SOURCE CODE LICENCE AGREEMENT

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This Source Code Licence Agreement (the “Agreement”) takes effect on [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Licensor"), organised and existing under the laws of [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [COMPANY NAME]** (the "Licensee"), a company organised and existing under the laws of [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

WHERE the Licensor and the Licensee have entered into a licence agreement dated [DATE] (the "Licence Agreement"), under which Licensor agreed to provide maintenance and support to the Licensee for certain software developed by Licensor (the "Licenced Software").

WHEREAS the Licensor agrees to provide, and Licensee agrees to receive, those source code materials as more particularly described in this agreement in order that the Licensee may provide for its internal requirements to maintain and support the Licenced Software.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration (the receipt and adequacy of which are hereby acknowledged), the Licensor and the Licensee agree as follows:

1. **DEFINITIONS**

In this Agreement, except where the context or subject matter is inconsistent therewith, the following terms shall have the following meanings:

"Business Day" means any day, other than a Saturday, Sunday, a statutory or civic holiday in [COUNTRY];

"Delivery" means either the Initial Delivery or Subsequent Delivery;

"Initial Delivery" has the meaning attributed to it in paragraph 2.1;

"Intellectual Property Rights" includes patents, trademarks, service marks, registered designs, integrated circuits topography, including applications for any of the preceding, as well as copyright, design right, know-how, confidential information, trade secrets and any other similar rights in any country.

"Licence Agreement" means the licence agreement dated [DATE], in which the Licensor licenced the use of the Licenced Software to the Licensee, as amended from time to time in accordance with its terms [a copy of which is attached as Schedule A hereto];

"Licenced Software" means, at any time, that version of the computer software then licenced to the Licensee under the Licence Agreement [including that version of any associated compiler programs, utility programmes and library functions, including all corrections, changes, improvements and enhancements thereto as more particularly described in Schedule [SPECIFY] hereto];

"[Licensee's Certificate" means a certificate in the form attached as Schedule [SPECIFY] hereto executed by any [NUMBER] senior officers of the Licensee;

"Modification" shall mean any modification, changes, corrections, additions or enhancements to the Source Code Material performed by the Licensee or (subject to restrictions provided for herein) by a third party for the Licensee.

"Source Code Materials" means a complete copy of the source code version of the Licenced Software in machine-readable form on machine-readable storage medium suitable for long-term storage and compatible with the computer system being used by the Licensee and which, when compiled, will produce the object code version of the Licenced Software, and in human readable form with annotations on bond paper; and all applicable documentation and other explanatory materials, if any, in the Licensor's possession, including any programmer's notes, technical or otherwise, for the Application Software as may be reasonably required by the Licensee using a competent computer programmer possessing ordinary skills and experience, to further develop, maintain and operate the Application Software without further recourse to [COMPANY NAME] including, but not necessarily limited to, general flowcharts, input and output layouts, field descriptions, volumes and sort sequence, data dictionary, file layouts, processing requirements and calculation formula and the details of all algorithms.

"Subsequent Delivery" has the meaning attributed to it in paragraph 2.2.

1. **DELIVERY OF SOURCE CODE MATERIALS**
	1. Within [NUMBER] Business Days of the reception, by the Licensor, of a duly completed purchase order from the Licensee to this effect, the Licensor shall provide the Source Code Materials to the Licensee (or to Licensee's agent) at the Licensor's office in [COUNTRY] (the "Initial Delivery").
	2. In addition to the Initial Delivery, from time to time, and at the Licensor's discretion, the Licensor shall provide the Licensee (or Licensee's agent) at the Licensor's office in [COUNTRY] with a complete updated set of the then current Source Code Materials (the "Subsequent Delivery").
	3. The cost of transport of the Source Code Materials to the Licensee's offices shall be at the Licensee's sole expense.
	4. The licensee shall erase [and then destroy all computer tapes, discs and other magnetic and otherwise erasable media] and destroy all materials, constituting any Delivery other than the most recent Delivery made by the Licensor under paragraph 2.1 or 2.2 hereof. The Licensee shall then provide the Licensor with a certificate executed by any [NUMBER] senior officers of the Licensee that all such materials in such Delivery have been destroyed.
	5. Notwithstanding that Source Code Materials were provided in previous Delivery, each Delivery shall consist of the complete Source Code Materials.
2. **GRANT OF LICENCE**
	1. The Licensor hereby grants to the Licensee a [perpetual], personal, non-exclusive and nontransferable licence to use the Source Code Materials solely to maintain and support the object code version of the Licenced Software for its internal use. This licence shall be restricted to allowing the Licensee to:
		1. make only those copies of the Source Code Materials that are necessary to allow Licensee to maintain and update the Licenced Software;
		2. make revisions to the Source Code Materials;
		3. recompile versions of the Licenced Software from the Source Code Materials, which recompiled versions shall be deemed to be Licenced Software and subject to the terms hereof [and of the licence agreement]; and
		4. subject to paragraph 3.2, disclose the Source Code Materials, or any part thereof, only to [full-time] employees, [agents][or independent contractors] of Licensee to whom such disclosure is necessary to use, maintain, implement, correct or update the Licenced Software.
	2. The Licensee agrees to use the Source Code Materials only for its use and only for the purposes expressly contemplated in paragraph 3.1. The Licensee shall not disclose or give access to the Source Code Material to any third parties (other than the Licensee's full-time employees) except upon prior written authorisation from the Licensor to this effect [which authorisation shall not be retained unduly], it being further agreed that the Licensee shall obtain from any third party to whom disclosure of this information is made pursuant to subparagraph 3.1.4 or this paragraph, and prior to a such disclosure, a written covenant naming the Licensor as direct beneficiary of a such covenant, not to further disclose or make use of the Source Code Materials in any manner whatsoever except as provided in this Section.
	3. Upon written request by the Licensor, the Licensee shall set out in writing the number of, and location of, all copies of the Source Code Materials.
3. **REPRESENTATIONS AND WARRANTIES**
	1. The Licensor acknowledges that the purpose of this Agreement is to provide the Licensee with the Source Code Materials so that the Licensee may provide for its maintenance and support of the Licenced Software independent of the Licensor. Accordingly, the Licensor represents and warrants that:
		1. to the best of the Licensor's knowledge and belief, the Source Code Materials are complete and otherwise accurately reflect the most current version of the Application Software as used by the Licensee;
		2. any Subsequent Delivery of the Source Code Material incorporate all changes to the Source Code Material made since the last Delivery to the Licensee under this Agreement;
		3. the Source Code Materials, including the Source Code, do not contain any clock, timer, counter, or other limiting or disabling code, design or routine that would cause the Application Software to be erased, made inoperable or would prevent or prohibit or otherwise diminish the use of the Source Code Materials by the Licensee for the purpose of providing for its own maintenance and support or otherwise limit or restrict the Licensee's ability to use or copy the Application Software after a specific or random number of uses or copies, or after the lapse or occurrence of any similar triggering prompt; and
		4. the title to the Source Code Materials is free of all liens, charges and other encumbrances.
	2. Each of the Parties represents and warrant that it has the legal right to enter into this Agreement and to fulfil its obligations hereunder.
4. **OWNERSHIP AND COPYRIGHT**
	1. The Licensee acknowledges that the Licensor is the owner of all Intellectual Property Rights in and to the Source Code Materials. No title to the Intellectual Property Rights in the Source Code Materials is transferred to the Licensee by this Agreement.
	2. The Licensor shall be assigned with all Intellectual Property Rights in and to any Modifications to the Source Code Material from their inception and for all the duration of such Intellectual Property Rights and throughout the world.
	3. In consideration of the licence granted to the Licensee by the Licensor hereunder and in consideration of the assignment contemplated in this paragraph, the Licensee shall be granted with an non-exclusive licence in and to the Modifications assigned to the Licensor by the Licensee hereunder, which licence shall be governed and be subject to the same terms and conditions as those provided for in the Licence Agreement.
	4. For more certainty, and without limiting the scope of the assignment provided for in paragraph 5.2 hereinabove, the Licensee understands and agrees that the Licensor shall be entitled to use, exploit, grant licences with or without rights to sub-license the Modifications, to make derivative works from the Modifications, to publish the Modifications, to combine the Modifications with any other works or products owned by the Licensor or any third party, or otherwise make use of the Modifications with any software or other products incorporating the Modifications as if such Modifications were the Licensor's own without accounting to the Licensee, with the only restriction that the Licensor may not, thereby, affect the licence granted by the Licensor to the Licensee in paragraph 3.1 hereof.
5. **LIMITATION OF WARRANTY**

Notwithstanding any provision to the contrary in the Licence Agreement, the Licensor shall have no liability or responsibility whatsoever toward the Licensee under the Licence Agreement with respect to any error, problem or defect to the Licenced Software or to the Source Code Material directly or indirectly arising from any Modification to the Source Code Material unless the Licensee can positively demonstrate that any such error, problem or defect would have arisen even if such Modification or part thereof would not have been made to the Licenced Software or the Source Code Material.

1. **ROYALTIES AND PAYMENT**
	1. In consideration of the licence granted to the Licensee hereunder, the Licensee agrees to pay to the Licensor the licence fees outlined in Schedule A hereto.
	2. The Licensee shall further pay to the Licensor, annual maintenance and support fee as outlined in Schedule A hereto.
	3. The licensee shall pay to the Licensor, within [NUMBER] days] after the conclusion of each calendar quarter, the fees accruing to the Licensor during such calendar quarter. Payment shall be accompanied by a summary of the basis for determining the amount of such payments.
	4. The licence fees charged to the Licensee hereunder do not include any amount for taxes, duties, levies or other charges imposed by any level of government inside or outside of [COUNTRY]. Any such taxes, duties or other charges if required to be paid by the Licensor, shall be reimbursed forthwith to the Licensor by the Licensee with the only exclusion of taxes based on the Licensor's income.
2. **TERMINATION**
	1. This Agreement is effective from the date it is executed by each of the Parties until terminated in accordance with its terms.
	2. The Licensee may terminate this Agreement at any time by destroying all copies of the Source Code Materials. The Licensor may terminate this Agreement on notice to the Licensee if the Licensee fails to perform any of its material obligations as set forth in this Agreement or the Licence Agreement and such default, in the case of a default which is remediable, continues for a period of [NUMBER] days after written notice of such failure has been given by the Licensee
	3. Upon termination by the Licensor, the Licensee shall immediately:
		1. cease any use of the Source Code Materials authorised hereunder;
		2. return to the Licensor all copies of the Source Code Materials, (or destroy all copies thereof in the Licensee's possession); and
		3. within [NUMBER] days thereafter, provide to the Licensor, in such form as is satisfactory to the Licensor, a sworn statement confirming that the Licensee has complied with the preceding.
3. **FURTHER ASSURANCES**

Each Party agrees that upon the written request of the other Party, it will do all such acts and execute all such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of all such acts and will cause the execution of all such further documents as are within its power to cause the doing or execution of, as any other Party hereto may from time to time reasonably request be done and/or executed as may be necessary or desirable to give effect to this Agreement.

1. **MISCELLANEOUS**
	1. Any notice, demand or other communication (in this paragraph, a "notice") required or permitted to be given or made hereunder shall be in writing and shall be sufficiently given or made if:
		1. delivered in person during normal business hours on a Business Day and left with a [receptionist or other] responsible employee of the relevant party at the applicable address set forth below;
		2. sent by prepaid first class mail; or
		3. sent by any electronic means of sending messages, including telex or facsimile transmission, which produces a paper record ("Electronic Transmission") during normal business hours on a Business Day charges prepaid and confirmed by prepaid first class mail;

in the case of a notice to the Licensor, addressed to it at:

Attention:

Telephone:

Telecopier:

and in the case of a notice to the Licensee, addressed to it at:

Attention:

Telephone:

Telecopier:

* 1. Each notice sent in accordance with this paragraph shall be deemed to have been received:
		1. on the day it was delivered;
		2. on the third Business Day after it was mailed (excluding each Business Day during which there existed any general interruption of postal services due to strike, lockout or other cause); or
		3. on the same day that it was sent by Electronic Transmission, or at the start of business on the first Business Day thereafter if the day on which Electronic Transmission sent it was not a Business Day.

Any Party may change its address for notice by giving notice to the other Party as provided in this paragraph.

* 1. The titles of the articles and paragraphs of this Agreement are inserted solely for convenience, are not a part of this Agreement, and do not in any way limit or amplify the terms of this Agreement.
	2. Any legal proceeding was taken by a Party (the "Claimant") against the other (the "Respondent") and which is based on this Agreement shall take place and be brought by the Claimant before the courts having jurisdiction over such proceeding in the judicial district of the address of the Respondent. Parties expressly agree that such venue is proper and voluntarily submit to the jurisdiction of the courts within the same.
	3. This Agreement and the corresponding relationship of the Parties shall be governed by, and interpreted in accordance with the [YOUR COUNTRY LAW] in force in the Province of [PROVINCE] ([COUNTRY]) (excluding any conflict of [YOUR COUNTRY LAW] rule or principle which might refer such construction to the [YOUR COUNTRY LAW] of another jurisdiction) and shall be treated in all respects as a [COUNTRY] contract.
	4. This Agreement, together with the schedules attached hereto, constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions between the parties, whether oral or written. No supplement, modification or termination of this Agreement shall be binding unless executed in writing by the parties.
	5. If any term of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable or shall terminate in the normal course, the remainder of this Agreement or the application of such term to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and each term of this Agreement shall be separately valid and enforceable to the fullest extent permitted by [YOUR COUNTRY LAW].
	6. No provisions of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is excusing the breach shall be in writing and signed by the party to be charged with such waiver or consent. A waiver by a party of any provision of this Agreement shall not be construed as a waiver of a further breach of the same covenant or condition.
	7. Each Party shall take (or cause to be taken) all reasonable steps, including the execution of all further documents as the other Party may in writing from time to time request be done in order to consummate the transactions contemplated hereby or as may be necessary or desirable to give effect to this Agreement or any document, agreement or instrument delivered pursuant hereto.
	8. Except as expressly provided otherwise in this Agreement, neither this Agreement nor any rights or benefits hereunder may be assigned by the Licensee without the prior written consent of the Licensor.
	9. Subject to paragraph 10.10, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors (including any successor because of amalgamation or statutory arrangement of any Party) and permitted assigns.
	10. Except as expressly provided otherwise in this Agreement, dates and times by which any Party is required to perform any obligation under this Agreement shall be postponed automatically to the extent, and for the period, that that Party is prevented from doing so by circumstances beyond its reasonable control. Such circumstances shall include acts of nature, strikes, lockouts, riots, acts of war, epidemics, government regulations imposed after the fact, fire, communications line failures, power failures, earthquakes or other disasters. The Party prevented from rendering performance must notify the other Party immediately and in detail of the commencement and nature of such circumstance and the probable consequences of it. Each Party whose performance is delayed must use reasonable efforts to perform its obligations promptly, must employ all resources reasonably required in the circumstances and must obtain supplies or services from other sources if reasonably available.
	11. This Agreement does not create a partnership or a joint venture between the parties. No party shall have the right to enter into contracts or pledge the credit of or incur expenses or liabilities on behalf of any other.
	12. Time is of the essence of this Agreement.
	13. The Parties expressly exclude the application of the [COUNTRY] Convention for the International Sale of Goods.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

# FIRST PARTY SECOND PARTY

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

## SCHEDULE "A"

ROYALTIES AND PAYMENTS