Crafter Enterprise Software License Agreement

This **Crafter Enterprise Software License Agreement** (the "Agreement"), dated this _____ is entered into between Crafter Software Corporation, a Delaware corporation, with its principal place of business at 1800 Alexander Bell Drive, Suite 400, Reston, VA 20191 USA ("Crafter"), and _____ (the "Company"), a _____ corporation with its principal place of business at _____. This Agreement and any attachment hereto establishes the terms and conditions that apply to Company's use of the Crafter Enterprise Software (the "Software").

1.0   LICENSE AND OWNERSHIP

1.1   Grant to Company. Subject to Company's compliance with the terms and conditions of this Agreement, including timely payment of the Fees for the initial term and any renewal terms, Crafter grants to Company: (a) a non-exclusive, non-transferable, non-sublicensable, license to use, copy and modify the Software only for Company's own internal use of the Software and limited to the number of Installed Systems designated in an Order Form provided by either Crafter or a Crafter Reseller Partner; (b) the rights in the third party software provided with the Software set forth in the licenses applicable to such third party software; (c) for the term designated in an Order Form, the right to receive Support Services for the Software ("Support Services"); and (d) a license to use the Software for the purpose of disaster recovery testing.

1.2   Restrictions. Company will not, directly or indirectly: (a) sublicense, resell, rent, lease, distribute, market, commercialize or otherwise transfer rights or usage to: (i) the Software, (ii) any modified version or derivative work of the Software created by the Company or for the Company, or (iii) Crafter Community (which includes all non-supported versions of Crafter-developed software), for any purpose including timesharing or service bureau purposes; (b) remove or alter any copyright, trademark or proprietary notice in the Software; (c) transfer, use or export the Software in violation of any laws or regulations of any government or governmental agency; (d) use any of the Services for the Crafter Community software or for any Installed System for which Services have not been purchased; or (vi) reverse engineer, decompile or modify any encrypted or encoded portion of the Software.

1.3   Proprietary Rights. Crafter and its licensors will own all right, title, and interest to the Software, technology, information, code or software provided to Company, including all portions, copies or modifications thereof.

1.4   United States Government End Users. The Software and its documentation are "Commercial items," "Commercial computer software" and "Computer software documentation" as defined by the Federal Acquisition Regulations ("FAR") and Defense Federal Acquisition Regulations Supplement ("DFARS"). Pursuant to FAR 12.211, FAR 12.212, DFARS, 227.7202-1 through 227.7202-4, and their successors, the U.S. Government acquires the Software and its documentation subject to the terms of this Agreement.

2.0   FEES AND PAYMENT

2.1   Fees for the Support Services (the "**Fees**") will be identified in an Order Form and are (a) due upon Crafter's acceptance of an Order Form or, for renewal of Services, at the start of the renewal term, and (b) payable in accordance with Section 2.2. Fees are stated in United States Dollars, must be paid in United States Dollars, and, unless otherwise specified in writing, do not include out-of-pocket expenses or shipping costs. Company agrees to pay Crafter or the Crafter Reseller Partner the applicable Fees for each Installed System. An "**Installed System**" means a single central processing unit ("**CPU**") with up to four (4) cores on which the Software is installed or executed.

2.2   Invoices. If Company desires credit terms with respect to the payment of Fees, Company will reasonably cooperate with Crafter and/or Crafter Reseller Partner in establishing and periodically re-confirming Company's credit-worthiness. If credit terms are provided to Company, Crafter or Crafter Reseller Partner will invoice Company for the Fees upon Crafter's acceptance of the applicable Order Form, upon acceptance of any future Order Form, and up to thirty (30) days prior to the start of any renewal term. Unless otherwise specified in an Order Form and subject to approval of credit terms, Company will pay Fees and expenses, if any, no later than thirty (30) days from the date of each invoice. Any and all payments made by Company pursuant to this Agreement are non-refundable except as otherwise provided in this Agreement. Crafter reserves the right to suspend or cancel performance of all or part of the Support Services, modify or revoke all or part of Company's license rights in the Software, and/or change its credit terms if actual payment has not been received within thirty (30) days of the invoice date.

2.3   Taxes.   All Fees are exclusive of Taxes. Company will pay Crafter or Crafter Reseller Partner an amount equal to any Taxes arising from or relating to this Agreement or an applicable Order Form which are paid by or are payable by Crafter and/or Crafter Reseller Partner. "**Taxes**" means any form of sales, use, value added or other form of taxation and any fines, penalties, surcharges or interest, but excluding any taxes based solely on the net income of Crafter. If Company is required to withhold or deduct any portion of the payments due to Crafter or Crafter Reseller Partner, Company will increase the sum payable by the amount necessary so that Crafter or Crafter Reseller Partner receives an amount equal to the sum it would have received had Company made no withholdings or deductions.

3.0   REPORTING AND RECORDS

3.1   **Reporting**. Company will notify Crafter promptly if the actual number of Installed Systems exceeds the number of Installed Systems for which Company has paid the applicable Fees. In its notice, Company will include the number of additional Installed Systems and the date(s) on which such the Software was first used on such Installed Systems. Crafter or Crafter Reseller Partner will invoice Company for the applicable Fees and Company will pay such Fees no later than thirty (30) days from the date of the invoice. The Software incorporates functionality for the automatic reporting of information regarding Installed Systems, and Crafter receives this information over standard network connections and record this information for usage reporting purposes.

3.2   **Records Retention**. Company will maintain accurate records necessary to verify the number of Installed Systems. Upon 's written request, Company will provide Crafter with such records within ten (10) business days. If Company has more Installed Systems than Company has paid for, Company will immediately pay Crafter the applicable per unit rate for such Installed Systems.

4.0   TERM AND TERMINATION

4.1   **Term and Termination of Agreement**. The term of this Agreement will begin on the Effective Date and will terminate at the expiration of ninety (90) days following written notice of termination given by one party to the other. Termination of this Agreement will not operate to terminate any Order Form and the terms and conditions of this Agreement will continue in full force and effect to the extent necessary to give effect to any Order Form in effect at the time of termination of this Agreement and until such time as the applicable Order Form expires or is terminated in accordance with Section 4.2 below.

4.2   **Term and Termination of Order Form**

4.2.1 The term of an Order Form begins on the date the Order Form is executed ("**Order Form Effective Date**") and continues for the term stated in the Order Form. Thereafter, the term for Subscriptions will automatically renew for successive terms of one (1) year each, unless either party gives written notice to the other of its intention not to renew at least sixty (60) days before the commencement of the next renewal term.

4.2.2 If Crafter or Company materially breaches the terms of an Order Form, and such breach is not cured within thirty (30) days after written notice of the breach is given to the breaching party, then the other party may, by giving written notice of termination to the breaching party, terminate the applicable Order Form and/or this Agreement. The termination of an individual Order Form will not terminate any other Order Form or this Agreement unless otherwise specified in the written notice of termination. Without prejudice to any other right or remedy of Crafter, in the event either party terminates an Order Form, Company will pay Crafter (or the Crafter Reseller Partner from whom Company purchased

Software or Services) for all Services provided up to the effective date of termination.

4.3   **Survival**. If this Agreement or an Order Form is terminated for any reason, Sections 1.2, 1.3, 2, 3, 4.3, 5.2, 6, and 8 of this Agreement (as the same are incorporated into each Order   Form)   will   survive   such   termination.

5.0   REPRESENTATIONS AND WARRANTIES

5.1   **General Representations and Warranties**. Crafter represents and warrants that: (a) the Support Services will be performed in a professional and workmanlike manner by qualified personnel; (b) it has the authority to enter into this Agreement with Company; and (c) to Crafter's knowledge, the Software does not, at the time of delivery to Company, include malicious or hidden mechanisms or code for the purpose of damaging or corrupting the Software.

5.2   **Disclaimer of Warranty.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5.1, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE AND SUPPORT SERVICES PROVIDED BY CRAFTER ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. CRAFTER DOES NOT GUARANTEE THAT THE USE OF THE SOFTWARE OR SERVICES WILL BE UNINTERRUPTED, COMPLY WITH REGULATORY REQUIREMENTS, BE ERROR FREE OR THAT CRAFTER WILL CORRECT ALL SOFTWARE ERRORS. FOR THE BREACH OF THE WARRANTIES SET FORTH IN SECTION 5.1, COMPANY'S EXCLUSIVE REMEDY AND CRAFTER'S ENTIRE LIABILITY WILL BE THE REPERFORMANCE OF DEFICIENT SERVICES, OR IF CRAFTER CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALLY REASONABLE MANNER, COMPANY MAY TERMINATE THE RELEVANT SERVICES AND RECEIVE A PRO RATA REFUND OF THE FEES PAID FOR THE DEFICIENT SERVICES AS OF THE EFFECTIVE DATE OF TERMINATION. Company agrees that it is solely responsible for the results obtained from the use of the Software and Services.

6.0   LIMITATION OF LIABILITY AND DISCLAIMER OF DAMAGES

6.1   **Disclaimer of Damages**. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR AN ORDER FORM, IN NO EVENT WILL CRAFTER OR ITS AFFILIATES BE LIABLE TO COMPANY OR ITS AFFILIATES FOR DAMAGES OTHER THAN DIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION: ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER IN TORT, CONTRACT, OR OTHERWISE; OR ANY DAMAGES ARISING

OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, REGULATORY NON-COMPLIANCE, DELAYS, LOSS OF DATA, LOST PROFITS, LOST SAVINGS, INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATORY PROFITS, EVEN IF CRAFTER OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LIABILITY FOR THESE DAMAGES WILL BE LIMITED AND EXCLUDED EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

6.2   **Limitation of Liability.** FOR ALL EVENTS AND CIRCUMSTANCES, CRAFTER AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ALL ORDER FORMS INCLUDING WITHOUT LIMITATION ON ACCOUNT OF PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STATUTE OR OTHERWISE WILL BE LIMITED TO DIRECT DAMAGES AND WILL NOT EXCEED THE AMOUNTS RECEIVED BY CRAFTER FROM COMPANY (EITHER DIRECTLY OR THROUGH A CRAFTER RESELLER PARTNER) DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY, WITH RESPECT TO THE PARTICULAR ITEMS (WHETHER SOFTWARE, SERVICES OR OTHERWISE) GIVING RISE TO LIABILITY UNDER THE MOST APPLICABLE ORDERING DOCUMENT.

7.0   INDEMNIFICATION

7.1   **Defense**.   If an unaffiliated third party initiates a legal action alleging that Company's use of the Software directly infringes the third party's patent, copyright, trademark or misappropriates the third party's trade secret rights ("**Third Party Rights**") (such action, a "**Claim**") and there is an active Subscription in effect at the time of the Claim, then Crafter will (a) defend Company against the Claim and (b) pay costs, damages and/or attorneys fees that are included in a final judgment against Company (without right of appeal) or in a settlement approved by Crafter that are attributable to Company's use of the Software; provided that Company (i) is current in the payment of all applicable Fees prior to a Claim or threatened Claim, (ii) notifies Crafter in writing of the Claim promptly, but in no event later than ten (10) days after receipt of the Claim, (iii) provides Crafter with the right to control and conduct the defense of the Claim with counsel of its choice and to settle such Claim at Crafter's sole discretion, and (iv) cooperates with Crafter in the defense of the Claim.

7.2   **Injunctive Relief**.   If an injunction is sought or obtained against Company's use of the Software as a result of a third party infringement claim, Crafter may, at its sole option and expense, (i) procure for Company the right to continue using the affected Software consistent with this Agreement, (ii) replace or modify

the affected Software with functionally equivalent software so that it does not infringe, or, if either (i) or (ii) is not available on a basis that Crafter finds commercially feasible, (iii) terminate the applicable licenses without further liability under this section and, if Company then returns the Software that is subject to the Claim, Crafter will refund any prepaid Fees related to the affected Software.

7.3   **Exclusions**. Crafter will have no liability for any Claim based upon (a) use of other than the then-current, unaltered version of the applicable Software, unless the infringing portion is also in the then current, unaltered version; (b) use, operation or combination of the applicable Software with non-Crafter programs, data, equipment or documentation if such infringement would have been avoided but for such use, operation or combination; (c) Crafter's compliance with any designs, specifications or instructions provided by Company; (d) facts or circumstances constituting a breach of any Order Form; (e) use by Company after notice by Crafter to discontinue use of all or a portion of the Software; (f) Company's claim or lawsuit against a third party; or (g) any third party software. Crafter will have no obligations under this section if, as of the Order Form Effective Date of an applicable Order Form, Company has received notice of allegations of infringement or is engaged in litigation concerning the subject matter of what would otherwise be a Claim under this Agreement or with respect to a product substantially similar to the Software. This section constitutes the entire liability of Crafter, and Company's sole and exclusive remedy with respect to any third party claims of infringement of intellectual property rights and supersedes any other Crafter obligation related to the subject matter of this section.

8.0   GENERAL

a.   **Force Majeure.** Neither party shall be liable for any delay or failure in performance due to causes beyond its reasonable control.

b.   **Export Compliance.** Licensee may not download or otherwise export or re-export the Software or any underlying information or technology except in full compliance with all United States and other applicable laws and regulations.

c.   **Assignment.** Licensee may not assign this Agreement without Crafter's prior written consent which shall not be unreasonably withheld.

d.   **Severability.** If any part of this Agreement is held to be unenforceable, in whole or in part, such holding shall not affect the validity of the other parts of the Agreement.

e.   **Waiver**. The waiver of a breach of any provision of this Agreement shall not operate or be interpreted as a waiver of any other or subsequent breach.

f.   **Notices.** Notices must be in English, in writing, and will be deemed given when delivered by hand or five (5) days after

being sent using a method that provides for positive confirmation of delivery to the respective addresses indicated in an Order Form; provided that any notice from Company to Crafter includes a copy sent to: Crafter Software Corporation, Attn: General Counsel, 1800 Alexander Bell Drive, Suite 400, Reston, VA 20191.

g.   **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Virginia, U.S.A., excluding its conflict of law rules and excluding the UN Convention for the International Sale of Goods (CISG).

h.   **Entire Agreement.** Each Order Form (a) is a separate agreement and is deemed to incorporate this Agreement and all attachments and exhibits, unless otherwise expressly provided in that Order Form; (b) constitutes the exclusive terms and conditions with respect to the subject matter of that Order Form, notwithstanding any different or additional terms that may be contained in the form of purchase order or other document used by Company to place orders or otherwise effect transactions under this Agreement; and (c) represents the final, complete and exclusive statement of the agreement between the parties with respect thereto, notwithstanding any prior written agreements or prior and contemporaneous oral agreements with respect to the subject matter of the Order Form. In the event of any conflict between this Agreement and any Order Form, this Agreement will take precedence unless otherwise expressly provided in the Order Form. Any claim relating to the provision of the Services by Crafter, its Affiliates or their respective personnel will be made against Crafter alone.

.i. **Dispute Resolution.** Each party agrees to give the other a written description of any problem(s) that may arise and to make a good faith effort to amicably resolve any such problem before commencing any proceeding. Notwithstanding the foregoing, either party may take any action reasonably required to protect such party's rights. No claim or action, regardless of form, arising out of this Agreement or an Order Form may be brought by either party more than one (1) year after the cause of action has accrued.

j. **Amendment.** Neither this Agreement nor any Order Form may be amended or modified except in a writing signed by the parties, which writing makes specific reference to this Agreement or the applicable Order Form.

k. **Counterparts and Facsimile Signature.** In the event this Agreement is executed with signatures, this Agreement may be executed in counterparts, each of which will be deemed an original and all of which will constitute one and the same document. The parties may exchange signature pages by facsimile or email and such signatures will be effective to bind the parties to all the terms contained in this Agreement.

CRAFTER SOFTWARE CORPORATION

By: _____

Name: _____

Title: _____

COMPANY

By: _____

Name: _____

Title: _____

Attachment 1
Subscription Support Services

Subscriptions purchased from Crafter are provided on the terms described in this Attachment. Capitalized terms used in this Attachment without definition have the meaning defined in the base agreement between the parties.

1.   Subscriptions. A Subscription entitles Company to receive access to (a) the Software and license, (b) the applicable Software updates, upgrades, corrections and bug fixes, when and if available, and (c) the applicable level of Support Services indicated on an Order Form and as defined in Section 2 below ("**Support**"). Subject to Company's compliance with the terms and conditions of this Agreement, including timely payment of the Fees for the initial term and any renewal terms, the license for the Software and the other benefits of the Subscriptions will remain valid, and will expire if not renewed. Unless otherwise agreed in an Order Form, the Subscription(s) will begin on the date that the Company purchases the Subscription(s).

Company must purchase a Subscription for each Installed System. If Company does not renew its Subscriptions in a timely manner, a reinstatement fee may be applied. Subscriptions may only be used for Company's own internal use (including authorized Affiliates). Distributing any portion of a Subscription to a third party or using any of a Subscription for the benefit of a third party is a material breach of the Agreement. Subscriptions may be used under the terms of this Agreement by third parties acting on Company's behalf, such as contractors, subcontractors or outsourcing vendors, provided Company remains responsible for its obligations and the activities and omissions of these third parties. Any unauthorized use of the Subscriptions is a material breach of the Agreement, such as (a) only purchasing or renewing Subscriptions for some, but not all, of the CPUs on which Company installs, uses or executes the Software, or (b) using Subscriptions to maintain or support CPUs running Crafter Community.

2.   Support Policies.

2.1   Scope of Support. Support consists of assistance and response with installation, usage, problem diagnosis and bug fixes for the Software in accordance with the type of Subscription purchased as outlined in Section 2.3. In order for Crafter to provide Support, Company must: (a) make reasonable efforts to correct an issue after consulting with Crafter; (b) provide Crafter with sufficient information and resources to correct the issue, as well as access to the personnel, hardware, and any additional software involved in discovering the issue; (c) install and operate the Software on a Crafter-supported stack; (d) promptly install all service packs provided by Crafter; and (e) procure, install and maintain all equipment, telephone lines, communication interfaces and other hardware necessary to operate the Software.

Support does not include support for Crafter Community, hardware, or third party software. Company is responsible for reading the release notes and any other available documentation before installing or upgrading the Software and for testing the Software before deploying it in a production environment. Company should also backup its production systems on a regular basis and have those backups available if needed for support purposes. Crafter is not obligated to provide Support when: (a) the Software has been changed, modified or damaged; (b) the issue is caused by Company's negligence, hardware malfunction or other causes beyond the reasonable control of Crafter; (c) the issue is caused by third party software not licensed through Crafter or provided by Crafter; or (d) Company has not paid the Fees when due.

2.2   Technical Support Contacts. Crafter customer support will provide Support to the designated contacts, as identified in an Order Form ("**Technical Support Contacts**"). The Technical Support Contacts should have "read, write and execute" access to the necessary files, English language communication skills and relevant technical knowledge. Company may modify its designated Technical Support Contacts at any time during the term of a Subscription by notifying Crafter in writing and giving Crafter five (5) business days to process the change. Technical Support Contacts will be the only interface to the Crafter customer support center. In an emergency, a Crafter customer support engineer will respond to an issue for an unauthorized contact on an exception basis subject to later verification and involvement of a named Technical Support Contact.

2.3   Production Support Service Level Guidelines. Crafter will use commercially reasonable efforts to provide Support in accordance with the guidelines shown in the table below. Crafter's Standard Business Hours will be identified on an Order Form.

	Crafter Enterprise Single CPU	Crafter Enterprise Multiple CPU
Hours of Coverage	Standard Business Hours	7x24 for Severity 1 issues; Standard Business Hours for all other issues
Support Channel	Web	Web and Phone
Number of Cases	Unlimited	Unlimited
Technical Support Contacts	2	3
Initial Response Guidelines		
Severity 1: A Severity One Production Issue means the (i) production system is severely impacted or completely shut down, or (ii) system operations or mission-critical applications are down. A Severity One Development Issue means (iii) an application is in final testing, facing a critical time frame of going into production use and is severely impacted or (iv) entire development efforts are blocked. Severity 1 issues must be reported by telephone and Company must have technical contacts available for the duration of the Severity 1 issue. If neither of these is the case, Crafter reserves the right to designate the issue as Severity 2.	2 Business Hours	2 Hours
Severity 2: A Severity Two Production Issue means (i) the production system is functioning with limited capabilities, or (ii) is unstable with periodic interruptions, or (iii) mission critical applications, while not being affected, have experienced material system interruptions. A Severity Two Development Issue means (iv) there is a time sensitive question impacting performance or deliverables, or (v) a major subsystem under development is blocked. Crafter assigns a specialist to address the issue, and provides additional, escalated procedures as reasonably determined necessary by Crafter.	4 Business Hours	2 Business Hours
Severity 3: A Severity Three Production Issue means there (i) are issues in fully operational production systems, (ii) is a need to clarify procedures or information in documentation, or (iii) is a request for a product enhancement. A Severity Three Development Issue means (iv) there are errors in system development that may impact performance deliverables, (v) a need to clarify procedures or information in documentation, or (vi) a request for product enhancement.	1 Business Day	6 Business Hours