SPECIAL ITEM NUMBER 511210 - SOFTWARE LICENSES
FSC/PSC CODE: 7030

SPECIAL ITEM NUMBER 54151 – SOFTWARE MAINTENANCE SERVICES
FSC/PSC CODE: J070

SPECIAL ITEM NUMBER 611420 – INFORMATION TECHNOLOGY TRAINING
FSC/PSC CODE: U012

SPECIAL ITEM NUMBER 54151S - INFORMATION TECHNOLOGY (IT) PROFESSIONAL SERVICES
FSC/PSC CODE: D399

OLM – ORDER LEVEL MATERIALS

Creative Enterprise Solutions, LLC DBA Beyond20
60 East Rio Salado Parkway, Suite 900
Tempe, AZ 85281-9126
(P) 866-856-3117 (F) 858-605-6591
www.beyond20.com
Contract Administrator: Erika Flora, erika.flora@beyond20.com

Contract Number: GS-35F-137AA
Period Covered by Contract: January 1, 2013 through December 31, 2022
Business Size: Small Business, Woman Owned Business, SBA Certified Small Disadvantaged Business

Schedule Title: Multiple Award Schedule
Federal Supply Group: Information Technology

Pricelist current through Modification #PO-0021, dated November 18, 2020.

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

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

1. Awarded Special Item Number(s):

<table>
<thead>
<tr>
<th>SIN</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>511210 &amp; 511210RC</td>
<td>Software Licenses</td>
</tr>
<tr>
<td>54151 &amp; 54151RC</td>
<td>Software Maintenance Services</td>
</tr>
<tr>
<td>611420 &amp; 611420RC</td>
<td>Information Technology Training</td>
</tr>
<tr>
<td>54151S &amp; 54151SRC</td>
<td>Information Technology Professional Services</td>
</tr>
<tr>
<td>OLM</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: See Page 4.

1c. Descriptions of all corresponding commercial job titles with experience, functional responsibility and education are provided beginning on page 10.

2. Maximum Order: For SINs 511210, 54151 & 54151S - $500,000 For SINs 611420 & OLM - $250,000

3. Minimum Order: $100

4. Geographic Coverage: Domestic

5. Point of Production: N/A

6. Prices Shown Herein are Net (discount deducted)

7. Quantity Discount: None

8. Prompt Payment Terms: Net 30. Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions.

9. Foreign Items: None

10. Time of Delivery: Beyond20 shall deliver or perform services in accordance with the terms negotiated in an agency’s order.

10b. Expedited Delivery: Consult with Contractor

10c. Overnight/2-Day Delivery: Consult with Contractor

10d. Urgent Requirements: Consult with Contractor

11. FOB Point: Destination
12. **a. Ordering Address:** Beyond20  
   Attn: GSA Orders  
   60 East Rio Salado Parkway, Suite 900  
   Tempe, AZ 85281-9126  

   **b. 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:** Beyond20  
   Attn: Accounts Receivable  
   60 East Rio Salado Parkway, Suite 900  
   Tempe, AZ 85281-9126

14. **Warranty Provisions:** Contractor’s Standard Warranty

15. **Export Packing charges:** Not applicable

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

17. **Terms and conditions of installation:** Not applicable

18. **Terms and conditions of repair parts:** Not applicable

19. **Terms and conditions for any other services:** Not applicable

20. **List of service and distribution points:** Not applicable

21. **List of participating dealers:** Not applicable

22. **Preventive maintenance:** Not applicable

22a. **Environmental attributes**, e.g., recycled content, energy efficiency, and/or reduced pollutants: Not applicable

22b. **Section 508:** Contact Beyond20 for compliance information. The EIT standards can be found at:  
   [http://www.section508.gov](http://www.section508.gov)

23. **DUNS Number:** 006078659

24. Beyond20 is registered in the System for Award Management (SAM) database.
## GSA Pricing for SINs 511210 and 54151

<table>
<thead>
<tr>
<th>SIN</th>
<th>Product Name*</th>
<th>Product Description</th>
<th>Unit of Issue*</th>
<th>GSA Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>511210</td>
<td>Cherwell CSM License Sub 1Y, Each</td>
<td>Cherwell Service Management (CSM) License, Concurrent, Annual Subscription, 1 year term, Each</td>
<td>Each</td>
<td>$1,644.43</td>
</tr>
<tr>
<td>511210</td>
<td>Cherwell CSM License Perp, 1-49</td>
<td>Cherwell Service Management (CSM) License, Concurrent, Perpetual, QTY 1-49</td>
<td>Each</td>
<td>$3,274.46</td>
</tr>
<tr>
<td>54151</td>
<td>Cherwell CSM Supp &amp; Maint - Annual 1-49</td>
<td>Annual Support and Maintenance for Cherwell Service Management, per license QTY 1-49</td>
<td>Each</td>
<td>$654.89</td>
</tr>
</tbody>
</table>

*All Cherwell Software licenses purchased through this contract are subject to the terms and conditions stipulated in the GSA negotiated End User License Agreement (for perpetual licenses) and End Use Subscription Agreement (for subscription licenses) included at the end of this document.
### SIN 611420 Information Technology Training GSA Pricing

<table>
<thead>
<tr>
<th>SIN</th>
<th>Product Description</th>
<th>Course Length</th>
<th>Delivery Method</th>
<th>Unit of Issue*</th>
<th>Minimum / Maximum</th>
<th>GSA Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>611420</td>
<td>ITIL Lifecycle Courses</td>
<td>3 days</td>
<td>Onsite at customer location</td>
<td>8 (ST)</td>
<td>Min 8 / Max 16</td>
<td>$11,615.86</td>
</tr>
<tr>
<td>611420</td>
<td>ITIL Capability Courses</td>
<td>4 days</td>
<td>Onsite at customer location</td>
<td>8 (ST)</td>
<td>Min 8 / Max 16</td>
<td>$13,922.42</td>
</tr>
<tr>
<td>611420</td>
<td>ITIL Managing Across the Lifecycle Course</td>
<td>4 days</td>
<td>Onsite at customer location</td>
<td>Each (ST)</td>
<td>Min 8 / Max 16</td>
<td>$13,922.42</td>
</tr>
<tr>
<td>611420</td>
<td>ITIL Foundation Course</td>
<td>3 days</td>
<td>Onsite at customer location</td>
<td>12 (ST)</td>
<td>Min 1 / Max 12</td>
<td>$11,183.68</td>
</tr>
<tr>
<td>611420</td>
<td>ITIL Foundation Course – Additional Student</td>
<td>3 days</td>
<td>Onsite at customer location</td>
<td>Each (ST)</td>
<td>Min 1 / Max 13</td>
<td>$347.60</td>
</tr>
<tr>
<td>611420</td>
<td>Certified Scrum Master Course</td>
<td>2 days</td>
<td>Onsite at customer location</td>
<td>Each (CL)</td>
<td>Min 8 / Max 20</td>
<td>$14,500.00</td>
</tr>
<tr>
<td>611420</td>
<td>Certified Scrum Product Owner Course</td>
<td>2 days</td>
<td>Onsite at customer location</td>
<td>Each (CL)</td>
<td>Min 8 / Max 20</td>
<td>$14,500.00</td>
</tr>
<tr>
<td>611420</td>
<td>ISO/IEC 20000 Foundations – 10 Students</td>
<td>3 days</td>
<td>Onsite at customer location</td>
<td>10 (ST)</td>
<td>Min 10 / Max 25</td>
<td>$8,949.76</td>
</tr>
<tr>
<td>611420</td>
<td>Project Management Fundamentals Course w/ Simulation</td>
<td>2 days</td>
<td>Onsite at customer location</td>
<td>Each (ST)</td>
<td>Min 10 / Max 16</td>
<td>$897.25</td>
</tr>
</tbody>
</table>

*(ST) = Student  (CL) = Class
ITIL Lifecycle Courses- Onsite course for 8-16 students

Course Description: Beyond20 course delivered onsite at customer location: Each ITIL Lifecycle module provides an in-depth exploration of one volume of the Information Technology Infrastructure Library (ITIL 2011 Edition), with a focus on Critical Success Factors, Risks, and Implementation Concerns. We provide instructor, course materials, practice exams, proctor, and certification exam. Private courses require a minimum of 6 students. Courses in the Lifecycle Track include the following:

- Service Strategy
- Service Design
- Service Transition
- Service Operation
- Continual Service Improvement

Students passing any of the above courses will earn three (3) credits toward the ITIL Expert credential.

Course Format: Instructor led onsite at customer location

Course Length: 3 days

Prerequisites: ITIL v3 Foundations

Price: $11615.38 (block of 8 students)

ITIL Capability Courses- Onsite course for 8-16 Students

Course Description: Beyond20 course delivered onsite at customer location: ITIL Capability courses are designed for students who wish to develop Subject Matter Expertise in a particular set of processes. These hands-on workshops focus on how to manage, measure, and improve the selected processes on a day-to-day basis. We provide instructor, course materials, practice exams, proctor, and certification exam. Private courses require a minimum of 6 students. Courses in the Capability Track include the following:

- Planning, Protection, and Optimization (PPO)
- Service Offerings and Agreements (SOA)
- Release, Control, and Validation (RCV)
- Operational Support and Analysis (OSA)
- Continual Service Improvement

Students passing any of the above courses will earn four (4) credits toward the ITIL Expert credential.

Course Format: Instructor led onsite at customer location

Course Length: 4 days

Prerequisites: ITIL v3 Foundations

Price: $13923.08 (Block of 8 students)
ITIL Managing Across the Lifecycle (MALC) - Onsite course for 8-16 students

Course Description: Beyond20 ITIL Managing Across the Lifecycle (MALC) course delivered onsite at customer location: This is a true capstone course, with a focus on implementing and managing IT Service Management (ITSM) processes based on the Information Technology Infrastructure Library (ITIL 2011 Edition). We provide instructor, course materials, practice exams, proctor, and certification exam. Students passing the exam will earn the ITIL Expert credential. Private courses require a minimum of 6 students

Course Format: Instructor led onsite at customer location
Course Length: 4 days
Prerequisites: ITIL v3 Foundations+ 15 credits from the ITIL Lifecycle and/or ITIL Capability tracks
Price: $13923.08 (Block of 8 students)

ITIL Foundation Course

Course Description: Beyond20 public course or private onsite course: ITIL Foundations introduces the student to IT Service Management (ITSM) and the Information Technology Infrastructure Library (ITIL). Students passing the included exam will earn the ITIL Foundations certification. This fully accredited course provides two (2) credits toward ITIL Expert certification in the Axelos ITIL Certification Schema and fulfills the prerequisites required to proceed to intermediate and advanced training. We provide instructor, course materials, practice exams, proctor, and certification exam.

Course Format: Instructor led
Course length: 3 days
Prerequisites: None
Price: $11,183.25 (up to 12 students), $347.59 (for each additional)

Certified Scrum Master Course – Onsite Course

Course Description: Beyond20 Certified Scrum Master course, onsite at customer location. Provides an introduction to the principles, values, and activities in Scrum, as well as an exploration of the roles in Scrum—particularly the role of the Scrum Master. We provide course materials, Certified Scrum Trainer, Scrum Master Certification Assessment, and one-year membership in the Scrum Alliance.

Course Format: Instructor led at customer location
Course Length: 2 days
Prerequisites: None
Price: $14,500 per course (minimum of 8 and maximum of 20 students for onsite course)

Certified Scrum Product Owner Course – Onsite Course

Course Description: Beyond20 Certified Scrum Product Owner course, onsite at customer location. Provides a deeper exploration of the role of the Scrum Product Owner, including product visioning, managing the Product Backlog, and integrating with Scrum Teams. We provide course materials, Certified Scrum Trainer, and registration with the Scrum Alliance.

Course Format: Instructor led at customer location
Course Length: 2 days
Prerequisites: None
Price: $14,500 per course (minimum of 8 and maximum of 20 students for onsite course)
ISO/IEC 20000 Foundation Course - 10 Students

Course Description: Beyond20 public course or private onsite course: ISO/IEC 20000 Foundations. Provides an introduction to ISO/IEC 20000:1 (the Standard) and 150/IEC 20000:2 (Code of Practice), based on the 2011 edition. We provide instructor, course materials, practice exams, proctor, and certification exam.

Course Format: Instructor led
Course Length: 3 days
Prerequisites: None
Price: $8950.00 (block of 10 students)

Project Management Fundamentals Course w/ Simulation

Course Description: Beyond20 Project Management Fundamentals course with Simulation Workshop. Introduction to core Project Management skills and techniques with a focus on practical application through simulation.

Course Format: Instructor led workshop with Simulation
Course Length: 2 days
Prerequisites: None
Price: $895.00 per student (minimum of 10 students required for onsite course)
<table>
<thead>
<tr>
<th>SIN</th>
<th>Labor Category</th>
<th>GSA Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>54151S</td>
<td>Solutions Consultant 1</td>
<td>$187.03</td>
</tr>
<tr>
<td>54151S</td>
<td>Solutions Consultant 2</td>
<td>$205.73</td>
</tr>
<tr>
<td>54151S</td>
<td>Solutions Consultant 3</td>
<td>$218.20</td>
</tr>
<tr>
<td>54151S</td>
<td>Subject Matter Expert 2</td>
<td>$218.20</td>
</tr>
<tr>
<td>54151S</td>
<td>Subject Matter Expert 3</td>
<td>$249.37</td>
</tr>
<tr>
<td>54151S</td>
<td>Implementation Project Manager 1</td>
<td>$187.03</td>
</tr>
<tr>
<td>54151S</td>
<td>Implementation Project Manager 2</td>
<td>$205.73</td>
</tr>
<tr>
<td>54151S</td>
<td>Implementation Project Manager 3</td>
<td>$218.20</td>
</tr>
<tr>
<td>54151S</td>
<td>PPM System Consultant 2</td>
<td>$174.56</td>
</tr>
</tbody>
</table>
**Solutions Consultant 1**

**Functional Responsibility:** Serves as interface and point of contact for solution architecture and programming.

For solution architecture, provides high-level architectural expertise to managers and technical personnel. Development of architectural products and deliverables for enterprise environments. Provides development of a strategy and the design infrastructure necessary to support the enterprise environment. Offer advice on selection of technological purchases with regards to processing, data storage, data access, and applications development. Develops standards for the client/server relational database structure for the organization. Advises of feasibility of potential future projects to management.

For system programming, will design, develop, enhance, debug, and implement software. Troubleshoots production problems related to software applications. Researches, tests, builds, and coordinates the conversion and/or integration of new products based on client requirements. Designs and develops new software products or major enhancements to existing software. Addresses problems of systems integration, compatibility, and multiple platforms. Consults with project teams and end users to identify application requirements. Performs feasibility analysis on potential future projects to management. Assists in the evaluation and recommendation of application software packages, application integration and testing tools. Resolves problems with software and responds to suggestions for improvements and enhancements. Acts as team leader on projects. Instructs, assigns, directs, and checks the work of other software developers on development team. Participates in development of software user manuals.

**Minimum Education:** Bachelor’s degree in a business or technical field such as Information Technology, Engineering, or Computer Science. In lieu of Bachelors degree, six (6) years relevant experience and/or technical certificates may be substituted.

**Minimum Experience:** Three (3) years of technical experience implementing enterprise level solutions within a variety of Information Technology environments. Position requires excellent oral and written communication skills, with the ability to multi-task.

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**Solutions Consultant 2**

**Functional Responsibility:** Serves as interface and point of contact for solution architecture and programming.

For solution architecture, provides high-level architectural expertise to managers and technical personnel. Development of architectural products and deliverables for enterprise environments. Provides development of a strategy and the design infrastructure necessary to support the enterprise environment. Offer advice on selection of technological purchases with regards to processing, data storage, data access, and applications development. Develops standards for the client/server relational database structure for the organization. Advises of feasibility of potential future projects to management.
For system programming, will design, develop, enhance, debug, and implement software. Troubleshoots production problems related to software applications. Researches, tests, builds, and coordinates the conversion and/or integration of new products based on client requirements. Designs and develops new software products or major enhancements to existing software. Addresses problems of systems integration, compatibility, and multiple platforms. Consults with project teams and end users to identify application requirements. Performs feasibility analysis on potential future projects to management. Assists in the evaluation and recommendation of application software packages, application integration and testing tools. Resolves problems with software and responds to suggestions for improvements and enhancements. Acts as team leader on projects. Instructs, assigns, directs, and checks the work of other software developers on development team. Participates in development of software user manuals.

Possesses a greater level of experience/education as compared to the Solutions Consultant I.

**Minimum Education:** Bachelor’s degree in a business or technical field such as Information Technology, Engineering, or Computer Science.

**Minimum Experience:** Five (5) years of technical experience implementing enterprise level solutions within a variety of Information Technology environments. Position requires excellent oral and written communication skills, with the ability to multi-task.

**Solutions Consultant 3**

**Functional Responsibility:** Serves as interface and point of contact for solution architecture and programming.

For solution architecture, provides high-level architectural expertise to managers and technical personnel. Development of architectural products and deliverables for enterprise environments. Provides development of a strategy of and the design infrastructure necessary to support the enterprise environment. Offer advice on selection of technological purchases with regards to processing, data storage, data access, and applications development. Develops standards for the client/server relational database structure for the organization. Advises of feasibility of potential future projects to management.

For system programming, will design, develop, enhance, debug, and implement software. Troubleshoots production problems related to software applications. Researches, tests, builds, and coordinates the conversion and/or integration of new products based on client requirements. Designs and develops new software products or major enhancements to existing software. Addresses problems of systems integration, compatibility, and multiple platforms. Consults with project teams and end users to identify application requirements. Performs feasibility analysis on potential future projects to management. Assists in the evaluation and recommendation of application software packages, application integration and testing tools. Resolves problems with software and responds to suggestions for improvements and enhancements. Acts as team leader on projects. Instructs, assigns, directs, and checks the work of other software developers on development team. Participates in development of software user manuals.
Supervises teams in accomplishing tasks and trains subordinate staff in the technical aspects of assigned work. Possesses a greater level of experience/education as compared to the Solutions Consultant 2.

**Minimum Education:** Bachelor’s degree in a business or technical field such as Information Technology, Engineering, or Computer Science.

**Minimum Experience:** Seven (7) years of technical experience implementing enterprise level solutions within a variety of Information Technology environments. Position requires excellent oral and written communication skills, with the ability to multi-task.

**Subject Matter Expert 2**

**Functional Responsibility:** Serves as an expert possessing in-depth knowledge of a particular area, such as business, computer science, engineering, mathematics, or the various sciences. The Subject Matter Expert provides technical knowledge and analysis at a high level of expertise for the work described in the task. Provides evaluation and analytic skills for client-specific or mission-critical proficiencies of specialized applications and operational environments, high-level functional systems analysis, design, integration, documentation and implementation advice on exceptionally complex problems. Displays broad knowledge of subject matter and provides direction throughout the life of a project. Participates in meetings, task groups, teams, reviews and other environments to assist in collaborative results. Prepares reports, presentations and papers to document findings, opinions and recommendations. Participates as needed in all phases of software development with emphasis on the planning, analysis, testing, integration, documentation, and presentation phases. Applies principles, methods and knowledge of the functional area of capability to specific task order requirements, advanced mathematical principles and methods to exceptionally difficult and narrowly defined technical problems in engineering and other scientific applications to arrive at automated solutions.

**Minimum Education:** A Bachelor’s Degree in a business or technical field such as Information Technology, Engineering, or Computer Science.

**Minimum Experience:** Eight (8) years of experience in IT related business. Position requires excellent oral and written communication skills, with the ability to multi-task.
**Subject Matter Expert 3**

**Functional Responsibility:** Serves as an expert possessing in-depth knowledge of a particular area, such as business, computer science, engineering, mathematics, or the various sciences. The Subject Matter Expert provides technical knowledge and analysis at a high level of expertise for the work described in the task. Provides evaluation and analytic skills for client-specific or mission-critical proficiencies of specialized applications and operational environments, high-level functional systems analysis, design, integration, documentation and implementation advice on exceptionally complex problems. Displays broad knowledge of subject matter and provides direction throughout the life of a project. Participates in meetings, task groups, teams, reviews and other environments to assist in collaborative results. Prepares reports, presentations and papers to document findings, opinions and recommendations. Participates as needed in all phases of software development with emphasis on the planning, analysis, testing, integration, documentation, and presentation phases. Applies principles, methods and knowledge of the functional area of capability to specific task order requirements, advanced mathematical principles and methods to exceptionally difficult and narrowly defined technical problems in engineering and other scientific applications to arrive at automated solutions. Supervises teams in accomplishing tasks and trains subordinate staff in the technical aspects of assigned work. Possesses a greater level of experience/education as compared to the Subject Matter Expert II.

**Minimum Education:** A Master’s Degree in a business or technical field such as Information Technology, Engineering, or Computer Science.

**Minimum Experience:** Ten (10) years of experience in IT related business. Position requires excellent oral and written communication skills, with the ability to multi-task.

**Implementation Project Manager 1**

**Functional Responsibility:** The Project Manager I is proficient in the latest hardware, software, and network technologies and acts as the overall lead, manager and administrator for the effort. Serves as the primary interface and point of contact with program authorities and representatives on technical and program/project issues. Directs completion of complex information technology tasks within estimated timeframe and budget constraints, while overseeing all project work. Leads team on large complex projects of significance. Schedules and assigns duties to subordinates and subcontractors and ensures assignments are completed as directed. Enforces work standards and reviews/resolves work discrepancies to ensure compliance with scope requirements. Creates innovative solutions for complex project scheduling, technology, methodology, tools, and solution components. Provides systems analysis and programming activities for a customer site, facility or multiple locations. Prepares plans for application selection, systems development, systems maintenance, and production activities and for necessary support resources. Supervises program/project operations by developing procedures, planning and directing execution of the technical programming, maintenance and administrative support effort and monitoring and reporting progress. Manages acquisition and employment of program/project resources. Manages and controls financial and administrative aspects of the program/project with respect to contract requirements.

**Minimum Education:** Bachelor’s degree in a business or technical field such as Information Technology, Engineering, or Computer Science. In lieu of Bachelors degree, six (6) years relevant experience and/or technical certificates may be substituted.
Minimum Experience: Three (3) years of project management experience with computer and network system architecture within a variety of Information Technology environments. Position requires excellent oral and written communication skills, with the ability to multi-task.

Implementation Project Manager 2
Functional Responsibility: The Implementation Project Manager II is proficient in the latest hardware, software, and network technologies and acts as the overall lead, manager and administrator for the effort. Serves as the primary interface and point of contact with program authorities and representatives on technical and program/project issues. Directs completion of complex information technology tasks within estimated timeframe and budget constraints, while overseeing all project work. Leads team on large complex projects of significance. Schedules and assigns duties to subordinates and subcontractors and ensures assignments are completed as directed. Enforces work standards and reviews/resolves work discrepancies to ensure compliance with scope requirements. Creates innovative solutions for complex project scheduling, technology, methodology, tools, and solution components. Provides systems analysis and programming activities for a customer site, facility or multiple locations. Prepares plans for application selection, systems development, systems maintenance, and production activities and for necessary support resources. Supervises program/project operations by developing procedures, planning and directing execution of the technical programming, maintenance and administrative support effort and monitoring and reporting progress. Manages acquisition and employment of program/project resources. Manages and controls financial and administrative aspects of the program/project with respect to contract requirements.

Possesses a greater level of experience/education as compared to the Implementation Project Manager I.

Minimum Education: Bachelor’s degree in a business or technical field such as Information Technology, Engineering, or Computer Science.

Minimum Experience: Five (5) years of project management experience with computer and network system architecture within a variety of Information Technology environments. Position requires excellent oral and written communication skills, with the ability to multi-task.
Implementation Project Manager 3

Functional Responsibility: The Implementation Project Manager III is proficient in the latest hardware, software, and network technologies and acts as the overall lead, manager and administrator for the effort. Serves as the primary interface and point of contact with program authorities and representatives on technical and program/project issues. Directs completion of complex information technology tasks within estimated timeframe and budget constraints, while overseeing all project work. Leads team on large complex projects of significance. Schedules and assigns duties to subordinates and subcontractors and ensures assignments are completed as directed. Enforces work standards and reviews/resolves work discrepancies to ensure compliance with scope requirements. Creates innovative solutions for complex project scheduling, technology, methodology, tools, and solution components. Provides systems analysis and programming activities for a customer site, facility or multiple locations. Prepares plans for application selection, systems development, systems maintenance, and production activities and for necessary support resources. Supervises program/project operations by developing procedures, planning and directing execution of the technical programming, maintenance and administrative support effort and monitoring and reporting progress. Manages acquisition and employment of program/project resources. Manages and controls financial and administrative aspects of the program/project with respect to contract requirements. Supervises teams in accomplishing tasks and trains subordinate staff in the technical aspects of assigned work.

Possesses a greater level of experience/education as compared to the Implementation Project Manager 2.

Minimum Education: Bachelor’s degree in a business or technical field such as Information Technology, Engineering, or Computer Science. In lieu of Bachelors degree, ten (10) years relevant experience and/or technical certificates may be substituted.

Minimum Experience: Seven (7) years of project management experience with computer and network system architecture within a variety of Information Technology environments. Position requires excellent oral and written communication skills, with the ability to multi-task.

PPM System Consultant 2

Functional Responsibility: Serves as interface and point of contact for solution architecture and programming.

For solution architecture, provides high-level architectural expertise to managers and technical personnel. Development of architectural products and deliverables for enterprise environments. Provides development of a strategy and the design infrastructure necessary to support the enterprise environment. Offers advice on selection of technological purchases with regards to processing, data storage, data access, and applications development. Develops standards for the client/server relational database structure for the organization. Advises of feasibility of potential future projects to management. For system programming, will design, develop, enhance, debug, and implement PPM software. Troubleshoots production problems related to PPM software applications. Researches, tests, builds, and coordinates the conversion and/or integration of new products based on client requirements. Designs and develops new software products or major enhancements to existing software. Addresses problems of systems integration, compatibility, and multiple platforms. Consults with project teams and end users to identify application requirements. Performs feasibility analysis on
potential future projects to management. Assists in the evaluation and recommendation of PPM application software packages, application integration and testing tools. Resolves problems with software and responds to suggestions for improvements and enhancements. Acts as team leader on projects. Instructs, assigns, directs, and checks the work of other software developers on development team. Participates in development of software user manuals.

**Minimum Education:** Bachelor’s degree in a business or technical field such as Information Technology, Engineering, or Computer Science. In lieu of Bachelors degree, six (6) years relevant experience and/or technical certificates may be substituted.

**Minimum Experience:** Three (3) years of technical experience implementing enterprise level Project and Portfolio Management solutions within a variety of Information Technology environments. Position requires excellent oral and written communication skills, with the ability to multi-task.

**Experience & Degree Substitution Equivalencies**
Experience exceeding the minimum shown may be substituted for education. Likewise, education exceeding the minimum shown may be substituted for experience.

<table>
<thead>
<tr>
<th>Equivalent Degree</th>
<th>Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Associate’s</td>
<td>2 years relevant experience</td>
</tr>
<tr>
<td>Bachelor’s</td>
<td>Associate’s degree + 2 years relevant experience or 4 years relevant experience</td>
</tr>
<tr>
<td>Master’s</td>
<td>Bachelor’s plus 2 years relevant experience or Associate’s degree + 4 years relevant experience or 6 years relevant experience</td>
</tr>
<tr>
<td>PhD</td>
<td>Master’s + 2 years relevant experience, or Bachelor’s + 4 years relevant experience or 8 years relevant experience</td>
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CHERWELL END-USER LICENSE AGREEMENT

THIS END-USER LICENSE AGREEMENT ("EULA"), TOGETHER WITH ANY APPLICABLE CHERWELL ORDER CONFIRMATION FORM THAT REFERENCES THIS EULA (COLLECTIVELY, THE "AGREEMENT"), IS BETWEEN CHERWELL SOFTWARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY ("CHERWELL"), AND THE CUSTOMER IDENTIFIED ON THE ORDER CONFIRMATION FORM ("CUSTOMER"). THIS AGREEMENT, ALONG WITH THE RELEVANT GENERAL SERVICES ADMINISTRATION SCHEDULE CONTRACT ("SCHEDULE CONTRACT"), SETS FORTH THE TERMS AND CONDITIONS BETWEEN CUSTOMER AND CHERWELL REGARDING THE CHERWELL SOFTWARE PRODUCTS ("LICENSED SOFTWARE") AND THE MAINTENANCE AND SUPPORT AND PROFESSIONAL SERVICES THAT ARE LISTED ON THE ORDER CONFIRMATION FORM. SHOULD A CONFLICT EXIST BETWEEN THIS EULA AND THE SCHEDULE CONTRACT, THEN THE SCHEDULE CONTRACT SHALL PREVAIL.

1. GRANT OF LICENSE

1.1 Terms of License. The Licensed Software, which includes all configurable and executable application content or "Blueprints," is licensed to Customer for use subject to the terms of this Agreement and the Schedule Contract. Cherwell hereby grants to Customer and Customer fully accepts, upon delivery, a nonexclusive, nontransferable right to use only the executable version (no source code) of the Licensed Software. Customer is allowed only the number of concurrent users of the Licensed Software as shown on the Cherwell Order Confirmation Form. If Customer wishes to expand the number of authorized concurrent users covered by the license, Customer can purchase additional user licenses. Customer’s authorized concurrent users of the Licensed Software can include Customer, its subsidiaries and affiliates, and their employees and authorized representatives, agents and contractors. Customer may install copies of the Licensed Software in non-production environments, for purposes of testing, development or disaster recovery, provided, however, that such copies cannot be used for production purposes and there cannot be more than one installation of the Licensed Software in a production environment. In no event shall the number of concurrent users in a production environment exceed the authorized concurrent users covered by the license.

1.2 Intellectual Property Rights. The Licensed Software is protected by copyright and other intellectual property laws. Cherwell retains all rights, title and interest in and to the Licensed Software. Customer agrees that this is a license only and that no title passes to Customer. If Customer makes or installs copies of the Licensed Software as provided in this Agreement, the original and all copies of the Licensed Software may not leave Customer’s control and are owned by Cherwell. Customer retains all rights to its data.

1.3 Restrictions. To the maximum extent permitted by applicable law, Customer may not resell or otherwise transfer for value the Licensed Software without the written consent of Cherwell. Customer may not export, ship, transmit, or re-export the Licensed Software in violation of any applicable law or regulation, including, without limitation, the Export Administration Regulations issued by the United States Department of Commerce and the United States trade embargoes and economic sanctions administered by the U.S. Treasury Department, Office of Foreign Assets Control, or any such similar law or regulation issued by such other governmental entity which may have jurisdiction over such export. Customer agrees not to: (i) modify, decompile, disassemble or reverse engineer the object code portions of the Licensed Software; (ii) distribute, rent, lease or lend the Licensed Software; or (iii) use the Licensed Software except as expressly permitted under this Agreement.

2. WARRANTIES AND DISCLAIMERS

2.1 Limited Warranties. Cherwell represents and warrants that: (a) it has the right to grant to Customer the license to use the Licensed Software as set forth in this Agreement without violating any rights of any third party and that, to the best of Cherwell’s knowledge, the Licensed Software does not infringe or otherwise violate any intellectual property rights of any third party; (b) the Licensed Software shall operate in material compliance with Cherwell’s user documentation; (c) all services provided by Cherwell pursuant to this Agreement relating to the Licensed Software will be performed in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Cherwell’s industry; and (d) the Licensed Software shall be delivered free of any virus or otherwise malicious code, or any code or command intended to bring down the Licensed Software or Customer’s computers/networks automatically or upon command or otherwise impair their use.
2.2 Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES SET FORTH IN SECTION 3 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, ORAL OR WRITTEN, EXPRESSED OR IMPLIED. CHERWELL DOES NOT WARRANT THAT THE OPERATION OF THE LICENSED SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. EXCEPT AS SET FORTH IN THIS SECTION 3, CHERWELL MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE LICENSED SOFTWARE, ITS QUALITY, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. THIS AGREEMENT DOES NOT LIMIT OR DISCLAIM ANY OF THE WARRANTIES SPECIFIED IN THE GSA SCHEDULE 70 CONTRACT UNDER FAR 52.212-4(O). IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 USC 7101-7109.

3. LIMITATION OF LIABILITY; EXCLUSION OF DAMAGES

3.1 Limitation of Liability. To the maximum extent permitted by applicable law and except for Customer’s payment obligations under this Agreement, each party’s entire liability under this Agreement shall be limited to the amount paid by Customer for the Licensed Software, which does not include any amounts paid for related services. THIS CLAUSE SHALL NOT IMPAIR THE U.S. GOVERNMENT’S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY FEDERAL FRAUD STATUTE. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT’S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE SCHEDULE CONTRACT (I.E. PRICE REDUCTIONS, PATENT INDEMNIFICATION, LIABILITY FOR INJURY OR DAMAGE, PRICE ADJUSTMENT, FAILURE TO PROVIDE ACCURATE INFORMATION.)

3.2 Exclusion of Consequential and Related Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR LOST PROFITS, LOSS OF USE OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EXCEPT TO THE EXTENT THAT ANY THIRD PARTY CLAIM SUBJECT TO INDEMNIFICATION UNDER SECTION 2 INCLUDES SUCH DAMAGES. IN PARTICULAR, AND WITHOUT LIMITATION, CHERWELL SHALL HAVE NO LIABILITY FOR ANY DATA STORED OR PROCESSED WITH THE LICENSED SOFTWARE. THIS CLAUSE SHALL NOT IMPAIR THE U.S. GOVERNMENT’S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY FEDERAL FRAUD STATUTE. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT’S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE SCHEDULE CONTRACT (I.E. PRICE REDUCTIONS, PATENT INDEMNIFICATION, LIABILITY FOR INJURY OR DAMAGE, PRICE ADJUSTMENT, FAILURE TO PROVIDE ACCURATE INFORMATION.)

4. MAINTENANCE AND SUPPORT AND SERVICES

4.1 General. Maintenance and Support is offered on no less than an annual basis and will commence and be invoiced in accordance with the Order Confirmation Form. Cherwell will invoice Customer for Maintenance and Support renewal fees at least sixty (60) days prior to the end of each twelve (12) month period. Maintenance and Support fees increase as Customer adds additional concurrent user licenses. If Maintenance and Support is interrupted as a result of expiration or termination of the Agreement by Customer, Customer may be charged a reinstatement fee equal to the cost of Maintenance and Support for the period from the date of expiration or termination to the date of renewal.

4.2 Maintenance. “Maintenance” entitles Customer to receive updates, upgrades, patches, bug fixes and new releases or versions of the Licensed Software, including updated documentation, as Cherwell may provide from time to time without requirement of a separate license agreement, and without additional charge other than payment of the annual Maintenance and Support fee.
4.3 **Support.** Where provided by and purchased from Cherwell, “Support” entitles Customer to technical assistance with Customer’s ongoing use of the Licensed Software, Monday through Friday, 6:00 a.m. to 6:00 p.m. (Mountain Standard Time). Cherwell will provide support for the most current version of the Licensed Software and one prior version, including interim releases between the two versions; for example, upon release of version 5.x Cherwell will support version 5.x and 4.x. Cherwell may provide limited support for older versions. Cherwell will use its best efforts to answer Customer’s specific questions and provide support in accordance with Cherwell’s service and support guidelines. Support does not include any third party products that are not part of the Licensed Software.

4.4 **Professional Services.** Where provided by and purchased from Cherwell, “Professional Services” may include training, implementation, installation, on-site assistance, customization, and configuration of the Licensed Software. The total “Professional Services” fee quoted on the Cherwell Order Confirmation Form, if any, is an estimate of the number of days required based on Cherwell’s current understanding of Customer’s stated implementation requirements. A statement of work shall be mutually agreed upon prior to commencement of any Professional Services.

5 **EFFECTIVE DATE.** This Agreement is effective as of the date this Agreement is fully executed by both parties, including a duly warranted contracting officer of the U.S. government. (the “Effective Date”). Customer’s right to use the Licensed Software shall continue in perpetuity. The parties acknowledge and agree that the license granted pursuant to Section 1 shall survive termination or expiration of Maintenance and Support Services.

6. **CONFIDENTIALITY**

6.1 **Definition.** As used in this Agreement, “Confidential Information” means any information, whether oral or written, designated by a party as confidential or that reasonably should be understood to be confidential or proprietary in nature. Customer’s Confidential Information shall include Customer data stored or processed with the Licensed Software. Cherwell’s Confidential Information shall include the Licensed Software. Confidential Information of each party shall include each party’s business and marketing plans, financial data, employee data, product plans and designs, and technical information. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public other than by breach of this Agreement; (ii) was known to the receiving party prior to its disclosure; (iii) becomes known to the receiving party after proper disclosure from a third party not under an obligation of confidentiality; or (iv) was disclosed to the minimum extent necessary to comply with a lawful court order or government law or regulation, provided that in the case of (iv) the disclosing party shall provide the other party with advance written notice thereof and reasonably cooperate with the other party to limit disclosure and obtain protective orders or other relief as appropriate.

6.2 **Protection.** Each party agrees to hold the other party’s Confidential Information in strict confidence and to treat such other party’s Confidential Information with at least the same degree of care employed with respect to its own Confidential Information (but in no event less than reasonable care). Unless otherwise required by law, neither party shall (i) use the other party’s Confidential Information for its own account or in any manner not contemplated by this Agreement; nor (ii) disclose the other party’s Confidential Information to a third party without the prior written consent of the other party. Both parties shall limit access of each others’ Confidential Information to those of its employees, contractors and agents who have a need for such access and who are bound to confidentiality obligations substantially similar to those set forth in this Section. This Section shall survive termination or expiration of the Agreement (for any reason) for a period of three (3) years.

7. **MISCELLANEOUS**

7.1 **Severability.** If any of the terms, or portions thereof, of this Agreement are invalid or unenforceable under any applicable statute or rule of law, the court shall reform the Agreement to include an enforceable term as close to the intent of the original term as possible; all other terms shall remain unchanged.

7.2 **Waiver.** The waiver or failure of either party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further or future right under this Agreement.
7.3 **Assignment.** This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective successors and permitted assigns. A party may not assign any of its rights, obligations, or responsibilities under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld, except that neither a change in control in the assigning party nor assignment to any entity (other than a competitor of the other party) that controls, is controlled by or is under common control with the assigning party, shall be deemed an assignment in violation of the foregoing; provided, however that the assigning party gives the other party thirty (30) days advance written notice of any such change in control or assignment.

7.4 **Choice of Law.** This Agreement is governed under the laws of the United States.

7.5 **Third Parties.** No person who is not a party to this Agreement has or shall have any right to enforce any term of this Agreement and no consent of any third party shall be required for any cancellation or variation of the Agreement, except as required by law. Cherwell may authorize certain third parties, such as value-added resellers or solutions partners (“Partners”), to distribute the Licensed Software and Maintenance and Support Services. Partners are not authorized to modify this Agreement or the rights granted to Customer with regard to the Licensed Software. If Customer purchases Support Services or Professional Services to be performed by the Partner, the terms of any agreement between Customer and Partner for such services shall govern, and Cherwell shall not be liable or responsible for Partner’s performance under such agreement.

7.6 **Taxes.** Unless otherwise stated on an Order form, Cherwell’s fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including without limitation value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, “Taxes”). Customer is responsible for paying all Taxes associated with its purchases under this Agreement, except as required by law. If Cherwell has the legal obligation to remit or collect Taxes for which Customer is responsible under this paragraph, the appropriate amount shall be invoiced to, and paid by Customer, unless Customer provides Cherwell with a valid tax exemption certificate authorized by the appropriate taxing authority. For the avoidance of doubt, Cherwell is solely responsible for taxes assessable against Cherwell based on its income, property or employees.

Signature lines for the EULA are located on the Cherwell Order Confirmation form to which the EULA is incorporated by reference.
CHERWELL END-USER SUBSCRIPTION AGREEMENT


1. GRANT OF LICENSE AND SUBSCRIPTION

1.1 Subscription License. The Licensed Software, which includes all configurable and executable application content or “Blueprints,” is licensed to Customer for use subject to the terms of this Agreement and the Schedule Contract. Cherwell hereby grants to Customer and Customer fully accepts, upon delivery, a nonexclusive, nontransferable right to access and use only the executable version (no source code) of the Licensed Software, during the term of the Subscription Service, as described below (the “Subscription Service”). This is not a perpetual use license; rather, Customer is using the Licensed Software pursuant to the Subscription Service and for a limited duration. Customer is allowed only the number of concurrent users of the Licensed Software as shown on the Cherwell Order Confirmation Form. If Customer wishes to expand the number of authorized concurrent users covered by the license, Customer can purchase additional user licenses. Customer’s authorized concurrent users of the Licensed Software can include Customer, its subsidiaries and affiliates, and their employees and authorized representatives, agents and contractors. Customer may install copies of the Licensed Software in non-production environments, for purposes of testing, development or disaster recovery, provided, however, that such copies cannot be used for production purposes and there cannot be more than one installation of the Licensed Software in a production environment. In no event shall the number of concurrent users in a production environment exceed the authorized concurrent users covered by the license.

1.2 Subscription Service Term. This Agreement is effective as of the date this Agreement is fully executed by both parties, including a duly warranted contracting officer of the U.S. government. (the “Effective Date”). Customer’s right to use the Licensed Software continues until this Agreement is terminated or the Subscription Service expires. The Subscription Service is offered on no less than an annual basis and will commence and be invoiced in advance of each term in accordance with the Order Confirmation Form. Cherwell will invoice Customer for Subscription Service renewal fees at least sixty (60) days prior to the end of each term. Customer’s payment of the invoice will constitute notice of Customer’s election to renew this Agreement and the Subscription Service. Subscription fees increase as Customer adds additional concurrent user licenses. Either party may terminate this Agreement upon written notice to the other party if the other party fails to cure a material breach of this Agreement within thirty (30) days of written notice of the breach from the terminating party. Upon any termination, Customer agrees to remove all Licensed Software from its computers, destroy all copies of the Licensed Software, and, upon request from Cherwell, certify in writing its compliance.

1.3 Intellectual Property Rights. The Licensed Software is protected by copyright and other intellectual property laws. Cherwell retains all rights, title and interest in and to the Licensed Software. Customer agrees that this is a license only and that no title passes to Customer. If Customer makes or installs copies of the Licensed Software as provided in this Agreement, the original and all copies of the Licensed Software may not leave Customer’s control and are owned by Cherwell. Customer retains all rights to its data.
1.4 Restrictions. To the maximum extent permitted by applicable law, Customer may not resell or otherwise transfer for value the Licensed Software without the written consent of Cherwell. Customer may not export, ship, transmit, or re-export the Licensed Software in violation of any applicable law or regulation, including, without limitation, the Export Administration Regulations issued by the United States Department of Commerce and the United States trade embargoes and economic sanctions administered by the U.S. Treasury Department, Office of Foreign Assets Control, or any such similar law or regulation issued by such other governmental entity which may have jurisdiction over such export. Customer agrees not to: (i) modify, decompile, disassemble or reverse engineer the object code portions of the Licensed Software; (ii) distribute, rent, lease or lend the Licensed Software; or (iii) use the Licensed Software except as expressly permitted under this Agreement.

2. WARRANTIES AND DISCLAIMERS

2.1 Limited Warranties. Cherwell represents and warrants that: (a) it has the right to grant to Customer the license to use the Licensed Software as set forth in this Agreement without violating any rights of any third party and that, to the best of Cherwell’s knowledge, the Licensed Software does not infringe or otherwise violate any intellectual property rights of any third party; (b) the Licensed Software shall operate in material compliance with Cherwell’s user documentation; (c) all services provided by Cherwell pursuant to this Agreement relating to the Licensed Software will be performed in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Cherwell’s industry; and (d) the Licensed Software shall be delivered free of any virus or otherwise malicious code, or any code or command intended to bring down the Licensed Software or Customer’s computers/networks automatically or upon command or otherwise impair their use.

2.2 Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES SET FORTH IN SECTION 3 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, ORAL OR WRITTEN, EXPRESSED OR IMPLIED. CHERWELL DOES NOT WARRANT THAT THE OPERATION OF THE LICENSED SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. EXCEPT AS SET FORTH IN THIS SECTION 3, CHERWELL MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE LICENSED SOFTWARE, ITS QUALITY, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. THIS AGREEMENT DOES NOT LIMIT OR DISCLAIM ANY OF THE WARRANTIES SPECIFIED IN THE GSA SCHEDULE 70 CONTRACT UNDER FAR 52.212-4(O). IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 USC 7101-7109.

3. LIMITATION OF LIABILITY; EXCLUSION OF DAMAGES

3.1 Limitation of Liability. To the maximum extent permitted by applicable law and except for Customer’s payment obligations under this Agreement, each party’s entire liability under this Agreement shall be limited to the amount paid by Customer for the Subscription Service during the most recent 24 month period, which shall not include any amount paid for related or Professional Services. THIS CLAUSE SHALL NOT IMPAIR THE U.S. GOVERNMENT’S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY FEDERAL FRAUD STATUTE. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT’S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE SCHEDULE CONTRACT (I.E. PRICE REDUCTIONS, PATENT INDEMNIFICATION, LIABILITY FOR INJURY OR DAMAGE, PRICE ADJUSTMENT, FAILURE TO PROVIDE ACCURATE INFORMATION.)

3.2 Exclusion of Consequential and Related Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR LOST PROFITS, LOSS OF USE OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EXCEPT TO THE EXTENT THAT ANY THIRD PARTY CLAIM SUBJECT TO INDEMNIFICATION UNDER SECTION 2 INCLUDES SUCH DAMAGES. IN PARTICULAR, AND WITHOUT LIMITATION, CHERWELL SHALL HAVE NO LIABILITY FOR ANY DATA STORED OR PROCESSED WITH THE LICENSED SOFTWARE. THIS CLAUSE SHALL NOT IMPAIR THE U.S. GOVERNMENT’S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY FEDERAL FRAUD STATUTE. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT’S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE SCHEDULE CONTRACT (I.E. PRICE REDUCTIONS, PATENT INDEMNIFICATION, LIABILITY FOR INJURY OR DAMAGE, PRICE ADJUSTMENT, FAILURE TO PROVIDE ACCURATE INFORMATION.)
4. **MAINTENANCE AND SUPPORT AND SERVICES**

4.1 **General.** The Subscription Service includes Maintenance and Support of the Licensed Software. If Maintenance and Support is interrupted as a result of expiration or termination of the Agreement by Customer, Customer may be charged a reinstatement fee equal to the cost of Maintenance and Support for the period from the date of expiration or termination to the date of renewal.

4.2 **Maintenance.** “Maintenance” entitles Customer to receive updates, upgrades, patches, bug fixes and new releases or versions of the Licensed Software, including updated documentation, as Cherwell may provide from time to time without requirement of a separate license agreement, and without additional charge other than payment of the Subscription fee. Maintenance shall be applied to the Licensed Software for all customers using a Subscription Service; and Customer will not be able to decline or defer Maintenance.

4.3 **Support.** “Support” entitles Customer to technical assistance with Customer’s ongoing use of the Licensed Software, Monday through Friday, 6:00 a.m. to 6:00 p.m. (Mountain Standard Time). Cherwell will provide support for the most current version of the Licensed Software and one prior version, including interim releases between the two versions; for example, upon release of version 5.x Cherwell will support version 5.x and 4.x. Cherwell may provide limited support for older versions. Cherwell will use its best efforts to answer Customer’s specific questions and provide support in accordance with Cherwell’s service and support guidelines. Support does not include any third party products that are not part of the Licensed Software.

4.4 **Professional Services.** Where provided by and purchased from Cherwell, “Professional Services” may include training, implementation, installation, on-site assistance, customization, and configuration of the Licensed Software. The total “Professional Services” fee quoted on the Cherwell Order Confirmation Form, if any, is an estimate of the number of days required based on Cherwell’s current understanding of Customer’s stated implementation requirements. A statement of work shall be mutually agreed upon prior to commencement of any Professional Services.

5. **"Lease-to-Own" Option.** During the term of this Agreement, Customer has the option to transition the subscription licenses provided under this Agreement to perpetual use licenses. Perpetual use licenses are subject to the terms of Cherwell’s current End-User License Agreement. Customer may qualify for discounts on Cherwell’s perpetual use licenses.

6. **CONFIDENTIALITY**

6.1 **Definition.** As used in this Agreement, “Confidential Information” means any information, whether oral or written, designated by a party as confidential or that reasonably should be understood to be confidential or proprietary in nature. Customer’s Confidential Information shall include Customer data stored or processed with the Licensed Software. Cherwell’s Confidential Information shall include the Licensed Software. Confidential Information of each party shall include each party’s business and marketing plans, financial data, employee data, product plans and designs, and technical information. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public other than by breach of this Agreement; (ii) was known to the receiving party prior to its disclosure; (iii) becomes known to the receiving party after proper disclosure from a third party not under an obligation of confidentiality; or (iv) was disclosed to the minimum extent necessary to comply with a lawful court order or government law or regulation, provided that in the case of (iv) the disclosing party shall provide the other party with advance written notice thereof and reasonably cooperate with the other party to limit disclosure and obtain protective orders or other relief as appropriate.

6.2 **Protection.** Each party agrees to hold the other party’s Confidential Information in strict confidence and to treat such other party’s Confidential Information with at least the same degree of care employed with respect to its own Confidential Information (but in no event less than reasonable care). Unless otherwise required by law, neither party shall (i) use the other party’s Confidential Information for its own account or in any manner not contemplated by this Agreement; nor (ii) disclose the other party’s Confidential Information to a third party without the prior written consent of the other party. Both parties shall limit access of each others’ Confidential Information to those of its employees, contractors and agents who have a need for such access and who are bound to confidentiality obligations substantially similar to those set forth in this Section. This Section shall survive termination or expiration of the Agreement (for any reason) for a period of three (3) years.

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7. MISCELLANEOUS

7.1 Severability. If any of the terms, or portions thereof, of this Agreement are invalid or unenforceable under any applicable statute or rule of law, the court shall reform the Agreement to include an enforceable term as close to the intent of the original term as possible; all other terms shall remain unchanged.

7.2 Waiver. The waiver or failure of either party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further or future right under this Agreement.

7.3 Assignment. This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective successors and permitted assigns. A party may not assign any of its rights, obligations, or responsibilities under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld, except that neither a change in control in the assigning party nor assignment to any entity (other than a competitor of the other party) that controls, is controlled by or is under common control with the assigning party, shall be deemed an assignment in violation of the foregoing; provided, however that the assigning party gives the other party thirty (30) days advance written notice of any such change in control or assignment.

7.4 Choice of Law. This Agreement is governed under the laws of the United States.

7.5 Third Parties. No person who is not a party to this Agreement has or shall have any right to enforce any term of this Agreement and no consent of any third party shall be required for any cancellation or variation of the Agreement, except as required by law. Cherwell may authorize certain third parties, such as value-added resellers or solutions partners (“Partners”), to distribute the Licensed Software. Partners are not authorized to modify this Agreement or the rights granted to Customer with regard to the Licensed Software. If Customer purchases Support Services or Professional Services to be performed by the Partner, the terms of any agreement between Customer and Partner for such services shall govern, and Cherwell shall not be liable or responsible for Partner’s performance under such agreement.

7.6 Taxes. Unless otherwise stated on an Order form, Cherwell’s fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including without limitation value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, “Taxes”). Customer is responsible for paying all Taxes associated with its purchases under this Agreement, except as required by law. If Cherwell has the legal obligation to remit or collect Taxes for which Customer is responsible under this paragraph, the appropriate amount shall be invoiced to, and paid by Customer, unless Customer provides Cherwell with a valid tax exemption certificate authorized by the appropriate taxing authority. For the avoidance of doubt, Cherwell is solely responsible for taxes assessable against Cherwell based on its income, property or employees.

Signature lines for the EUSA are located on the Cherwell Order Confirmation form to which the EUSA is incorporated by reference.