a party that is marked or otherwise identified as confidential at the time of disclosure, or that a reasonable person would understand to be confidential based on the nature of the information and the circumstances surrounding disclosure. As an example only and not by way of limitation, MOTIO’s Source Code, Software, Documentation, and any idea, algorithm, or trade secrets of MOTIO in the Software or Documentation will be deemed to be MOTIO’s Confidential Information.

Documentation shall mean the user’s manuals and/or other documentation provided to CUSTOMER along with the Software, whether tangible or electronic form.

Executable Code shall mean the fully compiled version of a software program that can be executed by a computer and used by an end-user without further compilation.

Intellectual Property Rights shall mean all copyrights, trademarks, service marks, trade secrets, patents, moral rights, contract rights, and other proprietary rights.

License Fees shall mean the fees set forth in the exhibits attached hereto.

License Scope shall mean the scope of the licenses granted to each of the different types of the Software identified in the exhibits attached hereto. The scopes of the licenses to these different types of the Software may differ, and the term License Scope shall be used to collectively refer to the different scopes of all the licenses to the Software.

Service Bureau includes but is not limited to application service providers, hosting companies and Internet portals that would use the software for the benefit of third party to third party transactions.

Services shall mean any installation, configuration, programming, training, and/or consulting services, other than initial installation of the Software or services falling within the scope of maintenance described in the exhibits attached hereto, if provided pursuant to this Agreement.

Software shall mean the software products owned by MOTIO that are identified in each of the exhibits attached hereto and shall include the Documentation for the Software, including applicable technical and end-user documentation relating thereto provided to CUSTOMER hereunder.

Source Code shall mean the human-readable version of a software program that can be compiled into Executable Code.

2. License Grant

MOTIO grants to CUSTOMER, a non-exclusive, non-transferable, non-sublicensable license to the Software according to the License Scope, as identified in the exhibits attached hereto, in accordance with the terms of this agreement.

3. Restrictions of Use

CUSTOMER acknowledges that the Software and the Software’s code sequence, structure, organization and Source Code constitute valuable trade secrets of MOTIO. Accordingly, except as otherwise permitted in this Agreement, CUSTOMER agrees not to:

(a) modify, adapt, alter, or translate the Software unless CUSTOMER has requested, in writing, permission from MOTIO and such permission has been granted to CUSTOMER in writing from MOTIO;
(b) sell, distribute, transfer sublicense, lease, rent, or loan the Software to any third party (other than to a licensed End User, including without limitation, through CUSTOMER’s resellers and distribution channels, if otherwise authorized pursuant to the relevant License Scope).
(c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the Software’s Source Code;
(d) use the Software in connection with the operations of a Service Bureau, in a time-sharing environment for the benefit of any third party; or
(e) use the Software except as expressly allowed under Section 2 (License Grant).

These restrictions are not intended to restrict CUSTOMER’S ability to implement the provided interfaces but rather intended solely to prohibit unauthorized uses, alterations or modifications, or other changes of the Software.

4. Copies

CUSTOMER shall be permitted to make a reasonable number of copies of the Software solely for backup, archival and testing purposes. CUSTOMER shall be permitted to make a reasonable number of copies of the Documentation and distribute such copies to CUSTOMER’S internal user community.

5. Delivery and Acceptance

MOTIO will deliver to CUSTOMER the number of copies of the Software indicated in the exhibits attached hereto on the delivery date set forth in such exhibits. If requested by CUSTOMER, MOTIO will install the Software on CUSTOMER’S system. The Software shall be deemed accepted upon the date of delivery.

6. License Fees and Payment; Maintenance and Support

(a) CUSTOMER shall pay MOTIO, or its authorized reseller the Total License Fee specified in each of the exhibits attached hereto in accordance with Federal Acquisition Regulation (FAR) 52.212-4(g) and (i).
(b) CUSTOMER shall also pay MOTIO, according to the payment terms set forth in Federal Acquisition Regulation (FAR) 52.212-4(g) and (i).
(c) CUSTOMER shall pay Annual Maintenance Fees to MOTIO in accordance with FAR 52.212-4(g) and (i). The Annual Maintenance Fees cover CUSTOMER’S Software updates and maintenance of the Software as set forth in the exhibits attached hereto. Provided the Annual Maintenance Fee is paid, MOTIO shall provide Software updates and maintenance to the extent set forth in the exhibits attached hereto.
(d) All payments must be made in U.S. dollars.
(e) Notwithstanding the terms and conditions of the Federal, State, and Local Taxes Clause, the contract price excludes all State and Local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. MOTIO shall state separately on its invoices taxes excluded from the contract price, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) to the contractor or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3. CUSTOMER shall not be responsible for any taxes related to MOTIO’s income.

7. Professional Services

(a) In the event CUSTOMER wishes to purchase additional Services, MOTIO agrees to provide such Services on an as-needed basis as defined and authorized by CUSTOMER, subject to the availability of MOTIO personnel. Services are not included in the Total License Fee or Maintenance Fee for the Software and will be provided at MOTIO’s then-current rates as established in the GSA Schedule contract.
(b) Services will be furnished by MOTIO in accordance with the following terms:
Upon CUSTOMER’S request, MOTIO will prepare a Statement of Work containing, among other provisions, a description of the Services to be performed and a good faith estimate of the personnel services effort, processing charges, and other related costs. Statements of Work will become binding upon CUSTOMER’S execution of the Statement of Work.

All executable programs, and all programming documentation relating thereto, including specifications, developed by MOTIO hereunder shall be the property of MOTIO; provided, however, that MOTIO grants CUSTOMER the right to use such programs as if part of the Software. MOTIO will own and may utilize freely any and all code, ideas, concepts, methods, know-how, or techniques discovered or developed by MOTIO during the performance of Services.

All Services shall be subject to the terms and conditions of this Agreement and any additional terms and conditions provided in any Statement of Work.

8. Warranties

1. For the period of ten (10) days, beginning on the Effective, MOTIO warrants the Software, when used as permitted under this Agreement and in accordance with the instructions in the Documentation, will operate in substantial conformance with the published specifications set forth in the Documentation. Additional warranty term may be purchased as part of a Maintenance for certain types of the Software, if so specified in the associated exhibit attached hereto.

2. MOTIO does not warrant that CUSTOMER’S use of the Software will be error-free or uninterrupted. MOTIO will, at its own expense and as its sole obligation and CUSTOMER’S exclusive remedy for any breach of this warranty, use commercially reasonable efforts, which may include advising CUSTOMER electronically or telephonically how to make corrections, to correct any reproducible errors in the Software that CUSTOMER reports to MOTIO in writing during the warranty period. Any such error correction provided to CUSTOMER will not extend the original SOFTWARE WARRANTY PERIOD. If the error cannot be corrected, MOTIO’S ENTIRE LIABILITY AND CUSTOMER’S EXCLUSIVE FURTHER REMEDY FOR BREACH OF THE WARRANTY SET FORTH IN THIS SECTION 8 SHALL BE, AT MOTIO’S OPTION, EITHER (I) REPAIR OF THE SOFTWARE OR (II) REPLACEMENT OF THE SOFTWARE. REPLACED SOFTWARE IS WARRANTED FOR THIRTY (30) DAYS FROM INSTALLATION.

3. CUSTOMER’S FAILURE TO IMPLEMENT UPDATES AND IMPROVEMENTS IN A TIMELY MANNER, WITHOUT MOTIO’S PRIOR WRITTEN CONSENT, WILL VOID SUCH WARRANTY.

4. EXCEPT AS EXPRESSLY PROVIDED ABOVE IN THIS AGREEMENT, MOTIO MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. MOTIO DOES NOT WARRANT THAT THE SOFTWARE WILL MEET CUSTOMER’S REQUIREMENTS, OR THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. CUSTOMER SHALL HAVE SOLE RESPONSIBILITY FOR THE ACCURACY AND ADEQUACY OF THE INFORMATION FURNISHED FOR PROCESSING AND ANY USE MADE BY CUSTOMER OF THE DATA OUTPUT BY THE SOFTWARE AND ANY RELIANCE THEREON.

9. Term and Termination

(a) Term. The term of this Agreement will begin upon the Effective Date and shall be perpetual unless terminated earlier in accordance with this Agreement.

(b) Termination. CUSTOMER may terminate this Agreement upon the occurrence of a material breach by the other party, which material breach has not been cured within thirty (30) days after receipt of written notice thereof.

(c) Effects of Termination. Upon termination or expiration of this Agreement for any reason, any undisputed amounts owed to MOTIO under the Agreement before such termination or expiration will be immediately due and payable. All licensed rights granted in this Agreement will immediately cease to
exist. MOTIO’s obligation to provide maintenance and support shall immediately cease. CUSTOMER must promptly discontinue all use of the Software, erase all copies of the Software from CUSTOMER’S computers, and return to MOTIO or destroy all copies of the Software and Documentation in CUSTOMER’S possession or control, and certify in writing to MOTIO that CUSTOMER has fully complied with these requirements.

10. Survival

Section 1 (Definitions), Section 3 (Restrictions of Use), Section 6 (License Fees and Payment; Maintenance and Support), Section 8 (Warranties), Section 9 (Term and Termination), Section 10 (Survival), Section 11 (Confidentiality), Section 12 (Proprietary Rights), Section 13 (Infringement Claims), Section 14 (Limitation of Liability), and Section 15 (General – with the exception of the “Inspections” paragraph) will survive expiration or termination of this Agreement for any reason.

11. Confidentiality

(a) Except as expressly allowed under this Agreement, neither party will not use or disclose any Confidential Information of the other except to the extent that such party can document that any such item:

(i) is generally available for use and disclosure by the public without any license or charge;
(ii) is otherwise disclosed by the disclosing party or a third party without breach of a confidentiality obligation;
(iii) is independently developed by the receiving party without reference to the received Confidential Information; or
(iv) is required to be disclosed by the receiving party by law or any governmental authority, provided that the receiving party shall notify the disclosing party as soon as reasonably possible of any such compelled disclosure and give the disclosing party the opportunity to defend against such disclosure or obtain a protective order in connection therewith.

(b) Each party shall use commercially reasonable efforts, which shall be no less stringent than those efforts that such party uses to protect its own software or other similar proprietary property, to prevent the Confidential Information from being used by any employee, agent, consultant or other person in any manner that would violate this Agreement.

(c) Each party further agrees to use commercially reasonable efforts to assist the other in identifying and preventing any use or disclosure of the Confidential Information, including the Executable Code or Source Code of the Software or Documentation or any of the ideas, algorithms, source code, or trade secrets contained therein.

(d) Without limiting the foregoing obligation, CUSTOMER shall advise MOTIO immediately in the event that CUSTOMER learns or has reason to believe that any person who has had access to the Software or any portion thereof, as a result of this Agreement, has violated or intends to violate the terms of this Agreement.

12. Proprietary Rights

The Software and all worldwide Intellectual Property Rights therein, are the exclusive property of MOTIO. All right, title, and interest in the Software and all related materials, including all copyrights, trade secrets, and other intellectual property rights pertaining thereto, shall remain the property of MOTIO.

13. Infringement Claims

(a) If the Software becomes, or in MOTIO’s opinion is likely to become, the subject of an
infringement claim, MOTIO may, at its option and expense, either:

(i) PROCURE FOR CUSTOMER THE RIGHT TO CONTINUE USING THE SOFTWARE,
(ii) REPLACE OR MODIFY THE SOFTWARE SO THAT IT BECOMES NON-INFRINGEMENT, OR
(iii) ACCEPT RETURN OF THE SOFTWARE AND GIVE CUSTOMER A REFUND FOR THE LICENSE FEES PAID BY
CUSTOMER LESS A REASONABLE ALLOWANCE FOR THE PERIOD OF TIME CUSTOMER HAD USED THE
SOFTWARE.

(b) Notwithstanding the foregoing, MOTIO will have no obligation under this Section 13 or otherwise
with respect to any infringement claim based upon:

(i) ANY USE OF THE SOFTWARE NOT IN ACCORDANCE WITH THIS AGREEMENT OR FOR PURPOSES NOT
INTENDED BY MOTIO,
(ii) ANY USE OF THE SOFTWARE IN COMBINATION WITH OTHER PRODUCTS, EQUIPMENT, SOFTWARE, OR DATA
WHICH CUSTOMER IS NOT AUTHORIZED TO USE IN CONJUNCTION WITH THE SOFTWARE,
(iii) ANY USE OF ANY RELEASE OF THE SOFTWARE OTHER THAN THE MOST CURRENT RELEASE MADE AVAILABLE
to CUSTOMER,
(iv) ANY MODIFICATION OF THE SOFTWARE BY ANY PERSON OTHER THAN MOTIO,
(v) CUSTOMER’S CONTINUED ALLEGED INFRINGING ACTIVITY AFTER BEING INFORMED OF MODIFICATIONS
THAT WOULD HAVE AVOIDED THE ALLEGED INFRINGEMENT, OR
(vi) ANY COMBINATION OF THE CUSTOMER’S USE THE SOFTWARE WITH ANY OTHER ACTIVITIES OF THE
CUSTOMER OR OTHERS.

(c) FAR 52.21204 (h) shall apply to this Agreement.

14. Limitation of Liability

IN NO EVENT WILL MOTIO BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL OR
INCIDENTAL DAMAGES, INCLUDING LOST PROFITS OR ANY DAMAGES ARISING FROM ANY DATA LOSS OR
CORRUPTION OF ANY KIND, ARISING FROM OR RELATING TO THIS AGREEMENT INCLUDING THE USE OF
THE SOFTWARE PROVIDED HEREUNDER. MOTIO’S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH
THIS AGREEMENT AND THE SOFTWARE, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL NOT
EXCEED THE AMOUNT OF THE TOTAL LICENSE FEE PAID TO MOTIO FOR THE SOFTWARE. CUSTOMER
ACKNOWLEDGES THAT THE LICENSE FEE REFLECTS THE ALLOCATION OF RISK SET FORTH IN THIS
AGREEMENT AND THAT MOTIO WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE
LIMITATIONS ON ITS LIABILITY.

15. General

(a) Assignments. CUSTOMER may not assign or transfer, by operation of law or otherwise, any of
CUSTOMER’S rights under this Agreement to any third party without MOTIO’s prior written consent, such
consent not to be unreasonably withheld. Any attempted assignment or transfer in violation of the
foregoing will be void.

(b) Export. CUSTOMER agrees not to export the Software outside the United States without
MOTIO’s prior written consent, which consent will not be unreasonably withheld. CUSTOMER further
agrees to comply in all respects with the applicable export laws and regulations of the United States and
not distribute or transfer the Software in contravention of those laws and regulations. CUSTOMER will
defend, indemnify and hold harmless MOTIO from and against any violation of such laws or regulations by
CUSTOMER or any of CUSTOMER’S agents, officers, directors, or employees.

(c) Inspections. CUSTOMER will for three years maintain records sufficient to verify the amounts
owing to MOTIO hereunder. CUSTOMER will permit MOTIO or its representatives to review CUSTOMER’S
relevant records and inspect CUSTOMER’S facilities to ensure compliance with this Agreement. MOTIO
will give CUSTOMER at least two (2) business days advance notice of any such inspection and will conduct
the same during normal business hours in a manner that does not unreasonably interfere with CUSTOMER’S normal operations.

(d) **Notices.** All notices, consents and approvals under this Agreement must be delivered in writing by courier, by fax, or by certified or registered mail, (postage prepaid and return receipt requested) to the other party at the address set forth beneath such party’s signature, and will be effective upon the earlier of receipt or when delivery is refused. Either party may change its address by giving notice of the new address to the other party.

(e) **Governing Law and Venue.** This Agreement will be governed by the Federal laws of the United States. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

(f) **Waivers.** All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

(g) **Severability.** If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. Without limiting the generality of the foregoing, CUSTOMER agrees that Section 14 (Limitation of Liability) will remain in effect notwithstanding the unenforceability of any provision in Section 8 (Warranties).

(h) **Confidentiality of Agreement; Announcements.** Neither party shall disclose any terms of this Agreement to anyone other than its attorneys, accountants and other professional advisors except as required by law.

(i) **Construction.** The headings of Sections of the Agreement are for convenience and are not to be used in interpreting the Agreement. As used in the Agreement the word “including’ means “including but not limited to.”