# SOFTWARE LICENSE AGREEMENT

This Software License Agreement (the "Agreement") is a binding agreement between Licensee and the Reseller defined in the signed Appendix ("Reseller") for the purchase of software licenses and/or services. This Agreement contains three parts: this Software License Agreement, the applicable on-line schedules referenced herein, and the signed Appendix. All three parts are integral to this Agreement. Licensee agrees that the on-line schedules may be updated by Licensor from time to time without notice to Licensee, but no change will apply to Licensee retroactively.

1. DEFINITIONS.

1.1 "Business Partner" means an entity that requires access to the Software in connection with the operation of Licensee's business, such as customers, distributors and suppliers.

1.2 "Documentation" means Reseller's and SAP's documentation which is delivered to Licensee under this Agreement.

1.3 "Modification" means a change to the Software that changes the delivered source code or an enhancement to the Software that is made using SAP tools or utilizing or incorporating SAP Proprietary Information.

1.4 "Named Users" means any combination of users licensed under this Agreement.

1.5 "Proprietary Information" means: (i) with respect to Reseller, SAP and SAP AG (the licensor of the SAP Proprietary Information to SAP), the Software and Documentation, any other third-party software licensed with or as part of the Software, benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications; (ii) the concepts, techniques, ideas, and know-how embodied and expressed in the Software and (iii) information reasonably identifiable as the confidential and proprietary information of SAP or Licensee or their licensors excluding any part of the SAP or Licensee Proprietary Information which: (a) is or becomes publicly available through no act or failure of the other party; or (b) was or is rightfully acquired by the other party from a source other than the disclosing party prior to receipt from the disclosing party; or (c) becomes independently available to the other party as a matter of right.

1.6 "Software" means (i) all software specified in agreed upon Appendices or Order Schedules hereto, developed by or for SAP and its affiliates entities and delivered to Licensee hereunder; (ii) any new releases thereof made generally available pursuant to Support; and (iii) any complete or partial copies of any of the foregoing.

1.7 "Subsidiary" means a corporation in the Territory of which Licensee owns more than fifty percent of the voting securities. This entity will be considered a Subsidiary for only such time as such equity interest is maintained.

1.8 "Territory" means Canada.

1.9 "Use" means to activate the processing capabilities of the Software, load, execute, access, employ the Software, or display information resulting from such capabilities.

2. LICENSE GRANT.

2.1 License.

(a) Reseller grants, a non-exclusive perpetual (except for subscription based license and/or unless terminated in accordance with Section 5 herein) license to Use the Software, Documentation, other SAP Proprietary Information, at specified site(s) within the Territory to run Licensee's internal business operations and to provide internal training and testing for such internal business operations and as further set forth in Appendices or Order Schedules hereto. This license does not permit Licensee to use the SAP Proprietary Information to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training). Business Partners may have screen access to the Software solely in conjunction with Licensee's Use and may not Use the Software to run any of their business operations. Licensee acknowledges that the terms in the Product Use Rights Schedule found at www.sap.com/company/licenses apply to Licensee's Use of the Software (unless otherwise stated in the applicable Order Schedule).

(b) Licensee agrees to install the Software only on hardware identified by Licensee pursuant to this Agreement that has been previously approved by Reseller in writing or otherwise officially made known to the public as appropriate for Use or interoperation with the Software (the "Designated Unit"). Any individuals that Use the Software including employees or agents of Subsidiaries and Business Partners, must be licensed as Named Users. Use may occur by way of an interface delivered with or as a part of the Software, a Licensee or third-party interface, or another intermediary system. Software may only be installed on a Designated Unit within the Territory. Named Users may be located outside of Canada, subject to the Use restrictions provided in this Agreement and any Appendix hereto.

2.2 Subsidiary Use. Subsidiaries may Use the Software provided that: (i) the Subsidiary agrees to be bound by the terms herein in the form of Exhibit A attached hereto; and (ii) a breach of such Exhibit by Subsidiary shall be considered a breach by Licensee hereunder.

3. VERIFICATION. Reseller shall be permitted to audit (at least once annually and in accordance with standard procedures) the usage of the SAP Proprietary Information. In the event an audit reveals that Licensee underpaid License and/or Support Fees to Reseller, Licensee shall pay such underpaid fees based on SAP's list of prices and conditions in effect at the time of the audit.

4. PRICE AND PAYMENT.

4.1 License Fees. Licensee shall pay to Reseller license fees for the Software and Support fees on the terms in Appendices hereto. Any fees not paid when due shall accrue interest at the rate of 18% per annum, but not to exceed the maximum amount as allowed by law.

4.2 Taxes. Fees and other charges described in this Agreement, or in Reseller's most recent list of prices and conditions, do not include federal provincial sales, foreign withholding, use, property, excise, service, or similar taxes ("Tax(es)") now or hereafter levied, all of which shall be for Licensee's account. With respect to provincial sales tax, direct pay permits or valid tax-exempt certificates must be provided to Reseller prior to the execution of this Agreement. If Reseller is required to pay Taxes, Licensee shall reimburse Reseller for such amounts. Licensee hereby agrees to indemnify Reseller for any Taxes and related costs, interest and penalties paid or payable by Reseller.

5. TERM.

5.1. Term. This Agreement and the license granted hereunder shall become effective as of the date first set forth in the Appendix and shall continue in effect thereafter unless terminated upon the earliest to occur of the following: (i) thirty (30) days after Licensee gives Reseller written notice of Licensee's desire to terminate this Agreement, for any reason, but only after payment of all License and Support Fees then due and owing; (ii) thirty (30) days after Reseller gives Licensee notice of Licensee's material breach of any provision of the Agreement (other than Licensee's breach of its obligations under Sections 6 or 10, which breach shall result in immediate termination), including more than thirty (30) days delinquency in Licensee's payment of any money due hereunder, unless Licensee has cured such breach during such thirty day period; (iii) immediately if Licensee files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors.

5.2 End of Term Duties. Upon any termination hereunder, Licensee and its Subsidiaries shall immediately cease Use of all SAP Proprietary Information. Within thirty (30) days after any termination, Licensee shall deliver to Reseller or destroy all copies of the SAP Proprietary Information in every form. Licensee agrees to certify in writing to Reseller that it and each of its Subsidiaries has performed the foregoing. Sections 3, 4, 6, 7.2, 8, 9, 11.4, 11.5 and 11.6 shall survive such termination. In the event of any termination hereunder, Licensee shall not be entitled to any refund of any payments made by Licensee.

6. PROPRIETARY RIGHTS.

6.1 Protection of Proprietary Information Licensee shall not copy, translate, disassemble, or decompile, nor create or attempt to create, by reverse engineering or otherwise, the source code from the object code of the Software. Except for the rights set forth below, Licensee is not permitted to make derivative works of the Software and ownership of any unauthorized derivative works shall vest in SAP. Reseller and Licensee agree to take all reasonable steps and the same protective precautions to protect the Proprietary Information from disclosure to third parties as with its own proprietary and confidential information. Neither party shall, without the other party's prior written consent, disclose any of the Proprietary Information of the other party to any person, except to its bona fide individuals whose access is necessary to enable such party to exercise its rights hereunder. Each party agrees that prior to disclosing any Proprietary Information of the other party to any third party; it will obtain from that third party a written acknowledgment that such third party will be bound by the same terms as specified in this Section 6 with respect to the Proprietary Information.

6.2 Modifications.

Licensee may make Modifications to the Software, and shall be permitted to use Modifications with the Software in accordance with this Agreement. Licensee shall comply with SAP's registration procedure prior to making changes to the source code. All Modifications and all rights associated therewith shall be the exclusive property of SAP and SAP AG. Licensee agrees to execute those documents reasonably necessary to secure SAP's rights in the foregoing. SAP retains the right to independently develop enhancements to the Software and Licensee agrees not to take any action that would limit SAP's sale, assignment, licensing or use of its own Software or Modifications or enhancements thereto.

7. PERFORMANCE WARRANTY.

7.1 Warranty. Reseller warrants that the Software will substantially conform to the functional specifications contained in the Documentation for six months following delivery. The warranty shall not apply: (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect is caused by a Modification, Licensee, third-party software, or third party database. Neither Reseller nor SAP warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of Licensee's business requirements.

7.2 Express Disclaimer. RESELLER AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT TO THE EXTENT THAT ANY WARRANTIES OR CONDITIONS IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

8. INDEMNIFICATION.

8.1 Indemnification of Licensee. Reseller shall indemnify Licensee against all claims, liabilities, and costs, including reasonable attorneys' fees, reasonably incurred in the defense of any claim brought against Licensee in the Territory by third parties alleging that Licensee's Use of the Software and Documentation infringes or misappropriates any United States patent of which Reseller is aware; a copyright; or trade secret rights, provided that: such indemnity shall not apply if the alleged infringement results from Use of the Software in conjunction with any other software, an apparatus other than a Designated Unit, or unlicensed activities and so long as Licensee promptly notifies Reseller in writing of any such claim and SAP is permitted to control fully the defense and any settlement of such claim as long as such settlement shall not include a financial obligation on Licensee. Licensee shall cooperate fully in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable to SAP. SAP may settle any claim on a basis requiring Reseller to substitute for the Software and Documentation alternative substantially equivalent non-infringing programs and supporting documentation. Licensee shall not undertake any action in response to any infringement or alleged infringement of the Software and Documentation.

8.2 THE PROVISIONS OF THIS SECTION 8 STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF SAP AND ITS LICENSORS TO LICENSEE, AND IS LICENSEE'S SOLE REMEDY, WITH RESPECT TO THE INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

9. LIMITATIONS OF LIABILITY.

9.1 Licensee's Remedies. Licensee's sole and exclusive remedies for any damages or loss in any way connected with the Software or Services furnished by Reseller and its licensors, whether due to Reseller's negligence or breach of any other duty, shall be, at Reseller's option: (i) to bring the performance of the Software into substantial compliance with the functional specifications; (ii) re-performance of Services; or (iii) return of an appropriate portion of any payment made by Licensee with respect to the applicable portion of the Software or Services.

9.2 Not Responsible. Reseller will not be responsible under this Agreement (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect is caused by Licensee, a Modification, third-party software, or third party database. RESELLER AND ITS LICENSORS, INCLUDING SAP, SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE SOFTWARE AND/OR THIRD-PARTY SOFTWARE LICENSED HEREUNDER.

9.3 Limitation of Liability. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM UNAUTHORIZED USE OR DISCLOSURE OF PROPRIETARY INFORMATION, UNDER NO CIRCUMSTANCES SHALL RESELLER, ITS LICENSORS OR LICENSEE BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES IN EXCESS OF THE PAID LICENSE FEES OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, OR EXEMPLARY OR PUNITIVE DAMAGES.

9.4 Severability of Actions. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH.

10. ASSIGNMENT. Licensee may not, without Reseller's prior written consent, assign, delegate, pledge, or otherwise transfer this Agreement or any of its rights or obligations under this Agreement, or the SAP Proprietary Information, to any party, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation. Reseller may assign this Agreement to SAP, an SAP AG affiliate or SAP AG.

11. GENERAL PROVISIONS.

11.1 Severability. It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

11.2 No Waiver. If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

11.3 Counterparts. This Agreement may be signed in two counterparts, each of which shall be deemed an original and which shall together constitute one Agreement.

11.4 Export Control Notice. The Software, Documentation and Proprietary Information are being released or transferred to Licensee in Canada and are therefore subject to the Canadian export control laws. Licensee acknowledges its obligation to ensure that its exports from Canada are in compliance with the Canadian export control laws. Licensee shall also be responsible for complying with all applicable governmental regulations of any foreign countries with respect to the use of the Proprietary Information by its Subsidiaries outside of Canada. Licensee agrees that it will not submit the Software to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP.

11.5 Confidential Terms and Conditions. Licensee shall not disclose the terms and conditions of this Agreement or the pricing contained therein to any third party. Neither party shall use the name of the other party in publicity, advertising, or similar activity, without the prior written consent of the other, except that Licensee agrees that Reseller may use Licensee's name in customer listings or as part of Reseller's marketing efforts.

11.6 Governing Law. This Agreement shall be governed by and construed under the laws of the Province of Ontario without reference to its conflicts of law principles. In the event of any conflicts between foreign law, rules, and regulations, and Canadian law, rules, and regulations, Canadian law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this agreement.

11.7 Notices. All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered to the respective executive offices of Reseller and Licensee at the addresses first set forth above.

11.8 Force Majeure. Any delay or nonperformance of any provision of this Agreement (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

11.9 Entire Agreement. This Agreement and each Schedule and Appendix or Order Schedule hereto constitute the complete and exclusive statement of the agreement between RESELLER and Licensee, and all previous representations, discussions, and writings are merged in, and superseded by, this Agreement. This Agreement may be modified only by a writing signed by both parties. This Agreement and each Appendix hereto shall prevail over any additional, conflicting, or inconsistent terms and conditions which may appear on any purchase order or other document furnished by Licensee to Reseller.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have duly executed this Agreement to become effective as of the Effective Date set forth in the Appendix.