



**GENERAL SERVICES ADMINISTRATION  
FEDERAL SUPPLY SERVICE  
AUTHORIZED FEDERAL SUPPLY SCHEDULE CATALOG/PRICE LIST**

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order is available through **GSA Advantage!**, a menu-driven database system. The INTERNET address for **GSA Advantage!** is <http://www.gsaadvantage.gov>

**SCHEDULE TITLE:** Federal Supply Schedule 70 – General Purpose Commercial Information Technology Equipment, Software, and Services

**CONTRACT NUMBER:** **GS-35F--359BA**

**CONTRACT PERIOD:** **5/15/2014 to 5/14/2019**

**Prices are current thru Modification PO-0003, effective 9/14/2015**

For more information on ordering from Federal Supply go to this website: [www.gsa.gov/schedules](http://www.gsa.gov/schedules)

**CONTRACTOR:** **Diverse Computing, Inc.**  
**Daniel Percy, President**  
**3717 Apalachee Pkwy, Ste 102**  
**Tallahassee, FL 32311-3116**  
**Phone number: 850-656-3333**  
**Fax number: 850-656-7755**  
**E-Mail: [dpercy@diversecomputing.com](mailto:dpercy@diversecomputing.com)**

**CONTRACTOR'S ADMINISTRATION SOURCE:** **Craig Gibbens, Business Development**  
**3717 Apalachee Pkwy, Ste 102**  
**Tallahassee, FL 32311-3116**  
**Phone number: 850-656-3333**  
**Fax number: 850-656-7755**  
**E-Mail: [cgibbens@diversecomputing.com](mailto:cgibbens@diversecomputing.com)**

**BUSINESS SIZE:** **Small Concern**

**CUSTOMER INFORMATION:**

**1a. TABLE OF AWARDED SPECIAL ITEM NUMBERS (SINs)**

<b>SIN</b>	<b>DESCRIPTION</b>
132-32	Term Software License
132-34	Maintenance of Software
132-51	IT Professional Services

**1b. LOWEST PRICED MODEL NUMBER AND PRICE FOR EACH SIN:**  
(Government net price based on a unit of one)

132-32: \$14.66  
132-34: \$25% of License  
132-51: \$82.62

**1c. HOURLY RATES (Services only):**



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See the attached GSA Pricelist

**2. MAXIMUM ORDER\*: \$500,000 per all SIN's**

NOTE TO ORDERING ACTIVITIES: \*If the best value selection places your order over the Maximum Order identified in this catalog/pricelist, you have an opportunity to obtain a better schedule contract price. Before placing your order, contact the aforementioned contactor for a better price. The contractor may (1) offer a new price for this requirement (2) offer the lowest price available under this contract or (3) decline the order. A delivery order that exceeds the maximum order may be placed under the schedule contract in accordance with FAR 8.404.

**3. MINIMUM ORDER: \$100.00**

**4. GEOGRAPHIC COVERAGE: Domestic only**

**5. POINT(S) OF PRODUCTION: Tallahassee, FL for products only for services N/A**

**6. DISCOUNT FROM LIST PRICES:**

*GSA Net Prices are shown on the attached GSA Pricelist. Negotiated discount has been applied and the IFF has been added.*

**7. QUANTITY DISCOUNT(S): None]**

**8. PROMPT PAYMENT TERMS: Net 30**

**9.a Government Purchase Cards must be accepted at or below the micro-purchase threshold.**

**9.b Government Purchase Cards are accepted above the micro-purchase threshold. Contact contractor for limit.**

**10. FOREIGN ITEMS: None**

**11a. TIME OF DELIVERY: 30 Days ARO**

**11b. EXPEDITED DELIVERY:** Items available for expedited delivery are noted in this price list.  
**(14 Days for SINs 132.32 & 132-51)**  
**(15 Days for SIN 132-34)**

**11c. OVERNIGHT AND 2-DAY DELIVERY:** Overnight and 2-day delivery are available. Contact the Contractor for rates.

**11d. URGENT REQUIRMENTS:** Agencies can contact the Contractor's representative to affect a faster delivery. Customers are encouraged to contact the contractor for the purpose of requesting accelerated delivery.

**12. FOB POINT: Destination**

**13a. ORDERING ADDRESS: Same as contractor**

**13b. ORDERING PROCEDURES:** Ordering activities shall use the ordering procedures described in Federal Acquisition Regulation 8.405-3 when placing an order or establishing a BPA for supplies or services. The ordering procedures, information on Blanket Purchase Agreements (BPA's) and a sample BPA can be found at the GSA/FSS Schedule Homepage ([fss.gsa.gov/schedules](http://fss.gsa.gov/schedules)).

**14. PAYMENT ADDRESS: Same as contractor**



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15. **WARRANTY PROVISION: Standard Commercial Warranty. Customer should contact contractor for a copy of the warranty or generally N/A for services**
16. **EXPORT PACKING CHARGES: Not applicable**
17. **TERMS AND CONDITIONS OF GOVERNMENT PURCHASE CARD ACCEPTANCE: (any thresholds above the micropurchase level may be inserted by contractor)**
18. **TERMS AND CONDITIONS OF RENTAL, MAINTENANCE, AND REPAIR (IF APPLICABLE): N/A**
19. **TERMS AND CONDITIONS OF INSTALLATION (IF APPLICABLE): N/A**
20. **TERMS AND CONDITIONS OF REPAIR PARTS INDICATING DATE OF PARTS PRICE LISTS AND ANY DISCOUNTS FROM LIST PRICES (IF AVAILABLE): N/A**
- 20a. **TERMS AND CONDITIONS FOR ANY OTHER SERVICES (IF APPLICABLE): N/A**
21. **LIST OF SERVICE AND DISTRIBUTION POINTS (IF APPLICABLE): N/A**
22. **LIST OF PARTICIPATING DEALERS (IF APPLICABLE): N/A**
23. **PREVENTIVE MAINTENANCE (IF APPLICABLE): N/A**
- 24a. **SPECIAL ATTRIBUTES SUCH AS ENVIRONMENTAL ATTRIBUTES (e.g. recycled content, energy efficiency, and/or reduced pollutants): N/A**
- 24b. **Section 508 Compliance for Electronic and Information Technology (EIT): N/A**
25. **DUNS NUMBER: 62-419-1727**
26. **NOTIFICATION REGARDING REGISTRATION IN SYSTEM FOR AWARD MANAGEMENT (SAM) DATABASE: Contractor has an Active Registration in the SAM database.**



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**GSA PRICE LIST**

SIN(s) PROPOSED	PRODUCT/SERVICE PROPOSED	UNIT OF ISSUE	PRICE OFFERED TO GSA (w/ IFF)
132-51	Installation/Field Engineering	Hour	\$82.62
132-51	Installation/Field Engineering	Day	\$1,652.39
132-51	Technical Services - Senior	Day	\$2,065.49
132-51	Technical Services - Senior	Hour	\$165.24
132-51	Technical Services - Junior	Hour	\$99.14
132-51	Project Management	Hour	\$123.93
132-51	Project Management	Day	\$2,065.49
132-32	DCI - eAgentX2 Server License (Includes 50 Named Users, 1st Year Only)	Item	\$4,886.65
132-32	DCI - eAgentX2 Server License (Includes 75 Named Users, 1st Year Only)	Item	\$6,352.64
132-32	DCI - eAgentX2 Server License (Includes 100 Named Users, 1st Year Only)	Item	\$7,818.64
132-32	DCI - eAgentX2 Server License (Includes 150 Named Users, 1st Year Only)	Item	\$9,284.63
132-32	DCI - eAgentX2 Server License (Includes 200 Named Users, 1st Year Only)	Item	\$10,750.63
132-32	DCI - eAgentX2 Server License (Includes 250 Named Users, 1st Year Only)	Item	\$12,216.62
132-32	DCI - eAgentX2 Server License (Includes 300 Named Users, 1st Year Only)	Item	\$13,682.62
132-32	DCI - eAgentX2 Server License (Includes 400 Named Users, 1st Year Only)	Item	\$15,637.28
132-32	DCI - eAgentX2 Server License (Includes 500 Named Users, 1st Year Only)	Item	\$17,591.94
132-32	DCI - eAgentX2 Server License (Includes 600 Named Users, 1st Year Only)	Item	\$19,546.60
132-32	DCI - eAgentX2 Server License (Includes 700 Named Users, 1st Year Only)	Item	\$21,501.26
132-32	DCI - eAgentX2 Server License (Includes 800 Named Users, 1st Year Only)	Item	\$23,455.92
132-32	DCI - eAgentX2 Server License (Includes 900 Named Users, 1st Year Only)	Item	\$25,410.58
132-32	DCI - eAgentX2 Server License (Includes 1000 Named Users, 1st Year Only)	Item	\$27,365.24
132-32	DCI - eAgentX2 Server License (Additional 100 Users After 1,000, 1st Year Only)	Item	\$1,465.99
132-34	DCI - eAgentX2 Server Support and Maintenance (Recurring Annually, Begins 2nd Year)	Item	25% of Server License (less .25%)
132-32	DCI - Remote eAgentX2 Virtual Appliance Basic Installation (includes a virtual appliance; single domain; and integration with the following wireless VPNS: Cisco VPN, RadiolP, NetMotion or Columbitech)	Item	\$488.66



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132-32	DCI - Additional Domain	Item	\$244.33
132-32	DCI - eAgent Hosted "Java" Client for Desktop License (First 1-10 Devices) (Per Device) (1st Year Only)	Item	\$586.40
132-32	DCI - eAgent Hosted "Java" Client for Desktop License (Next 11-20 Devices) (Per Device) (1st Year Only)	Item	\$488.66
132-32	DCI - eAgent Hosted "Java" Client for Desktop License (Next 21-50 Devices) (Per Device) (1st Year Only)	Item	\$439.80
132-32	DCI - eAgent Hosted "Java" Client for Desktop License (Next 51+ Devices) (Per Device) (1st Year Only)	Item	\$390.93
132-34	DCI - eAgent Hosted "Java" Client for Desktop Support and Maintenance (Recurring Annually, Including First Year)	Item	20% of Total License (less .25%)
132-32	DCI - eAgent Hosted "Java" Client for Mobile Data Terminal License (First Device) (1st Year Only)	Item	\$586.40
132-32	DCI - eAgent Hosted "Java" Client for Mobile Data Terminal License (Next 2-5 Devices) (Per Device) (1st Year Only)	Item	\$488.66
132-32	DCI - eAgent Hosted "Java" Client for Mobile Data Terminal License (Next 6-10 Devices) (Per Device) (1st Year Only)	Item	\$390.93
132-32	DCI - eAgent Hosted "Java" Client for Mobile Data Terminal License (Next 11-50 Devices) (Per Device) (1st Year Only)	Item	\$293.20
132-32	DCI - eAgent Hosted "Java" Client for Mobile Data Terminal License (Next 51+ Devices) (Per Device) (1st Year Only)	Item	\$195.47
132-34	DCI - eAgent Hosted "Java" Client for Mobile Data Terminal Support and Maintenance (Recurring Annually, Including 1st Year)	Item	20% of Total License (less .25%)
132-32	DCI - Yearly eAgent for Web Subscription - Query Access (First 1-5 Users) (Per Named User)	Item	\$195.47
132-32	DCI - Yearly eAgent for Web Subscription - Query Access (Next 6-10 Users) (Per Named User)	Item	\$146.60
132-32	DCI - Yearly eAgent for Web Subscription - Query Access (Next 11-20 Users) (Per Named User)	Item	\$122.17
132-32	DCI - Yearly eAgent for Web Subscription - Query Access (Next 21-50 Users) (Per Named User)	Item	\$97.73
132-32	DCI - Yearly eAgent for Web Subscription - Query Access (Next 51-1,000 Users) (Per Named User)	Item	\$73.30
132-32	DCI - Yearly eAgent for Handheld Subscription - Query Access (First User) (Per Named User)	Item	\$195.47
132-32	DCI - Yearly eAgent Handheld Subscription - Query Access (Next 2-10 Users) (Per Named User)	Item	\$146.60
132-32	DCI - Yearly eAgent Handheld Subscription - Query Access (Next 11-25 Users) (Per Named User)	Item	\$122.17
132-32	DCI - Yearly eAgent Handheld Subscription - Query Access (Next 26-1,000 Users) (Per Named User)	Item	\$97.73
132-32	DCI - Yearly eAgentX2 Hosted Subscription (For Customers Already Using eAgent Client Software for Mobiles or Desktops) (First 1-20 Users) (Per Named User)	Item	\$29.32
132-32	DCI - Yearly eAgentX2 Hosted Subscription (For Customers Already Using eAgent Client Software for Mobiles or Desktops) (Next 21-50 Users) (Per Named User)	Item	\$24.43
132-32	DCI - Yearly eAgentX2 Hosted Subscription (For Customers Already Using eAgent Client Software for Mobiles or Desktops) (Next 51-100 Users) (Per Named User)	Item	\$19.55
132-32	DCI - Yearly eAgentX2 Hosted Subscription (For Customers Already Using eAgent Client Software for Mobiles or Desktops) (Next 101-1,000 Users) (Per Named User)	Item	\$14.66



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132-32	DCI - Yearly eAgent X2 Hosted Subscription (For Customers Using Only eAgent VPN or Gateway) (Per Named User)	Item	\$58.64
132-32	DCI - Yearly Lease of eAgent Network Gateway (Per Location)	Item	\$1,954.66
132-32	DCI - Installation Fee for eAgent Gateway (Per Location) (One-Time Fee)	Item	\$488.66
132-32	DCI - Yearly Lease of eAgent VPN (Up to 8 Concurrent Mobile Connections)	Item	\$1,954.66
132-32	DCI - Yearly Lease of eAgent VPN (Up to 23 Concurrent Mobile Connections)	Item	\$2,443.32
132-32	DCI - Yearly Lease of eAgent VPN (Up to 248 Concurrent Mobile Connections)	Item	\$3,909.32
132-32	DCI - Installation Fee for eAgent VPN (Per Location) (One-Time Fee)	Item	\$488.66
132-32	DCI - eAgentJXI Software License (Up to 50 Sworn Personnel) (1st Year Only)	Item	\$4,886.65
132-32	DCI - eAgentJXI Software License (Up to 100 Sworn Personnel) (1st Year Only)	Item	\$7,818.64
132-32	DCI - eAgentJXI Software License (Up to 200 Sworn Personnel) (1st Year Only)	Item	\$10,750.63
132-32	DCI - eAgentJXI Software License (Up to 300 Sworn Personnel) (1st Year Only)	Item	\$13,682.62
132-32	DCI - eAgentJXI Software License (Up to 400 Sworn Personnel) (1st Year Only)	Item	\$16,614.61
132-32	DCI - eAgentJXI Software License (Up to 500 Sworn Personnel) (1st Year Only)	Item	\$19,546.60
132-32	DCI - eAgentJXI Software License (Up to 600 Sworn Personnel) (1st Year Only)	Item	\$22,478.59
132-32	DCI - eAgentJXI Software License (Up to 700 Sworn Personnel) (1st Year Only)	Item	\$25,410.58
132-32	DCI - eAgentJXI Software License (Up to 800 Sworn Personnel) (1st Year Only)	Item	\$27,365.24
132-32	DCI - eAgentJXI Software License (Up to 900 Sworn Personnel) (1st Year Only)	Item	\$29,319.90
132-32	DCI - eAgentJXI Software License (Up to 1,000 Sworn Personnel) (1st Year Only)	Item	\$31,274.56
132-32	DCI - eAgentJXI - Additional Message Key License (Per Message Key) (1st Year Only)	Item	\$977.33
132-34	DCI - eAgentJXI Support and Maintenance (Recurring Annually, Begins 2nd Year)	Item	25% of Total Software and Message Key License (less .25%)
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Includes 50 Named Users, 1st Year Only)	Item	\$19,546.60
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Includes 75 Named Users, 1st Year Only)	Item	\$24,433.25
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Includes 100 Named Users, 1st Year Only)	Item	\$29,319.90
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Includes 150 Named Users, 1st Year Only)	Item	\$38,115.87
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Includes 200 Named Users, 1st Year Only)	Item	\$46,911.84
132-32	DCI - eAgent Enterprise Message Switch & Software Suite	Item	\$55,219.14



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	License (Includes 250 Named Users, 1st Year Only)		
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Includes 300 Named Users, 1st Year Only)	Item	\$63,526.45
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Includes 400 Named Users, 1st Year Only)	Item	\$78,186.40
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Includes 500 Named Users, 1st Year Only)	Item	\$92,846.35
132-32	DCI - eAgent Standalone Message Switch System License (Includes 25 Named Users, 1st Year Only)	Item	\$6,347.61
132-32	DCI - eAgent Standalone Message Switch System License (Includes 50 Named Users, 1st Year Only)	Item	\$9,068.01
132-32	DCI - eAgent Standalone Message Switch System License (Includes 100 Named Users, 1st Year Only)	Item	\$11,788.41
132-32	DCI - eAgent Standalone Message Switch System License (Includes 200 Named Users, 1st Year Only)	Item	\$15,869.02
132-32	DCI - eAgent Standalone Message Switch System License (Includes 300 Named Users, 1st Year Only)	Item	\$19,949.62
132-32	DCI - eAgent Standalone Message Switch System License (Includes 400 Named Users, 1st Year Only)	Item	\$23,576.83
132-32	DCI - eAgent Standalone Message Switch System License (Includes 500 Named Users, 1st Year Only)	Item	\$27,204.03
132-34	DCI - eAgent Message Switch Support & Maintenance (Recurring Annually, Begins 2nd Year)	Item	25% of System License + Interface(s) + Customized Software (less .25%)
132-32	DCI - eAgent Enterprise Message Switch & Software Suite License (Additional 500 users after first 500, 1st Year Only) (MSS-ELSS1000)	Item	14659.95

**LABOR CATEGRIES**

Classification	Responsibilities	Education/Experience
Installation/Field Engineering PSV-102, PSV-104	Installation and field engineering in multiple capacities: System development, Testing, Department, Implementation, Operations and maintenance support, System transition, etc.	2+ years of experience Bachelor's Degree
Technical Services (Junior) PSV-306	Technical Services and Custom Development in multiple capacities: System development, Testing, Department, Implementation, Operations and maintenance support, System transition, etc.	2+ years of experience Bachelor's Degree
Technical Services (Senior) PSV-304	Technical Services and Custom Development in multiple capacities: System development, Testing, Department, Implementation, Operations and maintenance support, System transition, etc.	10+ years of experience Bachelor's Degree
Project Management PSV-402, PSV-404	Project Management oversight over multiple areas: System development, Testing, Department, Implementation, Operations and maintenance support, System transition, etc.	5+ years of experience Bachelor's Degree

**TERMS AND CONDITIONS APPLICABLE TO TERM SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-32), PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33) AND MAINTENANCE AS A SERVICE (SPECIAL ITEM NUMBER 132-34) OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE**

**1. INSPECTION/ACCEPTANCE**

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The ordering activity must exercise its postacceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software.

**2. ENTERPRISE USER LICENSE AGREEMENTS REQUIREMENTS (EULA)**

The Contractor shall provide all Enterprise User License Agreements in an editable Microsoft Office (Word) format.

**3. GUARANTEE/WARRANTY**

a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.

**Standard Commercial Warranty. Customer should contact contractor for a copy of the warranty or generally N/A for services**

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract. If no implied warranties are given, an express warranty of at least 60 days must be given in accordance with FAR 12.404(b)(2)

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

**4. TECHNICAL SERVICES**

The Contractor, without additional charge to the ordering activity, shall provide a hot line technical support number **850-656-3333** for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from **9 AM EST to 4 PM EST**.

**5. SOFTWARE MAINTENANCE**

a. Software maintenance as it is defined: (select software maintenance type) :

  X   1. Software Maintenance as a Product (SIN 132-32 or SIN 132-33)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user’s self diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

  X   2. Software Maintenance as a Service (SIN 132-34)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

b. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

**6. PERIODS OF TERM LICENSES (SIN 132-32) AND MAINTENANCE (SIN 132-34)**

a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.

- b. Term licenses and/or maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.
- d. Cross-Year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- e. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

## **7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE**

- a. The ordering activity may convert term licenses to perpetual licenses for any or all software at any time following acceptance of software. At the request of the ordering activity the Contractor shall furnish, within ten (10) calendar days, for each software product that is contemplated for conversion, the total amount of conversion credits which have accrued while the software was on a term license and the date of the last update or enhancement.
- b. Conversion credits which are provided shall, within the limits specified, continue to accrue from one contract period to the next, provided the software remains on a term license within the ordering activity.
- c. The term license for each software product shall be discontinued on the day immediately preceding the effective date of conversion from a term license to a perpetual license.
- d. The price the ordering activity shall pay will be the perpetual license price that prevailed at the time such software was initially ordered under a term license, or the perpetual license price prevailing at the time of conversion from a term license to a perpetual license, whichever is the less, minus an amount equal to \_\_\_\_\_% of all term license payments during the period that the software was under a term license within the ordering activity.

## **8. TERM LICENSE CESSATION**

- a. After a software product has been on a continuous term license for a period of \_\_\_\_\_ \* months, a fully paid-up, non-exclusive, perpetual license for the software product shall automatically accrue to the ordering activity. The period of continuous term license for automatic accrual of a fully

paid-up perpetual license does not have to be achieved during a particular fiscal year; it is a written Contractor commitment which continues to be available for software that is initially ordered under this contract, until a fully paid-up perpetual license accrues to the ordering activity. However, should the term license of the software be discontinued before the specified period of the continuous term license has been satisfied, the perpetual license accrual shall be forfeited.

b. The Contractor agrees to provide updates and maintenance service for the software after a perpetual license has accrued, at the prices and terms of Special Item Number I32-34, if the licensee elects to order such services. Title to the software shall remain with the Contractor.

**9. UTILIZATION LIMITATIONS - (SIN 132-32, SIN 132-33, AND SIN 132-34)**

a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.

b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:

(1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.

(2) Software licenses are by site and by ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity. The software may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one ordering activity's site. This would allow other agencies access to one ordering activity's database. For ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.

(3) Except as is provided in paragraph 8.b(2) above, the ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity who have the ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the ordering activity to use software, documentation, or information therein, which the ordering activity may already have or obtains without restrictions.

(4) The ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of Disaster Recovery, the ordering activity has the right to transfer the software to another site if the ordering activity site for which it is acquired is deemed to be unsafe for ordering activity personnel; to use the computer software and documentation with a backup

computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

(5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.

#### **10. SOFTWARE CONVERSIONS - (SIN 132-32 AND SIN 132-33)**

Full monetary credit will be allowed to the ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version. Under a term license (132-32), conversion credits which accrued while the earlier version was under a term license shall carry forward and remain available as conversion credits which may be applied towards the perpetual license price of the new version.

#### **11. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY**

The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

#### **12. RIGHT-TO-COPY PRICING**

The Contractor shall insert the discounted pricing for right-to-copy licenses.

**TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY (IT)  
PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 132-51)**

**\*\*\*NOTE:** *All non-professional labor categories must be incidental to, and used solely to support professional services, and cannot be purchased separately.*

**1. SCOPE**

- a. The prices, terms and conditions stated under Special Item Number 132-51 Information Technology Professional Services apply exclusively to IT Professional Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

**2. PERFORMANCE INCENTIVES I-FSS-60 Performance Incentives (April 2000)**

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

**3. ORDER**

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

#### **4. PERFORMANCE OF SERVICES**

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.
- c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

#### **5. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)**

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-
  - (1) Cancel the stop-work order; or
  - (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
  - (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
  - (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

## **6. INSPECTION OF SERVICES**

In accordance with FAR 52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAR 2009) (DEVIATION I - FEB 2007) for Firm-Fixed Price orders and FAR 52.212-4 CONTRACT TERMS AND CONDITIONS COMMERCIAL ITEMS (MAR 2009) (ALTERNATE I OCT 2008) (DEVIATION I – FEB 2007) applies to Time-and-Materials and Labor-Hour Contracts orders placed under this contract.

## **7. RESPONSIBILITIES OF THE CONTRACTOR**

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 (Dec 2007) Rights in Data – General, may apply.

## **8. RESPONSIBILITIES OF THE ORDERING ACTIVITY**

Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite IT Professional Services.

## **9. INDEPENDENT CONTRACTOR**

All IT Professional Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the ordering activity.

## **10. ORGANIZATIONAL CONFLICTS OF INTEREST**

### **a. Definitions.**

“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize,

or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

## **11. INVOICES**

The Contractor, upon completion of the work ordered, shall submit invoices for IT Professional services. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

## **12. PAYMENTS**

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to labor-hour orders placed under this contract. 52.216-31(Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition As prescribed in 16.601(e)(3), insert the following provision:

- (a) The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.
- (b) The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—
  - (1) The offeror;
  - (2) Subcontractors; and/or
  - (3) Divisions, subsidiaries, or affiliates of the offeror under a common control.

## **13. RESUMES**

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request.

## **14. INCIDENTAL SUPPORT COSTS**

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

## **15. APPROVAL OF SUBCONTRACTS**

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

**16. DESCRIPTION OF IT PROFESSIONAL SERVICES AND PRICING**

a. The Contractor shall provide a description of each type of IT Service offered under Special Item Numbers 132-51 IT Professional Services should be presented in the same manner as the Contractor sells to its commercial and other ordering activity customers. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles (labor categories) for those individuals who will perform the service should be provided.

b. Pricing for all IT Professional Services shall be in accordance with the Contractor's customary commercial practices; e.g., hourly rates, monthly rates, term rates, and/or fixed prices, minimum general experience and minimum education.

The following is an example of the manner in which the description of a commercial job title should be presented:

**EXAMPLE:** Commercial Job Title: System Engineer

Minimum/General Experience: Three (3) years of technical experience which applies to systems analysis and design techniques for complex computer systems. Requires competence in all phases of systems analysis techniques, concepts and methods; also requires knowledge of available hardware, system software, input/output devices, structure and management practices.

Functional Responsibility: Guides users in formulating requirements, advises alternative approaches, conducts feasibility studies.

Minimum Education: Bachelor's Degree in Computer Science

SOFTWARE LICENSE AND MAINTENANCE  
AGREEMENT

THIS SOFTWARE LICENSE AND MAINTENANCE AGREEMENT (“AGREEMENT”) is made as of the Effective Date by and between Diverse Computing Inc., (“DCI”), a Florida corporation with offices located at 3717 Apalachee Parkway, Suite 102, Tallahassee, Florida 32311 and AGENCY NAME (“Licensee”), with offices located at the address specified on the signature page of this Agreement.

**WITNESSETH:**

WHEREAS, Licensee has requested DCI to provide Licensee with certain computer software and systems for gaining access to NCIC and \_\_\_\_\_ Information Systems for Licensee; and

WHEREAS, DCI owns certain computer software and systems for gaining access to NCIC and \_\_\_\_\_ Information Systems (“Licensed Technology”); and

WHEREAS, Licensee desires to utilize the Licensed Technology for gaining access to NCIC and \_\_\_\_\_ Information Systems; and

WHEREAS, Licensee has had an opportunity to review the Licensed Technology and is familiar with the Licensed Technology; and

WHEREAS, Licensee desires to license the Licensed Technology in accordance with the terms and conditions of this Agreement; and

WHEREAS, DCI requires that Licensee obtain and retain maintenance services for the Licensed Technology during the term of the license.

NOW, THEREFORE, in consideration of the mutual benefits of the covenants and restrictions herein contained, DCI and Licensee hereby agree as follows:

**ARTICLE I: RECITALS AND DEFINITIONS**

Section 1.01 -- Recitals: The above recitals and identification of parties are true and correct.

Section 1.02 -- Definitions: The following definitions shall apply:

- (1) Access: The term “Access” and variants thereof shall mean to store data in, retrieve data from or otherwise approach or make use of (directly or indirectly) through electronic means or otherwise.
- (2) Agreement Term: The term “Agreement Term” shall mean a one (1) year period of time starting on the Effective Date.
- (3) Application Interfaces: The term “Application Interfaces” shall mean those certain interfaces, if

any, identified on Exhibit A.

- (4) Associate: The term “Associate” shall mean an employee of DCI or an independent contractor hired by DCI.
- (5) Authorized Facility: The term “Authorized Facility” shall mean the facilities as identified and further defined in Exhibit A, attached hereto and by this reference incorporated herein.
- (6) Authorized Person: The term “Authorized Person” shall mean employees and contractors of Licensee authorized by Licensee to access the Product with a need to know Confidential Information who agree to maintain the confidentiality of such Confidential Information in consideration for receiving such Confidential Information and individuals or organizations who are authorized in writing by DCI to receive Confidential Information.
- (7) Cancellation Notice: The term “Cancellation Notice” shall mean that written notice sent by DCI to Licensee seeking to cancel this Agreement because of breach by Licensee.
- (8) Confidential Information: The term “Confidential Information” shall mean all information disclosed by one party to this Agreement to the other party to this Agreement that is identified by the disclosing party as proprietary or confidential at the time such information comes into the possession or knowledge of the receiving party and which is not: (i) already known to the receiving party; (ii) in the public domain; (iii) conveyed to the receiving party by a third party; (iv) released by the disclosing party without restriction; (v) independently developed by the receiving party without the knowledge of any information disclosed by the disclosing party as evidenced by the receiving party; or (vi) required by court order to be released by receiving party. For purposes of this definition, Confidential Information shall be deemed to include this Agreement, the Product and any and all information concerning this Agreement and the Product.
- (9) Defect: The term “Defect” shall mean programming or software design errors which substantially impair the performance, utility and functionality of the Product as represented in the Documentation and/or Supplement.
- (10) Device: The term “Device” shall mean each single End User computing device or Licensee computing device that accesses any of the Licensed Technology, is properly authorized through a paid license, and that counts as a Device under the Price List and/or Task/Purchase Order.
- (11) Documentation: The term “Documentation” shall mean the information developed by DCI and

provided to Licensee in printed or computer file format relating to the Licensed Technology, its installation and use, including any and all updates and modifications as provided by DCI to Licensee.

- (12) Effective Date: The term “Effective Date” shall mean the date this Agreement is signed by both parties.
- (13) End User: The term “End User” shall mean an individual identified and verified as an employee or contractor of Licensee that is properly authorized under a Device and a User Agreement for such employer or contractor to access and use the Licensed Technology strictly in accordance with the terms and conditions under this Agreement and the User Agreement solely for his/her own use of the Licensed Technology as set forth in and subject to this Agreement and the User Agreement and not for further distribution or resale and who agrees to be bound by the terms and conditions of this Agreement as if the End User were Licensee.
- (14) Implement: The term “Implement” and variants thereof shall mean to load, compile, and execute.
- (15) Licensed Technology: The term “Licensed Technology” shall mean that certain DCI software (including Application Interfaces, Localized Software, and Multiple User Software), in object code form only, and DCI services all as provided by DCI to Licensee or accessed via the Server by Licensee, its Named Users, or End Users as specifically identified in Exhibit A for which Licensee has paid the appropriate Prices as set forth in the Schedule Contract and/or the Task/Purchase Order, and including any modifications and/or Updates provided to or accessible by Licensee, its Named Users, and/or End Users, all as may be further defined in Exhibit A.
- (16) Licensee Data: The term “Licensee Data” shall mean any and all data provided or uploaded by or on behalf of Licensee to or through the Licensed Technology.
- (17) Localized Software: The term “Localized Software” shall mean that certain computer software (as applicable), in object code form only, identified in Exhibit A as Localized Software, attached hereto and by this reference incorporated herein, for use solely on the Server, including any and all DCI modifications and updates to the Localized Software.
- (18) Maintenance Services: The term “Maintenance Services” shall mean those certain services as set forth under Article IV of this Agreement.
- (19) Named User: The term “Named User” shall mean a named individual identified and verified as an employee or contractor of Licensee that is properly

authorized through a paid license and a User Agreement as accepted by such employee or contractor, and that counts as a Named User under the Price List and/or the Task/Purchase Order under an appropriate license to access and use the applicable Licensed Technology solely for his/her own internal use of such Licensed Technology as set forth in and subject to this Agreement and the User Agreement and not for further distribution or resale.

- (20) Multiple User Software: The term “Multiple User Software” shall mean that certain computer software, in object code form only, identified as “Multiple User Software” in Exhibit A, attached hereto and by this reference incorporated herein, and including any and all DCI modifications and Updates to the Multiple User Software.
- (21) Price List: The term “Price List” shall mean that certain price list and pricing terms for the current Product/Product Usage, and/or Services and pricing for any future additional Product usage and/or Services on a pro-rata basis during the Agreement Term listed as part of, and as set forth in, the Schedule Contract for each respective eAgent product and/or service provided by DCI to or on behalf of Licensee. At DCI’s discretion, the Price List and any applicable terms established in such Price List may be further negotiated between DCI and the ordering activity (Licensee) pursuant to a Task/Purchase Order.
- (22) Product: The term “Product” shall mean the Documentation, Supplements, the applicable Licensed Technology and any additional modifications, Updates, or changes to the applicable Licensed Technology pursuant to this Agreement.
- (23) Proprietary Notice: The term “Proprietary Notice” shall mean a written notice displaying the following (1) the symbol © (the letter C in a circle), or the word “Copyright,” or the abbreviation “Copr.”; (2) the years “2001 - 2016”; (3) the name “Diverse Computing, Inc.”; (4) the phrase “All Rights Reserved.”; (5) the words “CONFIDENTIAL INFORMATION” in large upper-case letters; and (6) the words “TRADE SECRET” in large upper-case letters.
- (24) Restatements: The term “Restatements” shall mean Section 757 of the Restatement of Torts, Section 39 of the Restatement (Third) of Unfair Competition, Section 1 of the Uniform Trade Secrets Act, and Section 1839 of Title 18 of the United States Software (18 U.S.C. §1839), as may be amended.
- (25) Schedule Contract: The term “Schedule Contract” shall mean that certain schedule contract formally identified as Multiple Award Schedule 70 Contract between DCI and GSA dated \_\_\_\_\_.

- (26) Server: The term “Server” shall have the meaning as set forth in Exhibit A, attached hereto and by this reference incorporated herein.
- (27) Services: The term “Services” shall mean any services provided to Licensee by DCI in connection with the Licensed Technology or Product as set forth in Article IV.
- (28) Supplement: The term “Supplement” shall mean modifications or updates to the Documentation as provided by DCI to Licensee.
- (29) Task/Purchase Order: The term “Task/Purchase Order” shall mean those certain one or more Task/Purchase Order(s) agreed to by the parties in writing for goods/services placed against the Schedule Contract.
- (30) Third Party Technology: The term “Third Party Technology” shall mean any third-party technology developed, provided or made available by Licensee or DCI in connection with the Product or services.
- (31) Unauthorized Access: The term “Unauthorized Access” shall mean any access to the Product except for the exclusive purposes of using the Product for internal purposes; evaluating the performance, utility and functions of the Licensed Technology; and training Named Users and/or End Users in use of the Licensed Technology in accordance with the Documentation and any Supplements.
- (32) Unauthorized User: The term “Unauthorized User” shall mean any individual who accesses the Product except for: (1) Users authorized by Licensee to access the Product for the exclusive purposes of using the Product for internal uses only in accordance with this Agreement; evaluating the performance, utility and functions of the Licensed Technology; and training employees of Licensee in use of the Licensed Technology; and (2) Authorized Persons.
- (33) Update: The term "Update" shall mean the modifications to the Licensed Technology that have been publicly released to DCI customers without charge under standard software maintenance agreements to resolve Defects. The term “Updates” does not include new versions or upgrades of the Licensed Technology for which DCI generally charges an additional fee or any new modules or products DCI releases that are commercially sold separately.
- (34) User Agreement: The term “User Agreement” shall mean those terms and conditions set forth in substantial form as Exhibit B, attached hereto and by this reference incorporated herein.

## ARTICLE II: ACCEPTANCE

Section 2.01 – Delivery and Acceptance: Licensee hereby acknowledges that Licensee has had an opportunity to evaluate the Licensed Technology and has had an opportunity to discuss the Licensed Technology with DCI representatives familiar with the Licensed Technology for purposes of enabling Licensee to determine whether the Licensed Technology is suitable and acceptable for Licensee. The Product shall be deemed accepted and the Services provided by DCI shall be deemed delivered by DCI and accepted by Licensee upon performance.

Section 2.02 – Cooperation/Facilities: Licensee hereby acknowledges that successful performance of DCI’s obligations under this Agreement shall require Licensee to cooperate with DCI in good faith and to provide information as may be requested by DCI from time to time. Licensee hereby agrees to provide such good faith cooperation and information. Licensee shall also cooperate with DCI by granting DCI reasonable access, consistent with Licensee security procedures, including remote control access, to the Licensed Technology, as applicable, and by providing data and information reasonably required by DCI. Unless otherwise required (as determined exclusively by DCI), the Services shall be performed at the office facilities of DCI.

## ARTICLE III: SCOPE OF LICENSE

Section 3.01 – DCI Grant of License: Subject to the terms and conditions of this Agreement, including without limitation, Licensee’s payment of the applicable prices under the applicable Price List and/or Task/Purchase Order to DCI for the applicable Agreement Term, DCI hereby grants to Licensee and Licensee hereby accepts a revocable, non-transferable, limited, non-exclusive license to permit its authorized Named Users and/or End Users through Devices as applicable to use the Documentation and Supplements and Licensed Technology within the identified limits as set forth in the Schedule Contract and/or the Task/Purchase Order as applicable, including the licensed right to download and use the Multiple User Software in object code form only, and to access and use the Localized Software in object code form only at the Authorized Facility during the Agreement Term and all subject to the terms and conditions of this Agreement and as specified in the Schedule Contract and/or the Task/Purchase Order as applicable. DCI grants valid Named Users and End Users a license to use the applicable Licensed Technology strictly pursuant to the User Agreement, a copy of which is attached hereto in substantial form as Exhibit B, and by this reference incorporated herein. Such User Agreements shall include any and all terms and conditions set forth in Exhibit B that provide protections and/or benefits to DCI, as determined by DCI.

Section 3.02 -- Licensee Data: Licensee hereby grants DCI a worldwide and non-exclusive license to use, reproduce, and modify the Licensee Data, in whole or in part, for the purpose of maintaining the Licensed Technology or performing any services under the License. DCI shall not have the obligation to access, review, or maintain the Licensee Data except at the sole discretion of DCI. Licensee shall be responsible for

uploading, converting, and maintaining the Licensee Data except at the sole discretion of DCI.

Section 3.03 -- License Restriction: Licensee shall not, in whole or in part, sell, rent, lease, create derivative works, modify, reverse engineer, reverse compile, or reverse assemble in any way the Product. If Licensee pays for the license to use the Localized Software under this Agreement and the Authorized Facility is located at the Licensee's facility, Licensee shall have the right to make one back-up copy of the Localized Software for "failover" to a backup system. Licensee shall not otherwise copy the Product and shall not allow the Product to be copied without the prior written consent of DCI. Licensee shall not have the right to provide any access to the Product except to Named Users and/or End Users as strictly set forth under this Agreement and shall not have the right to, or authorize third parties to, sublicense or distribute the Product. Licensee hereby represents and warrants that the Product is licensed by Licensee hereunder solely for its and its employees' own use pursuant to the terms and conditions of this Agreement and the User Agreement.

Section 3.04 -- Non-Exclusive: Licensee hereby acknowledges that the rights and licenses granted under this License are non-exclusive and do not constitute a transfer of ownership.

Section 3.05 -- Risk of Loss: Licensee shall assume risk of loss to the Product.

Section 3.06 -- Authorized Use: Licensee shall prevent Unauthorized Users from accessing the Product. Licensee shall prevent Unauthorized Access to the Product. Licensee shall promptly inform DCI of any and all Unauthorized Access (or suspected Unauthorized Access) and Unauthorized Users (or suspected Unauthorized Users) of which Licensee has knowledge or suspicion.

Section 3.07 -- Users: Licensee shall require each Named User and End User (or otherwise any individual that uses the Licensed Technology and is required to be a Named User or End User, as applicable, under this Agreement) that is not an employee of Licensee to agree to a User Agreement and to abide by any privacy statement provided by DCI. All such Named Users, End Users, and/or such individuals shall use the Licensed Technology strictly subject to the User Agreement. Licensee and DCI hereby agree that DCI shall be either a direct party or an intended third party beneficiary with vested rights in each User Agreement.

Section 3.08 -- Third Party Technology: Licensee hereby acknowledges and agrees that Third Party Technology, such as the Operating System (OS) and network software may be required to fully implement and use the Product. DCI shall have no obligation to supply, provide or deliver to Licensee, End Users, or the Named Users the Third Party Technology or otherwise participate in the acquisition of Third Party Technology by Licensee, End Users, or Named Users. Licensee shall be solely responsible for acquiring, maintaining, and updating all Third Party Technology necessary to implement and use the Product, including all

costs, fees, and expenses in connection therewith. Licensee shall be responsible for obtaining all necessary licenses, authorizations, and rights for Licensee, End Users, and/or the Named Users to acquire and use the Third Party Technology.

Section 3.09 -- Government Restricted Rights: The Product is provided to non-DOD agencies with RESTRICTED RIGHTS and its supporting documentation is provided with LIMITED RIGHTS. Use, duplication, or disclosure by the Government is subject to the restrictions as set forth in subparagraph "C" of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19 as may be renumbered or amended. In the event the sale is to a DOD agency, the government's rights in software, supporting documentation, and technical data are governed by the restrictions in the Technical Data Commercial Items clause at DFARS 252.227-7015 and DFARS 227.7202 as may be renumbered or amended. The Manufacturer is Diverse Computing, Inc. 3717 Apalachee Parkway, Suite 102, Tallahassee, FL 32311.

Section 3.10 -- Export Laws: Licensee hereby acknowledges that the Product is of U.S. origin. The Product, including technical data, is subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Licensee agrees to comply strictly with all such regulations and acknowledges that it has the responsibility to obtain licenses to export, re-export, or import software. Licensee hereby represents that Licensee has not had its export privileges suspended, revoked, or denied by a U.S. government agency.

Section 3.11 -- Federal and State Regulations: Both parties agree to comply with all applicable provisions of the Federal and State administrative Rules and Regulations, in regards to products/services delivered under this Agreement. Both parties agree not to use or disclose any information concerning products/services provided to Licensee for any purposes not in conformity with state regulations and Federal law or regulations except upon written consent.

#### **ARTICLE IV: MAINTENANCE**

Section 4.01 -- Maintenance Services: Upon payment of the applicable prices under the applicable Price List and/or the Task/Purchase Order by Licensee, DCI shall provide Maintenance Services to Licensee for the relevant Agreement Term as applicable.

Section 4.02 -- Server Support: DCI shall provide 1<sup>st</sup> Tier Server Support solely as specifically set forth in this Section ("1<sup>st</sup> Tier Server Support"). DCI will provide one (1) hour response time for pager/telephone support 24X7 for troubleshooting and diagnosis of the Licensed Technology and Active Directory via remote access.

Section 4.03 -- Telephone Support: DCI shall provide 2<sup>nd</sup> Tier User Support solely as specifically set forth in this Section ("2<sup>nd</sup> Tier User Support"). DCI will provide four (4) hour response time for pager/telephone support Monday through Friday, 9AM to 5PM EST (holidays excluded). Licensee shall designate a maximum of two personnel as

points of contact for Licensee. Such support call can only be initiated from one of the points of contact. Such support will include any reasonable assistance the points of contact may require in using the Product that can be handled by telephone.

Section 4.04 --Costs/ No Defects: If in analyzing a suspected defect at Licensee's request, it is determined that no Defect exists or that it was caused by unauthorized modifications to the Product or Licensee error, DCI, in DCI's discretion, shall have the right to file a request for equitable adjustment and/or a claim against the government for additional expenses as necessary for such DCI efforts, plus any other expenses actually incurred by DCI in connection with detecting or correcting such alleged defect.

Section 4.05 -- Updates: During the Agreement Term, DCI shall make Updates and Supplements available to Licensee within a reasonable time after release of such Update or Supplement. During the Agreement Term, Licensee agrees to implement, in the manner indicated, any Updates and any other error corrections provided by DCI to Licensee to maintain the continuing integrity of the Product. Licensee's failure to do so shall relieve DCI of any responsibility or liability for the improper operation or any malfunction of the Product as modified by any such subsequent Updates or corrections.

Section 4.06 – Excluded Items: Maintenance items other than those described in this Article shall not be included in the pricing under the applicable Price List and/or the Task/Purchase Orders, including but not limited to training, support of other software, hardware, operating system services, repair of damage not caused by DCI, or any other problems determined by DCI to be outside the control and responsibility of DCI. Licensee is responsible for media (i.e. diskettes, data tapes or data communications) and distribution costs (shipping, handling and telephone charges) for the Product and/or any other program or data file that may be provided to Licensee.

Section 4.07 -- Personnel: The personnel assigned to perform the Services shall be determined solely by DCI and shall be trained and skilled to perform the Services in a professional manner consistent with industry standards.

Section 4.08 -- Reliance: Unless advised to the contrary in writing at the time of disclosure, DCI shall be entitled to rely on any information provided by Licensee as true and correct.

Section 4.09 – Acceptance/Schedule: The Services shall be deemed delivered by DCI and accepted by Licensee upon performance. The Services shall be performed only during normal working hours on all non-holiday weekdays, Monday through Friday.

## **ARTICLE V: PAYMENT**

Section 5.01 – Pricing: Licensee shall pay DCI the applicable pricing payable in accordance with the Schedule Contract and/or the Task/Purchase Order as applicable.

Section 5.02 -- Services: Except for services that are provided

in exchange for the pricing payable in accordance with the Schedule Contract and/or the Task/Purchase Order, as applicable., namely Updates, Server Support under section 4.02, and/or Telephone Support under Section 4.03, DCI is not obligated to provide any other services to Licensee in connection with the Product. Licensee shall not request DCI to provide any services outside the scope of this Agreement except solely pursuant to a separate written and negotiated agreement. Licensee shall also not request DCI to provide any services outside the scope of the task/purchase order except solely pursuant to a separate written and negotiated agreement. If the Licensee does request DCI to provide any services outside the scope of this Agreement or the task/purchase order, and DCI does provide such services, DCI shall have the right to file a request for equitable adjustment and/or a claim against the government for additional expenses as necessary. Any travel time will be charged at DCI's then prevailing hourly rate for services completed in accordance with the terms of the Task/Purchase Order.

Section 5.03 -- Costs: Licensee shall pay all direct costs and expenses incurred by DCI in providing any services pursuant to this Agreement excluding Server Support under Section 4.02 and Telephone Support under Section 4.03. Licensee shall pay such direct costs, which may include(without limitation) postage, telephone, travel, per diem, material and reproduction costs in accordance with the terms of the Task/Purchase Order.

Section 5.04 -- Invoicing and Payment: DCI shall invoice Licensee for any fees and direct costs incurred by DCI in providing services under this Agreement excluding Server Support under Section 4.02 and Telephone Support under Section 4.03. Such invoice shall be accompanied by receipts evidencing such costs. Licensee shall pay any such invoice in full within thirty (30) days of receipt.

Section 5.05 -- Payment: Licensee shall pay DCI all amounts due in U.S. Dollars. The parties hereby acknowledge and agree that the Prompt Payment Act (31 U.S.C. § 3901 et seq.) is applicable to and shall govern this Agreement as it relates to any past due payments. In addition to any other rights and remedies DCI may have, if any payment due to DCI is not made on the due date Licensee shall pay interest on the overdue undisputed amount at the late penalty interest rate calculated under the provisions of the Prompt Payment Act (31 U.S.C. § 3901 et seq.) .

Section 5.06 -- Insurance: Licensee and DCI shall each maintain at their own expense all necessary insurance, including but not limited to, workmen's compensation, disability, and unemployment insurance as well as public liability, product liability, property damage, and automobile liability insurance against all losses, claims, demands, proceedings, damages, costs, charges and expenses for injuries or damage to any person or property arising out of or in connection with this Agreement that are the result of the fault or negligence of such party. Each party shall provide the other party with certification of such insurance upon request.

## **ARTICLE VI: TERMINATION**

## ARTICLE VII: WARRANTY

**Section 6.01 -- Term:** This Agreement shall be valid for the Agreement Term. The Agreement Term may be renewed by a separate written agreement between the parties at the end of the first Agreement Term and, as agreed between the parties by separate written agreement, at the end of each subsequent Agreement Term for a period of one (1) year upon Licensee's payment of the applicable subsequent fees.

**Section 6.02 – New Releases:** In the event DCI releases a new version of the Licensed Technology or Product or the applicable Licensed Technology reaches its end of life, or is no longer available for distribution by DCI and there will be no more enhancements from DCI ("End of Life Software"), DCI will provide support for the then current Agreement Term. Thereafter DCI may choose not to renew maintenance for such Agreement Term for such prior release or End of Life Software.

**Section 6.03 – Effect of Termination or Cancellation:** Upon termination or cancellation of this Agreement, Licensee shall promptly (i) cease and desist any and all Licensee, End User, and Named User use of the Product; (ii) return or, if so directed, destroy any copies of the Confidential Information in the possession or control of Licensee, End Users, and/or Named Users, and any copies of the Product in the possession or control of Licensee, End Users, and/or its Named Users; and (iii) provide DCI with a certificate of compliance with this section signed by an authorized representative of Licensee. Upon termination or cancellation of this Agreement pursuant cancellation for cause, nonpayment or cancellation for bankruptcy, DCI shall have the right to immediately disable Licensee's use of the Licensed Technology. Licensee shall take immediate steps to remove such Sublicensee, End User, and Named User's ability to access the Licensed Technology, or access the functionality of the Licensed Technology and return to DCI such Licensee, End User, and Named User's Licensed Technology (if any), including any Documentation, electronic media, instructions and all related materials furnished to such Licensee, End User, and/or Named Users.

**Section 6.04 -- Nonpayment:** In addition to any other rights and remedies DCI may have, DCI shall have the right to file a claim against the government for nonpayment. If the license is terminated or cancelled for any reason under this Agreement, such termination and/or cancellation of the license shall immediately terminate any and all Maintenance Services to Licensee provided under this Agreement. In the event Licensee terminates its license rights granted under this Agreement, any reinstatement or re-licensing of such license rights to Licensee will require payment by Licensee of a license fee at the then negotiated rates pursuant to a separate agreement for new DCI customers at the sole discretion of DCI.

**Section 6.05 – Final Invoice:** Within thirty (30) days after the termination or cancellation of this Agreement, DCI shall invoice Licensee for any outstanding amounts due. Licensee shall pay any and all such amounts in full within thirty (30) days after the date such invoice is received.

**Section 7.01 – Warranty:** DCI acknowledges that meeting \_\_\_\_\_'s current implementation requirements is a major component to the value provided by the Licensed Technology. To this end, DCI warrants that DCI will, within a commercially reasonable time period after receipt of notice from \_\_\_\_\_, test and install necessary updates as mandated by the \_\_\_\_\_ to maintain compatibility between the Licensed Technology and current \_\_\_\_\_ implementation requirements free of charge to Licensee if made available generally and at no charge to DCI's customer base. Notwithstanding any language to the contrary in this Agreement, Licensee's sole and exclusive remedy for any breach of any warranty set forth in this Section is to return the failing item of Licensed Technology and related services and receive a refund of all fees paid by Licensee to DCI hereunder for such Licensed Technology and related services from the date the matter was first reported to DCI. Notwithstanding anything to the contrary and for clarification purposes, the Licensed Technology is required to meet the implementation requirements for the current \_\_\_\_\_ information systems only as such systems may be reasonably updated by \_\_\_\_\_. DCI shall no longer be required or responsible for providing connectivity and/or compatibility to the \_\_\_\_\_ information systems if \_\_\_\_\_ replaces the \_\_\_\_\_ information systems currently in place as of the Effective Date with a substantively different system, rather than \_\_\_\_\_ providing compatibility updates to the \_\_\_\_\_ information system currently in place. This Article VI does not limit or disclaim any of the otherwise applicable 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 this Agreement, the Federal Acquisition Regulations, and the Contract Disputes Act, 41 USC 7101-7109 as may be applicable.

**SECTION 7.02 DISCLAIMER: THE WARRANTY SET FORTH IN SECTION 7.01 IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY. THE WARRANTIES SET FORTH IN SECTION 7.01 IS LIMITED TO THE LICENSED TECHNOLOGY AND DOES NOT APPLY TO ANY THIRD PARTY SOFTWARE OR TECHNOLOGY. EXCEPTING THE WARRANTIES EXPRESSLY ACKNOWLEDGED HEREUNDER, DCI HEREBY DISCLAIMS AND LICENSEE HEREBY WAIVES ALL WARRANTIES (EXPRESS OR IMPLIED) INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY INCLUDING ANY WARRANTY OF DESIGN OR ANY PATENT, TRADEMARK OR PROPRIETARY KNOW-HOW WARRANTIES.** This Article VI does not limit or disclaim any of the otherwise applicable 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 this Agreement, the

Federal Acquisition Regulations, and the Contract Disputes Act, 41 USC 7101-7109 as may be applicable.

Section 7.03 -- Product Modifications: Licensee shall not modify the Product without the prior written consent of DCI. If the Product is modified by any party other than DCI, DCI shall be discharged from any further obligations under this Agreement and DCI shall own any such modifications. Any such discharge shall not affect the obligations of Licensee which shall be continuing and binding despite such discharge.

Section 7.04 -- Limitation of Damages: DCI shall not be liable in any event to Licensee for any lost profits or indirect, special, consequential, exemplary, incidental or punitive damages, including but not limited to, loss of use, loss of data, loss of monies deposited, removal of software, and liability to third parties, whatever the cause, regardless of the form of action, whether in contract or in tort, including negligence, and regardless of whether DCI has been advised of the possibility of such damages in advance or whether such damages are reasonably foreseeable. Notwithstanding any provision to the contrary, the liability of DCI for any reason and for any cause of action whatsoever in connection with this Agreement and the Product shall be limited to the amount of money received by DCI from Licensee pursuant to this Agreement. Licensee hereby releases DCI from all obligations, liability, claims or demands in excess of the limitations specified in this Section. The foregoing limitations shall apply even if the above-stated warranty fails of its essential purpose. SOME STATES DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. 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, including the False Claims Act, 31 USC 3729-3733. Furthermore, this clause shall not impair nor prejudice the U.S. Government's right to express remedies provided in the GSA Schedule Contract (e.g., clause 552.238-75—Price Reductions, clause 52.212-4(h)—Patent Indemnification, and GSAR 552.215-72—Price Adjustment—Failure to Provide Accurate Information).

Section 7.05 -- Force Majeure: DCI shall not be liable for any failure to perform its obligations under this Agreement because of circumstances beyond the control of DCI, which such circumstances shall include (without limitation) natural disaster, terrorism, riot, sabotage, labor disputes, war, any acts or omissions of any government or governmental authority, declarations of governments, transportation delays, power failure, computer failure, telecommunications failure, industrial disturbances, acts of GOD, floods, lightning, shortages of materials, rationing, earthquakes, casualty, acts of the public enemy, insurrections, embargoes, blockages, temporary unavailability of qualified service personnel at DCI's office due to support calls received before Licensee's call, failure of Licensee to cooperate with the reasonable requests of DCI, misuse of the Licensed Technology or Product by Licensee, End Users, or Named Users, breach of this Agreement by Licensee, and any other events reasonably beyond the control of DCI.

Section 7.06 -- Prior Licenses: Licensee hereby releases DCI from (and hereby waives) any and all claims and rights of Licensee under any previous or current license, maintenance or support agreement, if any.

Section 7.07 -- NCIC License: Licensee hereby represents and warrants that Licensee has acquired the necessary rights to validly access and use NCIC and \_\_\_\_\_ and that Licensee shall retain such rights for the applicable Agreement Term.

Section 7.08 -- Licensee Data Warranty: Licensee hereby represents and warrants that Licensee possesses all necessary rights, title, and interest in the Licensee Data free and clear of any encumbrances, third-party interests, and restrictions for purposes of using the Licensed Technology and any services under this License.

Section 7.09 -- Lawful Purpose: Licensee represents and warrants that Licensee Data and all Licensee access to the Licensed Technology and any services shall not violate any contract, statute, rule, regulation, or other obligation under which Licensee is bound.

Section 7.10 -- Continuation: The terms and provisions of this Article shall survive termination and cancellation of this Agreement.

## **ARTICLE VIII: INTELLECTUAL PROPERTY**

Section 8.01 -- Ownership and Title: Title to the Product, including ownership rights to patents, copyrights, trademarks, trade secrets and any and all derivative works in connection therewith shall be the exclusive property of DCI. The Product shall not be deemed a "work made for hire" under the U.S. Copyright Act, 17 U.S.C. §101, et seq. Except as provided under Section 3.01, Licensee hereby acknowledges and agrees that Licensee shall not have or accrue any rights, title or ownership interests to the Product including any ownership rights to patents, copyrights, trademarks and trade secrets therein. Licensee hereby assigns, transfers and conveys to DCI any and all rights, title and interests Licensee may have or accrue in the Product including (without limitation) any and all copyrights, trade secrets and patents in connection therewith. Licensee shall not contest or aid in contesting the ownership or validity of the trademarks, service marks, trade secrets or copyrights of DCI. Licensee shall fully cooperate with DCI and provide DCI any and all assistance reasonably requested by DCI for purposes of securing, maintaining and enforcing any and all rights, title and interests DCI may have or accrue in the Product. This Agreement and the License granted herein are not a sale of a copy of the Product and do not render Licensee the owner of a copy of the Product. Ownership of the Product and all components and copies thereof shall at all times remain with DCI, regardless of who may be deemed the owner of the tangible media in or on which the Product may be copied, encoded or otherwise fixed.

Section 8.02 -- Confidential Information: Licensee shall maintain Confidential Information of DCI in strict confidence. Licensee shall not disclose Confidential Information of DCI except to Authorized Persons. Licensee shall not duplicate, use or disclose Confidential Information of DCI except as otherwise permitted under this Agreement. DCI shall not disclose Confidential Information of Licensee to any third party except as may be necessary for DCI's performance of this Agreement.

Section 8.03 -- Trade Secrets: Licensee hereby acknowledges and agrees that the Confidential Information of DCI derives independent economic value (actual or potential) from not being generally known to other persons who can obtain economic value from its disclosure or use and from not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; is the subject of reasonable efforts by DCI under the circumstances to maintain its secrecy; and is a trade secret of DCI as defined under Chapter 688 of the Florida Statutes [§688.002(4)] and the Restatements.

Section 8.04 -- Proprietary Notices: Licensee shall not remove or alter any trade secret or copyright notices or proprietary legends displayed by DCI in connection with the Product. Licensee shall take such reasonable security precautions as necessary to prevent unauthorized copying or disclosure of the Product and shall insure that ownership of the Product by DCI is disclosed by prominent and appropriate display of DCI's Proprietary Notice and any other trade secret and copyright notices on each and every part of the Product and by prominent and appropriate display of the DCI trade name and trademarks on the Product.

Section 8.05 -- Employee Pirating: Licensee shall not induce or solicit (directly or indirectly) any Associate to leave the employ or hire of DCI. Licensee shall not engage (directly or indirectly) the services of such Associate (as an employee, consultant, independent contractor, or otherwise) without advance written consent of DCI.

Section 8.06 -- Noncompetition: Licensee agrees that Licensee shall not create, license, sublicense, market, or distribute any software similar to or competitive with the Product.

Section 8.07 -- Continuation: The terms and provisions of this Article shall survive termination and cancellation of this Agreement.

## **ARTICLE IX: MISCELLANEOUS**

Section 9.01 -- Assignments: All assignments of rights under this Agreement by Licensee without the prior written consent of DCI shall be void.

Section 9.02 -- Public Announcement: All public announcements of the relationship of DCI and Licensee under this Agreement shall be subject to the prior written approval of both DCI and Licensee.

Section 9.03 -- Amendments and Modifications: Alterations,

modifications or amendments of a provision of this Agreement shall not be binding unless such alteration, modification or amendment is in writing and signed by DCI and Licensee.

Section 9.04 -- Severability: Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance shall be prohibited by or invalid under applicable law, such provision shall be reduced to such scope as is reasonable and enforceable if possible. Otherwise such provision shall be ineffective to the extent of such prohibition or invalidity without it invalidating the remainder of the provisions of this Agreement or the application of the provision to the other parties or other circumstances.

Section 9.05 -- Captions: The headings and captions of this Agreement are inserted for reference convenience and do not define, limit or describe the scope or intent of this Agreement or any particular section, paragraph, or provision.

Section 9.06 -- Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be an original, but which together shall constitute one and the same instrument.

Section 9.07 -- Notice: Notices shall be in writing. Notices shall be deemed delivered when delivered by Certified or Registered Mail – Return Receipt Requested, by commercial overnight delivery service or by hand to the address set forth below for DCI and to the address set forth on the signature page of this Agreement for Licensee. Notice shall be deemed given on the date of receipt - as evidenced in the case of Certified or Registered Mail by Return Receipt and in the case of commercial express delivery by electronic or written delivery confirmation.

<u>DCI:</u>	<u>Address:</u>
Diverse Computing, Inc.	3717 Apalachee Pkwy,
	Suite 103
	Tallahassee, Florida 32311

Section 9.08 -- Pronouns/Gender: Pronouns and nouns shall refer to the masculine, feminine, neuter, singular or plural as the context shall require.

Section 9.09 -- Waiver: Waiver of breach of this Agreement shall not constitute waiver of another breach. Failing to enforce a provision of this Agreement shall not constitute a waiver or create an estoppel from enforcing such provision. Any waivers of a provision of this Agreement shall not be binding unless such waiver is in writing and signed by the party waiving such provision.

Section 9.10 -- Relationship of the Parties: It is agreed that the relationship of the parties is primarily that of licensee and licensor. Nothing herein shall be construed as creating a partnership, an employment relationship, or an agency relationship between the parties, or as authorizing either party to act as agent for the other. Each party shall maintain its

separate identity.

Section 9.11 -- Assurances: Each party hereby represents and warrants that all representations, warranties, recitals, statements and information provided to each other under this Agreement are true, correct and accurate as of the Effective Date to the best of their knowledge.

Section 9.12 - Binding Authority: This Agreement is binding upon each party to this Agreement, including its respective officers, agents, servants, employees, attorneys, licensees, related companies, heirs, assigns, and successors.

Section 9.13 -- Litigation Expense: In the event of litigation or arbitration arising out of this Agreement, each party shall pay its own costs and expenses of litigation or arbitration (excluding fees and expenses of arbitrators and administrative fees and expenses of arbitration).

Section 9.14 -- Equitable Remedies: The parties hereby acknowledge that in certain cases damages at law may be an inadequate remedy to DCI. Therefore, in such cases, to the extent allowed by law, DCI shall have the right to seek specific performance, injunction or other equitable remedy in the event of a breach of this Agreement by Licensee. The parties hereby acknowledge and agree that current 28 U.S.C. 1498 requires a remedy in the form of payment of damages for certain patent and copyright infringement claims.

Section 9.15 -- Survival: Articles I, VII, VIII, IX and Sections 3.09, 5.05, 6.03 and 6.05 shall survive termination and cancellation of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date.

DCI:  
DIVERSE COMPUTING, INC.

BY: \_\_\_\_\_

Print Name:  Daniel G. Percy

Title:  President

Date: \_\_\_\_\_

Address:  3717 Apalachee Parkway, Suite 102  
Tallahassee, FL 32311

WITNESS:

\_\_\_\_\_  
As to DCI

LICENSEE:  
AGENCY NAME

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

WITNESS:

\_\_\_\_\_  
As to Licensee

EXHIBIT A  
TO  
SOFTWARE LICENSE AND MAINTENANCE AGREEMENT  
BETWEEN

DIVERSE COMPUTING, INC.

AND

AGENCY NAME ("LICENSEE")

SOFTWARE AND FACILITY DESCRIPTION

---

The term "Server" shall mean one of the following (please check as applicable):

a single computer system (including operating system software) compatible with the Licensed Technology that is owned (or leased) by Licensee and located at the specific Authorized Facility of Licensee, namely \_\_\_\_\_. Licensee shall be required to pay for a license under this Agreement for the Localized Software located at the specific Authorized Facility of Licensee, which contains the server side components.

a single computer system (including operating system software) compatible with the Licensed Technology that is owned (or leased) by DCI for which Licensee has a valid licensed right to access and is located at an Authorized Facility that is identified as either a DCI facility or a third party authorized location. Licensee shall not be required to pay for a license under this Agreement for the Localized Software located at the Authorized Facility of DCI or such authorized third party, which contains the server side components.

The Authorized Facilities of Licensee are located at (please check as applicable):

- AGENCY NAME
- Third party authorized location, namely, \_\_\_\_\_

The term "Localized Software" shall mean the following computer software packages in object code (please check as applicable if licensed):

- eAgent Server
- eAgent Manageable Archive of Retrievable Transactions (MART) Software (server side components)
- eAgent Client Manager (ECM) Software (server side components)

The term "Multiple User Software" shall mean the following computer software in object code:

- eAgent Client for Desktop
- eAgent Client for Mobile
- eAgent Client for Handhelds
- eAgent Client for Web
- eAgent X2 Advanced Authentication
- eAgent Manageable Archive of Retrievable Transactions (MART) Software (User Interface)
- eAgent Client Manager (ECM) Software (User Interface)

EXHIBIT B  
TO  
SOFTWARE LICENSE AND MAINTENANCE AGREEMENT  
BETWEEN

DIVERSE COMPUTING, INC.

AND

AGENCY NAME ("LICENSEE")

USER AGREEMENT

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THIS USER LICENSE AGREEMENT ("AGREEMENT") CONSTITUTES A LEGAL AGREEMENT BETWEEN YOU AND DIVERSE COMPUTING, INC., A FLORIDA CORPORATION WITH PRINCIPLE OFFICES AT 3717 APALACHEE PARKWAY, SUITE 102, TALLAHASSEE, FLORIDA 32311 ("DCI") AND STATES THE TERMS AND CONDITIONS UNDER WHICH YOU MAY USE THE LICENSED TECHNOLOGY AND DOCUMENTATION ("PROPRIETARY INFORMATION"). YOUR DOWNLOADING OF THE LICENSED TECHNOLOGY, USING THE EQUIPMENT THAT CONTAINS THE LICENSED TECHNOLOGY, OR USING OR ACCESSING THE LICENSED TECHNOLOGY, SHALL BE STRICTLY IN ACCORDANCE WITH THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. IF YOU DO NOT AGREE WITH ALL OF THE TERMS OF THIS AGREEMENT YOU SHALL NOT USE OR ACCESS THE PROPRIETARY INFORMATION

Section 1 -- License Grant: Your Agency has entered into a Software License and Maintenance Agreement with DCI for the licensing of the Multiple User Software, Localized Software and other software ("Software License and Maintenance Agreement"). Your use of the Licensed Technology is strictly subject to the terms and conditions of the Software License and Maintenance Agreement in addition to this Agreement. Your use of the Licensed Technology is either pursuant to a Single User License Grant or a Multiple-Users License Grant, as applicable. Subject to the terms and conditions of the Software License and Maintenance Agreement and this Agreement, under a Single User License Grant if applicable, DCI and its suppliers grant to you a non-exclusive and non-transferable license to access and use for the License Term the Documentation and to use the Licensed Technology in object code form only solely on a single central processing unit owned or leased by Agency or otherwise embedded in equipment provided by DCI solely via the Password, if any, and solely for the purposes of the Named User and/or End User, as applicable, as intended under this Agreement. Subject to the terms and conditions of the Software License and Maintenance Agreement and this Agreement, under a Multiple-Users License Grant if applicable, DCI and its suppliers grant to you a non-exclusive and non-transferable license to access and use for the License Term the Documentation and to use the applicable Licensed Technology in object code form only: (i) installed in a single location on a hard disk or other storage device; or (ii) provided the Licensed Technology is configured for network use, installed on a single file server for use on a single local area network for either (but not both) of the following purposes: (a) permanent installation onto a hard disk or other storage device or (b) use of the Licensed Technology over such network. You ("User") may only use the programs contained in the Licensed Technology: (i) for which Agency has paid a fee (or in the case of an evaluation copy, those programs Agency is authorized to evaluate); (ii) for which User has received a Proprietary Information authorization key ("PAK"); (iii) solely for the User purposes intended under this Agreement; (iv) and solely via the Password, if any. This license may not be sublicensed. The term "Licensed Technology" shall mean the applicable Licensed Technology as defined in the Software License and Maintenance Agreement and all updates, upgrades, and revisions, as made available to you by DCI under the Agreement. The term "Documentation" shall mean that certain software user's guide, as provided by DCI to your Agency under the Software License and Maintenance Agreement.

Section 2 -- Password/Access: You may receive a password or passwords assigned to you for purposes of enabling you to access the Licensed Technology ("Password") during the term of this Agreement. You hereby accept responsibility for, and shall be liable for, all access to the Licensed Technology in connection with the Password. You shall be responsible for the confidentiality and maintenance of the Password and you shall not assign the Password. Any such assignment shall be void.

Section 3 -- Protection of Information: The Product is deemed confidential information and contains trade secrets and/or copyrighted materials. You shall hold such Product in strict confidence. You shall not disclose the Product to any third parties. You shall prevent any unauthorized access or use of the Product. You shall implement reasonable security measures to protect

the Product. You shall abide by any policy statement of DCI in connection with the Product as provided to you by DCI or the Agency. This section shall survive termination of this Agreement.

**Section 4 -- Intellectual Property Rights:** You hereby agree that the Product, including without limitation and any and all derivative works whether or not authorized, shall be the sole and exclusive property of DCI and DCI shall own all rights, title and interests to the Product. This section shall survive termination of this Agreement.

**Section 5 -- Prohibitions:** You agree that you shall not: (i) duplicate the Product; (ii) decompile, decrypt, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms of the Licensed Technology (or any portion thereof) by any means whatsoever; (iii) remove any Product identification, copyright, or other such notices; (iv) provide, lease, lend, use for timesharing or outsourcing or hosting, or otherwise allow third parties to use or benefit from the Product; (v) modify, incorporate into other software, or create a derivative work of any part of the Licensed Technology; (vi) assign this Agreement without the express written consent of DCI; or (vii) export the Product or allow the Product to be exported. This section shall survive termination of this Agreement.

**SECTION 6 – DISCLAIMER:** THE LICENSED TECHNOLOGY IS PROVIDED “AS IS” WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY AND ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES OF MERCHANTABILITY. DCI AND ITS SUPPLIERS HEREBY DISCLAIM AND YOU HEREBY WAIVE ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY AND ALL IMPLIED WARRANTIES OF (I) FITNESS FOR A PARTICULAR PURPOSE; (II) MERCHANTABILITY; (III) USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE; (IV) NON-INTERFERENCE; (V) SYSTEMS INTEGRATION; (VI) ACCURACY OF INFORMATIONAL CONTENT; AND (VII) TITLE AND NON-INFRINGEMENT. DCI AND ITS SUPPLIERS ARE NOT THE AUTHOR OF THE DATA. YOU HEREBY ACKNOWLEDGES AND AGREE THAT USE OF THE LICENSED TECHNOLOGY SHALL BE AT YOUR SOLE AND EXCLUSIVE RISK. DCI AND ITS SUPPLIERS SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR LOSS OR DAMAGE CAUSED BY YOUR RELIANCE ON THE DATA OR LICENSED TECHNOLOGY. DCI AND ITS SUPPLIERS SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR HARM OR DAMAGES RESULTING FROM OR ARISING OUT OF YOUR INABILITY TO USE THE LICENSED TECHNOLOGY. DCI AND ITS SUPPLIERS NEITHER EXPLICITLY NOR IMPLICITLY, WARRANT/GUARANTEE THAT THE PRODUCT IS ERROR-FREE. IN NO EVENT WILL DCI OR ITS SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT, OR DATA, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE EVEN IF DCI OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. THIS SECTION DOES NOT LIMIT OR DISCLAIM ANY OF THE OTHERWISE APPLICABLE WARRANTIES FOR THE U.S. GOVERNMENT 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 ITS SOFTWARE LICENSE AND MAINTENANCE AGREEMENT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 USC 7101-7109 AS MAY BE APPLICABLE.

**Section 7 - Restricted Rights:** The Licensed Technology is provided to non-DOD agencies with RESTRICTED RIGHTS and its supporting documentation is provided with LIMITED RIGHTS. Use, duplication, or disclosure by the Government is subject to the restrictions as set forth in subparagraph "C" of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19. In the event the sale is to a DOD agency, the government's rights in software, supporting documentation, and technical data are governed by the restrictions in the Technical Data Commercial Items clause at DFARS 252.227-7015 and DFARS 227.7202, and as may be amended. Manufacturer is Diverse Computing, Inc. 3717 Apalachee Parkway, Suite 102, Tallahassee, FL 32311.