

# ORDER FOR SUPPLIES OR SERVICES

1. CONTRACT/PURCH. ORDER/ AGREEMENT NO. W91QUZ-07-A-0004		2. DELIVERY ORDER/ CALL NO.		3. DATE OF ORDER/CALL 2007 Sep 24		4. REQ./ PURCH. REQUEST NO.		5. PRIORITY					
6. ISSUED BY ARMY CONTRACTING AGENCY-ITEC4 2461 EISENHOWER AVE ALEXANDRIA VA 22331-1700			CODE W91QUZ		7. ADMINISTERED BY  <b>SEE ITEM 6</b>			CODE		8. DELIVERY FOB <input type="checkbox"/> DEST <input checked="" type="checkbox"/> OTHER  (See Schedule if other)			
9. CONTRACTOR CARAHSOFT TECHNOLOGY CORP CRAIG ABOD 12369 SUNRISE VALLEY DR SUITE D2 RESTON VA 20191-5430			CODE 1P3C5		FACILITY		10. DELIVER TO FOB POINT BY (Date) <b>SEE SCHEDULE</b>		11. MARK IF BUSINESS IS <input checked="" type="checkbox"/> SMALL <input type="checkbox"/> SMALL DISADVANTAGED <input type="checkbox"/> WOMEN-OWNED				
12. DISCOUNT TERMS			13. MAIL INVOICES TO THE ADDRESS IN BLOCK See Item 15										
14. SHIP TO  <b>SEE SCHEDULE</b>			CODE		15. PAYMENT WILL BE MADE BY  <b>SEE SCHEDULE</b>			CODE		<b>MARK ALL PACKAGES AND PAPERS WITH IDENTIFICATION NUMBERS IN BLOCKS 1 AND 2.</b>			
16. TYPE OF ORDER			DELIVERY/ CALL		This delivery order/call is issued on another Govt. agency or in accordance with and subject to terms and conditions of above numbered contract.								
PURCHASE					Reference your quote dated Furnish the following on terms specified herein. REF:								
ACCEPTANCE. THE CONTRACTOR HEREBY ACCEPTS THE OFFER REPRESENTED BY THE NUMBERED PURCHASE ORDER AS IT MAY PREVIOUSLY HAVE BEEN OR IS NOW MODIFIED, SUBJECT TO ALL OF THE TERMS AND CONDITIONS SET FORTH, AND AGREES TO PERFORM THE SAME.													
NAME OF CONTRACTOR				SIGNATURE				TYPED NAME AND TITLE				DATE SIGNED (YYYYMMDD)	
<input type="checkbox"/> If this box is marked, supplier must sign Acceptance and return the following number of copies:													
17. ACCOUNTING AND APPROPRIATION DATA/ LOCAL USE													
18. ITEM NO.		19. SCHEDULE OF SUPPLIES/ SERVICES				20. QUANTITY ORDERED/ ACCEPTED*		21. UNIT	22. UNIT PRICE		23. AMOUNT		
		<b>SEE SCHEDULE</b>											
* If quantity accepted by the Government is same as quantity ordered, indicate by X. If different, enter actual quantity accepted below quantity ordered and encircle.			24. UNITED STATES OF AMERICA TEL: 703-325-4625 EMAIL: Ron.Hyde@conus.army.mil BY: RONALD L. HYDE					<i>Ronald L. Hyde</i> CONTRACTING / ORDERING OFFICER		25. TOTAL			
26. QUANTITY IN COLUMN 20 HAS BEEN <input type="checkbox"/> INSPECTED <input type="checkbox"/> RECEIVED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT EXCEPT AS NOTED  DATE _____ SIGNATURE OF AUTHORIZED GOVT. REP. _____			27. SHIP NO.		28. DO VOUCHER NO.		30. INITIALS		29. DIFFERENCES				
36. I certify this account is correct and proper for payment.  DATE _____ SIGNATURE AND TITLE OF CERTIFYING OFFICER _____			<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		32. PAID BY		33. AMOUNT VERIFIED CORRECT FOR		34. CHECK NUMBER		35. BILL OF LADING NO.		
			<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL										
37. RECEIVED AT		38. RECEIVED BY		39. DATE RECEIVED (YYYYMMDD)		40. TOTAL CONTAINERS		41. S/R ACCOUNT NO.		42. S/R VOUCHER NO.			

Section B - Supplies or Services and Prices

BPA Master Dollar Limit: \$2,000,000,000.00

BPA Call Limit: \$100,000,000.00

Period of Performance: 24-Sep-2007 to 31-Dec-2007

FSC Codes:

7030

BPA TERMS AND CONDITIONS

**Blanket Purchase Agreement  
DoD Enterprise Software Agreement (ESA)**

In the spirit of the Federal Acquisition Streamlining Act, the Department of Defense (DoD) and Carahsoft Technology Corp. (Carahsoft) enter into a cooperative agreement to further reduce the administrative costs of acquiring commercial items from the General Service Administration (GSA) Federal Supply Schedule Contract GS-35F-0794M,

Federal Supply Schedule Contract Blanket Purchase Agreements (BPA) reduce contracting and open market costs such as: search for sources, the development of technical documents, solicitations, and the evaluation of bids and offers.

This BPA will further decrease costs, reduce paperwork, and save time by eliminating the need for repetitive, individual purchases from the schedule contract. The end result is to create a purchasing mechanism for the Government that works better and costs less.

The Enterprise Software Initiative (ESI) is a joint DoD project to develop and implement a DoD enterprise process. This BPA is issued in the spirit of the policy and guidelines provided in the Defense Federal Acquisition Regulation Supplement (DFARS) Section 208.74.

Attachments to this agreement are:

- Attachment A – Product and Price List
- Attachment B – License Agreement
- Attachment C – Report of Sales Format
- Attachment D – Fees and Payments

**A. TERMS AND CONDITIONS**

1. Pursuant to General Services Administration (GSA) Federal Supply Services (FSS) Contract Number GS-35F-0794M, Carahsoft agrees to the following terms of a Blanket Purchase Agreement (BPA) with the Department of the Army. All orders placed against this BPA are subject to the terms and conditions of the FSS Contract. The items on this BPA are set forth in Attachment A. License terms and conditions applicable to products acquired under this BPA are defined in the Carahsoft/Opware License Agreement included as Attachment B. The Order of Precedence for resolving any inconsistency between the Commercial License and the GSA contract terms shall be as specified in the GSA contract's Commercial Item clause, FAR 52.212-4, and the provisions of FAR 52.212-4 specified in FAR 12.302, as required by Federal law, shall prevail over any terms of the commercial license.

2. **Funds Obligation.** The BPA does not obligate any funds. Funds will be obligated on each delivery order.

3. **BPA Term.** The BPA runs concurrently with the underlying GSA schedule. This expiration is contingent upon the Contractor maintaining or renewing a GSA FSS Schedule. The BPA will be reviewed annually to ensure that it still represents a “best value”.

4. **Pricing Terms.** Attachment A provides unit prices as explained below. Prices shall not escalate, and Attachment A is not subject to upward adjustment during the term of the BPA. Spot discounting is encouraged. The prices will be reviewed annually, or as required to determine whether a reduction is appropriate in accordance with the price reduction provisions of the agreement. A 2.0% Acquisition, Contracting, and Technical (ACT) Fee shall be included in the prices. The contractor shall be responsible for the payment of all fees that are included in the product pricing (i.e. GSA, ACT), as calculated on the customer orders, in accordance with Attachment D.

5. **Discount Terms and Conditions.**

Orders over \$50,000	1%
Orders over \$100,000	2%
Orders over \$1,000,000	4%
Orders over \$2,000,000	6%

Discounts are not cumulative across orders against this BPA. Discounts are off of the GSA Schedule Prices in effect at time of order.

6. **Out-Year Prices.**

See Attachment A

7. **Price Reduction.**

7.1 **Most Favored Customer Prices.**

The prices under this BPA shall be at least as low as the prices that [Carahsoft Technology Corp.](#) has under any other contract instrument under the same terms and conditions. If at any time the prices under any other contract instrument and or contract line items (CLINS) become lower than the prices in this BPA, this BPA will be modified to include the lower prices. The most favored customer pricing shall be maintained in accordance with the GSA Schedule contract’s clause GSAR 552.238-75, Price Reductions. The Contractor shall notify the Contracting Officer of any price reduction subject to the clause as soon as possible, but not later than 15 calendar days after its effective date. Modifications to the Schedule contract to reflect any price reduction which becomes applicable in accordance with the clause will be extended also to the BPA

7.2 **SmartBUY Transition.**

MB has recently announced the SmartBUY initiative to maximize cost savings and achieve best quality when acquiring software. The General Services Administration (GSA) is the designated Executive Agent for SmartBUY. The initiative will establish software enterprise licensing on a government-wide basis. If during the term of this ESA, [Carahsoft Technology Corp.](#) enters into a government-wide agreement with the GSA under the SmartBUY Initiative, which includes pricing for the specific products or services under the same terms and conditions as those licensed by the DoD, Carahsoft will not preclude the DoD from licensing products or purchasing services under a SmartBUY agreement.

**8. License Agreement.** Software licenses purchased under this BPA are subject to the licensing provisions and the terms of the GSA Contract, except that notwithstanding any provision to the contrary, licenses are transferable within an acquiring agency, subject only to necessary administrative procedures; and with prior approval of the licensor also transferable among other authorized users in paragraph B.1, which approval shall not be unreasonably withheld. Any delivery order issued hereunder will serve as proof of purchase. Upon validation and receipt of software, customers will be provided an electronic version of the license agreement. The Order of Precedence for resolving any inconsistency between the Attachment 2 Commercial License, the BPA and the GSA contract terms shall be first, the terms of this BPA, and second, the GSA Schedule contract including the order of precedence provision of the Commercial Item clause at FAR 52.212-4. FAR 52.212-4, and the provisions of FAR 52.212-4 specified in FAR 12.302, as required by Federal law, shall prevail over any terms of the commercial license. The following provisions will be included in a license addendum if the BPA is awarded to other than the software publisher:

**8.1 Functionality Replacement and Extended Support.** If the form, fit, or functionality contained in any licensed products acquired hereunder is substantially reduced or if the product is replaced, and/or (the contractor), provides this same or substantially similar functionality as a separate or renamed product, then the DoD is entitled to license such software at no additional licenses or maintenance fees. However, throughout the term of this agreement, the contractor will provide support services for a period of one year.

**8.2 Rights of Survivorship of the Agreement.** This Agreement shall survive unto Carahsoft, its Successor, rights and assigns. The software and agreement terms and conditions as covered under this agreement shall survive this agreement notwithstanding the acquisition or merger of Carahsoft by or with another entity. Any software name changes, re-packing or merger of similar products that carry forward the same or similar function of the software shall be supported with updates, upgrades and new releases under this agreement at no additional cost.

**8.3 Audits.** In lieu of any audit provisions in the license agreement, Licensee may perform an internal audit and will use its best efforts to keep full and accurate accounts that may be used to properly ascertain and verify numbers of licenses in use. Licensee may permit *Carahsoft* to have access to Licensee records and computer systems and the right to audit such systems to insure software use is in accordance with its license terms. All vendor personnel must have appropriate security clearances to gain access to Licensee site or data.

**9.0 Media.** This software is not currently available on hard copy media. Software must be downloaded from [www.opsware.com](http://www.opsware.com). Upon Credit Card or Purchase Order Approval, the end-users will be sent an email confirmation and their *Opsware* Customer ID (CID) will be validated for download capability. The end user can then go to [www.opsware.com](http://www.opsware.com) and enter their valid CID for download of the Software products.

## **10. Support and Maintenance.**

**10.1. Support.** *Maintenance and support are available at the prices listed in Attachment A.*

**10.2. Maintenance.** Please see Attached.

**11. Professional Services.** Please see Attached.

12. **On-Site Training.** Please see Attached.

13. **Technology Improvement.** The Government may solicit and the BPA holder is encouraged to propose independently, technology improvements to the BPA. Proposals shall be submitted by the BPA holder and include a description of the products and/or services, an electronic copy of the pricing tables, technical literature that describes the products and/or services, and evidence of inclusion on GSA schedule. Discounts shall be at the same or greater discount level as the original BPA product prices.

14. **Substitution and Technology Refreshment.** If at any time during the life of this BPA, the original manufacturer of the equipment (includes software, hardware and firmware) schedules the products for discontinuation, improvement and/or replacement, the BPA holder shall provide a proposal to include the new or revised products on the BPA under the appropriate line items. Proposed prices for new or revised products shall be constructed in accordance with paragraph 7 of this BPA for most favored prices. Discounts shall be at the same or greater discount level as the original BPA product prices. Proposals shall be submitted to the Contracting Officer within seven (7) days of the BPA holder's awareness of the OEM's intent. Improvement of product includes new releases, updates, upgrades including additional features and functionality, and successor or upgrade products.

B. AUTHORIZED USERS AND POINTS OF CONTACT

1. Authorized Users. **The BPA is open for ordering by all Department of Defense (DoD) Components. For the purposes of this agreement, a DoD component is defined as: the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense (DoD IG), the Defense Agencies, the DoD Field Activities, the U. S. Coast Guard, NATO, the Intelligence Community and FMS with a Letter of Authorization. GSA or other applicable ordering organizations/agencies are authorized to place orders under this BPA on behalf of DoD end users and must comply with DFARS 208.7400. This BPA is also open to DoD Contractors authorized to order in accordance with the FAR Part 51.**

**This has been designated as a DoD ESI and GSA SmartBUY Contract and is open for ordering by all United States Federal Agencies, Department of Defense (DoD) Components, and authorized contractors.) This BPA is also open to DoD Contractors authorized to order in accordance with the FAR Part 51.**

2. BPA Points of Contact:

a. **Contracting Office:**

Procuring Contracting Officer (PCO):

[Ronald L. Hyde](#)

Information Technology, E-Commerce and  
Commercial Contracting Center (ITEC\$)

ATTN: SFAE-IT-A

2461B Eisenhower Avenue  
Alexandria, VA 22331-1700

Phone: 703-325-4625

Fax: 703-428-9842

Email: [Ron.Hyde@usa.army.mil](mailto:Ron.Hyde@usa.army.mil)

b. **Software Product Manager (SPM):**

Software Product Manager (SPM):

PEO EIS

Assistant Project Manager, ASCP

Squire Hall, Building 283

Fort Monmouth, NJ 07703

or Alternate Point of Contact:

PEO EIS

Assistant Project Manager, ASCP

Squire Hall, Building 283

Fort Monmouth, NJ 07703

SPM: Joe Simpson

Phone: 732-532-3012

Fax: 732-532-5185

Email: [joseph.m.simpson@us.army.mil](mailto:joseph.m.simpson@us.army.mil)

POC: Dee Wardle

Phone: 732-427-6793

Fax: 732-532-5185

Email: [adelia.wardle@us.army.mil](mailto:adelia.wardle@us.army.mil)

c. **Customer Point of Contact:** (To be specified on each order.)

## C. ORDERING

1. DFARS Section 208.74 directs DoD software buyers and requiring officials to check the DoD ESI website for DoD inventory or an ESA before using another method of acquisition. These steps for the buyer are summarized from the DFARS:

a. Check the Enterprise Agreement Summary Table to determine if software rights or maintenance have already been purchased and are available from DoD inventory. If they are available, purchase the designated software from DoD inventory and reimburse the SPM.

b. If the required software rights or maintenance are not available from inventory or from an ESA, you may use an alternate method of acquisition, subject to laws and policy.

c. If the required software rights or maintenance are not available from inventory but are available from an ESA, you must follow the procedure in the DFARS Section 208.74.

d. If you must obtain the software or software maintenance outside the DoD ESA, you may seek a waiver from a management official designated by your DoD Component.

This BPA will be posted to the DoD ESI website as part of the ESI program. The web site can be viewed at <http://www.esi.mil>.

2. **Delivery Orders.** The scope of this effort is worldwide. Delivery requirements and administration will be stipulated on Delivery Orders.

**Notice to Ordering Offices:** Requiring officials and ordering officers are responsible for complying with applicable statutes, regulations and policies. Good business judgment in finding the best value to meet the needs of the United States should be exercised in all acquisitions.

Ordering via this BPA is decentralized. Requests for Quotation (RFQs) may be posted to GSA's electronic RFQ system, e-Buy. E-Buy, GSA's electronic RFQ system, allows ordering activities to post requirements and obtain quotes electronically. Ordering activities may access e-Buy at <http://www.ebuy.gsa.gov>.

DoD agencies: Follow the procedures in DFARS 208.405-70(b) and (c).

Government prime contractors: Follow the terms of this BPA, the GSA schedule, your contract and the direction of its Government contracting officer in accordance with FAR Part 51 for ordering from Federal Supply Schedules.

Professional services: This single BPA may be used for acquiring IT Professional services when defined as individual tasks, within scope of this BPA.

Contractor team arrangements must be identified and company relationships fully disclosed in each offer for cost-reimbursement, time-and-materials, or labor-hour subcontracts; and fixed-price subcontracts that exceed 5 percent of the total amount.

Commercial interim payment for software maintenance may be authorized after the circumstances of FAR 32.202-1(b) are determined to apply.

3. **Users' Ordering Guide.** The Contractor shall develop a Users' Ordering Guide in coordination with the Government that will be posted to the Contractor web site and various Government sites. The Ordering Guide shall be submitted to the SPM and PCO within thirty (30) days of BPA issuance and made available on the Contractor's home page upon written approval. This guide shall be continuously updated as required. The guide shall contain all information necessary for geographically dispersed activities to place orders, including, as a minimum:

- a. URL where a complete list of products available, with appropriate contract line item numbers (CLINs) and associated prices can be found
- b. Government and Contractor Points of Contact
- c. Description of the ordering process
- d. Program Terms and Conditions
- e. License Terms and Conditions
- f. Information necessary to complete a DD350 (such as CAGE, DUNS, TIN, Business Size, etc.)
- g. Range of discounts
- h. Links to DoD ESI and the Government web sites

4. **E-Commerce Site.** It is the intention of the Government to use existing and future capability of the DoD Standard Procurement System, Electronic Data Interchange (EDI) capability, Government procurement card, and vendor electronic ordering capability to create a paper-less ordering, invoicing and payment process. During the term of the BPA, the Contractor shall participate to achieve this objective.

- a. The Contractor shall maintain a database of prices with the required and relevant information and links to technical specifications to be accessible by ITEC Direct in a distributed database environment.
- b. The Contractor shall provide EC/EDI capabilities and accept and respond to secure on-line orders and customer requests consistent with the terms of this acquisition vehicle.
- c. The Contractor shall use its commercially reasonable business efforts to adapt its business processes as the ASCP Direct technical requirements, environment and architecture evolve.

#### 4. **Delivery Schedule.**

The Contractor shall make available the current version of software via electronic download within 1-30 days of receipt of order.

5. **Delivery Notice.** Unless otherwise agreed to, all deliveries ordered under this BPA must be accompanied by a delivery notice, ticket or sales slips that must contain at a minimum the following information:

- a. Name of Contractor
- b. GSA Contract Number
- c. BPA Number
- d. Product Description/Model numbers
- e. Delivery order number
- f. Date of purchase
- g. Quantity, unit price and extension of each item (unit prices need not be shown when incompatible with the use of automated systems; provided that the invoice is itemized to show the information)
- h. Date of shipment

6. **Suspension.** There may be occasions where the Government may suspend ordering (by CLIN up to and including the entire BPA.) If a suspension is announced, the Contractor shall adhere to this suspension by not accepting/processing delivery orders for the suspended item(s).

### **D. INVOICING AND PAYMENT**

1. **Invoicing.** The requirements of a proper invoice are as specified below as required by FAR 52.212-4 in the Federal Supply Schedule contract. Full text of this clause can be found on the web at URL: <http://farsite.hill.af.mil/>. The contractor shall submit an original invoice and three copies (or electronic invoice, if authorized), to the address specified on the delivery orders issued against the BPA. An invoice must include --

- a. Name and address of the Contractor;
- b. Invoice date and number;
- c. Contract number, contract line item number and, if applicable, the order number;
- d. Description, quantity, unit of measure, unit price and extended price of the items delivered;
- e. Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- f. Terms of any prompt payment discount offered;
- g. Name and address of official to whom payment is to be sent;
- h. Name, title, and phone number of the person to be notified in event of defective invoice;
- i. Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract; and
- j. Electronic funds transfer (EFT) banking information.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125. Prompt Payment Contractors are encouraged to assign an identification number to each invoice.

**2. Fast Payment Procedure.** The provisions of FAR 52.213-1 FAST PAYMENT PROCEDURE (*FEB 1998*) are incorporated in this BPA by reference and pertain to Credit Card purchases or other applicable order deliveries. Fast Payment procedures may be used when the conditions of FAR 13.402 are met and the delivery order authorizes Fast Payment. Full text of this clause can be found on the web at URL: <http://farsite.hill.af.mil/>.

**3. Precedence.** The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of the BPA and the Contractor's invoice, the provisions of the BPA will take precedence.

## **E. BPA MANAGEMENT AND OVERSIGHT**

1. The Contractor must provide centralized administration, in the form of a Program Manager, in support of all work performed under this BPA. The Program Manager, at a minimum, is required to participate in periodic program management reviews (which may require travel to a Government named site). Additional functions would include customer service, periodic program management reviews, invoicing, payment and submission of monthly and quarterly reports.

**2. Report of Sales.** Consistent with Clause C.22 of the GSA Schedule, a Report of Sales as described herein shall accompany the remittance of the ACT Fees to enable verification of the fee amounts rendered. Submission of the Report of Sales shall be submitted to the SPM and the PCO in electronic format within fifteen (15) days following the completion of the monthly reporting period, or as otherwise requested by the SPM. The report shall be submitted in the standard format shown in Attachment C. Negative reports are required. The SPM or PCO shall provide written approval of each report. At the end of each calendar quarter, the written approval provided to the contractor will be accompanied by a request to remit ACT fees. The SPM or PCO will provide copies of the Report of Sales on a quarterly basis to the DoD Components participating in fee sharing. If the BPA contains services, current ACT fee paid by Delivery Order and total ACT fees paid will be included in the report.

3. **United Nations Standard Products and Services Code.** The United Nations Standard Products and Services Code (UNSPSC) is a required field of the Report of Sales found in Attachment C. The UNSPSC code permits software asset management through a standard coding structure. The UNSPSC is a coding system used to classify both products and services for use throughout the global marketplace. The management and development of the UNSPSC Code is coordinated by GS1 US. The current version is available free as a download at <http://www.unspsc.org>.

4. **Records.** The Contractor shall maintain archival copies of all orders for the life of the BPA. Copies shall be made available to the Government upon request.

5. **Program Management Reviews (PMR).** The Contractor shall participate in regular reviews of the progress of the BPA. Reviews shall be held at least twice yearly as scheduled by the Software Product Manager. During these reviews the Contractor shall report on among other things, status of BPA sales, marketing and any outstanding issues concerning the BPA. PMR agenda and presentation format shall be provided prior to each PMR. Travel expenses are the responsibility of the Government.

6. **Sales Leakage.** The goals of the ESI Program can only be realized through cooperation between the Government and the Contractor to direct appropriate sales through the ESI vehicles. The Contractor shall ensure that all sales personnel are aware of the ESI Program and enforce the policy that this BPA is the preferred procurement vehicle for the products within. The Contractor shall also establish a process to regularly audit sales to Government buyers, determine where sales outside the ESI vehicle are occurring, and take appropriate action to direct further sales through the ESI vehicle. Results of these audits will be presented as an agenda item during PMRs.

7. **Marketing.** The Contractor shall dedicate reasonable resources to this effort and work to market and advertise this agreement. Desired actions include: advertising resultant vehicles on the contractor's Internet site and advertising the agreement at relevant trade shows, participation in DoD Component sponsored events and news media geared to Government/DoD IT people.

8. **Enterprise Integration Toolkit.** The Enterprise Integration Toolkit is a program developed by the Assistant Deputy Under Secretary of Defense (L&MR) Logistics Systems Management (LSM) to assist DoD Program Managers, Contracting Officers and members of the Integrated Project Team (IPT) in the acquisition and implementation of Commercial Off The Shelf (COTS) Business Systems software.

The Toolkit provides guidance, processes and tools to define program needs and determine how to best meet these needs through an external acquisition via a three-tiered Roadmap to guide the entire life-cycle from problem definition to solution roll-out. It provides a collection of best practice tools adopted from the commercial industry, and includes more than 100 best practice templates, guides, checklists, and samples.

Because the Toolkit is not vendor specific and may be applied across a variety of COTS software package implementations, including this BPA, the Contractor, shall be familiar with the Toolkit and include as part of the Marketing effort required above, a description of the Toolkit for their customers, and a link to the Enterprise Toolkit web site at: <http://www.eitoolkit.com>.

## F. Standards.

1. **YEAR 2000 Compliance.** All products provided under this BPA shall be Y2K compliant as defined in FAR 39.002.
2. **Section 508 of the Rehabilitation Act Compliance.** All products provided under this BPA must meet the applicable accessibility standards at 36 CFR Part 1194 as required by FAR Case 1999-607. General information regarding the Section 508 Act can be found at the web site [www.section508.gov](http://www.section508.gov). The Contractor's Section 508 compliancy information can be found at [www.opsware.com](http://www.opsware.com).
3. **Additional Clauses.** Orders issued against this BPA are subject to the clauses included in the underlying GSA Schedule and the additional DFARS clauses listed below that are incorporated by reference in this BPA. Ordering Offices should consider the requirements of DFARS and the FAR supplement of the end user component, as it applies to commercial item acquisition and use of GSA schedules, in determining what additional clauses may be required for incorporation in the delivery order issued by the Ordering Office.

The following FAR/DFARS clauses and provisions are hereby incorporated by reference with the same force and effect as if it was given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses:

<http://www.acq.osd.mil/dpap/dars/dfars/index.htm>

<http://acquisition.gov/comp/far/index.html>

<http://farsite.hill.af.mil/>

- 252.204-7000 Disclosure of Information (DEC 1991)
- 252.204-7004 Alternate A (Nov 2003) - substitute paragraph (a) of this clause for paragraph (a) of the clause at FAR 52.204-7 -Central Contractor Registration (OCT 2003)
- 252.209-7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country (MAR 1998)
- 252.232-7009 Mandatory Payment by Governmentwide Commercial Purchase Card (JUL 2000)
- 252.232-7010 Levies on Contract Payments (SEPT 2005)
- 252.246-7000 Material Inspection and Receiving Report (MAR 2003)
- 252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (NOV 2006)

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause, which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

52.203-3                      Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses, which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

252.205-7000      Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

252.219-7003      Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).

252.219-7004      Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).

252.225-7001      Buy American Act and Balance of Payments Program (JUN 2005) (41 U.S.C. 10a-10d, E.O. 10582).

252.225-7012      Preference for Certain Domestic Commodities (JUN 2004) (10 U.S.C. 2533a).

252.225-7014      Preference for Domestic Specialty Metals (JUN 2005) (10 U.S.C. 2533a).

252.225-7015      Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).

252.225-7016      Restriction on Acquisition of Ball and Roller Bearings (MAR 2006) (Section 8065 of Pub. L. 107-117 and the same restriction in subsequent DoD appropriations acts).

252.225-7021      Trade Agreements (NOV 2006) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).

252.225-7027      Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).

252.225-7028      Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).

252.225-7036      Buy American Act--Free Trade Agreements--Balance of Payments Program (OCT 2006) ( Alternate I) (OCT 2006) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).

252.225-7038      Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).

252.226-7001      Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts).

- 252.227-7015 Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
- 252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- 252.232-7003 Electronic Submission of Payment Requests (MAY 2006) (10 U.S.C. 2227).
- 252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).
- 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- 252.247-7023 Transportation of Supplies by Sea (MAY 2002) ( Alternate I) (MAR 2000) ( Alternate II) (MAR 2000) ( Alternate III) (MAY 2002) (10 U.S.C. 2631).
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
- 252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).
- 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

## ATTACHMENTS C AND D

### ATTACHMENT C AND D

#### 1. General Information (applies to all reports)

##### 1.1 ASCP Manages Data by Contract:

- a. Reports must be submitted and managed by contract. Vendors with more than one contract with ASCP must maintain contract data integrity by submitting and managing separate reports for each contract. ASCP will not accept mixed contract data submitted in the same report.

##### 1.2 Online FAQ / Tutorial:

- a. Click on the following link for an online FAQ / Tutorial:
- b. [https://ascp.monmouth.army.mil/files/ascp\\_cd.pps](https://ascp.monmouth.army.mil/files/ascp_cd.pps) (Requires Power Point)

##### 1.3 Report Format:

- a. Tab Delimited Variable (.tab). The file shall have text only. No formatting, "hard line returns", embedded special characters, or word wrapping within a column.
- b. All reports must have complete column headings in the first line.

##### 1.4 Report Delivery:

- a. All reports shall be emailed as attachments to [amse-dsa-scp-cr@mail1.monmouth.army.mil](mailto:amse-dsa-scp-cr@mail1.monmouth.army.mil)
- b. Please compress/zip large files. The file extension .zip cannot be used. Rename .zip files to .xxx.

##### 1.5 Reports are due:

- a. In accordance with this document as indicated for each report.

##### 1.6 Rejection of reports:

- a. Vendor reports will be loaded via an automated process; therefore ASCP reserves the right to reject reports submitted by the vendor if required information is missing or if the file is unusable due to formatting issues. Report submissions must meet the formatting guidelines in this document. Each report will be checked by ASCP for content as well as formatting. If ASCP rejects a report, the report will be returned to the vendor with explanations identifying the problem(s).
- b. The vendor must make the necessary corrections and resubmit the report in its entirety within three (3) business days from the day the report was returned.
- c. The online FAQ / Tutorial provides examples of common rejection reasons.

##### 1.7 Revised Reports:

- a. Revised reports must be submitted as a complete file (i.e. make changes/corrections to the original file and resubmit the entire file, not just what was changed).
- b. The file name format when submitting revised files must follow the file name format stipulated for each report (Order Transaction, Product Attributes, Fee for Service) with the addition of (Rev) immediately preceding the file extension .tab. For example, the first revision of an OT report would be named

Contractnumber\_OT\_yyyy\_mm\_dd\_cum-1(Rev1).tab. Subsequent revisions to the same file should indicate the revision number (e.g. Rev2, Rev3, etc).

### 1.8 File Names:

- a. File names must not exceed 50 characters. The date in the file name should be the submission date and should not indicate the end or start dates of data within the report.

### 2. Order Transaction (OT) report

- a. The OT report provides sales data that populates the ASCP database. This data is used to calculate sales against the contract and provides visibility into the quantity and types of products sold on the contract.
- b. OT reports shall be submitted quarterly. OT reports are due within 15 calendar days of each quarterly reporting period.
- c. The OT report is cumulative in nature. **Each report shall include all transactions** (i.e., Credit Card and Paper Orders) from contract inception up to the end of the month preceding the submission date of the file.
- d. A **negative report** for OT is required to inform ASCP that there have been no sales to date on this contract. A file is still required with the following column entries mandatory:
  - Column labeled "Contract Number"
  - Column labeled "Vendor Reported Total of this file" (entry is 0.00)
  - Column labeled "Contract Sales to Date" (entry is 0.00)
  - Column labeled "File Name"
- e. The file name format for the OT report is: ContractNumber\_OT\_yyyy\_mm\_dd\_cum-1.tab. A mutually agreeable cut-off date for the cum-1 report will be determined. New cumulative files shall only contain data not already reported in prior cumulative files (e.g. cum-1). Subsequent files shall be named ContractNumber\_OT\_yyyy\_mm\_dd\_cum-2.tab, cum-3, cum-4, and so on.
- f. The dollar amount reflected in column labeled "Dollar amount of Transaction" must match the total transaction value.
- g. Column labeled "Date of Transaction" must reflect the effective date of the order. For example: block 3 of the SF 1449. For credit card orders, the date shall reflect the date the order is entered into the contractor's system.
- h. Entries for column labeled "Country" must come from the ASCP "Country List" found at <https://ascp.monmouth.army.mil/scp/content/countrylist.jsp>.
- i. Entries for columns labeled "Service or Agency" and "Army Activity" must come from the ASCP "Service/Agency" and "Army Activities" lists found at <https://ascp.monmouth.army.mil/scp/content/activitylist.jsp>.
- j. Column labeled UNSPSC" must contain a United Nations Products and Services Code (UNSPSC) for each CLIN. Sample UNSPSC codes are shown below. UNSPSCs for other products in ECCMA format can be found at <http://www.eccma.org/new/>

### Sample UNSPSC Codes are below.

NOTE: Please use the latest UNSPSC codes from ECCMA (For ESI Contracts, the applicable codes would be Software and Services).

<u>Equipment</u>	<u>UNSPSC in ECCMA Format</u>
Server 32-bit	43.21.15.01.00 (Computer Servers)
Server 64-bit	43.21.15.02.00 (High end Computer Servers)
Workstation	43.21.15.07.00 (Desktop Computers)
Desktop PC	43.21.15.08.00 (Personal Computers)
Notebook	43.21.15.03.00 (Notebook Computers)
Thin Client	43.21.15.06.00 (Thin Client Computers)
Storage	43.20.22.06.00 (Storage drive or input device)
Network Products	

(Routers/Switches) 43.22.26.00.00 (Network Service Equip)  
 Printers 43.21.21.00.00 (Computer Printers)  
 Software 43.23.00.00.00 (Software)  
 Services 81.11.00.00.00

k.. Equipment ancillary items, such as internal disk drives, memory modules, etc. sold as separate line items should be coded with the UNSPSC for that specific item, NOT with the UNSPSC for the equipment item with which they are related (i.e server, workstation, etc.)

l. If a CLIN contains a mixture of items shown above the UNSPSC for that CLIN should identify the dominant items or that best describes the solution provided under the CLIN.

**m. REPORTING INSTRUCTIONS FOR "SPECIAL SOLUTIONS" CLIN(S):**

Special Solutions orders are generally comprised of a mixture of software products/services and are priced at the top level. The following example illustrates the correct format for reporting Special Solutions orders on the OT report. Example is based on a \$5,000,000 "Special Solutions" order that is made up of 3 different software products.

CLIN#	ITEM DESCRIPTION	CLIN QUANTITY	CLIN U/P	CLIN EXTENDED U/P	DOLLAR AMT OF TRANSACTION
1003	Oracle "Special Solutions"	1	5,000,000.00	5,000,000.00	5,000,000.00
ORA-123	Software Product #1	5	0.00	0.00	5,000,000.00
ORA-124	Software Product #2	2	0.00	0.00	5,000,000.00
ORA-125	Software Product #3	10	0.00	0.00	5,000,000.00

The BPA CLIN number(s) for the product(s) that comprise the "Special Solutions" order must appear in the CLIN column. Quantity must be specified also. Enter CLIN Unit Price and Extended Unit Price as 0.00 (Special Solutions orders are priced at the top level). Repeat Dollar Amount of Transaction for all items in the order.

**MIGRATIONS:** Use the Special Solutions CLIN to report migrations. In the Item Description column, enter "(Vendor) Special Solutions - Migration". For CLIN Quantity, enter 1. CLIN Unit Price and CLIN Extended Unit Price should be the same. Dollar amount of transaction is the CLIN Extended Unit Price plus the ACT Fee.

n. Since the OT report is cumulative, vendors may correct previously reported information in subsequent reports (see Section 1. General Information, Revised Reports) such as:

- o Removing a cancelled order or an order/mod previously reported in error.
- o Correcting dollar amounts previously reported by an order/mod.
- o Correcting items ordered previously reported for an order/mod.

**3. Product Attribute (PA) report**

- a. The PA report is a representative sampling of products that are contained in the contractor's catalog. Products identified in the PA report determine the level of customer visibility of the contractor's products on the ASCP web site.
- b. The file name format for the PA report is Contractnumber\_PA\_yyyy\_mm\_dd.tab
- c. Product Attributes (PA) are required for Servers, Thin Clients and Storage.
- d. The PA report/file must be a full replacement. ASCP will replace the vendors existing PA file with the most recent submission. Partial updates are not permitted.
- e. Product Attribute reports are due, no later than 10 days from when:
  - o Catalog products have changed or
  - o New products are added to the catalog
- f. Each item in the PA file should provide, in column labeled "Description", an easy to understand description of the product.

- g. Each item in the PA file must have a unique item number which must be consistent throughout the lifecycle of that item.
- h. Items with prices of \$0.00 will automatically default to “RFQ required” regardless of what is entered in column labeled “Item Type”.
- i. UNSPSC codes for column labeled “UNSPSC” can be found at <http://www.eccma.org/new>. Please also refer to the sample UNSPSC codes under section 2 (Order Transaction (OT) Report).

**4. Fee for Service (FFS) Report**

- a. This report applies to applicable ESI Agreements only.
- b. FFS Report is due to ASCP **the 30th calendar day after each calendar quarter** (Example: FFS Report for the period 1 January thru 31 March is due by 30 April)
- c. The data reported is for that reporting period only (not a cumulative listing).
- d. If no payments were received during the previous quarter, a negative report is required.
- e. This report must be submitted as a Microsoft Excel spreadsheet, to [amsel-dsa-scp-cr@mail1.monmouth.army.mil](mailto:amsel-dsa-scp-cr@mail1.monmouth.army.mil), with a copy furnished to the cognizant ASCP Product Leader.
- f. No extra spaces, commas or ampersands allowed in this spreadsheet. Dashes are allowed. File name must be in the following format: Contract Number/Calendar Quarter/Calendar Year (Example: W91QUZ-07-A-1234 1Q2007)
- g. Vendor must ensure that leading zeros are not dropped. For example, order number 0030 should not appear on the report as 30.
- h. **SPECIAL NOTE TO VENDORS:** All reports are cross-referenced for reconciliation and therefore, data must be consistent in all reports submitted (i.e., order number, dates, dollar amounts, etc.).

**Attachment C: Report of Sales Format**

**Order Transactions (OT)**

Column Name	Format	Required?	Comments
Contract Number	Alphanumeric (21)	Y	Enter the Contract Number Example: W91QUZ-07-D-XXXX
Order Number	Alphanumeric (50)	Y	Enter the delivery order number. Must be unique when combined with the contract number
Modification Number	Alphanumeric (50)	Y*	* Required only when reporting mods. NOTE: <i>This may be a vendor assigned number indicating a transaction reported previously needs to be modified. Example: A credit card transaction.</i>
Transaction Type	Alphanumeric (2)	Y	CC = Credit Card, DO= Delivery Order/Paper Order
Date of	DD-MMM-	Y	Date of the order or modification (i.e. 14-FEB-2006)

Transaction	YYYY		
Date Transaction Cancelled	DD-MMM-YYYY	Y*	* Required for cancelled transactions
UNSPSC	Alphanumeric (14)	Y	Updated UNSPSC codes can be found at <a href="http://www.eccma.org/new">http://www.eccma.org/new</a>
CLIN Number	Alphanumeric (39)	Y	Contract Line Item Number (CLIN) Unique contract identifier of item being ordered (as identified in contract) <b>NOTE: When reporting "SPECIAL SOLUTIONS" CLIN(s) please follow instructions in Section 2.</b>
Item Description	Alphanumeric (250)	Y	A short description of the item/CLIN that was purchased. Example: OEM, Make, Model
CLIN Quantity	Number (11,0)	Y	Quantity being ordered.
CLIN Unit Price	Number (11,2)	Y	Price per item. Price should reflect the unit price in dollars and cents. Do not round up to whole dollars and use only <b>two</b> decimal places to indicate "cents." (e.g. 10125.15) .
CLIN Extended Dollar Amount	Number (11,2)	Y	Extended Dollar Amount = (CLIN quantity x unit price). The sum of this column must equal the total of all orders in this file. Do not round up to whole dollars and use only <b>two</b> decimal places to indicate "cents." (e.g. 10125.15).
Dollar amount of Transaction	Number (12,2)	Y	Total dollar amount of the transaction (order or order mod). Do not round up to whole dollars and use only <b>two</b> decimal places to indicate "cents." (e.g. 10125.15) .
POC Last Name	Alphanumeric (50)	Y	Customer's Last Name
POC First Name	Alphanumeric (50)	Y	Customer's First Name.
POC Title	Alphanumeric (50)	N	Customer's Title (i.e. COL, Mr., Ms., etc.).
Telephone Number	Alphanumeric (50)	Y	Customer's telephone number. Format: 9999999999
Email address	Alphanumeric (100)	Y	Customer's email address.
Street Address 1	Alphanumeric (100)	Y	First line of the Customer's Ship-To address.
Street Address 2	Alphanumeric (100)	N	Second line of the Customer's Ship-To address.
Street Address 3	Alphanumeric (100)	N	Third line of the Customer's Ship-To address.
City	Alphanumeric (100)	Y	Customer's Ship-To City.
State	Alphanumeric (2)	Y	Customer's Ship-To State for USA only. Post office two character abbreviation.
Country	Alphanumeric (2)	Y	Indicate the "Ship-To" country. Entry must be "US" for the United States or the 2-Character country code abbreviation from the Service/Agency/Country Code list located at <a href="https://ascp.monmouth.army.mil/scp/content/countrylist.jsp">https://ascp.monmouth.army.mil/scp/content/countrylist.jsp</a> . This column is only 2-characters wide so you must use the abbreviations only.
5-digit Zip Code	Number (5)	Y	Five-digit Customer Ship-To zip code.
4-digit Zip Code Ext.	Number (4)	N	Four-digit extension Customer Ship-To zip code.
End User Service or	Alphanumeric (20)	Y	Use the abbreviation from the Service/Agency/Country Code list located at

Agency			<a href="https://ascp.monmouth.army.mil/scp/content/activitylist.jsp">https://ascp.monmouth.army.mil/scp/content/activitylist.jsp</a>
Army Activity	Alphanumeric (20)	Y*	* Required if previous column equals "Army". Use the abbreviation from the <i>Army Activity</i> list located at <a href="https://ascp.monmouth.army.mil/scp/content/activitylist.jsp">https://ascp.monmouth.army.mil/scp/content/activitylist.jsp</a>
Comments	Alphanumeric (250)	N	Free text.
Reduced/Waived ACT Fee	Alphanumeric (6)	Y	If transaction involves a Reduced or Waived ACT Fee, indicate here. <b>R</b> = Reduced ACT FEE <b>W</b> = Waived ACT FEE
Order Discount	Number (10)	Y	Enter discount percent on order using the following format: A 40% discount should be entered as .40
Vendor Reported Total for this file	Number (12,2)	Y	The sales on contract that are included in this file being submitted.
Contract Sales to Date	Number (12,2)	Y	Total Sales to date on this contract.
File Name	Alphanumeric (50)	Y	Exact file name that is being submitted.

## Product Attributes (PA)

Column Name	Format	Required?	Comments
Contract Number	Alphanumeric (21)	Y	Enter Contract Number (including dashes). Example: W91QUZ-07-D-XXXX
Report Type	Alphanumeric (1)	Y	Please Enter "F" for Full Catalog Replacement
Disposition	Alphanumeric (1)	N/A	Leave Blank
Item Type	Alphanumeric (1)	Y	Enter "2" if an RFQ is required prior to purchasing this item. Enter "3" if this item is orderable online from ASCP without restrictions.
Item Number	Alphanumeric (39)	Y	Unique number for the item. For example, product #, manufacturer part #, contract line item. <b>Must be Unique for each item.</b>
UNSPSC	Alphanumeric (14)	Y	Updated UNSPSC codes can be found at <a href="http://www.eccma.org/new">http://www.eccma.org/new</a>
Price	Number(12,2)	Y	Price per item. Price should reflect the unit price in dollars and cents. Do not round up to whole dollars and use only two decimal places to indicate "cents." (e.g. 10125.15)
Unit of Issue	Alphanumeric(12)	Y	Unit of issue (ea., lot)
Manufacturer	Alphanumeric(40)	N	
Model	Alphanumeric(40)	N	
Warranty	Alphanumeric(10)	N	
Specification sheet url	Alphanumeric(250)	N	Provide a URL for the spec sheet of the product
Photo url	Alphanumeric(250)	N	Provide a URL for the photo of the product
Description	Alphanumeric(250)	Y	
related_to_item_1	Alphanumeric(39)	N	Refer to the related item paragraph below
related_to_item_2	Alphanumeric(39)	N	Refer to the related item paragraph below
related_to_item_3	Alphanumeric(39)	N	Refer to the related item paragraph below
related_to_item_4	Alphanumeric(39)	N	Refer to the related item paragraph below
related_to_item_5	Alphanumeric(39)	N	Refer to the related item paragraph below
Attribute 1	Alphanumeric(250)	Y*	* Required for Servers, Storage and Thin Clients See Attribute Legend below
Attribute 2	Alphanumeric(250)	Y*	* Required for Servers, Storage and Thin Clients See Attribute Legend below
Attribute 3	Alphanumeric(250)	Y*	* Required for Servers, Storage and Thin Clients See Attribute Legend below
Attribute 4	Alphanumeric(250)	Y*	* Required for Servers, Storage and Thin Clients See Attribute Legend below
Attribute 5	Alphanumeric(250)	Y*	* Required for Servers, Storage and Thin Clients See Attribute Legend below
Attribute 6	Alphanumeric(250)	Y*	* Required for Servers, Storage and Thin Clients See Attribute Legend below
Attribute 7	Alphanumeric(250)	Y*	* Required for Servers and Thin Clients See Attribute Legend below
Attribute 8	Alphanumeric(250)	Y*	* Required for Servers and Thin Clients See Attribute Legend below
Attribute 9	Alphanumeric(250)	Y*	* Required for Servers and Thin Clients See Attribute Legend below
Attribute 10	Alphanumeric(250)	Y*	* Required for Servers See Attribute Legend below

Attribute 11	Alphanumeric(250)	Y*	* Required for Servers See Attribute Legend below
Attribute 12	Alphanumeric(250)	Y*	* Required for Servers See Attribute Legend below
Attribute 13	Alphanumeric(250)	Y*	* Required for Servers See Attribute Legend below
File Name	Alphanumeric(50)	Y	Exact file name that is being submitted.

**Related Items**

The columns named “related\_to\_item\_1 thru related\_to\_item\_5” are used to associate related items to the primary item. The rules for using related items are:

- a. Only 1 item per row may be specified
- b. You may associate up to 5 items
- c. All items must be from the same contract

**Attachment D Fees and Payments  
Fee for Service (FFS)**

Column Name	Format	Required?	Comments
Report Number	Alphanumeric (24)	Y	Must be in the following format: Contract Number/Calendar Quarter/Calendar Year (Example: W91QUZ-07-A-1234 1Q2007)
Report Type	Alphanumeric (21)	Y	Use one of the following codes: <b>I</b> Initial Report <b>R</b> Replace all previously reported information with this new

			data <b>M</b> This report modifies some of the information reported during this time frame
Report Start Date	DD-MMM-YYYY	Y*	Example: 01-MAR-2007
Report End Date	DD-MMM-YYYY	Y	Example: 01-MAR-2007
Contract Number	Alphanumeric (21)	Y	Example: W91QUZ-07-A-1234
Order Number	Alphanumeric (30)	Y*	Must be reported <b>exactly</b> as shown on the customer's order.
Order Mod Number	Alphanumeric (25)	Y	Data required <b>only</b> when reporting an order modification.
Dollar Amount of Transaction	Number	Y	Reflects dollar amount of the transaction (order or Mod being reported). <b>No formatting</b> (i.e., no \$ signs, commas, etc.)
Date Transaction Sent to Vendor	DD-MMM-YYYY	Y	Example: 01-MAR-2007
ACT Fee for Transaction	Number	Y	Enter amount of ACT Fee for Transaction <b>No formatting</b> (i.e., no \$ signs, commas, etc.)
Reduced/Waived ACT Fee	Alphanumeric (6)	Y	If transaction involves a Reduced or Waived ACT Fee, indicate here. <b>R</b> - Reduced ACT Fee <b>W</b> - Waived ACT Fee
Previous Payment Made on Transaction	Number (12,2)	Y	If applicable.
Current Payment	Number (12,2)	Y	If applicable.
Remaining Amount to be Paid	Number (12,2)	Y	If applicable.
Transaction Type	Alphanumeric (2)	Y	Order Types are as follows: CC = Credit Card DO = Direct Ordering (paper order)
Other Agency Share Fee Payable	Number (12,2)	Y	If applicable. Fee Share amount due to Navy, Air Force, DLA or GSA (for non-DoD orders on SmartBUY Agreements) . Calculation: 50% of Current Payment Amount
Other Agency for Fee Share	Alphanumeric (21)	Y	If applicable. Identify as 'USN', 'DLA', 'USAF' generated Delivery Order . Enter 'GSA' for non-DoD orders on SmartBUY Agreements.
Army Fee Payable	Number (12,2)	Y	Required for Army-managed ESI agreements. Calculation: Current Payment Amount minus Previous Payment Made on Transaction
Non-DoD Agency	Alphanumeric (2000)	Y	Applicable to SmartBUY Agreements only. Enter name of End User Agency for Non-DoD Orders
Order Discount	Number (10)	Y	Enter discount percent on order using the following format: A 40% discount should be entered as .40
Comments	Alphanumeric (2000)	Y	Free Text
ACT Fee Recap	Alphanumeric (100)		Enter Amounts Due Each Service for This Report
			Army & Other DoD ACT Fee:
			Air Force ACT Fee:
			DLA ACT Fee:
			GSA ACT Fee:
			Navy ACT Fee:

			TOTAL:
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TRANSMITTAL LETTERS

**LETTER OF TRANSMITTAL FOR ARMY FEE PAYMENTS**

**MEMORANDUM FOR Army Small Computer Program**

PEO Enterprise Information Systems  
Assistant Project Manager, Army Small Computer Program  
SFAE-PS-EI-SCP (Attn: Margaret Kirsch)  
Fort Monmouth, NJ 07703-5605

From: Company Name  
Street Address  
City, State, and Zip Code

SUBJECT: Collection of Checks for (name of company and BPA/contract Number)- FY05-06, etc.

1. Collection of the check will include the following:

- a. Please make check payable to United States Treasury
- b. Mail original check to address below:

PEO Enterprise Information Systems  
Assistant Project Manager, Army Small Computer Program  
SFAE-PS-EI-SCP (Attn: Margaret Kirsch)  
Building 283 (Squier Hall)  
Fort Monmouth, NJ 07703-5605

2. Direct questions to: Margie Kirsch  
732.427.6613

3. Provide copies of this letter, check and delivery order report electronically to:

[AMSEL-dsa-scp-CR@mail1.monmouth.army.mil](mailto:AMSEL-dsa-scp-CR@mail1.monmouth.army.mil)

LETTER OF TRANSMITTAL FOR AIR FORCE FEE PAYMENTS

(COMPANY NAME)

(Date)

MEMORANDUM FOR DFAS-ATDT \*

Attn: Remittance  
P.O. Box 173342  
Denver, CO 80217-3342

FROM: (Company Name)  
(Street Address)  
(City, State and Zip Code)

SUBJECT: Collection of Checks for ESI SW – FY06 (CPEA00)

1. This transmittal letter is to be used in lieu of a cash collection voucher (DD Form 1131).
2. Line of accounting to collect this check into is as follows:  
5763400 306 47AZ 4KABE0 04 592RR 72806F 16 667100  
FSR:001002 PSR: 076202 DSR: 075608  
MORD: F2XTKK5287M006
3. Direct questions to (Company POC, Phone Number).

(Signature)

1 Atch: Check # -----

Note: Also provide a copy of the check and transmittal letter sent to DFAS, Denver to the following address:

HQ OSSG/KAU  
Business Support Branch  
501 East Moore Drive  
MAFB-Gunter Annex, AL 36114-3014

Mail, fax, or email is an acceptable means for forwarding copies to HQ OSSG/KAU. Fax number is: (334) 416-7795. Email address is: ITServices.bpa@gunter.af.mil

\* If sent by FedEx, UPS or Other Alternate delivery:  
DEFENSE FINANCE and ACCOUNTING SERVICE  
DFAS-DE/ATDT/DEDE  
(Attn: Mr. Daniel Medina)  
6760 East Irvington Place  
Denver Colorado 80279

ATTACHMENTS A AND B

Part #	Part Description	Vendor Part #	List Price	GSA Price	Warranty
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50-007-500	Asset Management System 500 Assets	P-AMS-500	\$ 12,500.00	\$ 10,251.89	30 Days
50-007-500M5	Annual 5X12 Support & Maint AMS 500 Assets	S-12-AMS-500	\$ 2,125.00	\$ 1,742.82	30 Days
50-007-500M7	Annual 7X24 Support & Maint AMS 500 Assets	S-24-AMS-500	\$ 2,500.00	\$ 2,050.38	30 Days
50-007-2500	Asset Management System 2500 Assets	P-AMS-2500	\$ 45,000.00	\$ 36,906.80	30 Days
50-007-2500M5	Annual 5X12 Support & Maint AMS 2500 Assets	S-12-AMS-2500	\$ 7,650.00	\$ 6,274.16	30 Days
50-007-2500M7	Annual 7X24 Support & Maint AMS 2500 Assets	S-24-AMS-2500	\$ 9,000.00	\$ 7,381.36	30 Days
50-007-5000	Asset Management System 5000 Assets	P-AMS-5000	\$ 90,000.00	\$ 73,813.60	30 Days
50-007-5000M5	Annual 5X12 Support & Maint AMS 5000 Assets	S-12-AMS-5000	\$ 15,300.00	\$ 12,548.31	30 Days
50-007-5000M7	Annual 7x24 Support & Maint AMS 5000 Assets	S-24-AMS-5000	\$ 18,000.00	\$ 14,762.72	30 Days
50-007-MG	Asset Management System Additional Data Manager (requires additional data loader)	P-AMS-DMGR	\$ 15,000.00	\$ 12,302.27	30 Days
50-007-MGM5	Annual 5X12 Support & Maint AMS Additional Data Manager	S-12-AMS-DMGR	\$ 2,550.00	\$ 2,091.39	30 Days
50-007-MGM7	Annual 7X24 Support & Maint AMS Additional Data Manager	S-24-AMS-DMGR	\$ 3,000.00	\$ 2,460.45	30 Days
50-007-LD	Asset Management System Additional Data Loader	P-AMS-DLDR	\$ 10,000.00	\$ 8,201.51	30 Days
50-007-LDM5	Annual 5X12 Support & Maint AMS Additional Data Loader	S-12-AMS-DLDR	\$ 1,700.00	\$ 1,394.26	30 Days
50-007-LDM7	Annual 7X24 Support & Maint AMS Additional Data Loader	S-24-AMS-DLDR	\$ 2,000.00	\$ 1,640.30	30 Days
50-007-EX	Asset Management System Asset Expert License Manager	P-AMS-AXPT	\$ 50,000.00	\$ 41,007.56	30 Days
50-007-EXM5	Annual 5X12 Support & Maint AMS Asset Expert License Manager	S-12-AMS-AXPT	\$ 8,500.00	\$ 6,971.28	30 Days
50-007-EXM7	Annual 7X24 Support & Maint AMS Asset Expert License Manager	S-24-AMS-AXPT	\$ 10,000.00	\$ 8,201.51	30 Days
50-008-TRCM	ATE Comprehensive Training Onsite	ED-ATE-CompC	\$ 11,400.00	\$ 10,107.81	30 Days
50-001-CO250	Opware SAS CORE - Standard Edition CORE (limited to 250 managed Servers)	P-SAScore-NP250	\$ 50,000.00	\$ 41,007.56	30 Days
50-001-CO250M5	Annual, 5 x 12 Support & Maintenance for Opware SAS CORE - Std Edition	S-12-SAScore-NP250	\$ 8,500.00	\$ 6,971.28	30 Days
50-001-CO250M7	Annual, 7 x 24 Support & Maintenance for Opware SAS CORE - Std Edition	S-24-SAScore-NP250	\$ 10,000.00	\$ 8,201.51	30 Days
50-001-CO250MA	Annual The Opware Network for SAS Core Standard Edition	S-TON-SAScore-NP250	\$ 2,000.00	\$ 1,640.30	30 Days
50-001-CO1000	Opware SAS CORE - Enterprise Edition (limited to 1000 managed Servers)	P-SAScore-1000	\$ 100,000.00	\$ 82,015.11	30 Days
50-001-CO1000M5	Annual, 5 x 12 Support & Maintenance for Opware SAS CORE - Enterprise Edition	S-12-SAScore-1000	\$ 17,000.00	\$ 13,942.57	30 Days
50-001-CO1000M7	Annual, 7 x 24 Support & Maintenance for Opware SAS CORE - Enterprise Edition	S-24-SAScore-1000	\$ 20,000.00	\$ 16,403.02	30 Days

50-001-CO1000MA	Annual The Opsware Network for SAS Core Enterprise Edition	S-TON-SAScore-1000	\$ 4,000.00	\$ 3,280.60	30 Days
50-001-CO1001	Opware SAS Core - ESP Edition (unlimited number of managed Servers)	P-SAScore-1001	\$ 200,000.00	\$ 164,030.23	30 Days
50-001-CO1001M5	Annual, 5 x 12 Support & Maintenance for Opware SAS CORE - ESP Edition	S-12-SAScore-1001	\$ 34,000.00	\$ 27,885.14	30 Days
50-001-CO1001M7	Annual, 7 x 24 Support & Maintenance for Opware SAS CORE - ESP Edition	S-24-SAScore-1001	\$ 40,000.00	\$ 32,806.05	30 Days
50-001-CO1001MA	Annual The Opware Network for SAS Core ESP Edition	S-TON-SAScore-1001	\$ 8,000.00	\$ 6,561.21	30 Days
50-001-MM250	Opware SAS Multimaster Std Edition (each core)	P-SASmm-upg250	\$ 25,000.00	\$ 20,503.78	30 Days
50-001-MM250M5	Annual, 5 x 12 Support & Maintenance Std Edition SAS Multimaster	S-12-SASmm-upg250	\$ 4,250.00	\$ 3,485.64	30 Days
50-001-MM250M7	Annual, 7 x 24 Support & Maint for Std Edition SAS Multimaster	S-24-SASmm-upg250	\$ 5,000.00	\$ 4,100.76	30 Days
50-001-MM250MA	Annual The Opware Network for SAS Multi-Master Standard Edition	S-TON-SASmm-upg250	\$ 1,000.00	\$ 820.15	30 Days
50-001-MM1000	Opware SAS Multimaster Enterprise (each core)	P-SASmm-upg1000	\$ 50,000.00	\$ 41,007.56	30 Days
50-001-MM1000M5	Annual, 5 x 12 Support & Maint for Opware Enterprise SAS Multimaster	S-12-SASmm-upg1000	\$ 8,500.00	\$ 6,971.28	30 Days
50-001-MM1000M7	Annual, 7 x 24 Support & Maint for Opware Enterprise SAS Multimaster	S-24-SASmm-upg1000	\$ 10,000.00	\$ 8,201.51	30 Days
50-001-MM1000MA	Annual The Opware Network for SAS Multi-Master Enterprise Edition	S-TON-SASmm-upg1000	\$ 2,000.00	\$ 1,640.30	30 Days
50-001-MM1001	Opware SAS Multimaster ESP (each core)	P-SASmm-upg1001	\$ 100,000.00	\$ 82,015.11	30 Days
50-001-MM1001M5	Annual, 5 x 12 Support & Maintenance for Opware ESP SAS Multimaster	S-12-SASmm-upg1001	\$ 17,000.00	\$ 13,942.57	30 Days
50-001-MM1001M7	Annual, 7 x 24 Support & Maintenance for Opware ESP SAS Multimaster	S-24-SASmm-upg1001	\$ 20,000.00	\$ 16,403.02	30 Days
50-001-MM1001MA	Annual The Opware Network for SAS Multi-Master ESP Edition	S-TON-SASmm-upg1001	\$ 4,000.00	\$ 3,280.60	30 Days
50-001-UN	Opware Agent - Universal (Per Physical or VM Instance) Unix,Win,Linux,ESX	P-SASagentall-06uni	\$ 1,195.00	\$ 980.08	30 Days
50-001-UNM5	Annual, 5 x 12 Support & Maintenance for Opware Universal Agent	S-12-SASagentall-06uni	\$ 203.15	\$ 166.61	30 Days
50-001-UNM7	Annual, 7 x 24 Support & Maintenance for Opware Universal Agent	S-24-SASagentall-06uni	\$ 239.00	\$ 196.02	30 Days
50-001-UNMA	Annual The Opware Network for Opware Agent - Universal	S-TON-SASagentall-01uni	\$ 47.80	\$ 39.20	30 Days
50-001-VI	Opware Agent - Virtualized Srvr (VMware ESX or Solaris 10) - unlimited VMs/containers	P-SASagentall-06vir	\$ 3,595.00	\$ 2,948.44	30 Days
50-001-VIM5	Annual, 5 x 12 Support & Maintenance for Opware Agent	S-12-SASagentall-	\$ 611.15	\$ 501.24	30 Days

	- Virtualized Server	06vir			
50-001-VIM7	Annual, 7 x 24 Support & Maintenance for Opware Agent - Virtualized Server	S-24-SASagentall-06vir	\$ 719.00	\$ 589.69	30 Days
50-001-VIMA	Annual The Opware Network for Opware Agent - Virtualized Server	S-TON-SASagentall-01vir	\$ 143.80	\$ 117.93	30 Days
50-001-ST	Opware Satellite (unlimited number of managed Servers)	P-SASsatlite-00	\$ 40,000.00	\$ 32,806.05	30 Days
50-001-STM5	Annual, 5 x 12 Support & Maintenance Opware Satellite	S-12-SASsatlite-00	\$ 6,800.00	\$ 5,577.03	30 Days
50-001-STM7	Annual, 7 x 24 Support & Maintenance Opware Satellite	S-24-SASsatlite-00	\$ 8,000.00	\$ 6,561.21	30 Days
50-001-STMA	Annual The Opware Network for Opware Satellite	S-TON-SASsatlite-00	\$ 1,600.00	\$ 1,312.24	30 Days
50-001-TRFU	SAS Fundamentals Training (onsite)	ED-SAS-FundC	\$ 11,970.00	\$ 10,613.20	30 Days
50-001-TRIN	SAS Install & Maintain Training (onsite)	ED-SAS-InstMaintC	\$ 7,980.00	\$ 7,075.47	30 Days
50-001-TRAD	SAS Administration at Customer site up to 16 students (1 day; 7 Learning Units)	ED-SAS-AdminC	\$ 3,990.00	\$ 3,537.73	30 Days
50-001-TRID	SAS ISM Developer Toolkit Training (IDK)	ED-SAS-IDK	\$ 3,990.00	\$ 3,537.73	30 Days
50-001-TRLR	Learning Unit for SAS	ED-SAS-unit	\$ 570.00	\$ 505.39	30 Days
50-002-CEM	Opware Consulting Engineer - Each Hour	PS-CON-50100	\$ 275.00	\$ 225.54	30 Days
50-002-PMM	Opware Project Manager - Each Hour	PS-CON-50200	\$ 200.00	\$ 164.03	30 Days
50-001-VA250	Opware Visual Application Mgr Std Edition (each core)	P-SASvam-upg250	\$ 25,000.00	\$ 20,503.78	30 Days
50-001-VA250M5	Annual, 5x12 Support & Maintenance for Opware Std Edition VAM	S-12-SASvam-upg250	\$ 4,250.00	\$ 3,485.64	30 Days
50-001-VA250M7	Annual, 7 x 24 Support & Maintenance for Opware Std Edition VAM	S-24-SASvam-upg250	\$ 5,000.00	\$ 4,100.76	30 Days
50-001-VA250MA	Annual The Opware Network for VAM Standard Edition	S-TON-SASvam-upg250	\$ 1,000.00	\$ 820.15	30 Days
50-001-VA1000	Opware Visual Application Mgr Enterprise Edition (each core)	P-SASvam-upg1000	\$ 50,000.00	\$ 41,007.56	30 Days
50-001-VA1000M5	Annual, 5x12 Support & Maintenance for Opware Enterprise Edition VAM	S-12-SASvam-upg1000	\$ 8,500.00	\$ 6,971.28	30 Days
50-001-VA1000M7	Annual, 7 x 24 Support & Maintenance for Opware Enterprise Edition VAM	S-24-SASvam-upg1000	\$ 10,000.00	\$ 8,201.51	30 Days
50-001-VA1000MA	Annual The Opware Network for VAM Enterprise Edition	S-TON-SASvam-upg1000	\$ 2,000.00	\$ 1,640.30	30 Days
50-001-VA1001	Opware Visual Application Mgr Opware ESP (each core)	P-SASvam-upg1001	\$ 100,000.00	\$ 82,015.11	30 Days
50-001-VA1001M5	Annual, 5x12 Support & Maintenance for Opware ESP VAM	S-12-SASvam-upg1001	\$ 17,000.00	\$ 13,942.57	30 Days
50-001-VA1001M7	Annual, 7 x 24 Support & Maintenance for Opware ESP VAM	S-24-SASvam-upg1001	\$ 20,000.00	\$ 16,403.02	30 Days
50-001-VA1001MA	Annual The Opware Network for VAM ESP Edition	S-TON-SASvam-upg1001	\$ 4,000.00	\$ 3,280.60	30 Days
50-001-AG	Opware Visual Application Mgr	P-	\$ 250.00	\$ 205.04	30 Days

	Agent (each Managed Server)	SASagent_vam			
50-001-AGM5	Annual, 5x12 Support & Maintenance for Visual Application Mgr Agent	S-12-SASagent_vam	\$ 42.50	\$ 34.86	30 Days
50-001-AGM7	Annual, 7 x 24 Support & Maintenance for Visual Application Mgr Agent	S-24-SASagent_vam	\$ 50.00	\$ 41.01	30 Days
50-001-AGMA	Annual The Opsware Network for SAS VAM Agent	S-TON-SASagent-vam	\$ 10.00	\$ 8.20	30 Days
50-003-NO	Visual Application Manager addition for any network node	P-NASnode-vam	\$ 100.00	\$ 82.02	30 Days
50-003-NOM5	Annual 5 x 12 Support & Maint VAM addition for any network node	S-12-NASnode-vam	\$ 17.00	\$ 13.94	30 Days
50-003-NOM7	Annual 7 x 24 Support & Maint VAM addition for any network node	S-24-NASnode-vam	\$ 20.00	\$ 16.40	30 Days
50-003-AGM	Annual The Opsware Network for NAS VAM Agent	S-TON-NASagent-vam	\$ 4.00	\$ 3.28	30 Days
50-004-CO250	PAS Core - up to 250 OS instances/agents	P-PAScore-250	\$ 75,000.00	\$ 61,511.34	30 Days
50-004-CO250M5	Annual 5 x 12 Support & Maintenance PAS Core - up to 250 OS instances/agents	S-12-PAScore-250	\$ 12,750.00	\$ 10,456.93	30 Days
50-004-CO250M7	Annual 7 x 24 Support & Maintenance PAS Core - up to 250 OS instances/agents	S-24-PAScore-250	\$ 15,000.00	\$ 12,302.27	30 Days
50-004-CO1000	PAS Core - 251-1000 OS instances/agents	P-PAScore-1000	\$ 125,000.00	\$ 102,518.89	30 Days
50-004-CO1000M5	Annual 5 x 12 Support & Maintenance PAS Core - 251-1000 OS instances/agents	S-12-PAScore-1000	\$ 21,250.00	\$ 17,428.21	30 Days
50-004-CO1000M7	Annual 7 x 24 Support & Maintenance PAS Core - 251-1000 OS instances/agents	S-24-PAScore-1000	\$ 25,000.00	\$ 20,503.78	30 Days
50-004-CO1001	PAS Core - 1001 or more OS instances/agents	P-PAScore-1001	\$ 175,000.00	\$ 143,526.45	30 Days
50-004-CO1001M5	Annual 5 x 12 Support & Maintenance PAS Core - 1001 or more OS instances/agents	S-12-PAScore-1001	\$ 29,750.00	\$ 24,399.50	30 Days
50-004-CO1001M7	Annual 7 x 24 Support & Maintenance PAS Core - 1001 or more OS instances/agents	S-24-PAScore-1001	\$ 35,000.00	\$ 28,705.29	30 Days
50-004-COUN	PAS Core - Unlimited (Integration Only)	P-PAScore-intonly	\$ 75,000.00	\$ 61,511.34	30 Days
50-004-COUNM5	Annual 5 x 12 Support & Maintenance PAS Core - Unlimited (Integration Only)	S-12-PAScore-intonly	\$ 12,750.00	\$ 10,456.93	30 Days
50-004-COUNM7	Annual 7 x 24 Support & Maintenance PAS Core - Unlimited (Integration Only)	S-24-PAScore-intonly	\$ 15,000.00	\$ 12,302.27	30 Days
50-004-SE	PAS for any Server	P-PASagent-any	\$ 150.00	\$ 123.02	30 Days
50-004-SEM5	Annual 5 x 12 Support & Maintenance PAS for any Server	S-12-PASagent-any	\$ 25.50	\$ 20.92	30 Days
50-004-SEM7	Annual 7 x 24 Support & Maintenance PAS for any Server	S-24-PASagent-any	\$ 30.00	\$ 24.60	30 Days
50-004-DE	PAS for any Network Device	P-PASnetwork-any	\$ 25.00	\$ 20.50	30 Days
50-004-DEM5	Annual 5 x 12 Support & Maintenance PAS for any	S-12-PASnetwork-any	\$ 4.25	\$ 3.49	30 Days

	Network Device				
50-004-DEM7	Annual 7 x 24 Support & Maintenance PAS for any Network Device	S-24-PASnetwork-any	\$ 5.00	\$ 4.10	30 Days
50-004-US	PAS Named User Operator	P-PAS-user_named	\$ 25,000.00	\$ 20,503.78	30 Days
50-004-USM5	Annual 5 x 12 Support & Maintenance PAS Named User Operator	S-12-PAS-user-named	\$ 4,250.00	\$ 3,485.64	30 Days
50-004-USM7	Annual 7 x 24 Support & Maintenance PAS Named User Operator	S-24-PAS-user-named	\$ 5,000.00	\$ 4,100.76	30 Days
50-004-US724	PAS for 7x24 user Operator	P-PAS-user_724	\$ 60,000.00	\$ 49,209.07	30 Days
50-004-US724M5	Annual 5 x 12 Support & Maintenance PAS for 7x24 user Operator	S-12-PAS-user-724	\$ 10,200.00	\$ 8,365.54	30 Days
50-004-US724M7	Annual 7 x 24 Support & Maintenance PAS for 7x24 user Operator	S-24-PAS-user-724	\$ 12,000.00	\$ 9,841.81	30 Days
50-004-AD	PAS for Workflow Author User	P-PAS-user_admin	\$ 50,000.00	\$ 41,007.56	30 Days
50-004-ADM5	Annual 5 x 12 Support & Maintenance PAS for Workflow Author User	S-12-PAS-user-admin	\$ 8,500.00	\$ 6,971.28	30 Days
50-004-ADM7	Annual 7 x 24 Support & Maintenance PAS for Workflow Author User	S-24-PAS-user-admin	\$ 10,000.00	\$ 8,201.51	30 Days
50-004-IN	Each Integration	P-PAS-int-any	\$ 45,000.00	\$ 36,906.80	30 Days
50-004-INM5	Annual 5 x 12 Support & Maintenance Each Integration	S-12-PAS-int-any	\$ 7,650.00	\$ 6,274.16	30 Days
50-004-INM7	Annual 7 x 24 Support & Maintenance Each Integration	S-24-PAS-int-any	\$ 9,000.00	\$ 7,381.36	30 Days
50-004-TRFU	PAS Fundamentals at Customer site up to 16 students (2-day; 10 Learning Units)	ED-PAS-FundC	\$ 5,700.00	\$ 5,053.90	30 Days
50-004-TRAD	PAS Administration at Customer site up to 16 students (1-day; 5 Learning Units)	ED-PAS-AdminC	\$ 2,850.00	\$ 2,526.95	30 Days
50-005-CO1000	OMDB Core - up to 1,000 devices	P-OMDBcore-1000	\$ 75,000.00	\$ 61,511.34	30 Days
50-005-CO1000M5	Annual 5 x 12 Support & Maint OMDB Core - up to 1,000 devices	S-12-OMDBcore-1000	\$ 12,750.00	\$ 10,456.93	30 Days
50-005-CO1000M7	Annual 7 x 24 Support & Maint OMDB Core - up to 1,000 devices	S-24-OMDBcore-1000	\$ 15,000.00	\$ 12,302.27	30 Days
50-005-CO10K	OMDB Core - 1,001 to 10,000 devices	P-OMDBcore-10000	\$ 125,000.00	\$ 102,518.89	30 Days
50-005-CO10KM5	Annual 5 x 12 Support & Maint OMDB Core - 1,001 to 10,000 devices	S-12-OMDBcore-10000	\$ 21,250.00	\$ 17,428.21	30 Days
50-005-CO10KM7	Annual 7 x 24 Support & Maint OMDB Core - 1,001 to 10,000 devices	S-24-OMDBcore-10000	\$ 25,000.00	\$ 20,503.78	30 Days
50-005-CO10K1	OMDB Core - 10,001 or more devices	P-OMDBcore-10001	\$ 175,000.00	\$ 143,526.45	30 Days
50-005-CO10K1M5	Annual 5 x 12 Support & Maint OMDB Core - 10,001 or more devices	S-12-OMDBcore-10001	\$ 29,750.00	\$ 24,399.50	30 Days

50-005-CO10K1M7	Annual 7 x 24 Support & Maint OMDB Core - 10,001 or more devices	S-24-OMDBcore-10001	\$ 35,000.00	\$ 28,705.29	30 Days
50-005-DE	OMDB for any device	P-OMDBdev-any	\$ 10.00	\$ 8.20	30 Days
50-005-DEM5	Annual 5 x 12 Support & Maint OMDB for any device	S-12-OMDBdev-any	\$ 1.70	\$ 1.39	30 Days
50-005-DEM7	Annual 7 x 24 Support & Maint OMDB for any device	S-24-OMDBdev-any	\$ 2.00	\$ 1.64	30 Days
50-005-IN	Each Integration	P-OMDB-int-any	\$ 45,000.00	\$ 36,906.80	30 Days
50-005-INM5	Annual 5 x 12 Support & Maint Each Integration	S-12-OMDB-int-any	\$ 7,650.00	\$ 6,274.16	30 Days
50-005-INM7	Annual 7 x 24 Support & Maint Each Integration	S-24-OMDB-int-any	\$ 9,000.00	\$ 7,381.36	30 Days
50-006-UP250	Application Storage Automation addition to Std Edition Core - up to 250 agents	P-ASAS-upg250	\$ 25,000.00	\$ 20,503.78	30 Days
50-006-UP250M5	Annual 5 x 12 Support & Maint ASAS addition to Std Edition Core - up to 250 agents	S-12-ASAS-upg250	\$ 4,250.00	\$ 3,485.64	30 Days
50-006-UP250M7	Annual 7 x 24 Support & Maint ASAS addition to Std Edition Core - up to 250 agents	S-24-ASAS-upg250	\$ 5,000.00	\$ 4,100.76	30 Days
50-006-UP1000	Application Storage Automation addition to Enterprise Edition Core - up to 1000 agents	P-ASAS-upg1000	\$ 50,000.00	\$ 41,007.56	30 Days
50-006-UP1000M5	Annual 5 x 12 Support & Maint ASAS addition to Enterprise Edition Core - up to 1000 agents	S-12-ASAS-upg1000	\$ 8,500.00	\$ 6,971.28	30 Days
50-006-UP1000M7	Annual 7 x 24 Support & Maint ASAS addition to Enterprise Edition Core - up to 1000 agents	S-24-ASAS-upg1000	\$ 10,000.00	\$ 8,201.51	30 Days
50-006-UP1001	Application Storage Automation addition to ESP Edition Core - >1000 agents	P-ASAS-upg1001	\$ 100,000.00	\$ 82,015.11	30 Days
50-006-UP1001M5	Annual 5 x 12 Support & Maint ASAS addition to ESP Edition Core - >1000 agents	S-12-ASAS-upg1001	\$ 17,000.00	\$ 13,942.57	30 Days
50-006-UP1001M7	Annual 7 x 24 Support & Maint ASAS addition to ESP Edition Core - >1000 agents	S-24-ASAS-upg1001	\$ 20,000.00	\$ 16,403.02	30 Days
50-006-AG	Application Storage Automation addition for any Opsware Server Agent	P-ASASagent-any	\$ 150.00	\$ 123.02	30 Days
50-006-AGM5	Annual 5 x 12 Support & Maint ASAS addition for any Opsware Server Agent	S-12-ASASagent-any	\$ 25.50	\$ 20.92	30 Days
50-006-AGM7	Annual 7 x 24 Support & Maint ASAS addition for any Opsware Server Agent	S-24-ASASagent-any	\$ 30.00	\$ 24.60	30 Days
50-006-TB	Per TB of storage managed	P-ASAS-tb	\$ 750.00	\$ 615.11	30 Days
50-006-TBM5	Annual 5 x 12 Support & Maint Per TB of storage managed	S-12-ASAS-tb	\$ 127.50	\$ 104.57	30 Days
50-006-TBM7	Annual 7 x 24 Support & Maint Per TB of storage managed	S-24-ASAS-tb	\$ 150.00	\$ 123.02	30 Days
50-003-CO1000	NAS CORE Server instance up to 1,000 nodes	P-NAS - Core1000	\$ 10,000.00	\$ 8,201.51	30 Days
50-003-CO1000M5	Annual 5 x 12 Support & Maint NAS CORE Server instance up to 1,000 nodes	S-12-NAS - Core1000	\$ 1,700.00	\$ 1,394.26	30 Days

50-003-CO1000M7	Annual 7 x 24 Support & Maint NAS CORE Server instance up to 1,000 nodes	S-24-NAS - Core1000	\$ 2,000.00	\$ 1,640.30	30 Days
50-003-CO1000MA	Annual The Opsware Network NAS CORE Server instance up to 1,000 nodes	S-TON - Core1000	\$ 500.00	\$ 410.08	30 Days
50-003-CO5000	NAS CORE Server instance up to 5,000 nodes	P-NAS - Core5000	\$ 25,000.00	\$ 20,503.78	30 Days
50-003-CO5000M5	Annual 5 x 12 Support & Maint NAS CORE Server instance up to 5,000 nodes	S-12-NAS - Core5000	\$ 4,250.00	\$ 3,485.64	30 Days
50-003-CO5000M7	Annual 7 x 24 Support & Maint NAS CORE Server instance up to 5,000 nodes	S-24-NAS - Core5000	\$ 5,000.00	\$ 4,100.76	30 Days
50-003-CO5000MA	Annual The Opsware Network NAS CORE Server instance up to 5,000 nodes	S-TON - Core5000	\$ 1,250.00	\$ 1,025.19	30 Days
50-003-CO10K	NAS CORE Server instance up to 10,000 nodes	P-NAS - Core10000	\$ 50,000.00	\$ 41,007.56	30 Days
50-003-CO10KM5	Annual 5 x 12 Support & Maint NAS CORE Server instance up to 10,000 nodes	S-12-NAS - Core10000	\$ 8,500.00	\$ 6,971.28	30 Days
50-003-CO10KM7	Annual 7 x 24 Support & Maint NAS CORE Server instance up to 10,000 nodes	S-24-NAS - Core10000	\$ 10,000.00	\$ 8,201.51	30 Days
50-003-CO10KMA	Annual The Opsware Network NAS CORE Server instance up to 10,000 nodes	S-TON - Core10000	\$ 2,500.00	\$ 2,050.38	30 Days
50-003-CO25K	NAS CORE Server instance up to 25,000 nodes	P-NAS - Core25000	\$ 75,000.00	\$ 61,511.34	30 Days
50-003-CO25KM5	Annual 5 x 12 Support & Maint NAS CORE Server instance up to 25,000 nodes	S-12-NAS - Core25000	\$ 12,750.00	\$ 10,456.93	30 Days
50-003-CO25KM7	Annual 7 x 24 Support & Maint NAS CORE Server instance up to 25,000 nodes	S-24-NAS - Core25000	\$ 15,000.00	\$ 12,302.27	30 Days
50-003-CO25KMA	Annual The Opsware Network NAS CORE Server instance up to 25,000 nodes	S-TON - Core25000	\$ 3,750.00	\$ 3,075.57	30 Days
50-003-COUN	NAS CORE Server instance unlimited nodes	P-NAS - Core_25000plus	\$ 100,000.00	\$ 82,015.11	30 Days
50-003-COUNM5	Annual 5 x 12 Support & Maint NAS CORE Server instance unlimited nodes	S-12-NAS - Core25000plus	\$ 17,000.00	\$ 13,942.57	30 Days
50-003-COUNM7	Annual 7 x 24 Support & Maint NAS CORE Server instance unlimited nodes	S-24-NAS - Core25000plus	\$ 20,000.00	\$ 16,403.02	30 Days
50-003-COUNMA	Annual The Opsware Network NAS CORE Server instance unlimited nodes	S-TON - Core25000plus	\$ 5,000.00	\$ 4,100.76	30 Days
50-003-MM1000	NAS Multimaster up to 1,000 nodes (each core)	P-NASMM-1000	\$ 10,000.00	\$ 8,201.51	30 Days
50-003-MM1000M5	Annual 5 x 12 Support & Maint NAS Multimaster up to 1,000 nodes (each core)	S-12-NASMM-1000	\$ 1,700.00	\$ 1,394.26	30 Days
50-003-MM1000M7	Annual 7 x 24 Support & Maint NAS Multimaster up to 1,000 nodes (each core)	S-24-NASMM-1000	\$ 2,000.00	\$ 1,640.30	30 Days
50-003-MM1000MA	Annual The Opsware Network NAS Multimaster up to 1,000 nodes (each core)	S-TON-NASMM-1000	\$ 500.00	\$ 410.08	30 Days

50-003-MM5000	NAS Multimaster up to 5,000 nodes (each core)	P-NASMM-5000	\$ 25,000.00	\$ 20,503.78	30 Days
50-003-MM5000M5	Annual 5 x 12 Support & Maint NAS Multimaster up to 5,000 nodes (each core)	S-12-NASMM-5000	\$ 4,250.00	\$ 3,485.64	30 Days
50-003-MM5000M7	Annual 7 x 24 Support & Maint NAS Multimaster up to 5,000 nodes (each core)	S-24-NASMM-5000	\$ 5,000.00	\$ 4,100.76	30 Days
50-003-MM5000MA	Annual The Opsware Network NAS Multimaster up to 5,000 nodes (each core)	S-TON-NASMM-5000	\$ 1,250.00	\$ 1,025.19	30 Days
50-003-MM10K	NAS Multimaster up to 10,000 nodes (each core)	P-NASMM-10000	\$ 50,000.00	\$ 41,007.56	30 Days
50-003-MM10KM5	Annual 5 x 12 Support & Maint NAS Multimaster up to 10,000 nodes (each core)	S-12-NASMM-10000	\$ 8,500.00	\$ 6,971.28	30 Days
50-003-MM10KM7	Annual 7 x 24 Support & Maint NAS Multimaster up to 10,000 nodes (each core)	S-24-NASMM-10000	\$ 10,000.00	\$ 8,201.51	30 Days
50-003-MM10KMA	Annual The Opsware Network NAS Multimaster up to 10,000 nodes (each core)	S-TON-NASMM-10000	\$ 2,500.00	\$ 2,050.38	30 Days
50-003-MM25K	NAS Multimaster up to 25,000 nodes (each core)	P-NASMM-25000	\$ 75,000.00	\$ 61,511.34	30 Days
50-003-MM25KM5	Annual 5 x 12 Support & Maint NAS Multimaster up to 25,000 nodes (each core)	S-12-NASMM-25000	\$ 12,750.00	\$ 10,456.93	30 Days
50-003-MM25KM7	Annual 7 x 24 Support & Maint NAS Multimaster up to 25,000 nodes (each core)	S-24-NASMM-25000	\$ 15,000.00	\$ 12,302.27	30 Days
50-003-MM25KMA	Annual The Opsware Network NAS Multimaster up to 25,000 nodes (each core)	S-TON-NASMM-25000	\$ 3,750.00	\$ 3,075.57	30 Days
50-003-MMUN	NAS Multimaster unlimited nodes (each core)	P-NASMM-25000plus	\$ 100,000.00	\$ 82,015.11	30 Days
50-003-MMUNM5	Annual 5 x 12 Support & Maint NAS Multimaster unlimited nodes (each core)	S-12-NASMM-25000plus	\$ 17,000.00	\$ 13,942.57	30 Days
50-003-MMUNM7	Annual 7 x 24 Support & Maint NAS Multimaster unlimited nodes (each core)	S-24-NASMM-25000plus	\$ 20,000.00	\$ 16,403.02	30 Days
50-003-MMUNMA	Annual The Opsware Network NAS Multimaster unlimited nodes (each core)	S-TON-NASMM-25000plus	\$ 5,000.00	\$ 4,100.76	30 Days
50-003-SA	Opsware Satellite for NAS (limited to use with NAS)	P-NASSatellite-00	\$ 15,000.00	\$ 12,302.27	30 Days
50-003-SAM5	Annual, 5 x 12 Support & Maintenance for Opsware Satellite for NAS	S-12-NASSatellite-00	\$ 2,550.00	\$ 2,091.39	30 Days
50-003-SAM7	Annual, 7 x 24 Support & Maintenance for Opsware Satellite for NAS	S-24-NASSatellite-00	\$ 3,000.00	\$ 2,460.45	30 Days
50-003-SAMA	Annual The Opsware Network Opsware Satellite for NAS	S-TON-NASSatellite-00	\$ 750.00	\$ 615.11	30 Days
50-003-100	NAS 100 node license	P-NAS-100	\$ 35,000.00	\$ 28,705.29	30 Days
50-003-100M5	Annual 5 x 12 Support & Maint NAS 100 node license	S-12-NAS-100	\$ 5,950.00	\$ 4,879.90	30 Days
50-003-100M7	Annual 7 x 24 Support & Maint NAS 100 node license	S-24-NAS-100	\$ 7,000.00	\$ 5,741.06	30 Days
50-003-100MA	Annual The Opsware Network NAS 100 node license	S-TON-NAS-100	\$ 1,750.00	\$ 1,435.26	30 Days

50-003-300	NAS 300 node license	P-NAS-300	\$ 87,000.00	\$ 71,353.15	30 Days
50-003-300M5	Annual 5 x 12 Support & Maint NAS 300 node license	S-12-NAS-300	\$ 14,790.00	\$ 12,130.04	30 Days
50-003-300M7	Annual 7 x 24 Support & Maint NAS 300 node license	S-24-NAS-300	\$ 17,400.00	\$ 14,270.63	30 Days
50-003-300MA	Annual The Opsware Network NAS 300 node license	S-TON-NAS-300	\$ 4,350.00	\$ 3,567.66	30 Days
50-003-500	NAS 500 node license	P-NAS-500	\$ 132,500.00	\$ 108,670.03	30 Days
50-003-500M5	Annual 5 x 12 Support & Maint NAS 500 node license	S-12-NAS-500	\$ 22,525.00	\$ 18,473.90	30 Days
50-003-500M7	Annual 7 x 24 Support & Maint NAS 500 node license	S-24-NAS-500	\$ 26,500.00	\$ 21,734.01	30 Days
50-003-500MA	Annual The Opsware Network NAS 500 node license	S-TON-NAS-500	\$ 6,625.00	\$ 5,433.50	30 Days
50-003-1000	NAS 1000 node license	P-NAS-1000	\$ 240,000.00	\$ 196,836.27	30 Days
50-003-1000M5	Annual 5 x 12 Support & Maint NAS 1000 node license	S-12-NAS-1000	\$ 40,800.00	\$ 33,462.17	30 Days
50-003-1000M7	Annual 7 x 24 Support & Maint NAS 1000 node license	S-24-NAS-1000	\$ 48,000.00	\$ 39,367.25	30 Days
50-003-1000MA	Annual The Opsware Network NAS 1000 node license	S-TON-NAS-1000	\$ 12,000.00	\$ 9,841.81	30 Days
50-003-5000	NAS 5000 node license	P-NAS-5000	\$ 900,000.00	\$ 738,136.02	30 Days
50-003-5000M5	Annual 5 x 12 Support & Maint NAS 5000 node license	S-12-NAS-5000	\$ 153,000.00	\$ 125,483.12	30 Days
50-003-5000M7	Annual 7 x 24 Support & Maint NAS 5000 node license	S-24-NAS-5000	\$ 180,000.00	\$ 147,627.20	30 Days
50-003-5000MA	Annual The Opsware Network NAS 5000 node license	S-TON-NAS-5000	\$ 45,000.00	\$ 36,906.80	30 Days
50-003-TK	NAS Connector for Ticketing Systems	P-NAS-CONTKKT	\$ 25,000.00	\$ 20,503.78	30 Days
50-003-TKM5	Annual 5 x 12 Support & Maint Connector for Ticketing Systems	S-12-NAS-CONTKKT	\$ 4,250.00	\$ 3,485.64	30 Days
50-003-TKM7	Annual 7 x 24 Support & Maint Connector for Ticketing Systems	S-24-NAS-CONTKKT	\$ 5,000.00	\$ 4,100.76	30 Days
50-003-TKMA	Annual The Opsware Network Connector for Ticketing Systems	S-TON-NAS-CONTKKT	\$ 1,250.00	\$ 1,025.19	30 Days
50-003-MO	NAS Connector for Monitoring Systems	P-NAS-CONMON	\$ 25,000.00	\$ 20,503.78	30 Days
50-003-MOM5	Annual 5 x 12 Support & Maint NAS Connector for Monitoring Systems	S-12-NAS-CONMON	\$ 4,250.00	\$ 3,485.64	30 Days
50-003-MOM7	Annual 7 x 24 Support & Maint NAS Connector for Monitoring Systems	S-24-NAS-CONMON	\$ 5,000.00	\$ 4,100.76	30 Days
50-003-MOMA	Annual The Opsware Network NAS Connector for Monitoring Systems	S-TON-NAS-CONMON	\$ 1,250.00	\$ 1,025.19	30 Days
50-003-TRFU	NAS Fundamentals Training (Onsite)	ED-NAS-FundC	\$ 6,840.00	\$ 6,064.69	30 Days
50-003-TRAD	NAS Administration Training (Onsite)	ED-NAS-AdminC	\$ 3,420.00	\$ 3,032.34	30 Days
50-003-TRLR	Training Learning Unit	ED-NAS-unit	\$ 570.00	\$ 505.39	30 Days



## OPSWARE SOFTWARE LICENSE AND SERVICES AGREEMENT

### 1. INTRODUCTION

1.1 Agreement. This Agreement (including any Appendix attached to this Agreement or to an Order Form) establishes the terms under which Licensee may use the Technology, and under which Opsware will maintain the Technology and provide professional services if requested.

1.2 Order Forms; Purchase Orders. The Opsware software products and components which Licensee is authorized to use, the license fees, maintenance fees, professional services fees, and any special terms of this Agreement will be specified in one or more "Order Forms" signed by both parties and any Product License Appendix or Services Description attached to this Agreement or to an Order Form or in a purchase order. If the parties have executed an Order Form, such Order Form represents a binding commitment to purchase the Technology and/or services described therein, and the issuance of a purchase order by Licensee is not necessary for Opsware to bill and collect the fees owed by Licensee. The terms of any such Order Form are incorporated herein by reference. If Opsware agrees to provide professional services to Licensee, they will be provided pursuant to the terms of the Professional Services Appendix attached hereto. In no event shall any supplemental or inconsistent terms and conditions contained in any purchase order or similar document issued by Licensee be binding upon Opsware. Opsware's delivery of software or services pursuant to such a purchase order or similar document shall not constitute acceptance of the supplemental or inconsistent terms.

### 2. DEFINITIONS

2.1 "Authorized Persons" means trained technical employees and contractors of Licensee who are subject to a written agreement with Licensee that includes use and confidentiality restrictions that are at least as protective as those set forth in this Agreement.

2.2 "Confidential Information" means all non-public information disclosed in tangible, visual or verbal form by either party to the other. Confidential Information may include, but is not limited to, services, pricing information, computer programs, source code, names and expertise of employees and consultants, know-how, and other technical, business, financial and product development information. "Confidential Information" does not include any information that the receiving party can demonstrate by its written records (1) was rightfully known to it without obligation of confidentiality prior to its disclosure hereunder by the disclosing party; (2) is or becomes publicly known through no wrongful act of the receiving party; (3) has been rightfully received without obligation of confidentiality from a third party authorized to make such a disclosure; or (4) is independently developed by the receiving party without reference to confidential information disclosed hereunder.

2.3 "Delivery Date" means the date on which the Technology is first shipped by Opsware, FOB shipping point, if it is physically shipped, or the date on which the Technology is first made available to Licensee for electronic download if it is electronically delivered.

2.4 "Documentation" means any administration guides, installation and user guides, and release notes that are normally provided by Opsware to end users of the Technology.

2.5 "Error" means a failure of the Technology to operate as described in the Documentation, provided that such condition is reported by Licensee to Opsware during an annual Maintenance Term and can be verified by both parties. The further definition and classification of Errors is set forth in the Maintenance Appendix.

2.6 "Intellectual Property Rights" means patents, design patents, copyrights, trademarks, Confidential Information, know-how, trade secrets, moral rights, and any other intellectual property rights recognized in any country or jurisdiction in the world.

2.7 "Maintenance" means the support and Error correction services provided hereunder during any Maintenance Term, as described in the Maintenance Appendix.

2.8 “Other Opware Products” means (a) any separately priced product or module offered by Opware that is not included in an Order Form under this Agreement (i.e., Opware products that have not been purchased by Licensee); (b) any new, separately priced Opware product or module released during the term of this Agreement; and (c) any product or module that provides substantial new functionality not included in the Technology previously licensed to Licensee.

2.9 “Technology” means the Opware products, components and modules identified in an Order Form or purchase order. The term “Technology” also includes any Error corrections, patches, work-arounds, Updates and Upgrades provided by Opware to Licensee during any Maintenance Term.

2.10 “Unit” means the hardware or software component (e.g., agent, core, node, device) by which licenses are counted and license fees are determined, as defined in the applicable Product License Appendix.

2.11 “Update” means a revision of the Technology to correct one or more Errors.

2.12 “Upgrade” means a revision of the Technology to improve the existing functionality of the Technology. “Upgrade” does not include Other Opware Products.

### 3. LICENSE GRANTS AND RESTRICTIONS

3.1 License. There are no implied licenses under this Agreement and Opware reserves all rights and licenses in and to the Technology not expressly granted to Licensee under this Agreement. All Technology licensed pursuant to this Agreement is unpublished copyrighted material, constitutes trade secrets and proprietary data of Opware and is Confidential Information of Opware. Subject to Licensee’s compliance with the terms and conditions of this Agreement, Opware grants to Licensee a perpetual, worldwide, non-exclusive, non-transferable (except in connection with a permitted assignment of this Agreement under Section 13.12 of this Agreement (Assignment)) license as follows:

#### 3.2 License to Use Technology.

3.2.(a) Licensee may install the number and type of Units of technology identified on the Order Form(s) or purchase order(s). Licensee may install additional Units after signing an additional Order Form or issuing a corresponding purchase order and paying the additional per-Unit license fee and Maintenance fee set forth in the Order Form or purchase order.

3.2.(b) Licensee may use the Technology solely to support the internal operations of Licensee.

3.2.(c) Licensee must abide by any limitations or restrictions on Licensee’s use of the

Technology that appear in the Product License Appendix(es) attached to this Agreement or in the applicable Order Form.

#### 3.3 Ancillary Rights in Technology

3.3.(a) The foregoing authorized uses may be exercised on Licensee’s behalf only by Authorized Persons.

3.3.(b) Licensee may copy the Documentation in support of Licensee’s authorized use of the Technology, provided that Licensee does not remove any of Opware’s proprietary notices from the Documentation.

3.3.(c) Licensee may copy the Technology for archival or backup purposes, provided that all titles, trademarks and proprietary rights notices shall be reproduced in such copies.

#### 3.4 Limits on Licenses. Licensee may not (directly or indirectly, in whole or in part):

3.4.(a) Transfer, sublicense, distribute, lease, rent, or commercially share (including timeshare) the Technology or any of Licensee’s rights herein except that Licensee may transfer licenses within the organization that has purchased them;

3.4.(b) Obtain any ownership or leasehold rights in, place a lien or encumbrance upon, or otherwise interfere with Opware’s ownership and right to possession of the Technology for any reason; or

3.4.(c) Modify, translate, reverse engineer, decrypt, decompile, disassemble, create derivative works based on, or otherwise attempt to discover the Technology source code or underlying ideas or algorithms. However, if the Technology is used within a country of the European Union, or in a country whose copyright law gives a similar limited exception to protection for interoperability, nothing in this Agreement will be construed as restricting any rights available under the EC Software Directive 14 May 1991 on the legal protection of computer programs, or under such copyright laws, respectively.

3.5 United States Government Users. If a user or licensee of the Technology is an agency, department, or other entity of the United States Government (“Government”), the use, duplication, reproduction, release, modification, disclosure or transfer of the Technology, or any related documentation of any kind, including technical data or manuals, is restricted in accordance with Federal Acquisition Regulation 12.212 for civilian agencies and Defense Federal Acquisition Regulation 227.7202 for military agencies. The Technology is commercial computer software and the related documentation is commercial computer software documentation. The use of the Technology

and related documentation is further restricted in accordance with the terms of this Agreement, and any modification hereto.

#### 4. LIMITED WARRANTY AND DISCLAIMERS

4.1 Limited Warranty. Opsware warrants for a period of thirty (30) days from the Effective Date that the Technology will materially conform to Opsware's then current Documentation. This warranty only covers problems reported to Opsware during this warranty period. In the event of an uncured material breach of this Section 4.1 by Opsware during the term of this warranty period, Licensee's exclusive remedy is that Opsware will, at its option, repair or replace the Technology, or refund all or a portion of the fees paid by Licensee hereunder.

4.2 Opsware warrants that any professional services provided hereunder shall be performed by experienced and qualified personnel in a professional and workmanlike manner in accordance with industry standards.

4.3 EXCEPT FOR THE LIMITED WARRANTIES PROVIDED ABOVE, OPSWARE MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE RELATING TO THE TECHNOLOGY, OR TO OPSWARE'S MAINTENANCE, PROFESSIONAL OR OTHER SERVICES. OPSWARE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT. OPSWARE AND ITS SUPPLIERS DO NOT WARRANT OR REPRESENT THAT THE TECHNOLOGY WILL BE FREE FROM BUGS OR THAT ITS USE WILL BE UNINTERRUPTED OR ERROR-FREE, OR MAKE ANY OTHER REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE TECHNOLOGY OR DOCUMENTATION OR OPSWARE'S SERVICES IN TERMS OF ACCURACY, RELIABILITY, OR OTHERWISE. THESE DISCLAIMERS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN.

#### 5. OWNERSHIP

5.1 Opsware Ownership of Technology. Opsware and its licensors retain all rights, title, and interest, and all Intellectual Property Rights, in the Technology and Documentation, including any modifications, enhancements maintenance releases, Error corrections,

patches, Updates and Upgrades thereto. Opsware will own all Intellectual Property Rights in any deliverables or work product prepared in connection with any professional services engagement (the "Deliverables"). Opsware agrees to grant to Licensee a royalty-free, non-exclusive, worldwide, perpetual license, under any copyrights in the Deliverables, for Licensee's internal use, or use by a third party on Licensee's behalf, only.

5.2 Licensee Ownership of Licensee Materials. Licensee will retain ownership of all right, title and interest, and all Intellectual Property Rights, to any data, software, Confidential Information or other material created by or for Licensee by a third party prior to or apart from this Agreement (the "Licensee Materials").

#### 6. PAYMENT

6.1 License and Maintenance Fees; Due Date. License and Maintenance Fees for the initial Order Form(s) are due on the Effective Date of this Agreement. Fees for additional software products or additional Units purchased by Licensee will be due upon the date of the subsequent Order Form or purchase order.

6.2 Invoices and Interest. Opsware may invoice Licensee on the Effective Date for the initial License and Maintenance Fees. All invoices are payable net thirty (30) days after the due date. Without limiting any other remedies, payments received later than thirty (30) days after the invoice due date will accrue late charges at a rate of one percent (1%) per month, or the maximum rate allowed under law, whichever is lower, measured from the date such payment was due until the date paid.

6.3 Professional Services Fees. The fees for the professional services shall be set forth in the Order Form(s). If the scope of services changes from what is defined in an Order Form, Services Description or Statement of Work, Licensee will be billed on a time and materials basis at the current Opsware list price. Unless otherwise provided in an Order Form, Services Description, or Statement of Work, reimbursement will be made by Licensee to Opsware for Travel Expenses and all direct and out-of-pocket expenses reasonably incurred by Opsware in connection with the provision of the professional and education services. "Travel Expenses" include all out-of-pocket expenses reasonably and necessarily incurred by Opsware when providing professional services to Licensee. Opsware will comply with Licensee's reasonable travel policy if it is made available to Opsware in writing prior to the Effective Date. For fixed-price charges (including for professional services, training and/or expense reimbursement charges), Opsware will invoice Licensee 100% of the charge upon execution of the Order Form, Service Description, or Statement of

Work. Services rendered on a time and materials basis will be invoiced monthly in arrears on an hourly basis.

6.4 Taxes. Fees are exclusive of all taxes, levies or duties, and Licensee will be responsible for payment of such taxes, levies or duties, excluding only U.S. taxes based solely upon Opsware's income. If Opsware has the legal obligation to pay or collect taxes for which Licensee is responsible pursuant to this Section 6.4, Opsware will invoice the amount of such taxes to Licensee and Licensee agrees to pay such amount, unless Licensee provides Opsware a valid tax exemption certificate authorized by the appropriate taxing authority.

6.5 Currency. Unless otherwise specified in an Order Form or purchase order, all fees are payable in U.S. Dollars.

## 7. REPORTING AND AUDIT

7.1 Reporting. At Opsware's written request, not more frequently than twice annually, Licensee shall furnish Opsware with a signed certification verifying that the Technology is being used pursuant to the provisions of this Agreement, and identifying the number, type and location of Units of Opsware products that have been installed. If available, Licensee will use the reporting feature contained within the Technology to generate and deliver such reports to Opsware.

7.2 Audit. During the term of this Agreement and for a period of one (1) year thereafter, Licensee will maintain complete and accurate books, records and electronic backups in connection with its use of the Technology, in sufficient detail to permit Opsware to verify Licensee's compliance with the terms and conditions of this Agreement. Opsware and its agents will have the right to inspect Licensee's facilities, equipment and records, including access to the Technology, no more than twice annually to verify compliance with the terms and conditions of this Agreement, including the amounts payable to Opsware hereunder. Any such audit will be conducted during regular business hours at Licensee's offices and will not interfere unreasonably with Licensee's business activities. All information disclosed to Opsware shall be treated as Licensee Confidential Information. If an audit reveals that Licensee has underpaid the total fees or charges to Opsware by more than five percent (5%) for the period covered by the audit, then Licensee will pay Opsware's reasonable costs of conducting the audit, in addition to the underpaid amount and Opsware shall, in addition to any other rights or remedies it may have, be entitled to conduct an additional audit within the same year.

## 8. TERM AND TERMINATION

8.1 License Term. Subject to Section 8.3, the term of all licenses granted hereunder will be perpetual.

8.2 Maintenance Terms. The Initial Maintenance Term shall be the one (1) year from the Effective Date of this Agreement, unless a different period is specified on the initial Order Form or purchase order. Thereafter, maintenance services will terminate if Licensee fails to renew such maintenance by the expiration of the existing term. Maintenance services will renew at Opsware's then-current fees. If Licensee purchases additional software products or additional Units from Opsware during a maintenance term, then Licensee must purchase Maintenance associated with the additional software products or Units and the term and fees for such additional Maintenance will be prorated so that all annual Maintenance expires on the same date. The Maintenance Term is subject to any earlier termination under Section 8.3. If the maintenance services lapse, Licensee may renew such services by paying the fees for any lapsed period plus payment in advance for the annual fee for the new term.

8.3 Termination. Either party may immediately terminate this Agreement and the licenses granted hereunder if the other party (1) becomes insolvent and becomes unwilling or unable to meet its obligations under this Agreement, (2) files a petition in bankruptcy, (3) is subject to the filing of an involuntary petition for bankruptcy which is not rescinded within a period of forty-five (45) days, (4) fails to cure a material breach of any material term or condition of this Agreement within thirty (30) days of receipt of written notice specifying such breach, or (5) materially breaches its obligations of confidentiality hereunder.

8.4 Effects of Termination. Upon termination of this Agreement for any reason, any amounts owed to Opsware under this Agreement before such termination will be immediately due and payable. If the termination was made by Opsware based upon the provisions of section 8.3, all licensed rights granted in this Agreement will immediately cease, and Licensee will promptly discontinue all use of the Technology and Documentation, erase all copies of the Technology from Licensee's computers, and return to Opsware or destroy all copies of the Technology, Documentation and any other Opsware Confidential Information on tangible media in Licensee's possession or control and certify in writing to Opsware that it has fully complied with these requirements.

8.5 Survival. The following provisions of this Agreement will remain in effect following the expiration or termination of this Agreement for any reason: 4 (Limited Warranty and Disclaimers), 5 (Ownership), 6 (Payment), 7 (Reporting and Audit), 8.4 (Effects of Termination), 8.5 (Survival), 9 (Limitations of Liability), 10 (Indemnification), 11 (Confidentiality) and 13 (General).

## 9. LIMITATIONS OF LIABILITY

9.1 **Exclusion of Certain Damages.** EXCEPT FOR BREACHES OF CONFIDENTIALITY PROVISIONS (Section 11) AND FOR VIOLATIONS OF THE PROPRIETARY RIGHTS OF A PARTY BY THE OTHER, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR RELIANCE DAMAGES, INCLUDING ANY LOST DATA AND LOST PROFITS, ARISING FROM OR RELATING TO THIS AGREEMENT OR THE LICENSED TECHNOLOGY, DOCUMENTATION OR THE OPSWARE SERVICES, EVEN IF SUCH PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF, OR COULD REASONABLY HAVE PREVENTED, SUCH DAMAGES. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply.

9.2 **Limitation of Damages.** EXCEPT AS SET FORTH IN OPSWARE'S INDEMNITY TO LICENSEE (Section 10) AND FOR BREACHES OF CONFIDENTIALITY PROVISIONS (Section 11) AND FOR VIOLATIONS OF THE PROPRIETARY RIGHTS OF A PARTY BY THE OTHER, EACH PARTY'S TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT OR THE LICENSED TECHNOLOGY, DOCUMENTATION OR OPSWARE SERVICES (OTHER THAN FOR PAYMENT OF LICENSE FEES, MAINTENANCES FEES, AND ANY OTHER AMOUNTS OWED BY LICENSEE UNDER THIS AGREEMENT), WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID OR PAYABLE BY LICENSEE FOR THE LICENSED SOFTWARE OR SERVICES GIVING RISE TO THE CLAIM IN THE TWELVE (12) MONTHS FOLLOWING THE EFFECTIVE DATE. LICENSEE AGREES THAT OPSWARE'S SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND UNDER OR AS A RESULT OF THIS AGREEMENT. THIS SECTION 9.2 SHALL BE GIVEN FULL EFFECT EVEN IN THE EVENT THAT ANY OF THE WARRANTIES PROVIDED IN SECTION 4 (LIMITED WARRANTIES AND DISCLAIMERS) ARE DEEMED BY AN ARBITRATOR OR COURT OF COMPETENT JURISDICTION TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE THAT THE TERMS OF THIS SECTION 9.2 REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT THE PARTIES WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS OF LIABILITY. This Section 9.2 does not limit either party's liability for bodily injury, gross negligence or willful misconduct.

9.3 IN THE CASE OF (1) OPSWARE'S INDEMNIFICATION OBLIGATIONS (Section 10), (2) BREACH BY EITHER PARTY OF CONFIDENTIALITY OBLIGATIONS HEREUNDER (Section 11), OR (3) VIOLATIONS OF THE PROPRIETARY RIGHTS OF A PARTY BY THE OTHER, EACH PARTY'S LIABILITY SHALL BE LIMITED TO THE GREATER OF (A) \$10,000,000, OR (B) THE SUM OF PERPETUAL LICENSE FEES PAID OR PAYABLE BY LICENSEE FOR THE LICENSED SOFTWARE OR SERVICES GIVING RISE TO THE CLAIM IN THE TWELVE (12) MONTHS FOLLOWING THE EFFECTIVE DATE. THE EXISTENCE OF ONE OR MORE CLAIMS SHALL NOT EXPAND SUCH LIMIT.

9.4 **Limitation of Actions.** IN NO EVENT MAY ANY CAUSE OF ACTION RELATED TO THIS AGREEMENT BE BROUGHT MORE THAN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO THE LIABILITY.

## 10. INDEMNIFICATION

10.1 **Opware Obligation.** Opware shall at its expense defend Licensee from third party claims brought against Licensee, and shall pay or reimburse Licensee for all damages, costs and expenses payable by Licensee to such third party to the extent they are awarded in a final judgment or agreed to in a settlement, as a result of any third party claims against Licensee alleging that any of the Technology infringe or misappropriates any U.S. patent, copyright, or trade secret; provided that Licensee: (1) promptly notifies Opware in writing of the claim; (2) grants Opware sole control of the defense and settlement of the claim; and (3) provides Opware, at Opware's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim.

10.2 **Exceptions to Opware Obligation.** Opware's indemnity obligations do not apply to (1) any use of the Technology beyond the scope of license granted herein, (2) any modification or Derivative Works made by or for Licensee, (3) use of a superseded infringing version of the Technology by Licensee after release of a non-infringing version by Opware, or (4) any use or combination of the Technology with any technology, software or hardware not supplied by Opware, if such alleged infringement would be avoided by use of the Technology, alone or with other technology, software or hardware.

10.3 **Claim of Infringement.** If a claim of infringement occurs that is subject to Section 10.1 and not subject to the exceptions in Section 10.2, or if Opware determines that a claim is likely to occur, Opware will attempt, in the following order of precedence, to: (1) procure for Licensee the right or license to continue to use the affected Technology, free of the infringement claim; or (2) replace or modify the

affected Technology, to make them non-infringing provided that the replacement Technology substantially conforms to Opsware's then-current specification for such Technology. If these remedies are not reasonably available to Opsware despite Opsware's commercially reasonable efforts, Opsware may elect to terminate this Agreement, in which case Licensee shall be entitled a pro rata refund of license fees paid based upon a five-year, straight line depreciation.

10.4 **Exclusive Remedy.** Sections 10.1 through 10.3 state the sole and exclusive obligations and liability of Opsware for any Intellectual Property Rights infringement and are in lieu of any warranties of non-infringement, all of which are disclaimed.

## 11. CONFIDENTIALITY

Neither party will use any Confidential Information of the other party except as expressly permitted in this Agreement or as expressly authorized in writing by the other party. Each party shall use the same degree of care to protect the disclosing party's Confidential Information as it uses to protect its own Confidential Information of like nature, but in no circumstances less than a commercially reasonable standard of care. Neither party may disclose the other party's Confidential Information to any person or entity other than to Authorized Persons in the case of Licensee and employees and contractors in the case of Opsware who need access to such Confidential Information solely for the purpose of fulfilling that party's obligations or exercising that party's rights hereunder. The foregoing obligations will not restrict either party from disclosing Confidential Information of the other party: (1) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party prior to such disclosure; and (2) on a confidential basis to its legal and financial advisors. In addition, each party may disclose the terms and conditions of this Agreement: (i) as required under applicable securities regulations; and (ii) on a confidential basis to private investors in or acquirers of such party. Each party may identify the other in its Licensee (or vendor) lists in online and print marketing materials.

## 12. EXPORT

The Technology and related technical data may be subject to U.S. export control laws, including without limitation the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Licensee shall comply with all such regulations and agree to obtain all necessary licenses to export, re-export, or import the Technology and related technical data.

## 13. GENERAL

13.1 **No Agency.** Opsware and Licensee each acknowledge and agree that the relationship established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to: (1) give either party the power to direct or control the day-to-day activities of the other; (2) deem the parties to be acting as partners, joint venturers, co-owners or otherwise as participants in a joint undertaking; or (3) permit either party or any of either party's officers, directors, employees, agents or representatives to create or assume any obligation on behalf of or for the account of the other party for any purpose whatsoever.

13.2 **Compliance with Laws.** Each party agrees to comply with all applicable laws, regulations, and ordinances relating to their performance hereunder. Without limiting the foregoing, Licensee warrants and covenants that it will comply with all then current laws and regulations of the United States and other jurisdictions relating or applicable to Licensee's use of the Technology including, without limitation, those concerning Intellectual Property Rights, invasion of privacy, defamation, and the import and export of software.

13.3 **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party.

13.4 **Notices.** Any notice required or permitted hereunder shall be in writing and shall be delivered as follows (with notice deemed given as indicated): (1) by personal delivery when delivered personally; (2) by established overnight courier upon written verification of receipt; (3) by facsimile transmission when receipt is confirmed orally; or (4) by certified or registered mail, return receipt requested, upon verification of receipt. Either party may change its contact person for notices and/or address for notice by means of notice to the other party given in accordance with this Section. Notices shall be sent to the following:

To Opsware:

Mr. Ben Horowitz, President and CEO  
Opsware Inc.  
599 N. Mathilda Avenue  
Sunnyvale, CA 94085

with a copy to Opsware's General  
Counsel (same address)

To Licensee: At the address shown below the  
signature lines.

13.5 Confirmations. Upon request by Opware, Licensee agrees to reasonably cooperate with Opware's auditors to confirm the terms and conditions of and Opware's obligations under this Agreement and any associated Order Form.

13.6 The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.

13.7 Injunctive Relief. The parties agree that monetary damages would not be an adequate remedy for the breach of certain provisions of the Agreement, including, without limitation, all provisions concerning infringement, confidentiality and nondisclosure, or limitation on permitted use of the Technology. The parties further agree that, in the event of such breach, injunctive relief would be necessary to prevent irreparable injury. Accordingly, either party shall have the right to seek injunctive relief or similar equitable remedies to enforce such party's rights under the pertinent provisions of the Agreement, without limiting its right to pursue any other legal remedies available to it.

13.8 Entire Agreement and Waiver. This Agreement and any schedules or appendices hereto, as well as all Order Forms executed by both parties and referencing this Agreement, shall constitute the entire agreement and contains all terms and conditions between Opware and Licensee with respect to the subject matter hereof and all prior agreements, representations, and statement with respect to such subject matter are superseded hereby. The terms of this Agreement shall control in the event of any inconsistency with the terms of any Order Form, purchase order, schedule or appendix hereto. This Agreement may be changed only by written agreement signed by both Opware and Licensee. No failure of either party to exercise or enforce any of its rights under this Agreement shall act as a waiver of subsequent breaches; and the waiver of any breach shall not act as a waiver of subsequent breaches.

13.9 Severability. In the event any provision of this Agreement is held by a court or other tribunal of competent jurisdiction to be unenforceable, that provision will be enforced to the maximum extent permissible under applicable law, and the other provisions of this Agreement will remain in full force and effect. The parties further agree that in the event such provision is an essential part of this Agreement, they will begin negotiations for a suitable replacement provision.

13.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered (including by

facsimile), shall be deemed an original, and all of which shall constitute one and the same agreement.

13.11 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the respective parties hereto, their respective successors and permitted assigns.

13.12 Assignment. Neither party may, without the prior written consent of the other party (which shall not be unreasonably withheld), assign this Agreement, in whole or in part, either voluntarily or by operation of law, and any attempt to do so shall be a material default of this Agreement and shall be void. Notwithstanding the foregoing, a party may assign its rights and benefits and delegate its duties and obligations under this Agreement without the consent of the other party (1) if necessary to satisfy the rules, regulations and/or orders of any federal, state or local governmental agency or body or (2) in connection with a merger, reorganization or sale of all or substantially all relevant assets of the assigning party; in each case provided that such successor assumes the assigning party's obligations under this Agreement.



## MAINTENANCE APPENDIX

During a Maintenance Term, in consideration for the Maintenance fees set forth in this Agreement, Opsware agrees to provide Licensee with the following Maintenance services:

### 1. COVERAGE

- 1.1 Technology. Maintenance covers the Technology identified in the License Agreement. Maintenance will also cover Updates and Upgrades furnished to Licensee pursuant to Section 5 below. Maintenance does not cover or entitle Licensee to Other Opsware Products.
- 1.2 Multiple Licensee Locations. Maintenance covers the Technology at all Licensee-managed locations at which the Technology is permitted to be installed under the License Agreement.
- 1.3 Version Support. Opsware will support each Version of the Technology for a period of twenty-four (24) months following its release ("Version" means a release of the product identified by a change in the digit to the left of the decimal, e.g., Version 5.X to Version 6.X); provided that Licensee is current on Maintenance fees.

### 2. EXCLUSIONS

- 2.1 Third Party Products. Opsware shall not be responsible for maintaining software, hardware, content or services provided by Licensee or a third party.
- 2.2 Technology Modifications. Opsware shall not be responsible for maintaining the Technology if it has been modified by Licensee.
- 2.3 Exceeding the Scope of License Grant. Opsware shall not be responsible for maintaining the Technology if Licensee has exceeded the scope of the license grants under Section 3 hereto.
- 2.4 Training. Training is not included within this Maintenance Agreement but may be purchased separately from Opsware or a third party.
- 2.5 Installation and Integration. Installation and integration are not included within this Maintenance Agreement, but may be purchased separately from Opsware or a third party.
- 2.6 On-Site Support. Maintenance and support will be provided from Opsware's facilities.
- 2.7 Time and Materials Charges. Should Opsware determine that a request for support from Licensee is the result of one of the excluded elements described in this section, Opsware may offer to provide such services to Licensee, provided that Licensee reimburse Opsware on a Time and Materials basis for its services rendered in connection with such support request. "Time and Materials" means:

Time: Opsware services billed at the applicable rate in effect at the time the service is provided.

Materials: Reimbursement by Licensee to Opsware for Travel Expenses and all direct and out-of-pocket expenses reasonably and necessarily incurred by Opsware in connection with the service that is being billed on a Time and Materials basis. Travel Expenses include all out-of-pocket expenses reasonably and necessarily incurred by Opsware when providing services to Licensee. Opsware will comply with Licensee's reasonable travel policy if it is made available to Opsware in writing prior to the Effective Date.

### 3. LICENSEE SUPPORT

Support. During Support Hours, Opsware will provide telephone and e-mail access to Opsware's technical staff. Opsware shall not be required to provide support to Licensee's customers or end-users. Support Hours are:

Gold Plan:	Monday through Friday, 6 a.m. to 6 p.m. Pacific Time, excluding holidays
Platinum Plan:	Seven (7) days a week, twenty-four (24) hours a day for S1 Errors; all other requests: Monday through Friday, 6 a.m. to 6 p.m. Pacific Time, excluding holidays

### 4. ERROR CLASSIFICATION

Errors reported by Licensee during a Maintenance Term will be classified by Opsware according to their severity, as follows:

- S1** Operations in the production environment have stopped because of a problem with the product, requiring immediate real-time attention. Licensee must agree to work with Opsware continuously until the problem is resolved or an acceptable work-around is established.
- S2** High-impact problem where operations on production devices are proceeding, but in a significantly impaired fashion.
- S3** Operations on non-production devices are impaired; or an important component of the product is impacting production devices. Most problems should fall into this category.
- S4** Licensee's business is not impacted materially, but there continues to be a problem with a component of the product, the resolution of which is not time critical.

#### Critical Response

Opsware will respond to S1 Error reports within two (2) Support Hours. S1 Error reports must be submitted by telephone after business hours to receive critical response treatment. Under the Gold Plan, for purposes of determining response times, requests received outside of Support Hours are treated as if they were received on the next business day. After responding to an S1 Error, Opsware technical staff will provide continuous efforts until a fix or work-around is provided.

### 5. PRODUCT CHANGES

Opsware will provide a licensed copy of all Updates and Upgrades which Opsware commercially releases to its customers generally during a Maintenance Term. Updates and Upgrades are subject to the terms and conditions of the License Agreement.

### 6. LICENSEE COOPERATION

- 6.1 Licensee shall devote such personnel and resources as Opsware reasonably requests as necessary to assist Opsware in the successful and timely provision of support services. Licensee shall make commercially reasonable efforts to ensure that its personnel are properly trained in the operation and use of the Technology.
- 6.2 Access. Licensee shall provide Opsware with in-person and telephone access to Licensee's equipment, software, data and personnel, as reasonably requested by Opsware to enable Opsware to perform its services under this Maintenance Agreement. From time to time, Opsware may request remote electronic access to Licensee's Opsware system in order to provide support or Error correction. Licensee may, in its sole discretion, deny such access or permit access subject to Licensee's security procedures. If on-site support is required, Opsware shall arrange for professional services personnel to provide such support and Licensee will reimburse Opsware on a Time and Materials basis, including all reasonable travel-related expenses.



## PROFESSIONAL/EDUCATION SERVICES APPENDIX

Professional/Education services provided by Opsware pursuant to an Order Form, Services Description or Statement of Work shall be subject to the following special terms:

1. Opsware and Licensee Project Teams. The Opsware project team members will partner with Licensee's team members in connection with the professional services.

### 1.1 Licensee Team.

Role	Responsibility
Project Manager	Provide requirements and guidance for project tasks. Attend all meetings, review Opsware recommendations and work with Licensee's team to assess and provide feedback on Opsware recommendations and Deliverables.
Technical Staff	Provide technical requirements, perform specific configuration tasks, attend meetings, execute test plans, attend specified training.

### 1.2 Opsware Team.

Role	Responsibility
Services Director	Responsible for overall Licensee satisfaction and success. Time is generally non-billable.
Engagement Manager	Manage the project, create and deliver project status reports, provide expertise for Opsware's deployment and operational methodologies, and define project plan to achieve infrastructure and operational objectives.
Consulting Engineer	Provide technical subject matter expertise for the implementation of Opsware technology.
Technical Instructor	Provide formal training on Opsware's products.
Solution Architect	Serve as the project technical lead and determine the system design and implementation architecture.

2. Means of Communication. Due to the shared responsibility between Opsware and Licensee for managing this project, both parties will keep an open line of communication in a flat organizational manner. The parties shall mutually agree upon the format of a weekly status meeting to review the project and escalate roadblock issues to the Opsware Engagement Manager.

3. Approach for Dealing with Issues.

3.1 Identify issues. When the project begins, the parties shall identify any issues that could hinder either party's ability to meet the objectives of the project.

3.2 Document issues. The person who identifies an issue must document it for inclusion in the issue log.

3.3 Assign responsibility for resolving issues. The Opsware Engagement Manager will determine the appropriate individual responsible for resolving each issue. The responsible person must be an individual who has the knowledge and authority to make decisions regarding the issue. Opsware will also assign a priority to the issue.

3.4 Monitor and control progress. All issues will be tracked in an issue log.

3.5 Report progress on issue resolution. The issue log will be reviewed at the weekly status meeting.

3.6 Communicate issue resolution. The issue log and resolution of such issues will be made available to all project team members.

3.7 Risk Management. The foreseen risks associated with the project as of the start date are listed below in Section 4. As the parties identify risks, the risks will be tracked. Each risk identified will be assessed for the effect it may have on the success of the project and strategies for addressing such risk.

3.8 Schedule. Work will be performed per a mutually agreed upon schedule. The schedule will take into consideration the availability of both Licensee and Opware resources.

3.9 If Licensee schedules an Opware resource to be onsite, but then cannot utilize the resource due to lack of adequate preparation on Licensee's part, the Licensee may be required to reimburse Opware on a daily basis for those resources who cannot be staffed on other projects.

3.10 The fees set forth in an Order Form assume the project plan will be implemented expeditiously and without extended breaks between milestones. Extended breaks may impact the fee estimate.

3.11 Scope Management. When both the Licensee and Opware agree to change the scope of professional services from what has been set forth in an Order Form, Services Description or Statement of Work, a written description of the change (called a "Project Change Request (PCR)") will be prepared which both parties must sign. The terms of the PCR prevail over those of the Order Form, Services Description or Statement of Work or any of its previous PCRs. Any changes made to the scope of the professional services may result in modifications to the schedule, fees, and/or other terms.

3.12. Estimates. Time and materials estimates provided by Opware are estimates only and are subject to change. If with an improved understanding of the project scope and complexity Opware will require more time to provide the required Deliverables, then Opware may require Licensee to provide a new purchase order to cover the additional cost.

**4. Risk Management.** As the parties identify risks, the risks will be tracked. Each risk identified will be assessed for the effect it may have on the success of the project and strategies for addressing such risk. The following risks are known at the time of each professional services engagement:

Risk	Potential Effect on Project Success
<ul style="list-style-type: none"><li>• Change in Scope of Deliverables</li></ul>	<ul style="list-style-type: none"><li>• Opware and Licensee may need to adjust the timing and fees associated with this project to accommodate scope changes in the deliverables.</li></ul>
<ul style="list-style-type: none"><li>• Availability of Licensee's Staff and Documents</li></ul>	<ul style="list-style-type: none"><li>• Opware and Licensee may need to adjust the timing and deliverable schedule to accommodate restrictions on the availability of Licensee's staff and documents.</li></ul>

5. **Hosted Employees.** During the course of the professional services relationship, the parties may allow employees of one party to participate in activities at the other party's facilities ("Hosted Employees"). Each Hosted Employee will retain his or her status as an employee of his or her respective company while assigned to work at the hosting party's premises. Each party will be solely responsible for all wages and other compensation, and for all tax withholdings and similar payments required in connection with its employees assigned as Hosted Employees. Each party will maintain insurance or will self insure to protect itself and the hosting party from claims and liabilities arising out of any injury or damages sustained by its own employees while they are acting as Hosted Employees at the other party's facilities. Hosted Employees will observe the working hours, rules and regulations of the hosting party. The hosting party will, at its expense, use reasonable efforts to supply a suitable work environment, including equipment and supplies reasonably required by Hosted Employees in order to carry out the purposes of their assignment.

6. **Education Services**

6.1 Expiration of Learning Units. Learning Units purchased for product training must be used by Licensee within one (1) year of the day of purchase or they will forfeit.

6.2. Cancellation Policy. Licensee may cancel a scheduled class up to 15 business days prior to the class start day without penalty. If the class is cancelled with 6 - 15 business days advance notice, Licensee will pay a cancellation fee equal to 70% of the scheduled class fee. If the class is cancelled with 5 or less business days advance notice, Licensee will pay will pay a cancellation fee equal to 100% of the scheduled class fee.

6.3. Onsite Requirements. If training is to be provided at the Licensee's facility, Licensee will: 1) complete the Training Requirements Form (TRF) provided by Opsware at least one week prior to the scheduled training; 2) ensure all site requirements can be met (e.g. connectivity, projector, port-access) or provide an off-site facility (at Licensee's cost) which can meet specified requirements); 3) communicate to the students prior to the training the basic logistical information (e.g. location, class purpose, class time).



**PRODUCT LICENSE APPENDIX**

**OPSWARE SERVER AUTOMATION SYSTEM (SAS)**

This Appendix provides special licensing terms applicable to the product shown above.

Unit Definitions:

1. “Agent” means that portion of the Technology that manages and is required for each physical server, virtual server or container.
2. “SAS Core” means the instance of the technology that is installed in Licensee’s data center to manage devices, and includes a web-based console interface, a system of record repository for information, and a change engine.
3. “Satellite” means the Opsware software that enables Licensee to manage devices at remote locations.

Special Terms:

1. If Licensee elects to move its data center operations to another facility (the “Replacement Data Center”), Licensee may use the licensed Technology simultaneously at the initial location and replacement location for as long as reasonably necessary (not to exceed six (6) months) to transition data centers, without additional license fees.

Product Functionality:

The following is a list of all available components and functions of the Opsware Server Automation System. Licensee is licensed to use only those components/functions that are identified in an Order Form or purchase order and paid for by Licensee.

**SAS**

<b>Feature</b>	<b>Description</b>
SAS Core	Consists of several components including an instance of the Opsware SAS database, Opsware SAS application server and Opsware SAS reporting server. All components may run on a single physical server or may be spread across multiple physical servers.
Opsware SAS Core with Multimaster	Consists of a SAS Core with multimaster capability for disaster recovery and IT operations continuity.
Satellite	Used to manage servers in remote locations, branch offices or in certain network topologies. Consists of two components: a gateway/proxy and a software cache.
Multimaster addition to Core	Multimaster components used to upgrade standard SAS Core.
Universal Agent for any physical server (Windows, Linux, Unix or VMware ESX), virtual server (Windows, Linux, Unix), or Solaris 10 container	Opsware Agent running on a single Windows, Linux, Unix or VMware ESX instance – physical or virtual – or a single Solaris 10 container. Includes all capabilities listed below.
Agent for each physical server with virtualization (VMware ESX or Solaris 10) – unlimited VMs or containers	Opsware Agent running on a single VMware ESX instance or Solaris 10 instance using zones/containers. Includes unlimited agents for VMs or zones/containers on this instance. Includes all capabilities listed below.

Unless otherwise agreed, the following is a listing of Agent capabilities:

OS Provisioning	Capability to provision operating system on to bare metal or previously deployed server. Can provision Windows, Solaris or Linux operating systems depending on the hardware of the server.
Software Provisioning	Capability to install and configure software packages on a server. Supports over 20 OS native package formats across Windows, Solaris, Linux, HP-UX and AIX.
Script Execution	Capability to execute previously saved or ad hoc scripts on a server. Also, collects, displays and makes the results available for download. Supports shell scripts on Linux & UNIX servers and VBscripts and batch files on Windows servers.
Patch Management	Capability to reports on installed patches, distribute and install patches to a server. Supports native patch formats for Windows, Solaris, Linux, HP-UX and AIX servers.
Global Shell	Capability to browse the file system and Opsware meta data on a server from a standard Linux shell interface. The single interface may have visibility into multiple servers with this feature enabled. Supports several common shell and scripting languages.
Remote Terminal and Server Explorer	Capability to browse the file system and Opsware meta data on a server from a GUI. Also provides the capability to open a shell session on a UNIX/Linux server and a remote desktop connection on a Windows server initiated from the Opsware interface.
Audit and Compliance	Capability to compare various aspects of a server to another managed server or a prior snapshot of that server. Aspects to compare include file system content, hardware, installed software, and installed patches, among others. Also, capability to package differences found in audits run.
Application Configuration	Capability to model, change and track changes to configuration files on a server based on policies.

### Visual Application Manager (VAM)

Feature	Description
VAM addition to Core	Visual Application Manager addition to SAS Core for visual mapping of server, software and network device dependencies with integrated change management. Prerequisite: SAS Core.
VAM addition to SAS Agent	Visual Application Manager addition to any SAS Agent. Prerequisite: SAS Agent.
VAM addition to network Node	Visual Application Manager addition to any network Node managed by the Opsware Network Automation System. Prerequisite: NAS Core and managed Nodes.

## The Opsware Network

Feature	Description
The Opsware Network (“TON”) Subscription service for SAS	<p>TON Subscription Service for SAS enables access to Vulnerability and Compliance Content, allowing the network administrator to proactively manage server based vulnerabilities as they emerge and ensure compliance with regulatory policies.</p> <p><u>TON Subscription Service for SAS components:</u></p> <ol style="list-style-type: none"><li>1. <u>Vulnerability Content:</u> a service that provides server based security and vulnerability alerts on an ongoing basis. The alerts are delivered as SAS audit and remediation policies. With TON, the SAS core will check for and download the alerts as they become available.</li><li>2. <u>Compliance Content:</u> TON delivers actionable regulatory compliance policies on an ongoing basis enabling the IT organization to ensure compliance and prevent drift from regulatory policies.</li></ol>



**PRODUCT LICENSE APPENDIX**

**OPSWARE NETWORK AUTOMATION SYSTEM (NAS)**

This Appendix provides special licensing terms applicable to the product shown above.

Unit Definitions:

1. “NAS Core” means the instance of the technology that is installed in Licensee’s data center to manage devices, and includes a web-based console interface, a system of record repository for information, and an application server.
2. “Satellite” means the Opsware software that enables Licensee to manage devices at remote locations.
3. “Node” means a managed device (module) that has its own configuration. Note: network devices and Nodes are not always the same thing. E.g., a switch (1 network device) may have three nodes: one switching card, one routing card and one backup routing card).

Special Terms:

1. License Keys. The Technology requires the use of license keys, which will be issued to Licensee by Opsware. The license keys enable the use of the versions and number of nodes licensed to Licensee.

Product Functionality:

The following is a list of all available components and functions of the Opsware Network Automation System. Licensee is licensed to use only those components/functions that are identified in an Order Form or purchase order and paid for by Licensee.

**NAS**

<b>Feature</b>	<b>Description</b>
NAS Core	Consists of several components including an instance of the Opsware NAS database, Opsware NAS application server and Opsware NAS reporting server.  Also includes the following system capabilities: Searchable audit trails Compliance reporting Workflow automation & task scheduling Event engine with rule-based notifications
NAS Core with Multimaster	Consists of a NAS Core with multimaster capability for disaster recovery and IT operations continuity.
Satellite	Used to manage devices in remote locations, branch offices or in certain network topologies.
Multimaster addition to Core	Multimaster components used to upgrade standard NAS Core.
Connectors for 2-way integration with:	Remedy AR System
	HP Openview NNM System
	Smarts InCharge
	CA Unicenter
	Micromuse System
Nodes	Provides the following capabilities on a managed device: Real-time change detection OS provisioning

	<p>Security administration including device lock-down, ACL management &amp; audit trails</p> <p>Rollback and recovery to previous good state</p> <p>Compliance Center including auditing, remediation and reporting</p> <p>Workflow automation &amp; task scheduling</p>
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**The Opsware Network**

<b>Feature</b>	<b>Description</b>
<p>The Opsware Network (“TON”) Subscription service for NAS</p>	<p>TON Subscription Service for NAS enables access to Vulnerability and Compliance Content, allowing the network administrator to proactively manage network vulnerabilities as they emerge and ensure compliance with regulatory policies.</p> <p><u>TON Subscription Service for NAS components:</u></p> <ol style="list-style-type: none"> <li>1. <u>Vulnerability Content:</u> a service that provides network security and vulnerability alerts on an ongoing basis. The alerts are delivered as NAS software compliance policies. With TON, the NAS server will check for and download the alerts as they become available.</li> <li>2. <u>Compliance Content:</u> TON delivers actionable regulatory compliance policies on an ongoing basis enabling the IT organization to ensure compliance and prevent drift from regulatory policies.</li> </ol>



**PRODUCT LICENSE APPENDIX**

**Opsware Operational Management Database (OMDB)**

This Appendix provides special licensing terms applicable to the product shown above.

Limitations on Use

The purchase of Opsware Server Automation System (SAS) is a technical requirement for the use of OMDB.

Licensee may purchase an OMDB License for use with SAS, an OMDB License for use with ASAS, or both. Licensee may integrate and use OMDB only with the product(s) (SAS or ASAS) for which it has purchased an OMDB License.

Product Functionality:

The following is a list of all available components and functions of the Opsware Operational Management Database. Licensee is licensed to use only those components/functions that are identified in an Order Form or purchase order and paid for by Licensee.

**OMDB**

<b>Feature</b>	<b>Description</b>
OMDB Core	OMDB core server for aggregation, reconciliation and reporting on managed devices and associated configuration items. OMDB is priced per core server and per device reported on. Prerequisite: SAS Core.
OMDB Managed Server	OMDB for any server – physical or virtual.
OMDB Managed Device	OMDB for any non-server device – network device, desktop or other device.
OMDB Integration	Each integration of the OMDB Core with a third party management system for information exchange. Integration with the Opsware System is included with the OMDB Core.



**PRODUCT LICENSE APPENDIX**

**Opsware Process Automation System (PAS)**

This Appendix provides special licensing terms applicable to the product shown above.

Product Functionality:

The following is a list of all available components and functions of the Opsware Process Automation System. Licensee is licensed to use only those components/functions that are identified in an Order Form or purchase order and paid for by Licensee.

**Process Automation System**

<b>Feature</b>	<b>Description</b>
Process Automation System Core	Process Automation System core for integration, workflow orchestration and alert/incident resolution automation. Includes integration with the Opsware System product suite and all Foundation Accelerator Packs.
Process Automation System Core – <i>for integration only</i>	Process Automation System core for integration only. Restricted to integration of Opsware Server or Network Automation System with ticketing or monitoring systems. Not valid for alert/incident resolution automation or other broader Run Book Automation use cases.
Process Automation System for any server	Process Automation System support for any server, virtual or physical.
Process Automation System for any network device	Process Automation System support for any network device.
Process Automation System Named user operator	Capability to execute workflows by an individual named user.
Process Automation System Concurrent user operator	Capability to execute workflows for a specified number of concurrent users – i.e., more than one individual can use a concurrent user license so long as they don't use the license at the same time.
Process Automation System Workflow Author user	Capability for an administrator to author and edit Process Automation System workflows.
Process Automation System Integration	Each integration of the Process Automation System Core with a supported third party system for information exchange and API initiated actions. Integration with the Opsware System is included with the Process Automation System Core.



**PRODUCT LICENSE APPENDIX**  
**OPSWARE ASSET MANAGEMENT SYSTEM (AMS)**

This Appendix provides special licensing terms applicable to the product shown above.

Unit Definitions:

1. “Asset” means any unit of hardware (servers, desktops, laptops, network and SNMP devices, PDAs, etc) and software (installations, usage patterns, configuration changes) in Licensee’s environment.

Special Terms:

1. License Keys. The Technology requires the use of license keys, which will be issued to Licensee by Opsware. The license keys enable the use of the versions and number of nodes licensed to Licensee.

Product Functionality:

The following is a list of all available components and functions of the Opsware Asset Management System. Licensee is licensed to use only those components/functions that are identified in an Order Form or purchase order and paid for by Licensee.

**AMS**

<b>Feature</b>	<b>Description</b>
Opsware Asset Management System Core Server	Single instance of the Opsware AMS core platform. Consists of several components including an instance of the Opsware AMS database, Opsware AMS application server, Opsware AMS Data Manager, Opsware AMS loader and Opsware AMS reporting server.  Also includes the following system capabilities: Role-based access and administration Console to add custom applications for discovery Out-of-the-box and custom reporting Auto-discovery of SNMP network devices and supported clients
Agents	Consists of an agent installed on any non-Unix or UNIX asset including workstations, laptops, servers or handheld devices or an SNMP discovered network device.  Provides the following capabilities on a managed device: Ongoing tracking of discovered hardware and software elements on client Software Usage Monitoring on Windows clients
Additional Data Manager	Additional instance of the Opsware Data Manager component included in the Opsware Asset Management System core server.
Additional Data Loaders	Additional instance of the Opsware Data Loader component included in the Opsware Asset Management System core server.

