

# COMPUTER SYSTEMS IMPLEMENTATION AGREEMENT

THIS AGREEMENT made effective the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**BETWEEN:**

**[CUSTOMER]**  
(the "Customer")

**OF THE FIRST PART**

- and -

**[SUPPLIER]**  
(the "Supplier")

**OF THE SECOND PART**

**WHEREAS:**

- A. Supplier provided Customer with a proposal dated \_\_\_\_\_ (the "Proposal"), proposing to provide certain computer hardware, software, maintenance and other services to the Customer; and
- 5 Customer desires to accept Supplier's Proposal and now wishes to draw up a contract with Supplier to obtain such hardware, license to the Software, hardware and software maintenance and other services described in the Proposal and Supplier desires to contract with the Customer to provide the same;
- C. The parties hereto wish to set out in writing the terms and conditions which will govern their relationship with respect to the subject matter hereof.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the premises and the covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

## **1. Provision of Hardware and Software**

1.1 Subject to the terms and conditions hereinafter set forth, Supplier shall provide the following to Customer's business location, or to such other location or locations as Customer shall specify:

- (a) the Hardware listed on Schedule "\_\_\_" hereto (collectively the "Hardware") at the prices set out in Supplier's price list attached as Schedule "\_\_\_" hereto.
- (b) the license for the use of the computer programs and related documentation listed on Schedule "\_\_\_" hereto (collectively the "Software") at the price set out in Schedule "\_\_\_";
- (c) the maintenance services listed in Schedule "\_\_\_" according to the schedule of fees set out in Schedule "\_\_\_"; and
- (d) the other services listed on Schedule "\_\_\_" at the prices set out in Schedule "\_\_\_".

## **2. Contract Documents**

2.1 This Agreement shall consist of the following:

- (a) the Proposal;
- (b) any and all correspondence between Customer and Supplier subsequent to the Proposal which deals with the subject matter hereof; and

- (c) this Computer Systems Implementation Agreement and the following Schedules attached hereto, and any amendments or revisions thereto or replacements thereof:

(list of schedules)

2.2 Each of these documents is incorporated herein by this reference as if set forth in full, and shall constitute a part of this Agreement. In the event of any conflict in a party's obligations pursuant to the above documents, this Computer Systems Implementation Agreement shall govern.

2.3 The failure of Supplier or Customer to respond to or to include reference to any matter contained in any other contract document shall not be deemed an acceptance of such request and shall not constitute a conflict.

### 3. Definitions and Interpretation

- (a) "Business Days" means Monday to Friday from \_\_\_\_ a.m. to \_\_\_\_ p.m. (\_\_\_\_\_ time), excluding statutory holidays.
- (b) "Complete System" means the full installation and integration of all of the Hardware on Schedule "\_\_\_\_", with all of the software listed on Schedule "\_\_\_\_".
- (c) "Customer's authorization to order" means a written purchase order from the Customer, instructing Supplier to order the required components. The schedule outlined in Schedule "\_\_\_\_" will commence upon Supplier's receipt of Customer's authorization to order.
- (d) "Customized Module" is one which was configured or modified as part of the system implementation process according to a pre-defined set of specifications from Customer.
- (e) "Hardware" means the items listed on Schedule "\_\_\_\_" hereto.
- (f) "Hardware Functionality Testing" means testing of the various equipment to ensure that the requirements of the Customer are met with respect to the Hardware.
- (g) "Local Area Network" or "LAN" means the system configuration currently used by the Customer and described in Schedule "\_\_\_\_".
- (h) "Peak Time" means any hour when the number of transactions processed is at least double the average number of transactions per hour.
- (i) "Response time" means the total elapsed time from the moment an entry is made on the keyboard and the return key is depressed until the system returns the resultant data or information.
- (j) "Software" means each software product listed in Schedule "\_\_\_\_", including machine-readable object code (not source code) for such product, any user documentation for such product, and any other related materials which are furnished to the Customer by Supplier for use in connection with such product.
- (k) "Software Functionality Testing" means testing of the various modules to ensure that the requirements of the Customer are met with respect to the Software.
- (l) "Supplier" means [SUPPLIER], its agents, employees and subcontractors.
- (m) "System" means the total complement of Hardware and Software supplied by Supplier which operates as an integrated group.

- (n) "Systems Testing" means testing of the various modules in a predetermined sequence to ensure that the batch and exception reports are properly produced reflecting the status of the system files, as they appear at that time.
- (o) "Use" means to cause the computer system as designated in Schedule "\_\_\_\_" to execute any machine-readable portion of the software or to make use of any documentation or related materials in connection with the execution of any machine-readable portion of the software.
- (p) All costs quoted in this Agreement and in the Schedules hereto will be in Canadian dollars.
- (q) For the purposes of this Agreement, "DBMS" and "Operating System (O/S)" are defined as components of the Hardware.

#### **4. Site Preparation**

4.1 Customer will modify the current site or sites for installation of Hardware according to the site specifications as set forth in Schedule "\_\_\_\_" annexed hereto. Customer shall provide Supplier with access to its premises in order to inspect and approve the site plans and the actual site location prior to the installation of the Hardware. Should Supplier have failed to specify in the site specifications any item or condition required by Customer for the proper operation of the Hardware listed in Schedule "\_\_\_\_", then Supplier shall be responsible for all additional costs incurred by Customer in making the additions or changes that are needed, provided, however, that there have been no changes to the physical or environmental conditions of the site subsequent to Supplier providing its written approval of the site plans and location. In the event that there have been changes to the physical or environmental conditions of the site, Customer shall notify Supplier and Supplier shall identify all necessary additions or changes. Upon the Customer making these changes, Supplier shall re-inspect and approve the site.

#### **5. Delivery and Installation of Equipment**

##### **5.1 Delivery**

- (a) Shipments by the parties to and from the installation site(s) shall be made through an appropriate commercial carrier. Prices listed on Schedules "\_\_\_\_\_" are FOB the Customer.
- (b) All computer room equipment shall be delivered as "Inside deliveries" to Customer's computer room. All other equipment shall be delivered to a location specified by the Customer. The carrier is required to provide all necessary personnel and material handling equipment, and will maintain adequate insurance coverage for the computer equipment. Supplier shall ensure that the carrier has the appropriate insurance, or, alternatively, will provide the insurance coverage at its own expense.
- (c) All equipment shall be crated, packaged and marked in accordance with standard shipping practices.
- (d) Customer shall receive all shipments from Supplier and shall arrange for its safe and secure storage until Supplier arranges for its installation.
- (e) Supplier shall bear the cost of moving and transporting any equipment that is returned for replacement, under warranty, or pursuant to paragraphs \_\_\_\_\_ of this Agreement.
- (f) The hardware components to be supplied hereunder, for purposes of delivery and performance under this Agreement, shall be grouped together into a basic configuration. The basic configuration shall consist of the Hardware detailed on Schedule "\_\_\_\_". Any such configuration shall be deemed incomplete and undelivered if any component within that configuration has not been delivered or if delivered, is not operational or acceptable. The Customer shall accept delivery of all of the Hardware within \_\_\_\_\_ months of the initial authorization to order.
- (g) In the event that any of the Hardware components outlined in Schedule "\_\_\_\_" are upgraded, improved, or replaced with improved products, the Customer shall have the right to replace the

components outlined in this Agreement with new and improved components up to the date of the Customer's authorization to order the Hardware and incur any cost associated with this upgrade.

## 5.2 Installation

- (a) Supplier shall furnish all necessary labour, materials, and other services listed on Schedule "\_\_\_" required to accomplish installation at the installation sites as specified by the Customer. All debris generated in the performance of work during installation shall be removed from Customer's premises by Supplier at no cost to Customer. Installation shall be performed during normal business hours, and Customer shall ensure that Suppliers personnel are provided with sufficient work space and adequate access to the installation location(s) during normal business hours or at such other times as may be mutually agreed upon.
- (b) When the Hardware has passed the Hardware Functionality Testing, Supplier shall certify to the Customer that the System is ready and available for testing of the Software and Conversion as per Schedule "\_\_\_".
- (c) Supplier shall be responsible for the costs of repairing any site damage that occurs as a result of shipping or installation caused by Supplier or its agents, employees or subcontractors.

## 6. Implementation Schedule

6.1 Supplier and the Customer have Jointly developed the Implementation Schedule (Schedule "\_\_\_"). The Implementation Schedule sets out the schedule of events, names of responsible individuals and entities, and any other information pertinent to the implementation of the System and related services under this Agreement. The implementation and installation of the System shall be in accordance with the Implementation Schedule. No variation, modification or amendment thereof shall be made without the prior mutual consent of both parties hereto. Supplier and Customer shall at all times strictly adhere to the schedule of events and timings as set out in the Implementation Schedule.

## 7. Risk of Loss

7.1 Supplier shall be responsible for all risks of loss or damage to Hardware and other items furnished under this Agreement until the Hardware is delivered to Customer's computer room and designated sites, after which time the Customer shall bear all responsible for risk of loss or damage.

## 8. Data Loading and Unloading

8.1 Supplier will load or instruct the Customer to load the Customer transaction information directly from Customer's media in a format as set forth in the Conversion Specifications attached hereto as Schedule "\_\_\_".

## 9. Functionality and Acceptance Tests

9.1 The purpose of the Hardware Functionality Test is to ascertain that the Hardware listed on Schedule "\_\_\_" as installed is fully operational. The test will be performed as set forth in Schedule "\_\_\_".

9.2 The purpose of the Software Functionality Test is to verify that the required functional capabilities of the Software have been delivered. The test will be performed as set forth in Schedule "\_\_\_", based upon the functional components listed in Schedule "\_\_\_".

9.3 The purpose of the System Reliability Test is to demonstrate and verify that the System operates at a specified percentage reliability level for an extended period of time. The test will be performed as set forth in Schedule "\_\_\_".

9.4 The successful completion of these tests will result in the final acceptance of the System. In addition to the test procedures described in Schedules "\_\_\_\_\_", the following conditions must be satisfied:

- (a) all Hardware has been accepted by the Customer pursuant to Schedule “ \_\_\_”;
- (b) all Software has been accepted by the Customer pursuant to Schedule “ \_\_\_”;
- (c) all of the Customized Modules of the Software have been accepted by the Customer pursuant to Schedule “ \_\_\_”;
- (d) Customer’s staff has received the Training, or at the Customer’s request, the Training has been scheduled to occur after the actual date of the Reliability Acceptance;
- (e) Supplier has delivered all of the Documentation; and
- (f) Supplier has certified to Customer in writing that it has verified that the System performs in accordance with the Functional Requirements and in accordance with all manufacturer’s published specifications.

9.5 The purpose of the Data Conversion Test is to ensure that all Customer data files identified in Schedule “ \_\_\_” have been converted according to the Conversion Specifications. This test will be performed in accordance with Schedule “ \_\_\_”.

**THIS IS A 19-PAGE CONTRACT.**