Contractor/Vendor Name (DBA): CGI Technologies and Solutions Inc.

Project Title/Description:
Proprietary Software License for Enterprise Resource Planning (ERP) System.

Purpose:
Amendment of Award: Master Agreement No. MA-PO-B507297-BC, Amendment No. 5, to extend the contract to 2/23/2020 and to update the list of Software License Agreements.
Administering Department: Information Technology.

Procurement Method:
Pursuant to Pima County Procurement Code 11.12.020, Competitive Sealed Proposal, Solicitation No. 0901706 was conducted. This software license contract was awarded by the Board of Supervisors to CGI Technologies and Solutions, Inc. on 01/12/2010, for $3,142,341.00. Two other contracts were awarded from the solicitation: one for software maintenance and one for system implementation services.

The following amendments were processed to account for license changes based on County's current needs:
Amendment 1 (07/21/2010): Increased award amount by $ 51,920.00.
Amendment 2 (06/30/2011): Increased award amount by $249,624.00.
Amendment 3 (02/05/2013): Increased award amount by $ 37,382.00.
Amendment 4 (10/10/2014): Increased award amount by $329,727.00.

This Amendment, No. 5, is required to retroactively extend the contract, which expired 2/23/2015, to 2/23/2020; to document the upgrade of previously purchased bundled software and the purchase of additional bundled software, which was acquired and paid for in the amount of $102,802.49 under Contract No. MA B507308-BC, Amendment No. Two (2), with the additional implementation services; and to update the complete list of perpetual Software Licenses owned by the County. The cumulative award amount is $3,810,994.00 remains the same.

Note: The attached MA-B507297-BC document reflects a "NTE Amount" of $1,420,385.78. $2,390,608.22 was expended in a prior financial system, which accounts for a cumulative award amount of $3,810,994.00.

Attachments: Master Agreement and Amendment No. Five (5).

Program Goals/Predicted Outcomes:
ERP version will be upgraded to within two releases of the current vendor release software. The upgrades will remove unsupported components, provide better and more granular project tracking, improve budgeting process, improve AMS & Maximo interface, clarify the amount of and type of training and replace Adobe Central Pro Licensing/Forms with BIRT/JBoss.

Public Benefit:
Enhanced functionality, training, forms and system integration to improve budgeting and expense tracking and transparency, forms maintenance, staff efficiency and productivity.

Metrics Available to Measure Performance:
Over 300 additional standard reports and improved functionality will improve the budgeting processes.

To: COB - 8-10-16 (1)
Pgs. 15
Addendum

Retroactive:

Yes. The contract expired 2/23/2015. The licenses acquired under this contract are perpetual. Unless new licenses are needed, there was no need to keep the contract open. When additional licenses were needed in 2015, the decision was made to acquire them under the implementation services contract. The contractor is now requiring us to amend this contract to reflect all changes to the License Agreement. County agrees with this requirement as it is a clearer way to account for all the License Agreements that we own in association with this contractor. The new expiration date will be coterminous with the maintenance contract.

Original Information

Document Type: _____ Department Code: _____ Contract Number (i.e.,15-123): _____

Effective Date: _____ Termination Date: _____ Prior Contract Number (Synergen/CMS): _____

☐ Expense Amount: $ _____ ☐ Revenue Amount: $ _____

Funding Source(s):

_____

Cost to Pima County General Fund: $ _____

Contract is fully or partially funded with Federal Funds? ☐ Yes ☐ No ☐ Not Applicable to Grant Awards

Were insurance or indemnity clauses modified? ☐ Yes ☐ No ☐ Not Applicable to Grant Awards

Vendor is using a Social Security Number? ☐ Yes ☐ No ☐ Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: MA _____ Department Code: PO _____ Contract Number (i.e.,15-123): B507297-BC

Amendment No.: 5 _____ AMS Version No.: 8 _____

Effective Date: 08/15/16 _____ New Termination Date: 2/23/2020 _____

☐ Expense ☐ Revenue ☒ Increase ☐ Decrease   Amount This Amendment: $ _____

Funding Source(s):

_____

Cost to Pima County General Fund: _____

Contact: Commodity Contracts Officer: Ana Wilber _____ 8/10/16

Department: Procurement _____ 8/10/16 Telephone: 724-8166

Department Director Signature/Date: _____ 8/10/16

Deputy County Administrator Signature/Date: _____ 8-10-16

County Administrator Signature/Date: _____ 8/10/16
(Required for Board Agenda/Addendum Items)

MASTER AGREEMENT

PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES CONTRACT EXECUTION

Master Agreement No: B507297-BC   MA Version: 8   Page: 1

Description: Proprietary Software License Agreement for ERP System

I S S U E R

Pima County Procurement Department
130 W. Congress St. 3rd Fl
Tucson AZ 85701

Issued By: ANA WILBER
Phone: 5207248166
Email: ana.wilber@pima.gov

T E R M S

Initiation Date: 08-15-2016

Expiration Date: 02-23-2020

NTE Amount: $1,420,385.78
Used Amount: $1,053,276.78

V E N D O R

CGI TECHNOLOGIES & SOLUTIONS INC

ATTN: KIM HOLCOMB 11325 RANDOM HILLS ROAD

FAIRFAX VA 22030

Contact: WENDY RUEHLMANN
Phone: 703-267-8000
Email:
Terms: 0.0000 %
Days: 30

Shipping Method:

Delivery Type: STANDARD GROUND

FOB:

Modification Reason

Extends contract to 2/23/2020 and updates the list of Software License Agreements. Attachment: Amendment No. 5

This Master Agreement incorporates the attached documents, and by reference all instructions, Standard Terms and Conditions, Special Terms and Conditions, and requirements that are included in or referenced by the solicitation documents used to establish this agreement. All Transactions and conduct are required to conform to these documents.

MASTER AGREEMENT DETAILS

Line	Description		
1	AMS InfoAdvantage Software and Bundled Software		
	Service Contract Amt	**Service From**	**Service To**
	$0.00	--	--

| PIMA COUNTY DEPARTMENT OF INFORMATION TECHNOLOGY

PROJECT: PROPRIETARY SOFTWARE LICENSE FOR ERP PROJECT

CGI Technologies and Solutions Inc.
11325 Random Hills Road
Fairfax, VA 22030

MASTER AGREEMENT NO.: MA B507297
(Formerly Contract No.: 11-14-C-142784-0210)

AGREEMENT AMENDMENT NO.: FIVE (#05) | CONTRACT
NO. _MA-PO-B507297-BC_
AMENDMENT NO. _05_
This number must appear on all invoices, correspondence and documents pertaining to this contract. |

ORIG. AGREEMENT TERM: 2/24/2010-2/23/2015
TERMINATION DATE PRIOR AMENDMENT: 02/23/2015
TERMINATION THIS AMENDMENT: 2/23/2020

ORIG. AGREEMENT AMOUNT: $3,142,341.00
PRIOR ADMENDMENTS: $ 668,653.00
AMOUNT OF THIS AMENDMENT: $ 0.00
REVISED AGREEMENT AMOUNT: $3,810,994.00

AGREEMENT AMENDMENT NO. 5

This Amendment No. 5 ("Amendment")reinstates in its entirety the Proprietary Software License Agreement dated February 24, 2010, as amended ("Agreement") between CGI Technologies and Solutions Inc. ("CGI" or "Contractor") and Pima County, Arizona ("County" or "Client") i and is made effective as of February 24, 2015 ("Effective Date").

WHEREAS, COUNTY and CONTRACTOR entered into Agreement to purchase the Licensed Software and related Bundled Software Products specified in Exhibit A to the Agreement; and

WHEREAS, COUNTY and CONTRACTOR amended a separate Contract No. MA B507308 (Formerly 07-14-C-142785-0210) to document the upgrade of previously purchased software and the purchase of additional software including maintenance: and

WHEREAS, COUNTY and CONTRACTOR have agreed to identify the software products and payment amount of License Fees and Maintenance Services provided via this Contract Amendment to reflect the acquisition and payment software utilizing Contract No. MA B507308 - BC Amendment No. Two (2); and

WHEREAS, COUNTY and CONTRACTOR have agreed to extend the Contract term until 2/23/2020: and

WHEREAS, COUNTY and CONTRACTOR have agreed to further modify the Agreement to add additional Licensed Software and Bundled Software Products as described in this Amendment.

NOW, THEREFORE, it is agreed as follows:

1. **Governing Document**

   This Amendment No. 5 ("Amendment") is authorized pursuant to the Contract as previously amended. Except as previously modified here, the terms and conditions of the Contract remain in full force and effect.

2. **Exhibit A**

   The current "Exhibit A: CGI Technologies and Solutions, Inc. Proprietary Software License Agreement" is replaced in its entirety with the attached document identified as "Exhibit A: CGI

Technologies and Solutions, Inc. Proprietary Software License Agreement Amendment No. Five (#05)". The essential changes and additions include the following:

Addition of New Bundled Software

Section 7 (Bundled Software Products) of Exhibit A to the Contract is modified by the following Software adding to the list of existing Third Party Bundled Software:

IBM WebSphere Application Server Network Deployment Sub-Capacity – 590 PVU
RedHat JBoss with Management - Premium – Prod – 4-Cores
RedHat JBoss with Management - Premium - Non Prod – 4 Cores
Eclipse BIRT Engine – Production – 2-Cores
Eclipse BIRT Engine - Non Production – 2-Cores
Eclipse BIRT Engine - UAT Non Production – 2-Cores
Pervasive Data Integration Universal Engine Production – 2 Cores
Pervasive Data Integration Universal Engine Non Production – 2 Cores

Upgrade of Bundled Software

Section 7 (Bundled Software Products) of Exhibit A to the Contract is modified by upgrading the following list of Software:

Pervasive Data Integrator Pro Developer™ - 5 Named User Licenses (2-core)
Pervasive Data Integrator Pro Engine™ - 1 License for UAT Non Production ETL (2 core)

Fees and Payment Terms for Licensed Software and Bundled Software Products

Section 5 of Exhibit A, License Fee is modified by adding $ 102,802.49 for license fees for additional and upgraded Bundled Software Licenses as follows:

From: "is granted to Client for a License Fee of $ 3,810,994..."

Licensed Software	License Fee
Previously Licensed CGI Software	N/A
LIST ANY NEW LICENSED SOFTWARE HERE	$ 1,617,174
Bundled Software Products	$ 2,193,820
Total License Fees	$ 3,810,994

To: "is granted to Client for a License Fee of $3,913,796.49..."

Licensed Software	License Fee
Previously Licensed CGI Software	$ 1,617,174.00
Bundled Software Products	$ 2,296,622.49*
Total License Fees	$ 3,913,796.49*

*$ 102,802.49 will be paid under contract MA B507308 and is not being paid under this contract.

Reminder of Page Left Blank

IN WITNESS THEREOF, the parties have affixed their signatures to this Amendment on the dates written below.

COUNTY: **CONTRACTOR:**

APPROVED

_____   _____
Chair, Board of Supervisors   Signature

                                                                         <u>Timothy Lund, Vice President</u>
_____   Name and Title (Please Print)
Date
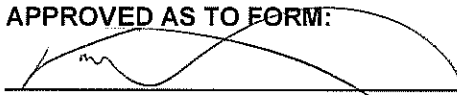
                                                                         <u>August 10, 2016</u>
                                                                         Date

ATTEST:

_____
Clerk of Board

_____
Date

APPROVED AS TO FORM:

_____
Tobin Rosen, Deputy County Attorney

_____
Date

EXHIBIT A

CGI Technologies and Solutions Inc.
Proprietary Software License Agreement

Amendment No. Five (#05)

1.   **Licensed Software**. CGI is licensing to Client the following computer software components, comprising the CGI Advantage ERP Software:

CGI Advantage® Financial Management Base System including the following modules:
>   General Ledger
>   Accounts Payable
>   Accounts Receivable
>   Project Accounting
>   Grant Accounting
>   Cash & Investment Management

CGI Advantage Grant Lifecycle Management
CGI Advantage Asset Management
CGI Advantage Procurement Professional
CGI Advantage Vendor Self-Service
CGI Advantage Performance Budgeting
CGI Advantage Salary & Benefits Forecasting
CGI Advantage Budget Book Publishing
CGI Advantage Transparency Portal

CGI Advantage Human Resource Management Base System including the following modules:
>   Personnel Administration
>   Benefit Administration
>   Applicant Tracking
>   Training
>   Employee Relations
>   Leave Management
>   Time and Attendance
>   Payroll

CGI Employee Self-Service
CGI Advantage Administration
CGI Advantage Toolkit
CGI infoAdvantage
CGI infoAdvantage Dashboard
CGI Advantage Maximo Integration adaptor
Granite XP Bidirectional Maximo Interface Module
Granite XP Scheduler Module
IBM Maximo Adapter for Primavera Authorized User License

CGI is providing to Client one (1) copy of the Software on machine-readable media.

2.   **Licensed Documentation**. The Specifications for the Software described in section 1 "Licensed Software" are set forth in the following documentation which CGI will deliver to Client, and which is collectively referred to in this Agreement as the "Documentation":

CGI will provide Client access to its Documentation on the CGI website, https://sc.cgi.com/advantage/

Documentation for Bundled Software of Additional Third Party Software is available on the applicable third party website.

3.   **License Type**. The Software is licensed to Client on the following basis:

Enterprise License Client is permitted to use the Software for the purposes set forth in this Agreement. The license is not restricted by the number of servers or number of users, however Client may not resell the Software or its services nor can the software be used in a Service Bureau environment.

4.   **Work That May Be Processed**. Client may only use the Software to process Client's own work.

5.   **License Fee**. License Fee is modified by adding $ 102,802.49 for license fees for additional or upgrade Bundled Software Licenses as follows:

Licensed Software	License Fee
Previously Licensed CGI Software	$ 1,617,174.00
Bundled Software Products	$ 2,296,622.49
Total License Fees	$ 3,913,796.49

*$ 102,802.49 will be paid under contract MA B507308 and is not being paid under this contract.

6.   **Warranty Period.** . The Warranty Period extends from installation until three hundred and sixty-five (365) days from Final Acceptance of the entire System, as defined in Exhibit B, Section 2 System Acceptance.

7.   **Bundled Software Products.** Included in the license fees set forth in Section 5 of this Exhibit A are the license fees for certain bundled software products (the "Bundled Software Products") required to be used in connection with the Software. CGI is providing the following Bundled Software Products to Client:

   Adobe Present Central Pro – (2) CPU & 10 Print Locations Production
   Adobe Present Central Pro – (1) CPU & 10 Print Locations Non-Production
   *Maintenance for Adobe Present Central Pro and Adobe Present Output Designer will be cancelled as of July 1, 2016.

   Adobe Present Output Designer – 1 Named User License

Adobe RoboHelp® Office – 1 Named User License *[Governed by Shrink-wrap License]*

Adobe FrameMaker® – 1 Named User License *[Governed by Shrink-wrap License]* for use with PatternStream

Pervasive Data Integrator Pro Engine™ 1 (2--core) for Production ETL
[Governed by Shrink-wrap License]
Pervasive Data Integrator Pro Engine™ 1 (2-core) for Non Production ETL
[Governed by Shrink-wrap License

1099 Convey – Desktop, Ultimate, 6+ Users, 10,000 documents processed annually
[Governed by Shrink-wrap License]

Unrestricted: BA&T SAP Business Objects Business Intelligence Platform (25 Concurrent Sessions) – 6

Unrestricted: BA&T SAP Business Objects Web Intelligence (25 Concurrent Sessions) – 5

Unrestricted: BA&T SAP Dashboard (25 Concurrent Sessions) – 1

Unrestricted: BA&T SAP Business Objects Explorer (25 Concurrent Sessions) – 1

Unrestricted: BA&T SAP Business Objects Crystal Reports (25 Concurrent Sessions) – 5

Unrestricted: BA&T SAP Business Objects Business Int. Platform Mobile add-on (25 Concurrent Sessions) - 1

Unrestricted: SAP Application Standalone Business Analytics Professional User (Named User) - 2

Unrestricted: SAP Application Standalone BI Limited User (Named User) – 21

> **[Note**: An Unrestricted Data License allows the Client to use Business Objects with data processed by systems other than Advantage **except** for data processed in the SAP ERP System (see SAP Software Use Rights Agreement at www.sap.com/company/legal/index.epx)].

Finite Matters, Ltd. PatternStream® - 1 Runtime/Developer License

Versata Logic Server – 1 Site license
Versata Designer Studio – 4 Named User Licenses

IBM WebSphere Application Server Network Deployment – 1650 IBM Processor Value Units for Production sub capacity
IBM WebSphere Application Server– 800 IBM Processor Value Units
IBM WebSphere Portal Server – 140 IBM Processor Value Units

Micro Focus Net Express (Windows) – 1 Named User License for Production
[Governed by Shrink-wrap License]
Micro Focus Net Express (Windows) – 1 Named User License for Non-Production
[Governed by Shrink-wrap License]
Micro Focus Server for COBOL – 1 (2 Cores), 2 CPU for Production

[Governed by Shrink-wrap License]
Micro Focus Server for COBOL – 1 (2 Cores), 2 CPU for Disaster Recovery
[Governed by Shrink-wrap License]

Monsell EDM DeltaXML – 1 Site License

Meridian Global LMS® Suite – Up to 10,000 Users
Meridian Domain Manager – 1 site License

Emphasys SymPro Treasury Management: – 3 Concurrent User License, *Fixed Income, Earning Allocation Module, General Ledger, Analytics, and Market Pricing*

Emphasys SymPro Debt Management – Debt Module and General Ledger *[Governed by the Agreement set forth in Attachment 1 to this Exhibit A]*

IBM Maximo® Asset Management Authorized User License – 149 Users
IBM Maximo® Asset Management Limited Use Authorized User License – 350 Users
IBM Maximo® Spatial Asset Management Install License – 5 User IBM Maximo®
IBM Maximo® Spatial Asset Management Authorized User License – 100 Users
IBM Maximo® Spatial Linear Management Authorized User License – 50 Users
IBM Maximo® Internal Service Providers Install License – 5 User – canceled maintenance June 2011
IBM Maximo® Internal Service Providers Authorized User License – 100 Users – canceled maintenance June 2011

> Note #1: Spatial Asset Management and Internal Service Provider modules require two types of licenses. The first is a general install license for the environment (1) that the solution is installed on. The second is the business user license which determines the number of authorized users (100 for each)].

IBM Maximo® Adapter for Microsoft Project Authorized User License – 125 Users
IBM Maximo® Asset Management Self Service Requestor Authorized User License – 650 Users – no longer supported by IBM
IBM Maximo® Asset Management Desktop Requisitioner Authorized User License – 20 Users – canceled maintenance June 2011
IBM Tivoli Maximo® Asset Management Scheduler Authorized User License – 10 Users
IBM Maximo® Mobile Work Manager Authorized User – 20 Users
IBM Maximo® Mobile Inventory Manager Authorized User – 10 Users
IBM Maximo® Adapter for Primavera – 1 Authorized User License

> *[Governed by IBM terms provided as Attachment 1 to this Exhibit.]*

SQL Server 2008 Enterprise, All Languages, Embedded Processor Runtime License – 10

New Bundled Software
Eclipse BIRT Engine – Production – 2-Cores
Eclipse BIRT Engine - Non Production – 2-Cores
Eclipse BIRT Engine - UAT Non Production – 2-Cores

IBM WebSphere Application Server Network Deployment – 590 IBM Processor Value Units for Production sub capacity
[Governed by IBM terms provided as Attachment 1 to this Exhibit.]

RedHat JBoss with Management - Premium Production – 4-Cores
RedHat JBoss with Management - Premium Non-Production – 4 Cores
[Governed by JBoss terms provided as Attachment 2 to this Exhibit.]

Pervasive Data Integration Universal Engine Production – 2 Cores
Pervasive Data Integration Universal Engine Non Production – 2 Cores

Upgraded Bundled Software
Pervasive Data Integrator Pro Developer™ - 5 Named User Licenses (2-core)
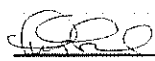*[Governed by Shrink-wrap License]*
Pervasive Data Integrator Pro Engine™ - 1 License for UAT Non Production ETL (2 core)
[Governed by Shrink-wrap License]

All rights of Client in and to the Bundled Software Products will be governed by the terms and conditions of this Agreement, and any additional supplier terms and conditions attached to or referenced in this Exhibit A as indicated in the product list above in this Section 7.   In the event of conflict between the terms and conditions of this Agreement and applicable attached supplier terms and conditions, the applicable supplier terms and conditions take precedence. Without limiting the generality of the immediately foregoing sentence, CGI does not itself give or make any warranty or indemnification of any kind with respect to the Bundled Software Products. In addition, the Bundled Software Products may contain or require the use of open source products. Any open source products incorporated in, or used with, the Software are subject to the applicable open source license agreement. Violation by Client of the additional supplier terms and conditions attached to this Exhibit A may result in termination of Client's right to use the applicable Bundled Software Products under this Agreement. Such termination or changes in the Software which CGI may make from time to time may make it necessary for Client to acquire, at its own expense, updated versions of the Bundled Software Products or alternative products designated by CGI.

Agreed to and initialed for identification by:

_____   _____
(Client)   (CGI)

Terms for IBM Sub-Capacity License

1. **Definitions**

Audit Report Period – The period that begins on the first day in a calendar quarter and ends on the last day in the calendar quarter. Alternatively, if your fiscal year is different from the calendar year, you may choose to begin the period on the first day in your fiscal quarter and end on the last day in your fiscal quarter. This period may also be monthly or weekly depending on your requirements.

Audit Reports – A set of reports available in the IBM License Metric Tool ("ILMT"), or by another method acceptable to IBM as specified at http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html, These reports provide the Processor Value Unit ("PVU") license requirements based on the Virtualization Capacity available to the Eligible Sub-Capacity Product.

Eligible Sub-Capacity Product – A Product for which Sub-Capacity Licensing is available. See listing at http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html .

Eligible Virtualization Environment – A server or a group of servers cooperating as a single computing entity that contain an Eligible Processor Technology, an Eligible Operating System Technology, and an Eligible Virtualization Technology;

- **Eligible Operating System Technology** – An operating system for which Sub-Capacity Licensing is available. See listing at:
  http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html .

- **Eligible Processor Technology** – A processor technology for which Sub-Capacity Licensing is available. See listing at:
  http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html .

- **Eligible Virtualization Technology** – A virtualization technology for which Sub-Capacity Licensing is available. An Eligible Virtualization Technology is capable of restricting processor capacity to a subset of the total physical capacity, sometimes referred to as partition, LPAR, or virtual machine. See listing at:
  http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html

Full Capacity – The total number of physical processor cores activated and available for use by the Eligible Sub-Capacity Product(s) on a server.

Processor Chip – Electronic circuitry containing one or more Processor Cores that plugs into a Processor Socket.

Processor Core(s) – A physical functional unit within a computing device that interprets and executes program instructions and consists of at least one instruction control unit and one or more arithmetic and logic units. A multi-core technology allows two or more Processor Cores to be active on a single Processor Chip. A System z Integrated Facility for Linux (IFL) engine is considered a single Processor Core.

Processor Socket – Electronic circuitry that accepts a Processor Chip.

Processor Value Unit(s) – A metric used by IBM to assign a value to a Processor Core. The Processor Value Unit licensing model is described at:
http://www.ibm.com/software/lotus/passportadvantage/pvu_licensing_for_customers.html .

Service Provider – an entity that provides IT Services for end user customers, either directly or through a reseller.

Sub-Capacity Licensing – Licensing of Eligible Sub-Capacity Products based on Virtualization Capacity.

Virtualization Capacity – the highest peak processor capacity available to an Eligible Sub-Capacity Product when deployed on an Eligible Virtualization Environment. Rules for calculating the Virtualization Capacity for each Eligible Virtualization Environment can be found at http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html .

2..   **Authorizations**

a.   A Proof of Entitlement (PoE) must be acquired by you for the total number of PVUs associated with the Virtualization Capacity available to an Eligible Sub-Capacity Product.

b.   Prior to an increase in an Eligible Sub-Capacity Product's Virtualization Capacity, you must first acquire additional authorizations, including Subscription and Support, if applicable.

c.   IBM does not give credits or refunds for charges already due or paid if an Eligible Product's use falls below the authorized level of use.

3.   **IBM's Responsibilities**

IBM will make available and authorize you to use:

d.   the ILMT at no charge, when ordered by you. IBM provides the ILMT to you for your compliance with these Sub-Capacity Licensing terms; and

e.   the Information Center included with the ILMT to aid in your compliance with these Sub-Capacity Licensing terms.

You may make copies of the ILMT and Information Center for your compliance with these Sub-Capacity Licensing terms.

4.   **Customer's Responsibilities under Sub-Capacity Licensing Terms.**

While using Sub-Capacity licensing, you must agree to:

a.   install and configure the most current version of the IBM License Metric Tool ("ILMT") in accordance with the ILMT Information Center, within 90 days of your first Eligible Sub-Capacity Product deployment on an Eligible Virtualization Environment, to enable the collection of Virtualization Capacity data by Eligible Sub-Capacity Products and generate Audit reports in accordance with the Sub-Capacity Licensing terms. Exceptions to this requirement are:
   1)   when the ILTM does not yet provide support for your Eligible Virtualization Environment;
   2)   if your enter Enterprise has fewer than 1000 employees and contractors, and you are not a Service Provider, nor have you contracted with a Service Provider to manage their Eligible Virtualization Environment;
   3)   if the total physical capacity of your Enterprise servers with an Eligible Virtualization Environment, measured on a Full capacity basis, but licensed using sub-capacity terms is less than 1,000 PVUs.
   4)   when your servers with Eligible Sub-Capacity Products are licensed to the Full capacity of the servers.

For these exceptions, use of the IMLT, while recommended, is not required for Sub-Capacity Licensing. In lieu of the ILMT, you are required to manually manage and track your Eligibility Virtualization Environment, and manually prepare Audit reports documenting the Virtualization Capacity by Eligible Sub-Capacity Product for their Eligible Virtualization Environment during each calendar or fiscal quarter. These Audit reports must contain the

information listed in the example Audit Report available at
http://www.ibm.com/software/lotus/passportadvantage/sublicensing.html. These Audit
Reports must be prepared as frequently as is required to maintain a history of increase to
CVirtualization Capacity, but no less often than once per quarter and must be maintained for
at least two years to demonstrate your ongoing compliance with Sub-Capacity Licensing
terms;

b. promptly install new versions, releases, modification, or code corrections ("fixes") of the
IMLT that IBM makes available. You will need to subscribe to Tivoli Support notification
via http://www.ibm.com/support/mynotifications in order to be notified when these become
available;

c. generate, using ILTM or manually, Audit Reports at least each calendar or fiscal quarter and
retain for a period of not less than two years the Audit Reports and make these reports
available to IBM upon notice as specified in Section 2. Failure to generate Audit Reports or
make Audit reports available to IBM will result in charging you for Eligible Sub-Capacity
Products under Full Capacity terms;

d. assign a person in your organization with authority to manage and promptly resolve any
questions on Audit reports or inconsistencies between Audit Report contents, license
entitlements, or ITLM configuration;

e. notify CGI if Audit Reports reflect Eligible Sub-Capacity Product use in excess of their
authorized level. You agree to promptly submit an order to IBM including Subscription and
Support coverage based on the date you exceeded your authorized level.

5.   Compliance Verification.

Upon reasonable notice, IBM may verify your compliance with this Amendment and for all
Eligible Virtualization Environments in which you uses or installs Eligible Sub-Capacity
Products subject to the terms of this Amendment for any purpose. Such verification will be
conducted in a manner that minimizes disruption to your business and may be conducted your
premises, as IBM determines, during normal business hours. IBM may use an independent
auditor to assist with such verification, provided IBM has a written confidentiality agreement in
place with such auditor.

The Customer will create, retain, and provide to IBM and its auditors written records, system
tool outputs, evidence of the license entitlements provided to you, and other system information
sufficient to provide auditable verification to IBM that your installation and use of Eligible Sub-
Capacity Products is in compliance with the terms of this Amendment, including, without
limitation, all of IBM's applicable licensing and pricing qualification terms.

IBM will notify you in writing if any such verification indicates that you have used Eligible Sub-
Capacity Products in excess of your authorized level of use or you are otherwise not in
compliance with this Amendment. You agree to promptly pay directly to IBM i) the charges as
IBM specifies in an invoice for any additional licenses equal to the quantity used in excess of
authorized level of use and applicable Subscription and Support offerings, as applicable, for such
licenses for the lesser of the time that such licenses have been used or two years, and ii) any
additional charges and other liabilities determined as a result of such verification

The rights and obligations set forth in this section remain in effect during the period the Eligible
Sub-Capacity Product is licensed to you, and for two years thereafter.

6.   Additional Terms

Product deployments that are not able to meet these Sub-Capacity Licensing requirements must
be licensed using Full Capacity terms.

IBM may change the terms of this Amendment by giving you written notice. These changes will be effective at the next 12 month anniversary of your TD containing "Eligible Sub-Capacity Products". Otherwise, for a change to be valid, both of us must sign it. Additional or different terms in any written communication from you are void.

Attachment 2 to Exhibit A

END USER TERMS AND CONDITIONS
JBOSS ® ENTERPRISE MIDDLEWARE

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6.   Third Party Programs. Red Hat may distribute third party software programs with the Programs that are not part of the Programs. These third party software programs are not required to run the Programs, are provided as a convenience to you, and are subject to their own license terms.   The license terms either accompany the third party software programs or can be viewed at http://www.redhat.com/licenses/thirdparty/eula.html. If you do not agree to abide by the applicable license terms for the third party software programs, then you may not install them. If you wish to install the third party software programs on more than one system or transfer the third party software programs to another party, then you must contact the licensor of the applicable third party software programs.

7.   General. If any provision of this EULA is held to be unenforceable, the enforceability of the remaining provisions shall not be affected. Any claim, controversy or dispute arising under or relating to this EULA shall be governed by the laws of the State of New York and of the United States, without regard to any conflict of laws provisions. The rights and obligations of the parties to this EULA shall not be governed by the United Nations Convention on the International Sale of Goods.